

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 4 April 2023

Public Authority: Powys County Council
Address: County Hall
Llandrindod Wells
Powys
LD1 5LG

Decision (including any steps ordered)

1. The complainant submitted an information request to Powys County Council ("the Council") for information relating to any roads that are known to be omitted from the National Street Gazetteer (NSG) and requesting a map of the maintained roads in Radnorshire.
2. The Commissioner's decision is that the information is publicly available and readily accessible to the complainant and therefore the Council was correct to rely on regulation 6(1)(b) of the EIR. However, in failing to respond to the internal review within the statutory timescale, the Commissioner has determined that the Council breached regulation 11(4) of the EIR.
3. The Commissioner does not require the Council to take any further steps.

Request and response

4. On 13 June 2022, the complainant wrote to the Council and requested information in the following terms. For ease of reference, the Commissioner has numbered the parts of the request to align with the Council's response:

"Under Freedom of Information Act / EIR would you please provide information on: -

1. What roads are known to be omitted from the NSG?
 2. When is it planned to include these?
 3. Please provide a map of the maintained roads in Radnorshire."
5. On 19 June 2022, the complainant provided clarification requesting a "reasonably up to date map" and provided an example from FixMyStreet and stated that "the whole of Powys would be perfectly acceptable".
6. A response was provided on 12 July 2022 in which the Council applied regulation 12(4)(d) of the EIR to part one of the request and confirmed that there was no recorded timetable for the completion of the work in response to part two. Regarding part three of the request, the Council applied regulation 6(1)(b) of the EIR.
7. On 10 September 2022, the complainant sought an internal review of the Council's decision. After intervention by the Commissioner, the Council provided its internal review response on 22 December 2022, in which it rescinded its reliance on regulation 12(4)(d) but upheld its application of regulation 6(1)(b).

Scope of the case

8. The complainant contacted the Commissioner on 16 December 2022 to complain about the way their request for information had been handled.
9. In the complainant's internal review request and initial complaint to the Commissioner, their complaint centred solely on the accessibility of the information requested in part three of the request.
10. The Commissioner has therefore considered the Council's handling of the complainant's request and in particular its application of regulation 6(1)(b) of the EIR.

Reasons for decision

Regulation 6(1)(b)-form and format

11. Regulation 6(1) provides that where an applicant requests that information be made available in a particular form or format, a public authority shall make it available, unless it is reasonable for it to make the information available in another form or format, or the information is already publicly available and easily accessible to the applicant in another form or format.
12. Additionally, Regulation 6(1)(b) exists in part to protect public authorities from having to re-provide the same information continually. It also acts as an extra incentive for public authorities to make the environmental information available proactively.
13. In this case the complainant requested a map of the maintained roads in Radnorshire in their initial request and for a reasonably up to date map for the whole of Powys in clarification of their request.
14. In its initial response, the Council explained that it proactively published, to the NSG, maps of the road network and that the List of Streets (LOS) contains details of the roads that are maintainable by the Council. Therefore, these two sources could be cross referenced to provide the complainant with the information they were requesting in part three of their request.
15. In its internal review, the Council informed the complainant that it was upholding its original decision, to rely on regulation 6(1)(b) but it recognised that it initially directed the complainant to the wrong source. The Council then provided the complainant with an email address to where they could obtain a copy of the map and provided a link to the Road and Highways Licenses fees and charges, where there is a list of chargeable highway services.
16. In submissions to the Commissioner, the Council confirmed that LOS is freely available at the main office of the Council but that no single physical map is held that would satisfy the request (neither the original one for just Radnorshire nor the subsequent clarification for the whole of Powys). The Council confirmed the information was held in an electronic form and that it was available to the public, albeit at a charge for the reproduction of the map on a scale to suit the complainant's requirement.

17. From the information provided, the Commissioner is satisfied that the information requested in part three of the request is readily accessible, albeit at a cost, and that the Council was entitled to rely on regulation 6(1)(b) of the EIR to refuse to provide this information.

Procedural matters

Regulation 11-representations and reconsideration

18. Regulation 11(4) requires a public authority to complete its reconsideration as soon as possible and in any event within 40 working days.
19. In this case, the complainant requested an internal review on 10 September 2022, more than 40 days after the Council refused the request, thereby exceeding the time allowed under Regulation 11(2). However, the Council decided to proceed with the request as the complainant had queried the accessibility of the information.
20. The Council provided its response on 22 December 2022, more than 40 working days later.
21. From the evidence presented to the Commissioner, it is clear that in failing to carry out an internal review within 40 working days, the Council has breached 11(4) of the EIR.

Right of appeal

22. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Joanna Marshall
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF