

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

Decision notice

Date: 6 October 2015

Public Authority: Cambridgeshire County Council
Address: Shire Hall
Cambridge
CB3 0AP

Decision (including any steps ordered)

1. The complainant has requested information held on a database by the council relating to Global Information System (GIS) data on rights of way. The council applied Regulation 6(1)(b) as it argues that this information is publicly available from its online interactive map. It also applied Regulations 12(4)(e) (internal communications) and 12(4)(d) (material still in the course of completion) to information held on its database which is not available from the map.
2. The Commissioner's decision is that the council was not correct to apply Regulation 6(1)(b) to the information. He has decided that the council was correct to apply Regulation 12(4)(e) to the 'Notes' field and the CCC Maintainable' field of the database, and Regulation 12(4)(d) to the 'CCC Maintainable' field. He has however decided that the council was not correct to apply either of these exceptions to the 'Last Checked' field of the database.
3. The Commissioner has also decided that the council did not comply with Regulation 5(2) in that it did not provide its response to the request within 20 working days. The council also did not comply with the requirements of Regulation 11(4) in that its response to a request to review its decision was not provided within 40 working days.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.

- To disclose the information from the database to the complainant, other than information held within the 'Notes' field and the 'CCC Maintainable' field of the database.
5. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

6. On 28 August 2014 the complainant wrote to the council and requested information in the following terms:

1/ The name of database/file format used for your Rights of Way Database. (Here, I'm looking for an answer such as "a KML file", "a MySQL database", "an ARCInfo database with PostgreSQL storage".) If multiple databases exist in more than one format, please list all of them.

2/ A copy of the database definition / schema for your Rights of Way Database. (Depending on the format from 1, this could be a file specification, the relevant SQL table definitions, or simply a list of the tables, their relationships, and the fields they contain.) If it is not obvious from any of the field names what information they contain, please provide a brief description.

3/ A full copy or data-dump of the information/data contained in your Rights of Way Database. (This should include, at a minimum, each Right of Way's name, parish, reference number, any internal ids, and the geographic/positional data necessary to define the route -- probably in the form of way segments and coordinates.)

For your responses to 2 and 3 I have a strong preference for the data to be provided in an open and re-usable electronic form.

Finally, I would also like to request permission (under the Re-Use of Public Sector Information Regulations) to re-use any data provided in response to item 3 under the terms of the Open Government Licence 2.0. If that is not possible because of third-party IP rights, then please consider granting permission to re-use the information under the Ordnance Survey OpenData Licence instead.

7. The council responded on 21 October 2014. It provided information in respect of questions 1 and 2 but said that the information in relation to question 3 is available from its website. It therefore applied Regulation 6(1)(b) to this information.
8. Following an internal review the council wrote to the complainant on 27 March 2015. It said that it was correct to apply section 6(1)(b) as the information was already available on its website. It also applied Regulation 12(4)(d) (material which is still in the course of completion) and 12(4)(e) (internal communications) to information which was not already available from its website but which is held within 3 fields on its database.

Scope of the case

9. The complainant contacted the Commissioner to complain about the way his request for information had been handled. His view is that the council was not correct to apply Regulation 6(1)(b) as the information which he has requested is not all available from the council's interactive map on its website, is not as detailed from the website and is not re-usable in that format. He also considers that the council was not correct to apply Regulations 12(4)(d) or 12(4) (e).
10. The complainant also made a number of points of complaint, however the issues he raised mainly relate to the application of the exceptions to the database and the length of time which the council took to respond to his complaint.
11. The complainant raised arguments with the Commissioner relating to the council's publication scheme and the re-use of datasets. These arguments are not required to be explored further within this decision notice. The publication of the online map is evidence that the authority is publishing the information which it intended to within the relevant class of the scheme – hence the application of Regulation 6(1)(b). Its publication scheme states:

"Where it is within the capability of a public authority, information will be provided on a website. Where it is impracticable to make information available on a website or when an individual does not wish to access the information by the website, a public authority will indicate how information can be obtained by other means and provide it by those means.

