

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 14 March 2024

**Public Authority:** City and Council of Swansea  
**Address:** Civic Centre  
Oystermouth Road  
Swansea  
SA1 3SN

**Decision (including any steps ordered)**

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1. The complainant has requested information about roads which are subject to a reduction in speed limit. Swansea Council ("the Council") stated that it does not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the Council is correct when it says that it does not hold the requested information.
3. The Commissioner does not require further steps.

**Request and response**

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4. On 22 August 2023, the complainant wrote to the Council and requested information in the following terms:

" <https://datamap.gov.wales/maps/roads-affected-by-changes-to-the-speed-limit-on-re-view#/> does not show roads in Swansea that will be subject to a 20mph limit by virtue of legislation (restricted roads) from 17<sup>th</sup> September 2023.

Please can you provide me with either a map of roads that will be subject to a 20mph limit by virtue of legislation (restricted roads), or

provide a list of roads that will be subject to a 20mph limit by virtue of legislation (restricted roads) from 17<sup>th</sup> September 2023.

If this information is to be uploaded to <https://datamap.gov.wales/maps/roads-affected-by-changes-to-the-speed-limit-on-re/view#/> please confirm this, as this would satisfy this request in full.”

5. The Council responded on 13 September 2023. It stated that it did not hold the requested information at that time, but that it was likely to be uploaded to the link provided within the request in due course.
6. Following an internal review the Council wrote to the complainant on 11 October 2023. It stated that the requested information was now available at the link.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 11 October 2023 to complain about the way their request for information had been handled. Specifically they pointed out that the information they were requesting was in fact not available at the link for the area under the control of the Council.
8. During the course of the Commissioner’s investigation the Council outlined that the map which the link leads to was created, and is maintained, by the Welsh Government. The Council has no control over the information published on that website. The Council stated that it does not hold the requested information.
9. The Commissioner considers that the scope of his investigation is to determine whether the Council is correct when it says that it does not hold the requested information.

### **Reasons for decision**

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

10. Regulation 12(4)(a) of the EIR provides that a public authority may refuse to disclose information “to the extent that it does not hold that information when an applicant’s request is received”.
11. In cases where a dispute arises over whether relevant recorded information is held by the public authority at the time of the request, the Commissioner – following the lead of a number of First-tier Tribunal

decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is more likely than not that the public authority holds the requested information.

### **The complainant's position**

12. The complainant argued that the Council had installed signs at the roadsides prior to the new legislation coming into force on 17 September 2023, so it should at very least hold work orders for the installation of the new signage. They also noted that those signs were obscured in the lead up to the legislation coming into force, so the Council should hold further work orders for revealing the signage when the legislation came into place. The complainant also considered it more than likely that the Council had used maps to determine where the new signage needed to be installed.
13. The complainant also argued that it was reasonable to expect that the Council holds the requested information, stating that they have managed to access the information for the areas under the control of every other council in south and west Wales, either via the map found at the link provided within the request, or via responses to information requests.

### **The Council's position**

14. During the Commissioner's investigation, the Council set out the context behind the request, explaining that the recent implementation of the 20mph speed limit across Wales was a measure introduced via the Restricted Roads (20mph Speed Limit) (Wales) Order 2022<sup>1</sup>. This is a Welsh Government initiative, which essentially changes the default speed limit for areas with street lighting from 30mph, as previously defined by the Road Traffic Regulation Act 1984, to 20mph.
15. The Council confirmed that it liaised with its Highways and Transportation Department, along with the Road Safety Manager, in reaching its conclusion that it does not hold a definitive map or list of roads within its local authority area that now operate at 20mph by virtue of legislation (restricted roads). This is the same position that the Council was in when the default speed limit for roads lit by street lighting was 30mph prior to the introduction of the new measures.
16. The Council explained that as 20mph is now the default speed limit where there is street lighting, the Council do not require 20mph Traffic

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<sup>1</sup> <https://www.legislation.gov.uk/en/wsi/2022/800/made>

Regulation Orders (TROs) in (for example) suburban housing estates which had previously been subject to the lower speed limit. As a result of the new Welsh Government measures, the Council had to revoke all of the existing 20mph TROs that it had implemented in previous years and remove all of the related road signs. The Council continues to maintain TROs which can be used to identify all roads which do not operate at 20mph and those which operate at 20mph by virtue of TROs as they do not benefit from street lighting. In these circumstances the Council would then place new signage to indicate the 20mph speed limit.

17. The Commissioner questioned the Council about whether it held the "building blocks" of information from which it could compile a list or similar to satisfy the request. The Council explained that it considered the key "building block" that would be required in order to compile such a list would be a map of the Council's street lighting system showing where the street lamps are 200yds apart or less. However, there is no statutory requirement for it to hold such a map and, whilst it would indeed be a beneficial tool for the Council to possess for business purposes, no such map exists. Nor does the Council have the resources available to create one, without additional funding being allocated specifically for the task to be carried out.
18. The Council further set out that it does not consider that a straightforward list of roads which are subject to the 20mph limit would serve any useful business purpose, given that many of its roads are long radial roads emanating from the city centre, both rural and urban in nature, and the speed limit can vary at various points along the length of the road. The Council went on to provide the example of Cockett Road which, over the course of one mile, starts out in a built-up area at 20mph, then has a non-residential section running between two areas of parkland where the speed limit is lifted to 30mph and then returns to 20mph when it enters the suburb of Cockett.
19. In considering the request, the Council also noted the complainant's assertion that all of the other local authorities had made the requested information available to them. With that in mind, the Council corresponded with its counterparts at multiple other local authorities to understand what information they had been able to disclose to the complainant. Of those that responded to this enquiry, some stated that they had not received the same request for information, and if they did they too would be unable to provide the requested information, whilst others confirmed that they had responded to similar queries by pointing the requester to the map created by the Welsh Government.

### **The Commissioner's conclusion**

20. The Commissioner is satisfied that the online map which the complainant refers to within the request, is managed by the Welsh Government and is placed on a website that has no connection to the Council. The Council is therefore not responsible for the adequacy of the information available in that map, and any concerns or requests relating to the details of that map should be directed to the Welsh Government rather than the Council.
21. The Commissioner notes the conflicting positions put forward by the complainant and the Council regarding what information has been made available by other local authorities. Whilst such comparisons between public authorities can be a useful guide as to what information may be held by the public authority in question, the Commissioner does not consider that they should be taken as a benchmark or an expectation that sets out exactly what information that public authority should in fact hold. Each request is considered on its own merits, and in a held/not held scenario such as this one, on the arguments put forward by the public authority to demonstrate whether it has undertaken focused and thorough searches to provide the Commissioner with reassurance that if the requested information was held then it would have been located.
22. The Commissioner is satisfied that the Council has conducted appropriate and proportionate searches to determine whether or not it holds the requested information in this case. He therefore concludes that, on the balance of probabilities, the Council is correct when it says that it does not hold either a map or a list of the roads that will be subject to a 20mph limit by virtue of legislation (restricted roads).

## Right of appeal

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23. 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](mailto:grc@justice.gov.uk)

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

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Michael Lea**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**