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 CEI/17/0044

Date of decision: 31 January 2019

Appellant: Conor Ryan

Public Authority: Offaly County Council (OCC)

Issue: Whether that part of OCC's decision on an AIE request which refused to provide access to information on where waste was sent by certain holders of waste collection permits was justified on commercial/industrial confidentiality grounds by article 9(1)(c)

Summary of Commissioner's Decision: The Commissioner found that while article 9(1)(c) applied to the information, the public interest in disclosure outweighed the interests served by refusal. Accordingly, he varied OCC's decision and required it to make the withheld environmental information available to the appellant.

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

The appellant made an AIE request to the National Waste Collection Permit Office (NWCPO) on 1 September 2017. NWCPO's website explains its relationship with OCC as follows:

> "Offaly County Council has been appointed the National Waste Collection Permit Office and has been in operation from the 1st February 2012. Our role is to accept and process all new and review Waste Collection Permit applications for all Waste Management Regions in the Republic of Ireland. We also carry out additions and amendments to existing Waste Collection Permits. "

Permit holders are required to submit what are called Annual Environmental Reports to the NWCPO. These are also known as "Annual Returns".

The AIE request read as follows:

> "I seek an electronic and complete copy of the annual returns database held by the NWCPO. I am specifically seeking returns provided by any entity with a permit to collect household waste (municipal – all categories), recycling waste (plastic, paper and glass), WEEE (discarded electronics etc.) and batteries. I would be happy to refine my request to only include categories relevant to these areas. I am modelling this request on the Annual Return fields that correspond with the form entry portal at https://ar.nwcpo.ie and request the release of information that mirrors this in the underlying database. As this would all be maintained in a central database I do not envisage any undue search and retrieval work and I would like all files to be released in as flat file formats or as a database dump files."

Similar appeal case

Similar data was the subject of a previous AIE appeal, CEI/17/0005 . In that case the appellant sought access to copies of the 2015 Annual Environmental Reports held by NWCPO in relation to 60 named companies. In my decision made on 24 April 2018 (which is available on www.ocei.ie) I required OCC to provide the appellant with access to the data on waste types and quantities that had been submitted for the specified companies in their 'annual environmental returns'. I did not require OCC to provide access to waste destination data from the same returns, for reasons which I explain below. I am not bound to follow previous decisions made by my Office and I approached my review in this case with an open mind, intent on deciding this case on its own merits.

Narrowing of the issues

Following publication of my decision in case CEI/17/0005 and before I began my review in the current case, OCC revised its position on this request and agreed to provide the appellant with information of the same type that it released to the appellant in case CEI/17/0005. This amounted to a part-release of the requested information to the current appellant.

The NWCPO's database holds data from over 50 companies, many of which hold multiple permits. My investigator explained to the appellant that it would be necessary, before making a decision, for me to afford the relevant companies with an opportunity to be heard. In order to reduce the burden on my staff in consulting so many companies, the appellant kindly agreed to narrow the scope of his appeal to the data held in relation to seven permit holders. He explained that he selected seven permit-holders as a cross section of the industry, in an attempt to strike a balance both geographically and in terms of the type of operation involved (e.g.: small, medium and large; kerbside collecting and non-kerbside collecting; companies filing Pollutant Release and Transfer Register returns for other arms of their business and those that do not). I thank the appellant for this narrowing of scope as it made my Office's task more manageable.

OCC explained that there are several versions of each of the seven permits and each version is identified by a two-figure suffix. Information supplied by OCC showed that there are, in all, 35 versions of those seven permits.

OCC agreed to provide the appellant with access to all of the information held on its annual reports/returns database in relation to those 35 permit versions except for data which would show where those seven companies sent the waste collected under those permits. Accordingly, this 'destination data' was the information at issue in my review.

Under article 12(5) of the AIE Regulations, my role is to: review a public authority's decision; to annul, vary or affirm it; and, if appropriate, require the public authority to make environmental information available to the appellant.

