



Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

**Decision of the Commissioner for Environmental Information
on an appeal made under article 12(5) of the European Communities
(Access to Information on the Environment) Regulations 2007 to 2018
(the AIE Regulations)**

Case: OCE-101468-T5S2X3

Date of decision: 10 October 2022

Appellant: Ms. X

Public Authority: Kerry County Council (the Council)

Issue: Whether the Council was justified in refusing access to additional information relating to certain parts of the appellant's request other than any information already identified on the basis that no further relevant environmental information is held by or for it and in refusing access to certain information contained in two documents under article 9(1)(c) of the AIE Regulations.

Summary of Commissioner's Decision: The Commissioner varied the Council's decision. While he affirmed the Council's decision to refuse access to additional information relating to parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of the appellant's request under article 7(5) of the AIE Regulations, he annulled its decision in respect of part 26 and directed it to undertake a fresh decision making process in respect of that part. He also annulled its decision to refuse access to certain information contained in Documents 4 and 6 under article 9(1)(c) of the AIE Regulations and directed it to undertake a fresh decision making process in respect of that information.

Right of Appeal: A party to this appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision, as set out in article 13 of the AIE Regulations. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.



Background

1. On 24 July 2020, the appellant made a 47-part AIE request to the Council (see Appendix 1). Parts 1-40 concerned the time period 1 February 2020 (confirmed by the appellant to this Office) to the date of her request. The other seven parts, which I will refer to as parts 1a-7a, concerned the time period 1 January 2019 to 31 January 2020.
2. On 13 August 2020, the Council emailed the appellant in respect of her request, indicating that due to its scale it might need to be revised. The Council referred to article 9(2)(a) of the AIE Regulations, outlining that the provision provides that 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. On 14 August 2020, the appellant informed the Council that she was not in a position to revise her request. On the same day, the Council sought an extension of one month under article 7(2)(b) of the AIE Regulations in order to make its decision.
3. On 2 October 2020, the appellant asked the Council for an update on the status of her request. On 5 October 2020, the Council informed the appellant that it would revert by the end of that week. On 8 October 2020, in response, the appellant made submissions in support of her request and noted that she would appreciate receipt of the documents sought by email and in the formats requested.
4. The Council did not issue a decision within the required timeframe, so the appellant sought an internal review of the deemed refusal of her request on 16 October 2020. On 17 November 2020, the Council issued its internal review decision. The Council part-granted the appellant's request.
5. The Council identified 16 documents (Documents 1-16) as relevant to parts of the appellant's request. It outlined:
 - Document 1 concerned parts 6 and 7,
 - Document 2 concerned parts 8 and 10,
 - Document 3 concerned part 11,
 - Document 4 concerned part 13,
 - Document 5 concerned part 15,
 - Document 6 concerned part 17,
 - Document 7 concerned parts 18 and 19,
 - Document 8 concerned part 21,
 - Document 9 concerned part 22,
 - Document 10 concerned parts 37 and 4a,
 - Document 11 concerned part 39,
 - Document 12 concerned part 40,
 - Document 13 concerned part 1a,
 - Document 14 concerned part 2a,
 - Document 15 concerned part 3a, and
 - Document 16 concerned part 6a.

While the Council released a significant proportion of the information contained within the 16 documents to the appellant, it withheld certain information, under articles 8(a) or 9(1)(c) of the AIE Regulations, which it considered to be personal information or commercially sensitive information.



6. In respect of parts 23 and 26 of the appellant's request, the Council withheld all information relating to those parts under article 9(2)(c) of the AIE Regulations on the basis that it considered the information to be material in the course of completion.
7. In respect of parts 1- 5, 9, 12, 14, 16, 24, 25, 27, 30, 31, 36, 38, 5a, and 7a of the appellant's request the Council withheld all information relating to those parts on the basis that it does not hold the information requested.
8. In respect of parts 28 and 29 of the appellant's request, while the Council indicated that it also did not hold the information requested, it provided some financial details in response to those parts. The Council also provided some detail in response to part 32, to which it also referred in response to parts 33, 34, and 35.
9. In respect of part 20 of the appellant's request, the Council granted access to the information sought by noting that the information was publicly available and providing the appellant with the link to the relevant location on its website.
10. The appellant submitted an appeal to this Office on 15 December 2020 and made further submissions on 12 January 2021.
11. I am directed by the Commissioner to carry out a review and issue a decision on this appeal. I have now completed the review under article 12(5) of the Regulations. In so doing, I have had regard to the correspondence between the Council and the appellant as outlined above and to correspondence between this Office and both the Council and the appellant on the matter. In addition, I have had regard to:
 - the Guidance document provided by the Minister for the Environment, Community and Local Government on the implementation of the AIE Regulations (the Minister's Guidance);
 - Directive 2003/4/EC (the AIE Directive), upon which the AIE Regulations are based;
 - the 1998 United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention); and
 - The Aarhus Convention—An Implementation Guide (Second edition, June 2014) (the Aarhus Guide).
12. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Scope of Review