In exceptional circumstances some information may be available only by viewing in person. Where this manner is specified, contact details

will be provided. An appointment to view the information will be arranged within a reasonable timescale."

12. The council has in place the online map, and all members of the public are able to inspect the Definitive Statement and the Definitive Map at council offices. Hence the council has met its obligation in respect of the format under which it has published the information.
13. Where information is not available via an authority's publication scheme the Commissioner will consider the request under rights under section 1 of the Freedom of Information Act 2000 or under Regulation 5 of the EIR, taking into account any stated intention from the authority that the relevant information will be publically available.
14. Part of the complainant's request relates to the Re-use of Public Sector Regulations 2005, this piece of legislation did not fall under the Commissioner's remit and is not considered within this Notice.

Reasons for decision

Regulation 6(1)(b)

15. Regulation 6 provides that:

(1) 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 -

(a) it is reasonable for it to make the information available in another form or format; or

(b) the information is already publicly available and easily accessible to the applicant in another form or format.

(2) If the information is not made available in the form or format requested, the public authority shall -

(a) explain the reason for its decision as soon as possible and no later than 20 working days after the date of receipt of the request for the information;

(b) provide the explanation in writing if the applicant so requests; and

(c) inform the applicant of the provisions of regulation 11 and of the enforcement and appeal provisions of the Act applied by regulation 18.

16. For question 3 the council has an online interactive map which can be interrogated to establish some of the information which the complainant has requested. The council argues that the majority of the information which the complainant has requested in part 3 of the request is available to him via this website or by inspecting the Definitive Map and Statement on council premises. The council therefore applied Regulation 6(1)(b).
17. The council said however that there are 3 fields of information held on its database which are not accessible via the map. These are the fields entitled 'CCC Maintainable', 'Notes' and 'Last Checked' fields. For this information it applied the exceptions in Regulations 12(4)(d) and 12(4)(e).
18. The complainant also argues that the information he wishes is not all available from the website. He says that the publication of the information via the map or via inspection does not allow him to re-use the data or get the accuracy of data which the database would provide to him. He said that he wants the information held in the database in a reusable format in order that he can re-use it for his own purposes; primarily to use the information to update an open source mapping program.
19. When deciding which form or format is reasonable, the public authority must strike a balance between the aim of increasing public access to environmental information and other legitimate factors. In this case the council's argument is that the information is freely available to all of the public via searches on the interactive map and via inspection. It admits however that the map does not contain all of the information which the underlying database holds, and it is a copy of this database which has been specifically requested.
20. The Commissioner considers that a public authority cannot rely on the exception if it is only directing a requester to something similar to the requested information, or a part of it or a summary of it, rather than all of the information which has been requested. The Commissioner considers therefore that the lack of geographical detail which the complainant has described when interrogating the map is analogous to the provision of a summary of the requested information rather than the actual detailed information which the complainant has asked for.
21. Additionally, the 3 fields which the council says are not available from the website effectively prevents the council from applying Regulation 6(1)(b) by arguing that the information is freely accessible to the complainant. The council itself has confirmed that not all of the information which he has requested is available from the council's interactive map or via inspection of the Definitive Map or Statement. The

information which is published does not include all of the information which has been requested. The council however argues that the information which is not available is, in any event, exempt from disclosure under the exceptions it has claimed.

