



**Oifig an Ombudsman  
Office of the Ombudsman**

Our Reference : 2009/5762  
13 May 2009

Ms Caroline Lewis  
Friends of the Irish Environment  
Allihies  
Co. Cork

Dear Ms Lewis


I refer to your recent letter to this Office in connection with Cork County Council.

You have asked this Office to advise you if we can assist you in obtaining clarification in relation to the treatment of a quarry as regards enforcement of conditions. This matter had been considered previously by this Office and enquiries were made with the Department of the Environment, Heritage and Local Government. The Department advised that conditions imposed on a pre 1964, as a result of the registration process under Section 261 (6)(a)(i) of the Planning and Development Act, 2000, were unenforceable as the Act did not provide a mechanism for pursuing legal proceedings for non-compliance. In addition the Department confirmed that they were aware of the difficulties caused by this and were considering how this anomaly in the legislation may be addressed by amending legislation, unfortunately there was no timeframe provided for this.

This Office cannot make a finding of maladministration against a Local Authority if they are not in a position legally to conduct an administrative action. Unfortunately there is nothing further that this Office can do under these circumstances.

By way of information in relation to Environmental Information, if you wish to make a complaint in respect of this issue you can write directly to the Office of the Commissioner for Environmental Information ([www.ocei.ie](http://www.ocei.ie))

Yours sincerely

  
Siobhan O'Connor  
On behalf of the Ombudsman