

**Department of Energy & Climate Change**

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31 May 2012

**RE: Freedom of Information Request**

Thank you for your email of 2 May 2012, in which you requested an Internal Review of the Department's response to your request under the Freedom of Information Act case 12/0267, in relation to information that was withheld in responding to your request.

Original request for information – received 17 February 2012

*My request relates to a meeting between Ed Miliband, the then secretary of state for energy and climate change, and representatives of the energy company E.ON, on February 4 2010 to discuss "energy issues".*

*Under the act, I would like a brief description of this meeting. Under the act, I would also like to request complete copies of the minutes and agenda of this meeting. I would also like to request complete copies of all and any documents (such as briefing material, letters, memos, emails, memorandums of conversations) which were prepared for or connected with this meeting, either before or after the event.*

Internal review request – received 2 May 2012

*Thank you for your email. I would like to ask for an internal review in this case. I am disappointed that the department has been unable to release a single line from any of these documents. It means that the public knows absolutely nothing about what was discussed at this meeting, other than the bland "energy issues". I believe that it is more important that the public is given information about this meeting as it would benefit the public interest as it would inform the public of what was being discussed and acted upon in meetings between the government and energy companies.*

I have conducted an internal review of the department's handling of your request and the decision taken to withhold some information under the exception contained in Section 36(2)(b)(i)&(ii) and Section 40(2) of the Freedom of Information Act.

### **Section 36 - Prejudice to effective conduct of public affairs**

S.36(2)(b)(i)&(ii) of the Act says

*"Information ... is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under the Act would or would be likely to, inhibit ...*

*(i) the free and frank provision of advice, or .*

*(ii) the free and frank exchange of views for the purposes of deliberation*

Having sought the reasonable opinion of a qualified person, the Department was satisfied that release of the information would or would be likely to inhibit free and frank discussions from taking place between Ministers, DECC officials and energy companies in the future.

Having considered the information I have decided to uphold the original decision to withhold that information under s.36(2)(b)(i)&(ii) of the Act. In coming to this decision I have considered where the public interest balance lies. In this case, I consider that the public interest continues to favour withholding the information. This is because, while release of the information would provide greater transparency in Government processes, it would do so to the detriment of the self-contained space in which policy making and decision making proceeds, and have a chilling effect on the free and frank exchange of views that is necessary for decision making and relationship management in Government.

### **Section 40(2) – Personal data**

Having considered the papers, I agree with the view taken on your Fol request that some personal data contained within the documents in scope of this request should continue to be withheld under Section 40(2), that it would not be fair to release the names and contact details of DECC officials and that none of the conditions of schedule 2 of the Data Protection Act apply. Section 40(2) is an absolute exemption, and therefore the public interest test does not apply

### **Appeals process**

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information

Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.