

CORRESPONDENCE

MEETING OF THE METROPOLITAN DISTRICT OF LIMERICK

19TH JULY, 2021

- Letter dated 1st July, 2021 from the Office of the Minister of State for Heritage and Electoral Reform in reply to Notice of Motion from Members calling on the Metropolitan District of Limerick City and County Council to work with Government to clearly define what wildlife conservation protections exist in trees and hedging boundaries between individual properties and between different housing estates, and also that Councillors be briefed on what, if any, existing powers currently apply locally.



Mr. Mark Leahy
Limerick City and County Council
Corporate Services
Corporate Headquarters
Merchant's Quay
Limerick
V94 EH90

01 July 2021

Our Ref: HPLG-MoSN-00645-2021

Dear Mr. Leahy,

On behalf of Mr. Malcolm Noonan, T.D. Minister of State for Heritage and Electoral Reform, I wish to refer to your correspondence dated 21st April 2021, forwarded from Department of an Taoiseach. Please accept my sincere apologies for the delay in response.

I understand that you are enquiring about protections afforded by the criminal law rather than the civil law. The protections provided by the criminal law fall into two distinct areas: the protection of trees under forestry law and the protection of wild birds and habitats under nature conservation law.

An example of the former would be the protection provided by Tree Protection Orders, and I expect that your own development plan records these in your area. Forestry law falls under the responsibility of the Department of Agriculture Food and the Marine and that Department might be able to help you further with regard to trees.

The protection provided to birds and habitats by nature conservation law is to be found primarily in the Wildlife Acts 1976 to 2018 and in the European Communities (Birds and Natural Habitats Regulations 2011 (S. I. No. 477 of 2011). Details of this and other related legislation may be accessed here: www.npws.ie/legislation

Amongst these legal instruments, the provision of greatest relevance to your query is section 40 of the Wildlife Act 1976. This provides a degree of legal protection for hedges during what is known as "the restricted period", when birds are most likely to nest and breed. You can access an unofficial consolidated version of this section at the following link: <https://www.npws.ie/sites/default/files/general/section-40-wildlife-acts-consolidated.pdf>.





Environmental law is widely acknowledged to be complex and its interpretation can be challenging. The Wildlife Acts and the Birds and Natural Habitats Regulations are certainly no exception to that general view. For this reason it is recommended that you consult your law agent for advice on how to understand any specific provisions of interest.

Yours sincerely,

D. McDonnell

Danielle McDonnell

Private Secretary to Minister Malcolm Noonan T.D.

Please note: the Minister of State for Heritage and Electoral Reform is a Designated Public Official under the Regulation of Lobbying Act, 2015 (details available on www.lobbying.ie)