13. In accordance with article 12(5) of the AIE Regulations, my role is to review the public authority's internal review decision and to affirm, annul or vary it. Where appropriate in the circumstances of an appeal, I will require the public authority to make available environmental information to the appellant.



14. In response to the Investigator's queries regarding the scope of her appeal, the appellant indicated to this Office that she was not seeking a review regarding any of the information withheld under article 8(a)(i) of the AIE Regulations or any of the information withheld under article 9(2)(c) relating to part 23 of her request. However, she indicated that she was seeking a review regarding the information withheld from Documents 4, 6, and 10 under article 9(1)(c) of the AIE Regulations; the information withheld under article 9(2)(c) relating to part 26 of her request; and access to additional information relating to parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a. Separately, she asked if JPEG records that were included within two of the records she had received (Documents 2 and 4) could also be provided by the Council as distinct JPEG files.
15. During the course of the review, the Council informed this Office that it was no longer relying on article 9(1)(c) of the AIE Regulations to refuse access to information withheld from Document 10 and that it had administratively released that document in full to the appellant, along with the distinct JPEG files relevant to Documents 2 and 4. It also informed this Office that it was no longer relying on article 9(2)(c) of the AIE Regulations to refuse access to the information withheld relating to part 26 of the appellant's request, however it noted that it had not identified and located all the records relevant to that part.
16. Additionally, the Council provided this Office with the details of the searches carried to locate all relevant information regarding parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of the appellant's request. The Investigator outlined the details of those searches to the appellant and also provided her with clarification regarding a number of errors that were contained on the schedule of records provided to her by the Council at internal review decision. The appellant was invited to make a further submission on the matter. To date, no response has been received.
17. The scope of this review is confined to whether the Council was justified in refusing access to additional information relating to parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 26, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of the appellant's request under article 7(5) of the AIE Regulations and in refusing access to certain information contained in Documents 4 and 6 under article 9(1)(c) of the AIE Regulations.

Preliminary Matter

18. A review by this Office is considered to be de novo, which means that it is based on the circumstances and the law at the time of the decision.

Analysis and Findings

Article 7(5)

19. Article 7(1) of the AIE Regulations requires public authorities to make available environmental information that is held by or for them on request. Article 7(5) of the AIE Regulations is the relevant provision to consider where the question arises as to whether the requested environmental information is held by or for the public authority concerned. In cases where a public authority has effectively refused a request under article 7(5), this Office must be satisfied that adequate steps have



been taken to identify and locate relevant environmental information, having regard to the particular circumstances. In determining whether the steps taken are adequate in the circumstances, a standard of reasonableness must necessarily apply. It is not normally this Office's function to search for environmental information.

Parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a

20. In her submissions to this Office, the appellant made a number of contentions regarding the additional information she believes ought to be held by the Council in respect of parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of her request. In doing so, she noted that parts of her request related to all forms of tree cutting and that information should not be omitted based on a difference of opinion with regard to the types of practices or disagreement with the terminology used. In its submissions to this Office, the Council responded to those contentions (a summary of which had been provided by the Investigator) and outlined the details of the searches conducted to locate relevant information. As the appellant has already been provided with those details, I do not propose to repeat them in full here. In short, the Council outlined the following in respect of specific parts of the appellant's request:
- In respect of part 1, the Council indicated that relevant named staff in the Tralee Municipal District Office were consulted and that they carried out searches of their records. It stated that they outlined that while discussions may have taken place, no records of those discussions were located. The Council indicated that the searches carried out were mainly electronic and would have used keywords such as the appellant's name, the locations mentioned, as well as trees and aboricultural. In respect of parts 2 and 3, the Council referred to its response to part 1.
 - In respect of part 4, the Council explained that arborists are hired because of their expertise and experience. It noted that staff who have direct dealings with those arborists were asked to provide records, both electronic and physical, relating to any discussions with Individual A. The Council indicated that the searches carried out were mainly electronic and would have used keywords such as the individual's name and his company's name.
 - In respect of parts 10 and 11, the Council outlined that relevant staff (names provided) were asked to carry out searches and provide records, both electronic and physical, relating to any arborists with whom they have contact. It noted that they were also asked to use keywords such as aboricultural.
 - In respect of part 12, the Council outlined that specified relevant staff were asked to carry out searches and provide records, both electronic and physical, relating to any conversations with Company B. It stated that many communications would have taken place by telephone or at on-site meetings and there would not necessarily be any written records; however, the relevant staff were asked to search their diaries for any pertinent information.
 - In respect of part 16, the Council outlined that relevant staff were asked to carry out searches and provide records, both electronic and physical, relating to any conversations with Individual E. The Council explained that while the appellant may be of the view that conversations should have taken place on foot of her emails, it employs trained and qualified arborists and would not



necessarily hold such discussions. In respect of part 17, the Council referred to its response to part 16.

- In respect of part 18, the Council outlined that all the documents relating to qualifications given to it by third parties were provided to the appellant and stated that these documents demonstrate the qualifications and expertise of those employed for tree management purposes.
 - In respect of parts 24, 25, 30, and 31, the Council indicated that relevant staff were asked to carry out searches and provide records, both electronic and physical. I understand from the detail provided that they were asked to use keywords such as trees and arboricultural. In respect of part 24, the Council outlined that where a member of staff reviewed articles online, no record would be created. In respect of 25, the Council noted that while the appellant sent articles and tutorials relating to arboricultural practices, it hires qualified arborists and relies on their expertise. In respect of part 30, the Council stated that it had provided the appellant with a copy of the Tralee Municipal District Tree Management Plan, which may contain relevant information.
 - In respect of parts 32 and 34, the Council stated that it consulted the Tralee Municipal District Manager, who indicated that, while there is not a specific list of practices, Tralee Municipal District Office, would refer to BS39998: 2010.
 - In respect of part 33, the Council noted that the creation of a new record would be required. It explained that the works referred to in part 33 form part of daily work of the Engineering Unit and, as the expertise to deal with the pruning and cutting of trees does not exist within the unit, it was decided to appoint an external specialist to deal with specific tree related issues.
 - In respect of part 35, Council explained that the creation of a new record would be required.
 - In respect of parts 37, 38, 4a, 5a, the Council stated that works carried out by the external specialists in question cover tree management, pruning, and felling. It explained that the invoices submitted do not detail the specific works carried out. It also explained that there is no breakdown on the Council's financial system detailing particular tree works.
 - In respect of parts 39, 6a, and 7a, the Council explained that complaints are sent to the Tralee Municipal District Engineering Office. It noted that searches were carried out of the records of the staff members previously mentioned, including any physical written complaints, which are scanned. It stated that the any responses would have been captured by the searches. It noted that searches were also carried out of the general Tralee Municipal District Office email, which is used by members of the public to contact the office. It stated that the keywords used would have included trees and cutting.
21. In addition to the above, the Council noted that while it appears to be the appellant's view that significant records of conversations and meetings between external arborists and Tralee Municipal District ought to exist – in practice, this is not the case. The Council explained that, given the qualifications and experience of the external specialists, it is accepted that they have the knowledge and awareness of the relevant standards and practises in relation to tree-felling. It further explained that the role of the engineering staff within the Council is to identify particular locations / trees to be assigned to / examined by the external specialists and to review any courses of action recommended.



It stated that there would not typically be any significant discussions between the Council and external specialists about the relevant standards and practices and that any discussions about particular locations / trees would mainly take place onsite and would not necessarily be recorded.