In conducting my review I took account of the submissions made by the appellant, OCC and the permit holders which made submissions. I 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); *The Aarhus Convention—An Implementation Guide* (Second edition, June 2014)(the Aarhus Guide); and the relevant jurisprudence of the courts.

Scope of review

The scope of my review was limited to the data held by OCC in its database which records the waste-destination data submitted by the holders of all 35 versions of the seven waste permits specified by the appellant from the year 2012, when OCC began accepting such reports, up to and including data held for 2016. OCC provided my Office with a copy of the data. Where "no data" entries were made on the spreadsheet I consider these to be within the scope of my review.

OCC's position

OCC's position is simply stated: It is that "The data in the columns headed 'destination facility' and 'destination facility name' are deemed by OCC to be commercially confidential for the same reasons as found by the Commissioner in case CEI/17/0005".

My decision on case CEI/17/0005 (which is available at www.ocei.ie) turned on article 9(1)(c), which provides that a public authority may refuse to make environmental information available 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. I accepted that there was a real and serious risk that the public identification of the waste destinations used by permit holders could harm the interests of those companies. I took the view that data on waste destinations had been given in confidence to OCC and OCC therefore had an obligation to respect that confidentiality in order to protect the legitimate economic interests of the permit holders. Accordingly, I was satisfied that refusal to provide access to the data on waste destinations could be justified under article 9(1)(c) of the AIE Regulations. I went on to consider article 10(3) and concluded that the interest served by disclosure did not outweigh the interests served by refusal.

The appellant's position

The appellant made a submission and later expanded on it. I did not replicate the submission here, but I have considered it in its entirety. The submission did not deal separately with confidentiality and the public interest. However, I endeavoured to describe and deal with the arguments under those two headings.

Some of the points made by the appellant were criticisms of my decision in case CEI/17/0005. That decision was not appealed to the High Court and this review was not a re-examination of it. However, since OCC has relied on that decision's underlying reasoning and the appellant argued that I should not follow the same reasoning in this case, I had to consider those arguments in relation to the particular information that is now at issue.

The appellant submitted that there is a "fundamental question of whether the public has a right to know what is done with their waste, or is a private collector's right to make a profit more important?" His submission included an argument that refusal would not be justified on the ground of protecting the privacy of private persons. Since the latter was not an issue in this case I did not consider it further in my review.

The appellant's arguments regarding commercial confidentiality- article 9(1)(c)

The appellant argued that the information at issue is not protected by the common law equitable duty of confidence. He argued that it was not given in confidence to OCC, saying that he saw nothing on the applicable permits to suggest or imply confidentiality in terms of the reporting requirements and he found no reference to confidentiality in guidance documents published on the NWCPO website.

He argued that the information was not provided voluntarily, as permit holders were obliged by law to provide the information to OCC, since that was a condition of their permits.

He asked me to take account of the European Pollutant Release and Transfer Register Regulations which provide for a Europe-wide register (the E-PRTR) with easily accessible key environmental data from industrial facilities in European Union Member States (source: http://prtr.eea.europa.eu). While the appellant accepted that those Regulations do not expressly apply to the specific collection permits relevant to this appeal, he argued that I should regard the principle of transparency that underpins those Regulations as applying to the information that is now at issue and not regard it as confidential information.

The European Commission's website (ec.europa.eu/environment) explains the European Pollutant Release and Transfer Register as follows:

> The register contributes to transparency and public participation in environmental decision-making. It implements for the European Union the UNECE (United Nations Economic Commission for Europe) PRTR Protocol to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The E-PRTR Regulation was adopted in 2006 to implement the Kiev Protocol at EU level. The Kiev Protocol is the first legally binding international instrument on pollutant release and transfer registers. Its objective is "to enhance public access to information through the establishment of coherent, nationwide pollutant release and transfer registers (PRTRs)." PRTRs are inventories of pollution from industrial sites and other sources. The Protocol was adopted under the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

In support of this argument, the appellant submitted that the Aarhus Convention underpins the E-PRTR. He cited the Guidance to the Protocol on PRTRs (UNECE, 2008) as saying at page 3 that:

