



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-157070-K0J8C2

Date of decision: 24 April 2026

Appellant: Right to Know CLG

Public Authority: Department of Agriculture, Food and the Marine (the Department)

Issue: Whether the Department was justified in refusing access to the information at issue contained in nine columns of the CFU register under article 8(a)(i) of the AIE Regulations

Summary of Commissioner's Decision: The Commissioner found that the Department was not justified in refusing access to the information at issue under article 8(a)(i) of the AIE Regulations and directed its release.

Right of Appeal: 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, 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 2 January 2025, the appellant made the following AIE request to the Department:
*“Under the AIE Regs please provide
1) a copy of the register of controlled finishing units (CFUs) or feedlots
2) list of CFUs with bTB outbreaks in 2024”*
2. The Department’s original decision of 27 January 2025 refused the appellant’s request, citing articles 8(a)(i) (personal data) and 9(1)(c) (commercial confidentiality) of the AIE Regulations.
3. The appellant requested an internal review from the Department on 27 January 2025.
4. The Department issued its internal review on 21 February 2025, affirming its original decision under article 8(a)(i) of the AIE Regulations. The appellant submitted an appeal to this Office on 28 February 2025.
5. I have now completed my review under article 12(5) of the Regulations. In carrying out my review, I have had regard to the submissions made by the appellant and the Department. 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’).
6. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Scope of Review

7. In accordance with article 12(5) of the AIE Regulations, the role of this Office in this appeal is to review the Department’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.



8. The appellant's request for information sought "a copy of the register of controlled finishing units (CFUs) or feedlots" (Part 1) and also a "list of CFUs with bTB outbreaks in 2024" (Part 2). The Department provided this Office with a copy of a spreadsheet it identified as relevant to the appellant's request entitled, "CFU register 2025". This record consists of over 400 row entries and sets out information on the CFU's in columns under various headings.
9. During the course of this appeal the appellant clarified that it was not seeking personal information such as contact numbers or email addresses, but it was specifically seeking the location of cattle operations. The investigator clarified that the appellant was not seeking the names of individual owners. Accordingly, the columns at issue in this appeal are Column A (the District Veterinary Office), Column B (the herd number), Column C and D (the owner name only in rows where it is not a natural person), and Column I-M respectively (location data).
10. Part 2 of the appellant's request sought a "list of CFUs with bTB outbreaks in 2024". While the appellant included reference to "or outbreaks of bTB in feedlots" in its internal review request, it made no particular reference to same in its appeal to this Office, which specifically referred to the register. Therefore, I am satisfied that the appellant confined its appeal to information relating to Part 1 of its request.
11. Accordingly I am satisfied that this review is concerned with whether the Department was justified in refusing access to the relevant information contained in nine (9) of the withheld columns of the CFU Register identified under article 8(a)(i) of the AIE Regulations,

Analysis and Findings

Context to the Request – Controlled Finishing Units

12. The Department of Agriculture reports on [National Bovine TB Statistics](#), with [Quarter 4 2025](#) showing reactors down from 41,630 at the end of 2024 to 37,785 at the end of 2025. However, the numbers reported in Q4 of 2025 still show that there has been a significant rise in TB cases in cattle since 2023 when numbers were 29,194.
13. The number of CFU herds operating in Ireland in 2025 was 506, according to the Department. This number has increased by 51 since December 2024, when there were 455 herds of this status.
14. Speaking at a [meeting of Dáil Éireann on Departmental Data on 4 March 2025](#), the Minister for Agriculture Food and the Marine, Martin Heydon stated the following in relation to bovine TB and CFUs:



Bovine tuberculosis (bTB) is a challenging disease to control and eradicate. I am committed to making real progress in eradicating TB because I am acutely aware of the emotional and financial trauma associated with a TB breakdown for farmers.

Provisional figures show that a total of 6,254 herds were restricted in 2024 - note this figure may be subject to change.

As part of the TB eradication programme, beef finishing herds experiencing a TB restriction, provided they meet the necessary criteria, are allowed to avail of a special status, termed “Controlled Finishing Unit (CFU)”.

A CFU herd is a specialised finisher of beef that does not engage in the active breeding of animals. It is a non-breeding herd which disposes of all cattle on the holding direct for slaughter and poses a minimal risk of infecting cattle on adjacent holdings by fulfilling at least one of the following three criteria:

- (i) the cattle must be permanently housed (zero grazed), or
- (ii) there are no contiguous cattle herds, or
- (iii) the pasture is walled, double fenced or equivalent to prevent nose to nose contact with cattle on a contiguous holding (all grazing fragments must be fenced to this standard for herds designated as CFUs). If this standard of fencing is not in situ on other fragments, a separate herd number will be required for animals on those fragments(s), and
- (iv) a separate herd number(s) will be required for land parcels that extend beyond 32km from the home farm.

