



Department
of Energy &
Climate Change

REDACTED
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Department of Energy & Climate Change
3 Whitehall Place,
London SW1A 2AW
E: foi@decc.gsi.gov.uk
www.gov.uk/decc

Our ref: FOI 13/1812

21 January 2014

Dear **REDACTED**

Re: Freedom of Information Request

Thank you for your email of 20 December in which you requested the following information relating to our response to your previous Freedom of Information request (reference 13/1667).

“Following that response, I would like to submit a subsequent request. Specifically, I would like to request any emails or correspondence related to the setting up of the two meetings which you mention and any emails or correspondence arising from those discussions.”

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you require
- be provided with that information (subject to any exemptions under the Act which may apply).

Our previous reply stated that:

“DECC’s Special Advisers met with Centrica and SSE on 25 and 26 September 2013 respectively.”

Some of the information which you have requested constitutes environmental information for the purposes of the Environmental Information Regulations 2004 (EIRs). However, to the extent that the information requested is not



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environmental we have also considered your request under the Freedom of Information Act 2000 (FOIA). Accordingly, your request has been considered under the terms of the EIRs and FOIA.

1. Emails or correspondence related to the setting up of the two meetings:

I can confirm that DECC holds information within scope of this part of your request. Some of this information is attached. Information has been redacted from these documents and is withheld in accordance with Section 40(2) of the FOIA.

Section 40(2) provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act. 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 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 personal data of junior members of staff or third parties and do not think that any of the relevant conditions apply.

DECC also holds some further information within scope of this part of your request which is withheld in entirety. This information is environmental in nature and has therefore been considered in accordance with the EIRs. This information is withheld in accordance with the exception in Regulation 12(5)(e) and Regulation 13(1) of the EIRs.

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 emails contain 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.

Regulation 13(1)

Regulation 13(1) exempts information to the extent that the information requested includes personal data of which the applicant is not the data subject.



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Regulation 13(1) provides an absolute exemption (i.e. the public interest test does not apply) for information about identifiable individuals where this would breach 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 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 third parties and do not think that any of the relevant conditions apply.

2. Any emails or correspondence arising from those discussions:

I can confirm that DECC holds information within scope of this part of your request. This information is environmental in nature and has therefore been considered in accordance with the EIRs. This information is withheld in accordance with the exception in Regulation 12(4)(e) and Regulation 13(1) (as described above) of the EIRs.

Regulation 12(4)(e)

Regulation 12(4)(e) provides an exception to the disclosure of internal communications. All minutes, notes and briefing documents between staff, which we hold within the scope of this request take the form of internal communications and therefore exception 12(4)(e) applies to all of them. This exception is subject to a public interest test. Having considered the public interest, the Department has taken the decision to withhold the information you requested.

The Department would like to state that releasing internal communications and briefings would inhibit the ability of officials to provide Ministers and senior officials with free and frank advice as well as keep free and frank records of stakeholder meetings. 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 stakeholders if records were not kept. Such outcomes would be likely to prejudice the conduct of public affairs, as this could result in less well informed Ministers and senior officials, and less well informed briefing packs.

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).

Information Rights Unit (DECC Shared Service)
Department for Business, Innovation & Skills



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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

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