

11 October 2022

Dear

Complaint in respect of ATISN 16538

Thank you for your request which was received by the Welsh Government on 11 September 2022.

I have considered your complaint in accordance with the procedure outlined in [Requesting information from the Welsh Government](#) which is available by post on request or via the internet.

Further to your request for information and subsequent request for an internal review of the response, I have conducted an internal review of the matter and my findings are set out below.

You have expressed your dissatisfaction with our handling of your request for information, specifically our responses to questions 3, 4 and 5 of your request.

Questions 3, 4 and 5 were as follows;

3. Of the directions that were issued, how many did Welsh local authorities fail to meet directed deadline? Please name the local authorities concerned,
4. Of the directions that were issued how many were satisfied by Welsh local authorities 'out of time'? Please name the local authorities concerned, and
5. Of the directions that were issued how many remain unsatisfied? Please name the local authorities concerned and provide the PINS/PEDW case numbers.

Our responses were to the three questions that, Planning and Environment Decisions Wales (PEDW) did not record this information.

You disagree with the responses as previously you had been advised by PEDW officials that PEDW *"monitor such deadlines and where decisions on applications have not been made by a specified time, reasons are sought by PEDW from the relevant Authority"*

Once an Inspector's decision on a Schedule 14 Direction application has been issued, PEDW no longer has any jurisdiction in the matter. There is no power it can bring to bear on the Order Making Authority (OMA) to compel them to determine an application of an Order. It is unclear why PEDW monitor the deadlines in light of this, however it is clear PEDW does. Legal advice is currently being sought as to whether there is a legal requirement for PEDW to do this. If no legal requirement exists, this will stop.

When replies are received from OMAs about whether they have considered an application within the deadline, as directed by the Inspector in their decision, the replies are placed on the case file. The detail of the information supplied is not recorded separately for statistical purposes. The information simply sits with the case file. In light of this, I do not consider Mrs Nethell's responses to questions 3, 4 and 5 to be erroneous.

However, notwithstanding the above, this information is information PEDW holds and can be collated after interrogating the case files for the 14 cases that have been identified as being issued since 2017. Please see attached spreadsheet detailing those cases. In view of this, I consider that the requested information should be released.

As advised in our response to your request for information, fourteen Schedule 14 Directions have been issued since 2017. All fourteen decisions directed the OMAs to determine an application to modify a definitive map and statement within a deadline.

Of the identified fourteen cases, PEDW only holds full information for four of those cases. The Inspectors decisions directing OMAs to determine applications are held for the remaining ten cases. PEDW's data retention policy is

- data on appeal case files is held for one year after the date the direction is issued and
- direction letters are held for five years from the date of the direction.

Once these deadlines are reached, all data is deleted.

The attached spreadsheet sets out the details of the ten cases in question, including reference number, OMA and date of direction. It is of course open to you to seek the information you're looking for directly from those OMAs.

The responses to questions 3, 4 & 5 for the four cases we hold the information for is set out below.

3. *Of the directions that were issued how many did Welsh local authorities fail to meet directed deadline? Please name the local authorities concerned.*

2 – Conwy County Borough Council and Gwynedd Council

4. *Of the directions that were issued how many were satisfied by Welsh local authorities 'out of time'. Please name the local authorities concerned.*

One – Conwy County Borough Council

5. *Of the directions that were issued how many remain unsatisfied? Please name the local authorities concerned and provide the PINS/PEDW case numbers.*

Three;

1. 3253234. Gwynedd County Council. Application for a Definitive Map Modification Order to upgrade public footpath. 70A Llanystumdwy to a Restricted By-way and add a Restricted By-way from SH45863997 to SH 45923991
2. CAS-01510-B1N5G4. Wrexham County Borough Council. Application to add a bridleway from Tainant Farm Road to Tainant (top road) LL14 1UG (Ref: WRX40/MOD)
3. CAS-01378-D7T2W4. Application to delete Footpath 73 (FP73) in its entirety, Clos Cwm Barri, Barry, Vale of Glamorgan.

In your e-mail of 22 September, you explained that you were of the opinion applications for a Definitive Map Modification Orders, should be submitted to the local surveying authority and not the local highway authority. You asked for our opinion on this. It would not be appropriate for PEDW to express an opinion in this matter, I suggest you share your thoughts with the Designated Landscapes & Countryside Access team who can be contacted by e-mail at customerhelp@gov.wales or by telephone on 0300 0604400.

If you remain dissatisfied with this response you have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113
Website: www.ico.org.uk

Yours sincerely

A Thickett
Deputy Chief Planning Inspector