22. The general thrust of the Council's position is that it holds no further relevant environmental information in respect of parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of the appellant's request. I wish to emphasise that it is outside my remit as Commissioner to adjudicate on how public authorities carry out their functions generally, including with respect to their environmental information management practices. I have no role in assessing how public authorities collect, maintain and disseminate environmental information. My role concerns reviewing appeals of requests for access to environmental information, which is held by or for the relevant public authority and no more than that.
23. Having considered the details of the searches and the explanations given by the Council, I am satisfied that it has taken adequate steps to identify and locate all relevant environmental information held by it in respect of parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of the appellant's request. I find, therefore, that article 7(5) applies.

Part 26

24. At part 26 of her request, the appellant sought access to "[a]ll discussions, meetings, notes, reports and other communications regarding the new draft tree management plan both within the Council and with external individuals and parties."
25. As outlined above, during the course of the review, the Council informed this Office that it was no longer relying on article 9(2)(c) of the AIE Regulations to refuse access to the information withheld relating to part 26 of the appellant's request, however, it also explained that it had not identified and located all relevant records.
26. In the circumstances, it is clear that the Council has not taken adequate steps to ascertain the whereabouts of all relevant environmental held by it in respect of part 26 of the appellant's request. I find, therefore, that article 7(5) does not apply. I consider that the most appropriate course of action to take is to annul the decision of the Council in respect of part 26 and to direct it to undertake a fresh decision-making process in respect of that part.

Article 9(1)(c)

27. The Council refused access to certain information in Documents 4 and 6 under article 9(1)(c) of the AIE Regulations. I am satisfied that the information at issue can generally be described as follows:
- Record 4: The four attachments (163 pages) to an email dated 17 January 2020 at 20:07:07 from Company B to the Council, namely: (i) Liability Policy Documents, (ii) a Safety Statement (iii) a Risk Assessment and (iv) a Method Statement (Tree Felling).
 - Record 6: Pricing information / quotations (i.e. costs per hour for specified works) and tender assessment.
28. Article 9(1)(c) of the AIE Regulations provides that a public authority may refuse to make available environmental information where disclosure of the information requested would adversely affect



commercial or industrial confidentiality, where such confidentiality is provided for in national or European law to protect a legitimate economic interest. This provision seeks to transpose Article 4(2)(d) of the AIE Directive, which, in turn, is based on Article 4(4)(d) of the Aarhus Convention. The Minister's Guidance, in considering article 9(1)(c) of the AIE Regulations, states:

“The fact that a person or company asks for information to be treated as confidential does not of itself establish it as such for the purpose of the Regulations, and the public authority must satisfy itself that real and substantial commercial interests are threatened. In addition, the fact that the release of information (for example, in relation to a pollution incident) might damage the reputation of a company is not of itself adequate reason for withholding it.” (paragraph 12.4).

29. When relying on article 9(1)(c) of the AIE Regulations, I am of the view that the public authority must be able to show:
 - The information at issue is commercial or industrial in nature.
 - The confidentiality of the information at issue is provided for in law to protect a legitimate economic interest.
 - The economic interest, and thereby its confidentiality, would be adversely affected by disclosure of the information at issue.
30. It is clear that there must be some adverse effect on the legitimate economic interest that the confidentiality is designed to protect. Accordingly, when relying on article 9(1)(c) the public authority must set out the reasons why it considers that disclosure of the information at issue could specifically and actually undermine the economic interest identified. The risk of the economic interest being undermined must be reasonably foreseeable and not purely hypothetical (see by analogy, C-57/16 P ClientEarth v Commission, paragraph 51).
31. Article 9(1)(c) must also be read alongside article 10 of the AIE Regulations, which provides for certain limitations on the ability of a public authority to refuse environmental information. Article 10(1) of the AIE Regulations provides that notwithstanding articles 8 and 9(1)(c) of the AIE Regulations, a request for environmental information shall not be refused where the request relates to information on emissions into the environment. Article 10(3) of the AIE Regulations 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) of the AIE Regulations 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 article 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.
32. As the Council ought to be aware, articles 7(4) and 11(4) of the AIE Regulations require public authorities to provide reasons for refusal at both original and internal review decision stage, consistent with Article 4(5) of the AIE Directive. In this regard, the High Court in *Right to Know v An Taoiseach* [2018] IEHC 372 noted, in particular, that “in light of the adjudicatory processes in which a decision-maker is required to engage pursuant to [a]rticles 10(3), (4) and (5) and 11(4) of the AIE Regulations, the mere invoking of the statutory ground upon which disclosure of environmental information may be exempted cannot, to my mind, constitute a sufficient reason for the refusal” (paragraph 106). The Court held that in an absence of any indicator in the review decision that the balancing exercise mandated by articles 10(3) and (4) had been carried out, suggested that no balancing exercise had, in



fact, been undertaken and that the same was true in respect of the mandatory obligation set out in article 10(5) of the AIE Regulations (paragraph 87).

