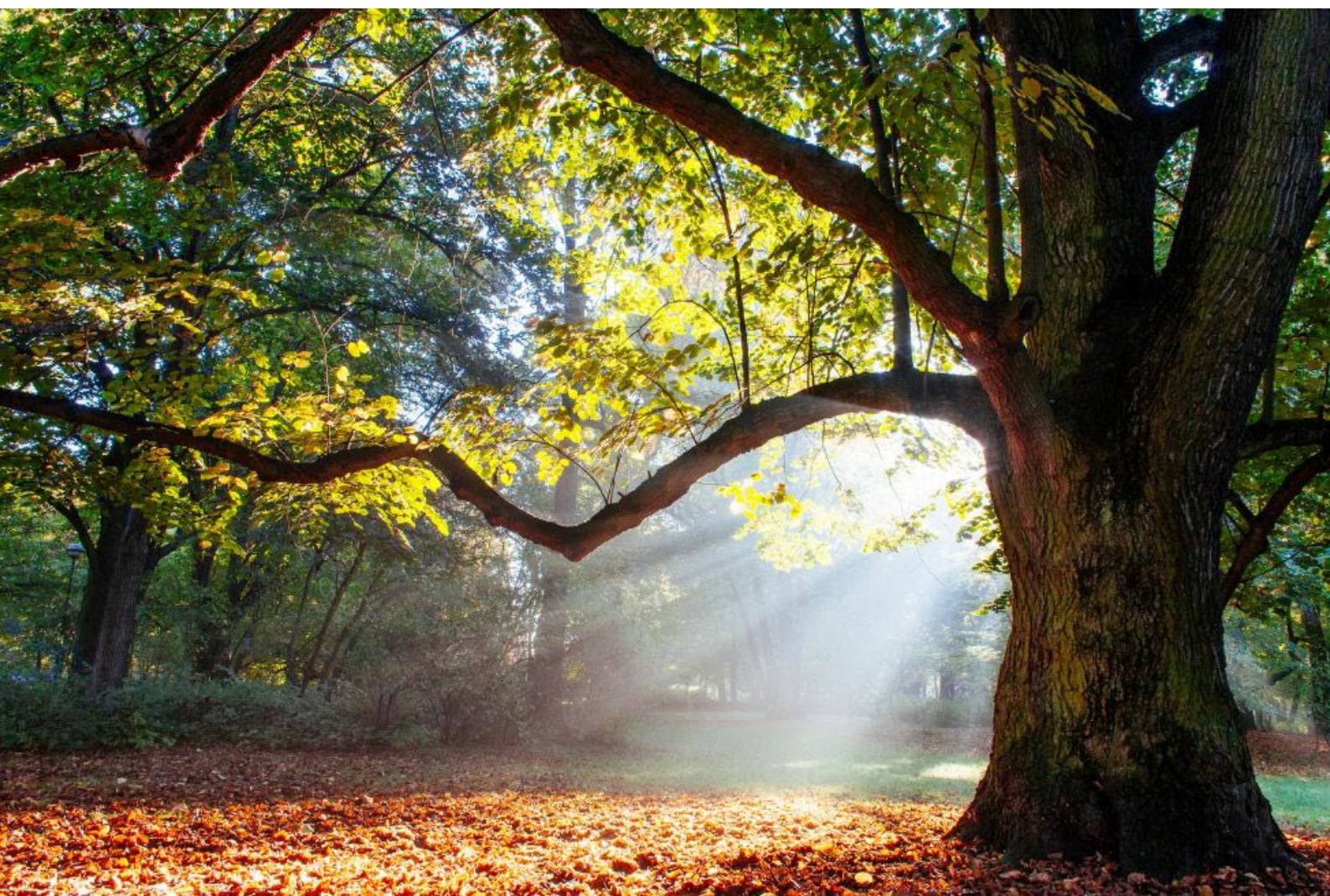




Strengthening Our Roots

Recommendations for improvement by the Northern Ireland Public Services Ombudsman on **Tree Protection** in the planning system



Strategies, Policies and Procedures

Recommendation 1:	All councils should develop and implement tree strategies which ensure the relevant functions across the council are aligned to the agreed objectives. Councils which already have tree strategies in place should review their strategies to ensure that they are comprehensive.
Recommendation 2:	Councils should review their schemes of delegation for planning to ensure that decision making processes in respect of TPOs are being given the appropriate level of priority and are in line with the objectives set out within tree strategies. Councils should also ensure that their schemes of delegation are clear and accurate, including specifying exactly what matters are presented to, and decided by, Committee in this area.
Recommendation 3:	Councils should ensure that they have their own procedural guidance in place to supplement the legislative framework around trees which are subject to TPOs and conservation area protection. Given the difference in the level of protection afforded, the guidance should also set out clearly the circumstances TPOs should be used instead of planning conditions to best secure the long term protection of trees.
Recommendation 4:	The Department should update and issue guides regarding the protection of trees, to reflect the current roles and responsibilities of the Department and the councils. The Department should also develop its own procedural guidance on areas in which it has retained responsibilities.
Recommendation 5:	The Department should consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. This could include issuing best practice guidance for councils in relation to developing effective Tree Strategies and supporting a regional Tree Forum. The Department and councils should also utilise the agreed mechanism to consider my report and recommendations, and collectively develop an action plan.

