

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 17 July 2024

Public Authority: Welsh Government
Address: Cathays Park
Cardiff
CF10 3NQ

Decision (including any steps ordered)

1. The complainant requested various information regarding emission checks and cyclist safety from the Welsh Government in relation to the 20 mile per hour speed limit introduced in Wales in September 2023. The Welsh Government after initially directing the complainant to a link on its website, confirmed that it did not hold relevant information.
2. The Commissioner's decision is that it is unlikely that the Welsh Government holds relevant information and has therefore complied with its obligations under regulation 12(4)(a) of the EIR. The Commissioner does not require any steps.

Request and response

3. On 15 September 2023, the complainant wrote to the Welsh Government and requested the following information:

"My FOI request relating to emissions is:-

What Environmental legislation is contravened in order to introduce a 20mph default limit in Wales if it increases emissions from vehicles on certain free flowing roads?

Considering the evidence given in the 'Introduction 1/Emissions paragraphs earlier that there are more emissions from a typical petrol

or diesel car at a steady 20mph than at a steady 30mph because it takes one and a half times as long to travel a given distance at 20mph as it does 30mph, what testing has been done by the Welsh Government to find out the minimum length of free flowing road with a 30mph limit is needed to ensure there are less engine emissions than if it has a 20mph limit considering the small amount of extra fuel needed to accelerate to 30mph rather than 20mph just once at the start, and the slightly aerodynamic drag?

My FOI request relating to cyclist's safety is:-

The 'Get Ready for 20mph' leaflet states that there will be 6-10 lives saved every year in Wales. With regard to cyclists, what risk assessment has been undertaken to assess the dangers to them from the increased risk of collision with a passing vehicle that it is taking longer to pass due to a 20mph limit rather than a 30 mph limit, or from an oncoming vehicle from the other direction taking a longer time to overtake.

What computer modelling has been undertaken for this risk assessment and has the increased risk of collisions due to an increase in the number of cyclists that the Welsh Government is encouraging with it's 20mph limit been considered."

4. The Welsh Government responded on 13 October 2023. It informed the complainant that the information they required is available on its website and sent a link to an independent article titled "[The state of the evidence on 20mph speed limits with regards to road safety, active travel and air pollution impacts](#)": a literature review produced by a Consultant on Transport and Health in Bristol in August 2018.
5. Following an internal review, the Welsh Government wrote to the complainant on 8 January 2024. It concluded that its original response did not provide the information the complainant requested and stated that it did not hold relevant information in respect of either emissions or cyclist safety.

Scope of the case

6. The complainant contacted the Commissioner on 13 February 2024 to complain about the way their request for information had been handled.
7. The scope of the Commissioner's investigation is to consider whether the Welsh Government holds any information relevant to the request.

Reasons for decision

Regulation 12(4)(a) – Information not held at the time of the request

8. Regulation 12(4)(a) of the EIR says 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.
9. In scenarios where there is some dispute between whether the public authority holds relevant information, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
10. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
11. In this case, the Commissioner asked the Welsh Government for details of the searches carried out in respect of both items of the complainant's request and has considered them separately below:

Emissions

12. The Welsh Government informed the Commissioner that the complainant's request asking what environmental legislation is contravened in order to introduce a 20mph default speed limit is based on a false premise that there exists a requirement that environmental legislation had to be contravened in order for the Welsh Government to introduce the 20mph speed limit. It added that this is factually incorrect.
13. It stated that there was no breach of environmental legislation that provided the basis or catalyst for the introduction of the 20mph speed limit in Wales, and on that basis confirmed that it holds no recorded information which would answer this question.

Cyclist safety

14. The request in respect of cyclist safety referred to a leaflet 'Get Ready for 20mph' which stated that 6-10 lives would be saved every year. The complainant wanted details of risk assessments undertaken to assess the apparent dangers to them from an increased risk of collision with a passing vehicle that is taking much longer to pass due to the 20mph limit rather than the 30mph limit. Or from an oncoming vehicle from the other direction taking longer to overtake.

15. The Welsh Government confirmed that it had not undertaken a risk assessment of the description specified in the request. It added that as no risk assessment had been undertaken, no information exists that relates to it.
16. In respect of what computer modelling had been undertaken for the above risk assessment, the Welsh Government confirmed that as no risk assessment of this nature had been undertaken, there could be no computer modelling underpinning it.

The Commissioner's conclusion

17. The Commissioner has considered the Welsh Government's response to both parts of the request, and has no reason to doubt its explanation in respect of either. Although the Welsh Government's original response contained a link to some related information on its website, the Welsh Government confirmed that this was an attempt to assist. It acknowledged that it should have been clear from the outset that the requested information was not held.
18. Based on the explanation provided above, the Commissioner has concluded that, on the balance of probabilities, the Welsh Government does not hold any information falling within the scope of either part of the request. The exception provided by regulation 12(4)(a) was, therefore, engaged.

Right of appeal

19. 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

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Catherine Dickenson
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