33. In its internal review decision, the Council submitted that information concerning “specific costs per hour for works carried out” is commercially sensitive to the companies involved and that “release of such information could allow competitors to ascertain their rates and potentially undercut them, thereby gaining a competitive advantage and putting the [companies / persons] referenced...at a commercial disadvantage”. It is my understanding that this detail concerns the information withheld from Document 6. In its submissions to this Office, the Council also stated that the information withheld from Document 4 under article 9(1)(c) is commercially sensitive.
34. In respect of Document 6, although the Council appears to have considered whether the information at issue, which is redacted from two pages, is commercial or industrial in nature, it provided no detail as to whether the confidentiality of that information is provided for in law, nor did it identify the specific law upon which it was relying. In addition, although the Council made a speculative claim in respect of harm to the competitive position of the companies / persons involved – it made no attempt to demonstrate a clear link between disclosure of the particular information at issue and any adverse effect.
35. In respect of Document 4, the Council appears to have merely referred to article 9(1)(c) in seeking to refuse access to the information at issue, which comprises four records totalling 163 pages, and stated that it is commercial in nature. It provided no explanation as to whether the confidentiality of the information is provided for in law to protect a legitimate economic interest. Again, as with document 6, the Council did not identify any law upon which it was relying, or whether the economic interest, and thereby its confidentiality, would be adversely affected by disclosure.
36. As noted, article 9(1)(c) must also be read alongside article 10 of the AIE Regulations. In seeking to apply article 9(1)(c) the Council should, in the first instance, consider whether the information at issue relates to information on emissions into the environment, in accordance with article 10(1) of the AIE Regulations. While it may be the case that article 10(1) does not apply, there is no evidence to suggest that any consideration of that provision was undertaken by the Council in respect of the information at issue.
37. In its internal review decision, the Council listed two factors it considered in favour of release (“transparency”; “the right of members of the public to know”) and two factors it considered against release (“the right to confidentiality”; “the release of information which could provide an advantage to a competitor”). It then indicated its view that the interest in withholding the information outweighed the public interest in release. However, it gave no further explanation or detail regarding any balancing exercise carried out, in line with articles 10(3) and 10(4) of the AIE Regulations. It also did not properly deal with the issue of whether partial disclosure was possible in line with article 10(5) of the AIE Regulations, particularly in respect of the information withheld from Document 4.
38. Finally, it is important to note that, while it is very clear that the information at issue concerns third party information, no third parties appear to have been consulted / notified by the Council when processing the request.



39. Having regard to all of the above, it appears to me that the Council did not properly consider the information at issue and, in essence, adopted a “blanket approach” to its refusal under article 9(1)(c) of the AIE Regulations, without also giving adequate consideration to article 10.
40. In the circumstances of this case, particularly in light of the presence of third party information in the withheld information, I do not believe that it is appropriate for this Office to direct release of the information at this point. I therefore consider that the most appropriate course of action to take is to annul the Council’s decision to refuse access to the information withheld from Documents 4 and 6 under article 9(1)(c) and direct it to undertake a fresh decision-making process in respect of that information. The appellant will have a right to an internal review and a review by this Office if she is not satisfied with the Council’s decision.

Decision

41. Having carried out a review under article 12(5) of the AIE Regulations, on behalf of the Commissioner I hereby vary the Council’s decision in this case. I affirm its decision in respect of parts 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 24, 25, 30, 31, 32, 33, 34, 35, 37, 38, 39, 4a, 5a, 6a, and 7a of the appellant’s request. I annul its decision and direct it to undertake a fresh decision making process in respect of part 26 and in respect of the information withheld from Documents 4 and 6 under article 9(1)(c) of the AIE Regulations.