When a herd meets the criteria to be regarded as a CFU under the TB Eradication Programme, the herd is restricted under the TB Regulations and a special official supervisory and testing protocol is established”.

15. Minister Heydon also published a [Bovine TB Action Plan](#) on 9 September 2025, to address the current high levels of disease. The Minister stated that this Action Plan is based on scientific research and veterinary expertise and highlighted the 5 measures which are underpinned by 30 actions in the plan:

1. Support herds free of bTB to remain free
2. Reduce the impact of wildlife on the spread of bTB
3. Detect and eliminate bTB infection as early as possible in herds with a bTB breakdown and avoid a future breakdown
4. Help farmers improve all areas of on-farm biosecurity
5. Reduce the impact of known high-risk animals in spreading bTB (see [Minister Heydon publishes Action Plan to address current high levels of bovine TB \(bTB\)](#))



16. Action 4.4 of the Bovine TB Action Plan, entitled “Full enforcement of biosecurity and testing requirements for Controlled Finishing Units (CFUs)”, also sets out that “the management of CFUs will be monitored and controlled in accordance with their biosecurity and testing requirements to ensure that they do not pose an increased risk of transmitting bTB to neighbouring herds”.
17. The Minister also wrote to all herdowners on 30 March 2026 advising them of [updates to the Bovine TB plan eradication programme](#) as part of the implementation of the Bovine TB Action plan published last year.

Article 8(a)(i) of the AIE Regulations

18. Article 8(a)(i) of the AIE Regulations 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. This provision seeks to transpose Article 4(2)(f) of the AIE Directive, which in turn is based on Article 4(4)(f) of the Aarhus Convention.
19. Article 8(a)(i) must be read alongside article 10 of the AIE Regulations. 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. I am satisfied that article 10(1) of the AIE Regulations does not apply in this case. 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.
20. When relying on article 8(a)(i) of the AIE Regulations a public authority must show that –
 - a) the information at issue is personal information relating to a natural person, who has not consented to its disclosure;
 - b) the personal information has an element of confidentiality,
 - c) the confidentiality of that personal information is protected by law; and
 - d) the disclosure of the information at issue would adversely affect that confidentiality.



21. The Department has sought to blanketly apply article 8(a)(i) by refusing release of the record in its entirety. An inspection of the record clearly indicates that some of the owners listed in columns C and D are limited companies, and therefore not generally covered by the exemption provided for under article 8(a)(i). That being said, the record at issue contains information that, when combined with local knowledge and other available information, is likely to lead to the identification of individuals, and therefore can be considered personal information. As set out above, this information involves location details, herd number details, and company/business names, some of which feature the name of an individual eg. John Smith Ltd. The appellant has confirmed this is information which it is seeking as part of its request – although it disputes that location data in this context is personal information at all.
22. I consider it appropriate at this stage to briefly set out the approach to personal data under the AIE Regime. I have set this out in detail in recent decisions, [OCE-135716-R4G8T1](#) and [OCE-137000-X7Y9N3](#); these decisions should be referred to for a more detailed analysis of same.
23. As outlined above, article 8(a)(i) of the AIE Regulations seeks to transpose Article 4(2)(f) of the AIE Directive, which enables Member States to provide for refusal of a request where disclosure would “adversely affect ... the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law” (my emphasis). The final paragraph of Article 4(2) states, referring to the predecessor to the GDPR: “Within this framework, and for the purposes of the application of subparagraph (f), Member States shall ensure that the requirements of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data are complied with.”
24. In light of this, I consider that the reference to “personal information” in article 8(a)(i) of the AIE Regulations to be consistent with the meaning of “personal data” under the GDPR, a concept with which every public authority is now very familiar. It is clear from this final paragraph of Article 4(2) of the AIE Directive that the AIE regime is intended to interact harmoniously with the European data protection regime. In the same vein, Article 86 of the GDPR (read with recital 152) permits the disclosure of personal data in accordance with information access regimes under EU or national law, where those regimes reconcile the right of access to information with the right to protection of personal data. This again indicates that the GDPR is intended to interact harmoniously with national and European regimes offering public access to information.
25. In Ireland, Article 86 of the GDPR is implemented by section 44(2) of the Data Protection Act 2018, which provides: “For the purposes of Article 86, personal data contained in