Tree Preservation Orders

Recommendation 6:	Councils should carry out detailed reviews of their TPO records to ensure that all of the TPOs which are in place remain valid. Councils should also ensure that they develop and implement processes for the regular review of their TPO records which should also be supported by carrying out site visits.
Recommendation 7:	All councils should electronically map TPOs and conservation areas within their area and provide the public with online access to the TPO register and associated documentation.
Recommendation 8:	The Department should take the lead in developing a regional GIS map showing the locations of all TPOs and conservation areas in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.

Recommendation 9:	Councils should develop and document the methodology (including the potential use of valuation software) used to assess the 'amenity' value of trees.
Recommendation 10:	In its 2022 Review of the Implementation of the 2011 Act, the Department committed to considering whether there is a need for it to provide further guidance for councils in relation to certain TPO terms. My report also supports the need for further guidance on key terms, and I recommend the Department proceeds to issue this.
Recommendation 11:	All councils should review the content of their websites to ensure that they provide clear and accurate information in relation to the processes which members of the public can follow when requesting TPOs. In addition to ensuring the process to request TPOs is accessible to the public, councils should also consider what mechanisms are in place internally to initiate TPO requests effectively.

Applications for Works to Protected Trees

Recommendation 12:	Councils which do not currently use application forms for processing applications for works to protected trees should develop standard application for works forms.
Recommendation 13:	Councils should review the content of their websites to ensure adequate information is provided to members of the public about the requirement to apply for works to protected trees, how to apply and that the application process is accessible.
Recommendation 14:	Councils should provide clarity in relation to the use of independent evidence to support applications for works to protected trees. The circumstances in which independent evidence is required and the parties responsible for obtaining it should be clarified.
Recommendation 15:	Councils should explore the potential to publish details of applications for works to protected trees in an accessible format.
Recommendation 16:	Councils should explore the potential to introduce community notification procedures for residents likely to be affected by proposed works to protected trees.
Recommendation 17:	The Department should consider issuing best practice guidance in relation to publication and notification procedures (this could sit within the wider guidance recommended in Recommendation 5).

Protected Trees on Council Owned Land

Recommendation 18:	The Department and councils should agree and issue clear procedural guidance in relation to the processes which councils should follow when they seek to carry out works to protected trees on their own land.
Recommendation 19:	The Department should develop a best practice approach on the independent investigation of reported breaches of tree protection by councils. It should update its enforcement practice notes to include the procedural steps that should be taken when the planning authority

(council or the Department) is suspected of the breach. The Department should also consider whether further legislation is required in this matter to provide the necessary clarity and independence in the decision making process.

Statutory Undertakers

Recommendation 20:	The Department should issue best practice guidance on the exemptions for statutory undertakers which are contained within Schedule 3 of the 2015 Regulations. Guidance should include that statutory undertakers liaise with the relevant planning authorities prior to carrying out work to a protected tree and comply with best arboricultural practice in undertaking the work. Statutory undertakers should also report when work has been carried out without notification and review whether the work carried out was necessary and undertaken in a way that was least damaging.
Recommendation 21:	Councils should introduce mechanisms to facilitate increased levels of engagement and co-operation with statutory undertakers in relation to the protection of trees.

Enforcement Activity

Recommendation 22:	The Department and councils should examine the reported tree protection breaches closed as 'not expedient' and 'other', to establish if factors relied upon within the recorded reasoning are in keeping with enforcement guidance and council priorities, and whether there are repeat issues that can be acted upon to prevent future breaches. This should include examining the rigour of the investigation and whether sufficient effort was made to establish a breach.
Recommendation 23:	Councils should review their enforcement strategies to ensure clear information is provided on the expediency test and that oversight procedures for 'not expedient' decisions are robust.
Recommendation 24:	Councils should consider developing specific Tree enforcement policy to supplement the overall council planning enforcement strategy.
Recommendation 25:	Councils should update the tree preservation sections of their websites to highlight that it is a criminal offence to carry out works to protected trees without consent. The websites should also contain clear information on how members of the public can report suspected tree protection breaches.
Recommendation 26:	The Department should collate, monitor and publish enforcement data which is specific to tree protection enforcement cases.



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