22. The Commissioner considers that the council's argument in respect of it being unreasonable to provide the information in the form of a database when that information is already available in the map format and through the Definitive Statement and Map is relatively weak in this respect. The information is not already available in its entirety through the interactive map and the Definitive Statement - only selected parts of the information are available by these means.
23. Additionally, the Commissioner considers that it is reasonable for the council to make the information available to the complainant in the database format as this would require little further work by the council to provide it.
24. The council has also argued that the information it holds on the database is undergoing review, and that parts of it may be inaccurate until such time as that work is completed. It says therefore that it is under a duty to provide accurate information under the Regulations and it is not able to do this until the work has been completed.
25. The Commissioner considers that in respect of the application of Regulation 6(1)(b) this argument does not take into account that the current map on the council's website will hold similar inaccurate data until it is updated. The complainant has also pointed out that normal OS maps will use data provided by the council, which will again be on the basis of the information held as correct by the council at the time that it was provided to OS. Both the current interactive map, the definitive map and statement and potentially OS maps will hold equally 'inaccurate' information until such time as the work on accuracy is completed and these formats are updated.
26. The council has argued that it will have no control over how potentially inaccurate and out of date information is published once it has been disclosed, nor how long that information might continue to be published despite it being inaccurate. The Commissioner however considers that questions regarding ongoing accuracy of the information would also be equally applicable to older copies of OS maps which were based on data provided by the council prior to the work being completed. Once OS maps have been published the council has no control over what version of the map is used by the members of the public, how long they continue to be sold for or how long members of the public continue to use the older versions.

27. The Commissioner notes that further requests can however be made in the future to receive updated information from the council should the complainant or others working on their project decide to do so.
28. The Commissioner therefore considers that:
 - a) The council was not correct to state that the information was available to the complainant by other means as not all of the information is available to him via those means, and
 - b) That the council was not correct to state that it was reasonable to rely upon the current methods of publication as an argument for refusing to disclose the information. Its arguments in this respect are not particularly strong.
29. The Commissioner therefore considers that the council's application of Regulation 6(1)(b) was not correct in this instance.

The Exceptions

30. For the 3 fields of data which are not accessible via the interactive map the council has also applied other exceptions which the Commissioner must consider separately. If the exceptions are applicable then the council would be able to exclude the relevant fields from the database when providing the remaining information to the complainant.

Regulation 12(4)(e)

31. The council has applied Regulation 12(4)(e) to all three of the fields. The fields are the 'last checked', the 'notes' and the 'CCC Maintainable' fields of its database.
32. Regulation 12(4)(e) provides that information will be exempt from disclosure where it involves the disclosure of internal communications. The exception is subject to a public interest test where the exception is engaged.
33. As regards the 'Notes' field the council argues that this is used by the team to record various notes for colleagues to refer to as part of their working practices. These relate to an array of different topics including contact names and telephone numbers of gate key holders, references to ongoing legal matters and general internal reference comments. It argues that there is therefore an additional argument regarding personal data within the entries within this field. It did not expand upon this however as it considers that the 'Notes' field would be exempt under 12(4)(e) alone.

34. As regards the 'Last Checked' field, the council argued that this relates to an internal field relating to the council's consolidation project to produce an accurate, up-to-date record and associated GIS data.
35. The 'CCC Maintainable' field records whether the council is responsible for the maintenance of the right of way or whether it rests with another person or organisation. The field is currently under review and the council has said that it intends to include this field on the online map once the review has been completed. This does not however prevent the current fields being internal communications until that review is completed.
36. The Commissioner is satisfied that the fields contain internal communications. They are effectively a means of recording information for individual Rights of Way which other staff working in the team might need to be aware of. As such, the Commissioner is satisfied that the exemption in Regulation 12(4)(e) is engaged.
37. Regulation 12(4)(e) is subject to a public interest test. The test is whether the public interest in maintaining the exception outweighs that in the information being disclosed. If it does not do so the information should be disclosed in spite of the exception being engaged.

Public interest

The public interest in the information being disclosed

38. The Commissioner has considered the arguments in favour of a disclosure of the information contained within the 'Notes' field.
39. It is clear that there is a strong public interest in public rights of way being maintained, and in information on their exact locations, routes etc being easily available to members of the public in order that their usage can be established, clarified and updated as necessary. The online map which the council has put onto its website is clearly an example of good practice in allowing the public to easily establish where Rights of Way are, and the routes that they take. The issue is that the complainant wishes to obtain that information in a reusable format and that is not available to him from the website. He also argues that the level of detail would be greater and more precise from the database than is available to him from the online map.
40. The information held within the 'Notes' field would clearly add additional information beyond what is available through the map, and would allow members of the public a greater understanding of the work which the council does to maintain the map (and potentially the Rights of Way

themselves). It would also provide more detailed information, including perhaps the obligations on landowners to keep rights of way clear and open to access. The 'Notes' field would potentially provide details of any legal disputes over rights etc. Similarly information in the 'CCC Maintainable' field will allow members of the public to contact those responsible for the upkeep of Rights of Way if they discover there are issues or problems with them.