environmental information may be disclosed where the information is made available under and in accordance with the [AIE] Regulations pursuant to a request within the meaning of those Regulations.” On one view, this could be considered to be a standalone ‘gateway’ for the disclosure of personal data under the GDPR, permitting disclosure of all personal data contained in environmental information pursuant to an AIE request. However, the CJEU has repeatedly confirmed that the legal bases for processing in Article 6 of the GDPR are exhaustive list of the cases in which processing of personal data can be regarded as lawful (Meta vs Bundeskartellamt Case C-252/21 , at paragraph 90;SCHUFA Holding and Others (Discharge from remaining debts) Joined Cases C-26/22 and C-64/22 , at paragraph 73).

26. In order to determine whether the confidentiality of personal data is protected by the GDPR, one must consider whether there is a lawful basis under Article 6(1) of the GDPR for disclosure. If there is a lawful basis for disclosure, the personal data may lawfully be disclosed and the confidentiality of the personal data is not protected by the GDPR. Conversely, if there is no lawful basis for disclosure, the personal data may not be disclosed and the confidentiality of the personal data is protected by the GDPR.
27. There are six lawful bases for processing personal data set out in Article 6 of the GDPR, It appears that the most relevant basis to consider is Article 6(1)(f), ‘necessary for the purposes of the legitimate interests pursued by the controller or by a third party.’
28. There are “three cumulative conditions” in order for processing to be lawful in accordance with Article 6(1)(f): “... first, the pursuit of a legitimate interest by the data controller or by a third party; second, the need to process personal data for the purposes of the legitimate interests pursued; and third, that the interests or freedoms and fundamental rights of the person concerned by the data protection do not take precedence” (Case C-597/19 , at paragraph 106). For convenience, this is known as the “legitimate interest test”.
29. In relation to the first condition, the CJEU has confirmed that a wide range of interests is, in principle, capable of being regarded as legitimate (see Joined Cases C-26/22 and C-64/22 at paragraph 76). Taking this into account, once a person has made a valid request for environmental information, I consider the first condition of the legitimate interest test is met.
30. Where the environmental information in question is or includes personal data, the only way in which the legitimate interest in receiving the environmental information can be met is by providing access to the personal data in question. Accordingly, the second condition of the legitimate interest test is met.
31. As a result, in practice, it is the third condition of the legitimate interest test on which public authorities must focus most of their attention. The third condition requires “the



balancing of the opposing rights and interests at issue”, depending on the specific circumstances of the particular case (see Case C-597/19 , at paragraph 111).

32. In this context, the opposing interests will be, on the one hand, the right of the data subject to respect for privacy and protection of personal data and, on the other hand, the public interest in the disclosure of the environmental information at issue. This balancing exercise is almost identical to the balancing exercise that is required under Article 4(2) of the AIE Directive and article 10(3) of the AIE Regulations, where personal data is concerned. This means that, although as a matter of principle a public authority must carry out the balancing exercise in Article 6(1)(f) first and again (if needed) under article 10(3) of the AIE Regulations, in practice it is unnecessary for a public authority to go through the exercise twice because the analysis is the same.
33. To summarise, once a public authority is satisfied of the following matters, the public authority may be satisfied that the requester has a ‘legitimate interest’ in receiving the personal data pursuant to that request and that its disclosure is ‘necessary’ to meet that interest:
 - a) that an AIE request has been made,
 - b) that the requested information is environmental information,
 - c) that the environmental information is or includes personal data, and
 - d) that the data subject has not consented to the disclosure of the personal data.
34. The public authority must then weigh the rights of the data subject against the public interest in the disclosure of the environmental information. In weighing that balance, the public authority should consider the specific interests at issue. As with any other exception to release under the AIE regime, if the public authority concludes that the balance falls against release of the personal data, it should go on to consider whether the personal data may be separated from the other environmental information at issue, for example by means of redaction (see Article 4(4) of the AIE Directive and article 10(5) of the AIE Regulations).

Legitimate Interest – Application in this Case

35. In this case, I am satisfied that a valid AIE request has been made (this is not in dispute). I am also satisfied that the information requested by the appellant in this case is environmental information under article 3(1) of the AIE Regulations. I also consider that the environmental information at issue contains personal data.
36. There is no evidence before me to suggest that data subjects have consented to the disclosure of their personal data. Having determined the above matters, I am satisfied that the appellant in this case has a “legitimate interest” in receiving the personal data at issue pursuant to an AIE request and that its disclosure is “necessary” to meet that interest. I



must go on and weigh the rights of the data subjects against the public interest in the disclosure of the environmental information.