> *"PRTRs are a tool for public access to environmental information and thus are closely tied to the Aarhus Convention's goals. The Convention includes broad, flexible provisions calling on Parties to establish nationwide, publicly accessible "pollution inventories or registers" covering inputs, releases and transfers of substances and products".*

Accordingly, he submitted, "whereas, the PRTR system is a defined and specific register, it offers a clear and legally binding interpretation of the intent of the Aarhus Convention". He further submitted that "the guidance document makes it clear that confidentiality should only be applied for specific purposes and in very limited circumstances". He cited several extracts from the PRTR Regulations and both the UNECE's and the Environmental Protection Agency's guidance on same. In my view, these may be distilled into the following statement which appears on page 55 of the European Commission's Guidance Document for the implementation of the European PRTR, 2006:

> "When considering the confidentiality of a particular type of information, the competent authorities of the Member States shall interpret the grounds for confidentiality in a restrictive way and should weigh the public interest served by disclosure against the interest served by confidentiality".

The appellant submitted that “this is no more or no less that what the Irish AIE Regulations require”. He argued that the PRTR guidance document makes it clear that the intent was to allow people to see exactly what was happening with their waste, to the fullest extent possible. He appellant argued that the basic presumption under the PRTR Protocol is that all of such information is public and anything that restricts public access in favour of preserving the competitive position of a private business flies in the face of the spirit and intent of the Aarhus Convention.

The appellant’s public interest arguments

The appellant argued that the ‘farm to fork’ principle of traceability that applies to the production of food applies equally to the disposal of waste, so that people are entitled to be able to know the destination of their waste. He argued that the PRTR regime does not allow reported information to be kept from public view on a blanket basis and that all decisions to deny public access must be made on a case by case basis, in light of the presumption of public access.

He submitted that standard interpretative information attached on page one of the permits issued by the National Waste Collection Permit Office states that "unless otherwise specified, all terms in the permits should be interpreted in accordance with the definitions in the Waste Management Act 1996 (the Act), or regulations made under the European Communities Act and its associated regulations". He submitted that under Part IV of the Act, a customer or householder shall not "dispose of waste in a manner that causes or is likely to cause environmental pollution". He added that this duty is also enshrined in the Aarhus Convention which recognises “that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations". He accepted that this does not mean that a householder is responsible for the actions of an authorised person (i.e. an authorised collector or waste facility) but he maintained that it places an onus on people not to send their waste to facilities that they know, or believe, are likely to cause environmental pollution. He submitted that, under the Convention, people have a duty to take all of the steps they can to protect the environment. This, he submitted, is at the heart of what the Aarhus Convention and the AIE Regulations were seeking to achieve— allowing citizens to access the information necessary to take whatever decisions were available to improve their environment. He pointed out that the Convention recognises that this requires access to the relevant information.

The appellant submitted that, in circumstances where it is public knowledge that some facilities do not operate correctly or have particularly poor environmental records, householders should be able to fulfil their responsibilities by ensuring that their waste is not sent to such facilities. **I wish to emphasise that the appellant did not say or suggest that any of the holders of the permits that he had nominated in this case are such companies. He made it clear that he had selected those permits as a cross section of the industry, in an attempt to strike a balance both geographically and in terms of the type of operation involved throughout the country.** He argued, in effect, that the public interest requires that the ability to make conscientious decisions to only use reputable recovery / disposal routes has to be available to all householders. The alternative, he submitted, would be that responsible householders would have no say in where their waste ends up. That, he argued, would "break the transparency chain in what is supposed to be a visible system", placing more importance on the ability of businesses to make money than on people's rights to known what happens to their waste. He submitted that transparency would allow householders to identify local facilities with poor environmental records with the EPA or to decide if they wanted their waste to be incinerated or exported to countries with more lax environmental regulations. He submitted that householders, as the primary producers of the waste, cannot effect positive change if they are denied information on what happens to their own waste and denied information on alternative options available in the market. If the purpose of the Aarhus Convention was to do anything, he submitted, it was to do that. To press home this point, he cited the following from the Convention:

> *"In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention."*

Third party positions

The third parties in this case are the holders of the seven permits which were identified to my Office through their permit reference numbers (NWCPO).