41. The council has also said that disclosing the information would allow consideration of the funding that goes to the team responsible for maintaining Rights of Way, and will include issues, such as legal matters, that will refer to spend or potential spend on those matters.
42. As regards the 'Last Checked' field the Commissioner considers that there is a public interest in this information being disclosed as it provides an indicator of the accuracy of the information held in the database for that particular entry. Whilst an older date does not necessarily provide any indication that the information is incorrect, a more recent date within that field would indicate to the public that the information is likely to be more accurate as it has recently been checked by the council.

The public interest in the exception being maintained

43. The council argues that the internal field entries are often written in shorthand which would be understood by the teams but which would not necessarily make any sense on their own otherwise without further clarification. It argues that releasing the data from this field could cause confusion and people to misinterpret the notes, and that clarifying these could impose a significant burden upon the authority. It said that if it were to consider clarifying each of these entries before disclosing the information then this would be likely to make the request 'manifestly unreasonable' for the purposes of Regulation 12(4)(b).
44. The council argued that releasing information from the 'Notes' field does not add any great value to peoples understanding of Rights of Way as they will not make sense without clarification and context – the information is often recorded in shorthand form. It argues that disclosing the field as it stands could lead to a misinterpretation of the data and an increase in queries/complaints/legal disputes which would not otherwise occur, compromising the council's ability to complete its other tasks and responsibilities.
45. The council argued that under the Regulations it is obliged to disclose accurate information. It said that it would make it extremely difficult to

meet its obligations by disclosing incomplete and inaccurate data with an array of caveats about its contents.

46. The council recognised that there is a public interest in demonstrating the work it undertakes to update its Rights of Way records, however it considers that a disclosure of the 3 fields would not aid in this to any significant degree.
47. The council also argued that given the other information which is available via the online map it considered that a disclosure of the further 3 fields would do little to add to the transparency and consideration elements which the public interest arguments in favour of disclosure highlight. This fits with the view of the Commissioner that the coordinate data is not affected by these fields as regards the current records and rights of way. The Commissioner does recognise however that the details would provide greater transparency on how the council approaches its maintenance of rights of way.
48. The Commissioner is satisfied that in a database where a number of different officers might contribute there is a strong argument that officers have the ability to make full and frank notes about each right of way. These notes may regard access means, legal issues over the right of way and any other issues which others on the team may need to be aware of when carrying out work on that particular right of way.
49. The Commissioner recognises that if that information were to be disclosed then as a consequence of this officers may not be able to include items such as addresses of keyholders, or issues such as potential enforcement of the right of way etc within the 'Notes' field. A disclosure of that information might breach the provisions of The Data Protection Act 1998 or divulge information which might prove detrimental to third parties.
50. The result of a disclosure of this information would therefore be likely to be a chilling effect on the information which would be recorded in the future. The notes would need to be more carefully considered to avoid disclosures of personal data or sensitive information. Alternatively more time would need to be taken to respond to requests encompassing this field as each individual entry would need to be considered separately for disclosure. This could ultimately reduce the amount of information which the council could provide before it became manifestly unreasonable to respond to requests for information which included this particular field.
51. The Commissioner recognises that any barrier in the ability to write full and frank notes within the field could potentially make it more difficult for the council to record all of the information necessary for officers to

be aware of issues or information on individual rights of way. If information is not recorded due to the potential for disclosure then errors and increased costs may be incurred as a result.

