



Department
of Energy &
Climate Change

Department of Energy & Climate Change
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www.gov.uk/decc

REDACTED
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Our ref: EIR 13/1659

17 January 2014

Dear **REDACTED**

Re: Freedom of Information Request

Thank you for your email of 20 November in which you requested the following information:

"I request that the Department of Energy and Climate Change provide me with copies of all emails between EdF (including any EdF subsidiary) and:

- i) Ed Davey (Secretary of State)*
 - ii) Any member of Ed Davey's Private Office*
 - iii) Chris Nicholson (Special Adviser)*
 - iv) Paul Hodgson (Special Adviser)*
- sent or received between Monday 4th and Sunday 17th November."*

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 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.



Department of Energy & Climate Change

1) Emails between EDF and Ed Davey (Secretary of State)

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 (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 between 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. 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) Emails between EDF and any member of Ed Davey's Private Office

I can confirm that DECC holds information within scope of this part of your request. This information is not environmental in nature and has therefore been considered in accordance with the FOIA. This information is attached. Some information has been redacted and is withheld in accordance with Section 40(2) of the FOIA.



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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.

3) *Emails between EDF and Chris Nicholson (Special Adviser)*

I can confirm that DECC holds information within scope of this part of your request, that it is environmental in nature and has been considered under the EIRs. This information is withheld in accordance with the exception in Regulation 12(5)(e) and Regulation 13(1) of the EIRs as above.

4) *Emails between EDF and Paul Hodgson (Special Adviser)*

A search of our records has established that no information is held regarding 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).

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



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