

Department of Energy & Climate Change
3 Whitehall Place,
London SW1A 2AW
T: +44 (0)300 060 4000
E: foi@decc.gsi.gov.uk
www.decc.gov.uk

Our ref: **12/1627**

17 December 2012

Dear

RE: Freedom of Information Request

Thank you for your FOI request of 19 November 2012, in which you asked for the following:

“Please disclose all communications between Ed Davey and John Hayes on the subject of wind power.

By communications, please provide copies of all emails, letters, memos and any records of telephone conversations and minutes from meetings between the two.

Please disclose all communications since John Hayes became Minister for Energy and Climate Change on 4th September, 2012.”

I can confirm that the Department of Energy & Climate Change holds information relevant to your request but this information is withheld in accordance with the exception in Regulation 12(4)(e) of the Environmental Information Regulations 2004. This information is withheld as it is regarded as internal communications. We recognise the general public interest in the disclosure of information and in particular in the discussions that take place between the department’s Ministers on policy issues. There is a public interest in favour of disclosure so that the public can understand the interaction between ministers, the disclosure of this information would bring greater transparency to the decision-making process and would help public understanding about the government policy on wind power

However, the public interest in the disclosure of the information we hold must be balanced with the need to ensure that Ministers can exchange information in a manner which allows for the free and frank exchange of views and opinions. We also consider that releasing Ministerial communications would have a detrimental effect on collective responsibility. If Ministers felt inhibited from corresponding with one another because of the risk of subsequent disclosure, the quality of debate behind collective decision-making would be diminished. This would have a detrimental effect on both the process of collective

government and the quality of the decisions made at the highest level, undermining good government. Collective responsibility is a central tenet of the UK constitution. Protecting collective responsibility is in the public interest as it allows for the maintenance of space to formulate, develop and refine policy, properly considering all the options.

In our view, taking account of these factors, the balance of public interest lies in withholding this information.

However, to the extent that the information requested is not environmental your request has also been considered under the Freedom of Information Act 2000. The information held relates to the formulation or development of government policy and is exempt from disclosure under section 35(1)(a) of the FOI Act. There is a public interest in favour of disclosure so that the public can understand the work of the Department and this would provide greater transparency about the Government's policy position. However, we consider that in this case this transparency also poses a risk to the protection of the decision-making process which needs to be based on a full assessment and discussion of options. There is a public interest in ensuring that Ministers feel able to discuss policy issues with officials and with their counterparts within the department, and having as candid a discussion as possible on future options, exploring all plausible scenarios and setting the scene in as full a way as possible. We judge that disclosing the information we hold that describes the formulation and development of government policy, which is not in the public domain, would inhibit the frankness of future discussions and hence inhibit policy formulation and development which would not be in the public interest.

Section 35(1)(b) exempts information if it relates to Ministerial communications and is subject to a public interest test. We recognise the general public interest in the disclosure of information and in particular in the discussions that take place between the department's Ministers on policy issues. There is a public interest in favour of disclosure so that the public can understand the interaction between ministers, the disclosure of this information would bring greater transparency to the decision-making process and would help public understanding about the government policy on wind power

However, the public interest in the disclosure of the information we hold must be balanced with the need to ensure that Ministers can exchange information in a manner which allows for the free and frank exchange of views and opinions. We also consider that releasing Ministerial communications would have a detrimental effect on collective responsibility. If Ministers felt inhibited from corresponding with one another because of the risk of subsequent disclosure, the quality of debate behind collective decision-making would be diminished. This would have a detrimental effect on both the process of collective government and the quality of the decisions made at the highest level, undermining good government. Collective responsibility is a central tenet of the UK constitution. Protecting collective responsibility is in the public interest as it

allows for the maintenance of space to formulate, develop and refine policy, properly considering all the options.

In our view, taking account of these factors, the balance of public interest lies in withholding this information.

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: **Information Rights Unit** (foi@decc.gov.uk)

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,