My investigator wrote to those permit holders, explained what was at issue, and invited them to make submissions. He made it clear that "the Commissioner could require disclosure even

if he is persuaded that disclosure would harm your company's interests". He added: "If you do not make a submission the Commissioner might conclude that your company would not be negatively affected by disclosure".

Four of the permit holders did not make submissions to my Office. One made a submission saying that it could not say for sure that disclosure would negatively affect the company. It said that potential negative effects would depend on the agenda of the requester: their trustworthiness, reputation, etc. It added that it had grave concerns about having its company name mentioned alongside any less reputable organisations. It referred to the industry having had significant negative publicity in the media in recent times. It said that "loss of commercial/industrial confidentiality could create direct and indirect additional costs, losses or damages in the order of hundreds of thousands of euro for the reasons explained". The reasons put forward were concerned with disclosure of commercially sensitive information which, it was claimed, "could easily prejudice the competiveness of [its] business model and the risk of reputational damage by being tarred with the same brush as less reputable companies".

Another permit holder made a submission in which it complained that an *RTE Investigates* television programme had "massively damaged [its] reputation, so much so that [it] lost customers because of it". It referred to false allegations having been made and said it feared that disclosure in this case could be used to destroy its reputation further by possibly stopping it from using other facilities and putting it out of business.

A further permit holder made a submission in which it said that it had contracts with both its suppliers and its waste-destinations and all of these contained confidentiality clauses "so we therefore cannot legally agree to disclose such information". It also said that such contracts have a "put or pay" clause, which means that the company will be penalised financially if the tonnage of waste which it supplies falls short of agreed targets. It argued that allowing tonnage information into the public domain would possibly allow competitors to undercut it on renewal of contracts. It said that disclosure would jeopardise its sustainability and added that it would seek compensation if any information disclosed damaged its relationships with key suppliers and the company's viability. It said it was in no doubt that this information would negatively affect its business especially as it was "unaware of who wishes to gain access to this information and how they may wish to put it into the public domain".

The same permit holder also submitted that Ireland has a very limited number of waste outlets and is "not self-sufficient in the number of waste outlets". It added that "anything that could jeopardise [the company's] relations with any supplier could put the company's viability at risk as there are so few waste outlets within the State". It argued that disclosure would not serve the public interest because all information submitted in annual returns is audited by trained and qualified local authority staff. It said that "these staff have the necessary skills to be able to fully verify that all waste is being dealt with in accordance with the waste management legislation". Therefore, it argued, "the public interest is maintained by public servants".

Analysis

Whether article 9(1)(c) of the AIE Regulations applies to the withheld information

The test

To find that article 9(1)(c) applies to information, I would need to be satisfied that:

1. The information at issue is commercially or industrially confidential.
2. The confidentiality of the information is provided for in national or Community law to protect a legitimate economic interest.
3. Disclosure would adversely affect that confidentiality.

Applying the test

In my decision on the previous appeal CEI/17/0005, I focussed on the common-law equitable duty of confidence in relation to the test of whether confidentiality is provided for in national or Community law. In light of the content of the specific information at issue (including the effective "no data" entries) and the submissions of the parties, I have some doubts as to whether the waste destination information in all of the 35 permit versions would meet the requirements of the common law equitable duty of confidence as summarised - arising out of consideration of the requirements for a successful action based on a breach of an equitable duty of confidence at least in a commercial setting - by Fennelly J. in the Supreme Court judgment in *Mahon v Post Publications* [2007] IESC . That is not to say that I accept all of the appellant's arguments as regards confidentiality. I do not accept that the alleged absence of any indication in permits or in NWCPO's guidance documents to show that information was given in confidence means that it was not given in confidence. Neither do I accept that

the principles of the European Pollutant Release and Transfer Register Regulations can be taken to apply in these circumstances or that I can declare the existence of general transparency rights or principles in the way that the appellant proposes. I accept that permit holders are under a legal obligation to provide the waste information to OCC; however, voluntary supply of information is a consideration not under article 9(1)(c) but under article 8(a)(ii).