52. Where the normal form of records becomes open to any member of the public the council would need to take steps to ensure that sensitive information and/or personal data etc would need to be excluded from the notes section in the future. The Commissioner considers that there is a strong public interest in protecting the council's ability to record and maintain information such as this within the relevant database any alternative is likely to be less effective, and more error prone. The ability to make full and frank notes on the relevant database is clearly an effective and advantageous system for the council to carry out its functions in this regard.
53. The Commissioner also considers that a disclosure of this information is not necessary in order to achieve the goal which the complainant has explained that he wishes (and which effectively accords with the objective of the Regulations, in making environmental information increasingly accessible to members of the public). The coordinates within the GIS data will not be directly affected by the details held in the notes. Although there may be situations where the notes provide evidence that a right of way is under threat or dispute, that the coordinates are potentially inaccurate, or that a landowner is seeking to have rights removed, these will have an effect on the 'current' coordinates as they are held by the council. The GIS data for each right of way would be accurate and presumably in accordance with the definitive statement until such time as any issues or disputes are resolved (and, for instance, a right of way is removed or amended). At that point the coordinates would become inaccurate.
54. For the re-use to provide an accurate set of coordinates for the public therefore the notes are not required to produce an accurate and up to date set of coordinates *as they are currently recorded by the council*. The notes will refer to the possibility of *future* changes, potential inaccuracies or contact information.
55. The Commissioner therefore considers that a disclosure of the 'Notes' field is not necessary to produce an open source map resource. Therefore the public interest in the disclosure of this particular field is thereby reduced.
56. As regards the 'CCC Maintainable' field the Commissioner considers that if the information is inaccurate it could lead to organisations and individuals receiving complaints and communications from interested parties when they no longer have any obligation to maintain the right of

way. The intention to publish this information once the fields have been verified lessens any public interest in the potentially inaccurate information being disclosed for this reason. In the interim individuals wishing to know who has obligations to maintain particular rights of way are able to contact the council and ask directly about it. There is a strong degree of crossover regarding the accuracy arguments surrounding the application of Regulation 12(4)(d) and 12(4)(e) as regards the 'CCC Maintainable' field. The Commissioner has therefore outlined his consideration on this in greater detail in his consideration of the public interest as regards the application of Regulation 12(4)(d) below.

57. As regards to the 'Last Checked' field, the Commissioner considers that the arguments against the disclosure of this information are relatively weak. None of the above arguments regarding a chilling effect, or the full and frankness of notes are applicable to this field, which would simply hold a date when the figures held in the database were last checked for accuracy. The Commissioner therefore considers that there are very weak public interest arguments for maintaining the exception in this instance as regards this field.

Conclusion

58. The Commissioner is satisfied that there is a public interest in the disclosure of the 'Notes' field due to the information this would provide to the public on potential changes to rights of way, issues and legal disputes regarding each, and access information. However he considers that this is outweighed by the public interest in allowing the council to make full and frank notes regarding ongoing issues with each right of way, and to record details which other members of staff need to be aware of when carrying out work on that right of way.
59. The Commissioner's decision is therefore that the council was correct to apply Regulation 12(4)(e) to the 'Notes' field, and the public interest rests in the exception being maintained.
60. As regards the 'CCC Maintainable' field the Commissioner is satisfied that until the information is verified as accurate the public interest in the exception being maintained outweighs that in the information being disclosed. A disclosure of inaccurate information at this time may potentially leave organisations and individuals being contacted with members of the public wishing to complain or bring matters to the attention of those responsible for maintaining it. There is a public interest in the information being retained as internal communications for the time being, until such time as the data can be verified as accurate and the whole of the field published as an online reference for interested

parties. His decision is that the public interest in maintaining Regulation 12(4)(e) outweighs that in the information being disclosed until the current review process has been completed.

61. However as regards the 'Last Checked' field the Commissioner considers that the public interest in this field being disclosed outweighs the arguments in the information being withheld. If the 'Last Checked' field shows recent dates it provides a degree of certainty on whether the information held on the map, or in the database is accurate and up to date. The Commissioner is therefore satisfied that the council was not correct to apply Regulation 12(4)(e) to this Field.