37. The Department has outlined the basis for its refusal under the public interest balancing test under article 10(3) of the AIE Regulations which I have considered but will not set out in full here. In respect of the data subjects' interest in the protection of their personal data in this case, I note that the personal data at issue does not fall under any of the special categories of personal data meriting higher protection (see Article 9 GDPR).
38. In favour of withholding, I have considered the relevant parties' interests in the protection of their personal data, taking into account the nature of the specific personal data at issue and the data subjects' rights under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union. When considering the data subjects' interest in the protection of their personal data, I have taken into account whether there is likely to be any adverse effect on them, if their data is released. I am also mindful that the right to privacy has a constitutional dimension having been recognised as an unenumerated right under the Constitution, and of the strong protection afforded to privacy rights under Article 8 of the European Convention on Human Rights.
39. In favour of release, I consider that there is an important general interest in the disclosure of environmental information to meet the purpose of the AIE Directive, in particular by contributing to a greater 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, as set out in recital 1 to the AIE Directive and the rights in Articles 11 and 37 of the Charter of Fundamental Rights of the European Union.
40. I also note that the Department has not advanced any persuasive arguments as to how the release of the information within the records identified would lead to an adverse outcome.
41. The appellant on the other hand has given persuasive detail regarding the public interest in the requested information. It stated that "[l]ocation data on feedlots is obviously important environmental data as the impact on nitrates release of large concentrated numbers of cattle in same place". I agree that there is a general public interest in transparency around cattle herds, particularly in consideration of CFU register data given that these units manage a significant portion of Ireland's beef supply and are often restricted under bovine tuberculosis (TB) regulations.
42. Taking all of this into account, and weighing the above mentioned interests in the balance, I conclude that the public interest in releasing the information at issue in this appeal outweighs the interests served by the refusal. The CFU register is a key component of the TB eradication programme, and its transparency and management are of public interest. I note that there is already a free interactive tool, [herd bTB](#), publicly available online which



maps the latest bovine tuberculosis outbreaks across each county in Ireland to help farmers manage the risks when purchasing cattle.

43. The public's interest in the CFU register is heightened due to the ongoing bovine tuberculosis (TB) eradication efforts in Ireland. The CFU status allows beef finishing herds to be specialized finishers of beef that do not engage in active breeding, posing a minimal risk of infecting cattle on adjacent holdings. The CFU status is subject to enhanced biosecurity measures and is crucial for the effective management of disease risk in the beef industry. Accordingly, I consider there to be a public interest in the information at issue, including in particular the location data, of these CFUs.
44. I have previously considered the issue of herd numbers and location data regarding limited companies, see [OCE-136207-Y3Q4N3](#). The same point applies to this case in that as limited companies are legal persons, but not natural persons, the information related to such companies is not personal information within the meaning of article 8(a)(i). Therefore, the Department should note that article 8(a)(i) cannot be relied on for the purposes of withholding this information in relation to herd numbers and their associated location data that are linked to limited companies. For the reasons set out above, and weighing those interests in the balance, I conclude that the public interest in releasing the information at issue outweighs the interests served by refusal.
45. I note the Department has sought to rely on section 37 of the FOI Act as the law which protects the confidentiality of the information here (as required by article 8(a)(i)). As I have already found that the information should be released when applying the GDPR as the law relied on to protect the confidentiality of the information, I do not consider it necessary to consider section 37 of the FOI Act in this regard. I say this because the public authority is required to apply the same public interest balancing test under AIE regardless of whether it is the GDPR or section 37 of the FOI Act, relied on to protect the confidentiality of the information. In either case the public authority is obliged to consider whether to release or withhold the information by weighing the rights of the data subject against the public interest in the disclosure of the requested environmental information. I have set out this balancing of interests above and have found that the information should be released. I consider that this approach is consistent with a public authority's range of legal obligations in relation to both personal information and access to environmental information.

Decision

46. Having carried out a review under article 12(5) of the AIE Regulations, I hereby annul the decision of the Department under article 8(a)(i) of the AIE Regulations in respect of the information at issue. I direct the release of the relevant information contained in nine of the withheld columns of the CFU Register - namely columns A, B, C and D (where the owner is not a natural person), I, J, K, L and M.



Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

Appeal to the High Court

47. 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.

Gemma Farrell
on behalf of the Commissioner for Environmental Information
24 April 2026