Appeal to the High Court

42. A party to the appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Deirdre McGoldrick
On behalf of Commissioner for Environmental Information
10 October 2022



Appendix: Appellant's Request dated 24 July 2020

"I am writing to request information under the Access To Information On The Environment regulations. The following is the information requested:

For the time period 1st February through the present date:

Copies of all notes and communications on file in regards to the following:

1. The review by Council staff of the concerns that I sent to them this year regarding the harmful actions inflicted on trees on Racecourse Rd, the Rathass area and other locations in Tralee in breach of national and international arboricultural standards which have been sent to them several times during the past few years since February 2017.
2. The review by Council staff of the recommendations that I sent to them this year and in previous years on these national and international arboricultural standards.
3. The arboricultural standards and recommendations from the above two lists that they incorporated into the new draft tree management plan.
4. All discussions, meetings, notes, reports and other communications, both written and verbal between the Council and [Individual A] in regards to his use and promotion of the arboriculturally-banned practices of:
 - o Topping,
 - o Stub-cuts.
 - o Removal of healthy tree structure far in excess of what is recommended by arboricultural standards (an absolute maximum of 30% to be adjusted downward to 20%, 15% and less based on the age, species, health and location of the tree with no more than 10% to be removed in a year from mature trees which are less tolerant of pruning).
5. A list of the reasons given by [Individual A] for violating these arboricultural standards.
6. A copy of all tree assessments carried out by [Individual A] in Tralee and within a mile of the outskirts of Tralee during the above stated time.
7. A list of the ISA, ARB and BS3998: 2010 tree work guidelines that [Individual A] followed and adhered to in these tree reports in addition to the tree reports he wrote last year for the work that was carried out this year.
8. All other discussions, meetings, notes, reports and other communications with [Individual A].
9. Efforts to contact ISA-certified arboriculturists that I recommended to the Council this year and in the past including but not limited to [Individual B] and [Individual C].
10. All discussions, meetings, notes, reports and other communications with other certified arboriculturists.



11. All discussions, meetings, notes, reports and other communications with other tree professionals including but not limited to [Individual D] of [Company A].
12. All discussions, meetings, notes, reports and other communications with individuals at the [Company B] tree-cutting company regarding the arboriculturally-banned practices of topping and stub-cuts and other points stated in the emails I sent to the Council in February and March of this year and previously.
13. All discussions, meetings, notes, reports and other communications with individuals at [Company B]
14. A list of the specific arboricultural qualifications, training and educational degrees in relation to arboriculture that these individuals have. Please note that this request relates to the field of arboriculture and not other non-related fields.
15. A list of chainsaw qualifications, such as basic NPTC certs, that these individuals have.
16. All discussions, meetings, notes, reports and other communications with tree-cutter [Individual E] and his employees regarding the arboriculturally-banned practices of topping and stub-cuts and other points stated in the emails I sent to the Council in February and March of this year and previously.
17. All discussions, meetings, notes, reports and other communications with [Individual E] and his employees.
18. A list of the specific arboricultural qualifications, training and educational degrees in relation to arboriculture that these individuals have. Please note that this request relates to the field of arboriculture and not other non-related fields.
19. A list of chainsaw qualifications, such as basic NPTC certs, that these individuals have.
20. The meeting of Tralee municipal councillors on 6th of July or thereabouts.
21. All other meetings where tree issues were discussed.
22. All discussions, meetings, notes, reports and other communications with local councillors regarding tree issues.
23. The new draft tree management plan.
24. Council review of the arboricultural articles and tutorials that I've sent to the Council since February 2017 on the correct planting of trees.
25. Actions that the Council took as a result of those articles and previous requests to replant saplings planted incorrectly to avoid the inevitable risk of weakened trees and roots that creates an increased risk of trees dropping branches or falling over in storms.



26. All discussions, meetings, notes, reports and other communications regarding the new draft tree management plan both within the Council and with external individuals and parties.
27. All future plans in regards to the care and preservation of trees including the following:
 - Watering newly planted trees during dry spells,
 - Providing supports for newly planted and young trees,
 - Regular health inspections of trees,
 - Treatment of disease, decay and damage,
 - Cabling of damaged branches and limbs to preserve them,
 - The care and protection of trees and tree roots near construction work,
 - All other forms of tree care and preservation.
28. The annual budget for the tree care and preservation practices listed in No. 27.
29. The annual budget for tree destruction practices including but not limited to felling as well as the arboriculturally-banned practices of topping, stub cuts, etc. similar to those inflicted on the trees on Racecourse Rd., Rathass and Kevin Barry Villas earlier this year.
30. All future plans in regards to destruction of trees including but not limited to tree felling, the removal and destruction of healthy tree structure and foliage by chainsaw crews and the carrying out of arboriculturally-banned practice such as topping and stub-cuts.
31. Review by council staff of the following recommendation I sent to them in 2017 and since:
Instead of squandering thousands of euros on the arboriculturally-banned practices of topping and stub-cut to instead spend these funds more wisely on things like leaf-raking during autumn.
32. A list of what Michael Scannell was referring as "best" practices in his email to me dated 19th March this year.
33. A complete list of what the Council considers "best" practice in relation to the care and preservation of trees including but not limited to watering, treatment of decay, cabling, etc.
34. A list of the arboricultural publications, articles and studies where the Council obtained these "best" practices.
35. Supporting documentation to show how these Council "best" practices are better than those stated in the following arboricultural websites and publications:
 - BS 3998: 2010.
 - BS 5837: 2012.
 - International Society Of Arboriculture (ISA).
 - The Dublin Tree Strategy 2016-2020.
 - Tree Preservation Ireland.
(Links provided below).
36. The arboricultural qualifications of Council staff that came up with these "best" practices.



37. A list of payments made for all tree care and preservation practices including but not limited to the following:
 - Watering newly planted trees during dry spells,
 - Providing supports for newly planted and young trees,
 - Regular health inspections of trees,
 - Treatment of disease, decay and damage,
 - Cabling of damaged branches and limbs to preserve them,
 - The care and protection of trees and tree roots near construction work,
 - All other forms of tree care and preservation.Please include a detailed description of the work done, the name of the contractor and copies of all invoices and receipts.
38. A list of payments made for all tree destruction practices carried out including but not limited to felling, delimiting, topping, stub cuts and removal of other healthy tree structure. Include a detailed description of what was done, the name of the contractor and copies of all invoices and receipts.
39. All complaints sent to the Council regards to tree-cutting that took place during this time period.
40. All responses, communication and action taken in regards to these complaints.

For the time period 1st January 2019 through 31st of January, 2020:

1. All discussions, meetings, notes, other communications and reports, both written and verbal between the Council and [Individual A] in regards to tree issues.
2. All discussions, meetings, notes, other communications and reports, both written and verbal within the Council in regards to tree issues.
3. All discussions, meetings, notes, other communications and reports, both written and verbal between the Council and other individuals and organisations in regards to tree issues.
4. A list of payments made for all tree care and preservation practices during this time period including but not limited to the following:
 - Watering newly planted trees during dry spells,
 - Providing supports for newly planted and young trees,
 - Regular health inspections of trees,
 - Treatment of disease, decay and damage,
 - Cabling of damaged branches and limbs to preserve them,
 - The care and protection of trees and tree roots near construction work,
 - All other forms of tree care and preservation.Please include a detailed description of the work done, the name of the contractor and copies of all invoices and receipts.



5. A list of payments made for all tree destruction practices carried out including but not limited to felling, delimiting, topping, stub cuts and removal of other healthy tree structure. Include a detailed description of what was done, the name of the contractor and copies of all invoices and receipts.
6. All complaints sent to the Council regards to tree-cutting that took place during this time period.
7. All responses, communication and action taken in regards to these complaints.

Please Note:

Each of the above requests for documentation includes but is not limited to the following:

All meeting notes, agendas and minutes, all written reports, all written, digital, computer, electronic and online documentation, correspondence, all other notes, emails, faxes, audio and video recordings and phone texts.

To avoid unnecessary duplication, in responding to the above please do not send me copies of emails or anything that I have sent to the Council as I already have these on file. You may reference these but there is no need to send them.

Please also do not send me copies of emails and reports that the Council has previously sent me. You can reference them however there is no need to send duplicates. What I am basically looking for is information that has not previously been sent.

Please also note that the "Council" when noted above refers to Kerry County Council.

If you would send the requested information in the following formats that apply most closely to the item referenced that would be appreciated: Microsoft Word, Excel, Powerpoint, Pdf, Jpg, MP4 and MP3. If any of the information requested cannot be sent in any these formats please let me know and we can discuss alternative formats."