



Department  
of Energy &  
Climate Change

Department of Energy & Climate Change  
3 Whitehall Place,  
London SW1A 2AW  
[www.decc.gov.uk](http://www.decc.gov.uk)

**Redacted**  
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Our ref: EIR 14/ 0727

30 May 2014

Dear **Redacted**

**Re: Environmental Information Regulations Request**

Thank you for your email of 8 May in which you asked for the following:

*“Please release the minutes for the following ministerial meetings, as detailed here:*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/274108/edward\\_davey\\_meetings\\_external\\_organisations\\_july\\_sept\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274108/edward_davey_meetings_external_organisations_july_sept_2013.pdf)

- 1) *Ed Davey and Centrica September 2013*
- 2) *Ed Davey and the CBI September 2013*“

Your request has been considered under the Environmental Information Regulations 2004 on the basis that the information you have sought disclosure of, does in our view, fall within the definition of ‘environmental information’ as stated in the EIRs.

**1) Ed Davey and Centrica September 2013**

I can confirm that the Department does not hold any minutes of this meeting but an email containing a note of the meeting is held. This information is withheld in accordance with the exceptions in Regulations 12(4)(e), 12(5)(e), and 12(3) of the EIRs.

These exceptions are subject to the public interest test. The key public interest considerations we have taken into account are set out below. In considering the public interest we have applied a presumption in favour of disclosure as required by Regulation 12(2) of the EIRs.



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**Regulation 12(4)(e)** provides an exception to the disclosure of internal communications. Emails between or from staff in government departments, which we hold within the scope of this request take the form of internal communications and therefore exception 12(4)(e) applies to them.

We appreciate that there is a public interest in disclosing internal communications, as this enables the public to assess the quality of policy formulation, advice and guidance, and provides transparency in the decision making process making Government more accountable.

However, releasing internal communications would inhibit the ability of officials to provide Ministers and senior officials with free and frank advice and keep free and frank records of discussions between officials if there was a possibility that this advice could be disclosed at a later date. This would have a detrimental effect on the briefing process, leading civil servants to be less candid in their views. It would also affect policy development, as it would prove difficult in taking account of the views expressed by others if records were not kept. Given the live nature of the communications within the scope of the request, such outcomes would be likely to prejudice the conduct of public affairs, as this could result in less well-informed Ministers and senior officials.

Having considered the public interest, the Department has taken the decision to withhold the information requested.

### **Regulation 12(5)(e)**

Regulation 12(5)(e) exempts information if disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

The use of Regulation 12 is subject to a public interest test. In this context, we recognise that there is a general public interest in the disclosure of information as greater transparency makes Government more accountable. Against this there is a public interest in ensuring that the commercial interests of external businesses are not damaged or undermined by the disclosure of information which is not common knowledge and which could adversely impact their ability to operate and compete in the market. In this case, the email contains commercially sensitive information and disclosure would affect the commercial interests of the company. We therefore consider the balance of the public interest lies in withholding this information.

**Regulations 12(3)** excepts information to the extent that the information requested includes personal data of which the applicant is not the data subject. Regulation 12(3) provides an absolute exception for personal data which then falls to be dealt with under the Data Protection Act 1998. Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be



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fair and lawful and must comply with one of the conditions in Schedule 2 of the Data Protection Act. We do not think that it is fair to release the names of junior members of staff or third parties and do not think that any of the relevant conditions apply.

**2) Ed Davey and the CBI September 2013**

Following a search of our paper and electronic records I have established that we do not hold any minutes or note of the meeting related to this part of your request.

**Appeals procedure**

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the Information Rights Unit ([foi@decc.gsi.gov.uk](mailto:foi@decc.gsi.gov.uk)).

Information Rights Unit (DECC Shared Service)  
Department for Business, Innovation & Skills  
1 Victoria Street  
London  
SW1H 0ET

Please remember to quote the reference number above in any future communications.

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.

Yours sincerely,

**Redacted**  
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