I have found in previous cases where the information is commercial in nature i.e. where it relates to the sale or purchase of goods or services, usually for profit, that section 36(1) of the Freedom of Information (FOI) Act 2014 provides for the protection of commercial confidentiality in order to protect economic interests, subject to a public interest test. I am taking it that this provision is the relevant national law in the current case. The third parties have relied, in the main, on arguments relating to prejudice to their competitive positions within the waste industry and financial losses in the conduct of their business as well as to perceived reputational damage. I am satisfied that the withheld information on waste destination in this case is commercial and that, at least some of it has been and continues to be treated by both the third parties and OCC as confidential. I am satisfied, in the circumstances, that disclosure of that information would result in the loss of its confidential quality and that the purpose of such confidentiality is the protection of legitimate economic concerns of the companies. I am therefore satisfied that disclosure of the withheld information would adversely affect commercial confidentiality.

Section 36(1) of the FOI Act provides that subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains—

> (b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation.

Section 36(2) provides that a head shall grant an FOI request to which subsection (1) relates if—

> (a) the person to whom the record concerned relates consents, in writing or in such other form as may be determined, to access to the record being granted to the requester concerned,

(b) information of the same kind as that contained in the record in respect of persons generally or a class of persons that is, having regard to all the circumstances, of significant size, is available to the general public,

(c) the record relates only to the requester,

(d) information contained in the record was given to the FOI body concerned by the person to whom it relates and the person was informed on behalf of the body, before its being so given, that the information belongs to a class of information that would or might be made available to the general public, or

(e) disclosure of the information concerned is necessary in order to avoid a serious and imminent danger to the life or health of an individual or to the environment, but, in a case falling within paragraph (a) or (c), the head shall ensure that, before granting the request, the identity of the requester or, as the case may be, the consent of the person is established to the satisfaction of the head.

I have no information to show that any of the conditions set out in subsection (2) apply in this case. In particular, I do not have evidence of any of the affected third parties having consented to release of the waste destination information.

The essence of the test in section 36(1)(b) is not the nature of the information but the nature of the harm which might be occasioned by its release. The harm test in the first part of section 36(1)(b) is that disclosure "could reasonably be expected to result in material loss or gain". I take the view that the test to be applied is not concerned with the question of probabilities or possibilities but with whether the decision maker's expectation is reasonable. The harm test in the second part of section 36(1)(b) is that disclosure of the information "could prejudice the competitive position" of the person in the conduct of their business or profession. The standard of proof to be met here is lower than the "could reasonably be expected" test in the first part of the exemption. However, as Information Commissioner, I have taken the view that, in invoking "prejudice", the damage which could occur must be specified with a reasonable degree of clarity.

I reject the permit holders' arguments that I should base my decision on any reputational damage caused that would be somehow dependant on the identity of the appellant or on any "agenda". I do not see how the disclosure of presumably factual information which the permit holder themselves provided to OCC could feed false allegations. In relation to the assertion that a company would be penalised under contracts with suppliers and waste destinations, I

note that, despite my investigator's invitation to this permit holder to provide copies of the contracts so that the relevant clauses could be examined, no further information was forthcoming. Notwithstanding all of this, I am prepared to accept that some of the third parties (and indeed OCC), have provided enough material in their submissions to allow me to find that disclosure of the waste destination information "could prejudice" their competitive positon. I have come to this conclusion based on my acceptance of the position that if other companies in the sector knew the destination in Ireland or elsewhere of facilities that accept waste from the seven companies at issue here, they might target these and thus affect their competiveness. For clarity, I do not accept that in this case disclosure of information could jeopardise relations with suppliers of waste but, arguably, it is relations with the providers of the onward destinations of waste collected under permit that are a relevant concern. I am prepared to accept that there is a limited number of outlets which will take in the waste collected. I consider that the age of the information which dates from several years ago is not likely to significantly affect the situation.

I am therefore satisfied that section 36(1) (b) of the FOI Act 2014 applies to the waste destination entries in the records supplied. I find that, subject to the weighing of the public interest, article 9(1) (c) of the AIE Regulations applies to the information.

The Public Interest

I am mindful that the public interest balancing test in section 36 of the FOI Act is not identical to the requirement of article 10(3) of the AIE Regulations. However, for the purposes of this case, the relevant factors to be considered are common to both and I will deal with them together. I considered the current request on an individual basis, in accordance with article 10(3), and I reflected on the weighting that I should give to the public interest in disclosure of the information at issue, in all of the circumstances. I have carefully considered all of the submissions and synopsised them above; I will not repeat all of the public interest factors argued in the course of my review.

In considering the public interest served by disclosure under AIE, it is important to have regard to the purpose of the AIE regime as reflected in Recital (1) of the Preamble to the Directive: "Increased public access to environmental information and the dissemination of such information contribute to greater public awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision-making and, eventually, to a better environment." Thus, the AIE regime recognises a very

strong public interest in maximising openness in relation to environmental matters so that an informed public can participate more effectively in environmental decision-making.

I am mindful also that section 11(3) of the FOI Act requires public bodies to have regard to the need to achieve greater openness in their activities and inform scrutiny, discussion, comment and review by the public of their activities. I consider this to be relevant to my assessment under section 36(3) as to whether it would be contrary to the public interest to release financial information.

On the other hand, both the AIE regime and the FOI Act recognise a public interest in restricting access to certain information. Competing interests must be assessed in order to weigh the public interest in favour of disclosure against the potential harm that might result from that disclosure. The public interest in openness and accountability is not limited to the expenditure of public funds. I consider that there is a very strong public interest in optimising transparency and accountability in relation to the manner in which agents of the State (including NWCPO and OCC), carry out their regulatory functions in relation to waste permits.

In this regard, I am aware that serious shortcomings in both the management of waste and the enforcement of waste management legislation in Ireland have been reported in recent times. In my view, investigations and commentary in the media and in the Oireachtas have raised serious questions as to whether the public interest is sufficiently secured by public servants having access to the waste information, which is one of the third party's arguments in favour of withholding the destination information from release. I think it fair to say that at this point in time there is a lack of confidence in Ireland’s ability to manage waste properly.

I concluded that it would be appropriate to apply an additional weighting to the disclosure of environmental information on waste-management because such disclosure would facilitate further public scrutiny, which would support responsible and compliant waste-managers while at the same time exposing less-responsible and less-compliant competitors to the risk of being identified.

The interests served by refusal are primarily those of protecting the legitimate economic interests of the third parties from unnecessary prejudice. Having examined the information in the 35 records very carefully, I am not convinced that, even read in conjunction with the submissions of the third parties, it could be held to disclose solely details of the permit holders' business without also being directly relevant to the role of the regulatory authorities

in the operation of the permit system, including the annual returns. While there is a strong public interest in third parties being able to conduct commercial transactions with public authorities without fear of suffering commercially as a result, what is at issue here is not a commercial transaction with OCC but a mandatory requirement as part of OCC's regulatory function.

Having considered all of the above, the arguments of the parties, and the public interest under article 10(3) of the AIE Regulations, I find that, in this particular case, the public interest in disclosure outweighs the interests served by refusal.

Decision

I find that article 9(1)(c) of the AIE Regulations applies to the information at issue, but the public interest in disclosure outweighs the interests served by refusal under that article. Accordingly, I vary OCC's decision and require it to make available to the appellant the waste-destination data which it holds in relation to all versions of the seven waste permits specified by the appellant for the years 2012 to 2016, inclusive.

Appeal to the High Court

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.

Peter Tyndall
Commissioner for Environmental Information
31 January 2019