

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 30 March 2023

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

#### **Decision (including any steps ordered)**

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1. The complainant made a three-part request regarding paper copies of maps held of the List of Streets in a specific area from Powys County Council (the "Council").
2. The Council provided a response to part one which stated they no longer keep physical maps of the road network and that they have a database of 'on screen' maps which may be worked from and that a 'copy map' of a specific area can be provided for a charge. They provided information for part two and advised that part three was exempt citing regulation 6(1)(b).
3. The Commissioner's decision is that Powys County Council holds no physical copies of information relevant to the complainant's request at part one and regulation 12(4)(a) of the EIR is engaged, and that regulation 6(1)(b) of the EIR is engaged for part three of the request. However, the Council did not provide an internal review within the timeframe set out under regulation 11(4) of the EIR.
4. The Commissioner does not require any steps to be taken as a result of this decision notice.

## Request and response

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5. On 25 October 2022, the complainant requested information in the following terms:
  - 1/ Please provide a copy of the last paper copy of any maps held of the List of Streets of Radnorshire. This will no doubt include all "F" Roads or "U" roads that are still to be added to the National Street Gazetteer.
  - 2/ Could you please therefore provide details of which 'omitted roads' have been updated in each month for the last 12 months that data is available for.
  - 3/ So where can I find the 'easily accessible' complete map that can be 'cross referenced' to the NSG to show the omissions?"
6. The Council responded on the 18 November 2022 to explain it required more time to issue its full response due to the complexity of the request, on 28 November 2022 they answered part two of the request and stated that for parts one and three: "Maps may be requested by emailing [email address] outlining the specific area you require and the scale of map required. As such this part of your request engages Regulation 6(1)(b)."
7. On 16 February 2023, the Council responded to the complainant's internal review request providing a further explanation for their responses and upholding their reliance on regulation 6(1)(b) of the EIR.
8. During the Commissioners investigation the Council advised the complainant of their further reliance on regulation 12 (4)(a) of the EIR for information not held by them at the time of the original request.

## Scope of the case

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9. The complainant initially contacted the Commissioner on 12 February 2023, to complain about the way their request for information had been handled and after further correspondence with both the Council and the ICO, the complaint was accepted on 21 February 2023 after the internal review outcome.
10. The Commissioner considers the scope of his investigation is to determine if the Council has correctly refused to provide the information

requested under regulations 12(4)(a) - information not held, and 6(1)(b) of the EIR – available by other means.

## **Reasons for decision**

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### **Is the requested information environmental?**

11. Information is 'environmental information' and must be considered for disclosure, if held, under the terms of the EIR rather than the FOIA if it meets the definition set out in regulation 2(1)(a) to 2(1)(f) of the EIR.
12. Regulation 2(1) of the EIR defines environmental information as being information on
  - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape, and natural sites including wetlands, coastal and marine areas, biological diversity, and its components, including genetically modified organisms, and the interaction among these elements.
  - (c) measures (including administrative measures), such as policies, legislation, plans, programs, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements.
  - (d) reports on the implementation of environmental legislation
13. As this request is for information relating to the layout and use of roads (the built environment), the Commissioner believes that the requested information is likely to be on the implementation of environmental policies and measures and therefore for procedural reasons, has assessed this case under the EIR.

### **Regulation 12(4)(a) – information not held**

14. During the Commissioner's investigation the Council explained its approach and how it has carried out appropriate searches in order to confirm that it does not hold the requested information. It also explained that they no longer kept paper copies of maps of the road network. The system itself is now in a digital format and that copy maps can be obtained, for a charge, by emailing the service area directly.

15. The Commissioner is satisfied that from the information provided to him, on the balance of probabilities, the Council does not hold information in scope of part one of the request as explained by the Council in the previous paragraph.
16. As no information within scope of the request is held, the Commissioner can only find that the public interest in maintaining the exemption at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because there is no information to disclose.

### **Regulation 6(1)(b) – form and format**

17. Regulation 6(1) provides that where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so 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.
18. In this case the complainant requested copies of the full maps with a broader level of detail for roads to those published on the Council's website.
19. The Council has confirmed that the maps published on its website are the only version of the maps that it holds. In short, it does not hold the requested broader detailed versions of the full road maps.
20. The Commissioner has concluded that the information requested by the complainant is already accessible to them in another form, that is, maps of a level of detail and area are published on the Council's website.
21. As the Council does not hold the full road maps in the detail requested the Commissioner's decision is that Council was able to apply Regulation 6(1) to refuse to provide the information requested in part 3 and regulation 12(4)(a) to refuse the information requested in part 1.

### **Procedural matters**

#### **Regulation 11 – representations and reconsideration**

22. Regulation 11 of the EIR states that:

“(3) The public authority shall on receipt of the representations and free of charge—

(a) consider them and any supporting evidence produced by the applicant; and

(b) decide if it has complied with the requirement.

(4) A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.”

23. From the evidence presented to the Commissioner in this case it is clear that, in failing to carry out an internal review within 40 working days, the Council has breached regulation 11(4) of the EIR.

## Right of appeal

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24. 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: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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

**Alice Gradwell**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**