Regulation 12(4)(d)

62. The council has applied the exception in Regulation 12(4)(d) to the 'CCC Maintainable' field and the 'Last Checked' field as it says that these fields are currently unfinished and in the course of completion. The 'CCC Maintainable' field provides information as to who is responsible for maintaining the rights of way. Presumably once this field is checked the 'Last Checked' field is amended to reflect this.
63. It said that information recorded in these fields is being added to as part of an ongoing project to review the Definitive Statement. The Definitive Statement is held as the legal record of public rights of way for the area. The council argue that work is currently being undertaken with partner organisations to create a single accurate record. It said that it is anticipated that details relating to the 'CCC Maintainable' field will be added to the online map once work has been completed and the accuracy of this information has been established.
64. The council also argued that it was not able to disclose this information under the Regulations because it was aware that sections of it were likely to be inaccurate until they had been checked and amended if necessary.
65. Regulation 5(4) states that:

"(4) For the purposes of paragraph (1), where the information made available is compiled by or on behalf of the public authority it shall be up to date, accurate and comparable, so far as the public authority reasonably believes".
66. The council argues that disclosing draft data at this stage will cause confusion and delays if people referring to that data direct queries and /or complaints to the wrong place. The 'CCC Maintainable' field holds

details of the organisation responsible for the upkeep of the particular right of way. The council said that if the field was inaccurate then the public will be unable to rely on the accuracy of the data, and there will be an additional burden on organisations in dealing with queries and / or complaints relating to the data. It said that this would slow down progress on compiling and publishing the accurate data by taking essential resources away from the task.

67. It also argued that problems will also be caused by disclosure of inaccurate information as old and inaccurate copies of data on the internet will be uncontrollable.
68. Whilst the council argue that it is not able to issue the information as it has not had the opportunity to resolve any inaccuracies in this field, the complainant has pointed out that the issue of updating such maps, including the definitive map, is an ongoing issue. The definitive map is constantly evolving and so he argues that, in some sense, the Geographic Information Systems (GIS) data which the council holds will always be slightly out of date.
69. The complainant further argues that the council's point about people using incorrect data is also wrong. He argues that the Council already allows Ordnance Survey to use what are potentially incorrect Rights of Way data in their published maps. He argues therefore that the GIS data currently held by the council is likely to be more accurate and more up to date than many of the representations in current OS maps, and its disclosure in this instance will not therefore cause any detriment beyond what might already occur as a result of this. This is correct as regards the geographical data, but OS maps, and the online map do not publicise who maintains the Right of Way.
70. However the 'CCC Maintainable' field and the 'Last Checked' field do not address coordinate data. They contain information on the responsibility to maintain the right of way and on when the data on the database (or the right of way itself) was last checked.
71. That information for individual Rights of Way is presumably available from the council on request, and when released in this way the council can take into account the potential for the information to be inaccurate when informing requestors whose duty it is to maintain the Right of Way. The council has also stated that it will publish this field once it has completed its work checking the accuracy of the data which is contained within it.
72. The Commissioner is satisfied that under the circumstances the information is unfinished for the purposes of Regulation 12(4)(d). Whilst

he does have some concerns that the process of updating the definitive statement and map (and therefore presumably the database and the online map), may never truly be 'finished' per se, he is satisfied that the council has described an ongoing work at the time of the request as regards the 'CCC Maintainable' field, and highlighted that this is intended to be integrated onto the online map once this has been completed. Therefore he considers there must have been a finish to the current process envisaged and that point has not yet been reached by the council. The work was unfinished at the time of the request, but would be completed at a point in the near future, albeit that the map as a whole will continue to need to be reviewed and amended on an ongoing basis in the future.

The public interest in maintaining the exception

73. The council provided its public interest arguments for maintaining the exception in Regulation 12(4)(d).
74. The Commissioner considers that the central public interest in maintaining the exception relates to allowing the council to carry out its work and produce an up to date record of the rights of way in the county. The council argues that disclosing incomplete or inaccurate data at this time would be likely to cause confusion, raise the amount of work it and other organisation need to do to respond to queries over the information and that this is likely take resources away from its primary functions.
75. The following arguments were considered in favour of maintaining the exception:
 - i. The Council is obliged under EIR to provide accurate information. The 'CCC_Maintainable' data is currently incomplete and in some cases entries are inaccurate. Disclosing the information in its current state will not allow the correcting of the data by members of the public as they are unlikely to have access to the information required to check the data.
 - ii. There is an ongoing project including other organisations (District Councils etc) to collate and update this information. Disclosing draft data at this stage will cause confusion and delays if people referring to that data direct queries and /or complaints to the wrong place. People will be unable to rely on the accuracy of the data. There will be an additional burden on organisations in dealing with queries and / or complaints relating to the data and this will slow down progress on compiling and publishing the accurate data by taking essential resources away from the task.

iii. Problems will also be caused by disclosure of inaccurate information as old and inaccurate copies of data on the internet will be uncontrollable.

The public interest in the information being disclosed

76. There is a public interest in allowing individuals access to information on who is responsible for maintaining a right of way as this will enable complaints to be made to the correct organisations/individuals.
77. The information is argued to be exempt at the moment purely as some entries are potentially inaccurate. The council wishes to complete its work in checking the accuracy of this information prior to publishing the field. It has said that once the review is completed it intends to make this information available via the online map.
78. The public interest arguments in favour of the information being disclosed rest mainly in the general public interest in transparency and in making environmental information available to the public. The Commissioner considers that there is a public interest in disclosing information on the organisations or individuals who are responsible for maintaining a right of way. If that information is not freely available then the public is less able to report issues which might occur such as fly tipping, fencing blocking pathways etc. Information on who to contact is available in the 'CCC Maintainable' field.
79. The complainant argued that a disclosure of all of the fields would potentially aid in checking the accuracy of the information as the public would also be able to check that the information is up to date and inform the council if that is not the case.
80. However the Commissioner accepts that whilst the field is inaccurate a disclosure of that information might cause issues for organisations whose details are highlighted as responsible for maintaining a right of way. Clearly members of the public might contact them with complaints and queries. The Commissioner also considers that there is a possibility that this information will also include personal data where a property owner was at one time responsible for the right of way. The issue is that inaccurate personal data may be disclosed.
81. When bearing this in mind, there appears little public interest in disclosing the entirety of the information for the purposes of informing the public when part of that data is inaccurate. The council will presumably provide information as regards individual issues if the public raise queries or complaints with them. In the interim, the Commissioner notes that the council has said that it will update its online map to include the data once it has been checked. Bearing this future

publication, together with the potential issues for third parties in mind he considers that the public interests rests, currently, with the exception being maintained for this field.

82. None of these issues relates to the last checked field however. A disclosure of the last checked field would have the effect of providing some surety to individuals that the information on the map is correct if it were available to consider. A more recent data would inevitably suggest that the right of way had been checked recently and that the geographical data is therefore more likely to be accurate.

Conclusions

83. The Commissioner has considered the above. He considers that the public interest rests in maintaining the exception for the 'CCC Maintainable' field, however it rests in the disclosure of the 'Last Checked' field of the database.

Procedural issues

Regulation 5(2)

84. The council has recognised and accepted that its initial response to the complainant fell outside of the 20 working days required to respond to requests as stipulated by Regulation 5(2). The initial request was made on 28 August 2014 and it did not respond until 21 October 2014.
85. The Commissioner's decision is that the council did not comply with the requirements of Regulation 5(2).

Regulation 11(4)

86. Further to this the complainant requested that the council review its decision on 22 October 2014. The council did not respond providing its review until 27 March 2015.
87. Regulation 11(4) requires that where a request for reconsideration is received an authority provides its response to that within 40 working days. The Commissioner is therefore satisfied that the council did not comply with Regulation 11(4) with its response to the request for review.

Right of appeal

88. 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@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

89. 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.
90. 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

**Gerrard Tracey
Principal Adviser
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**