



Department
of Energy &
Climate Change

Department of Energy & Climate Change

3 Whitehall Place,
London SW1A 2AW
www.decc.gov.uk

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Our ref: EIR14/ 0533

April 2014

Dear **Redacted**

Re: Environmental Information Regulations Request

Thank you for your email of 26 March in which you asked for the following:

"I am writing to request information on any communication between Lord Browne of Madingley and the secretary of state, ministers or permanent secretary in the department from 1 June 2013 to date.

I wish to receive:

- emails, letters, notes of telephone call and any other communication

For meetings, I request

- date, attendees, agenda or notes on topic of discussion, minutes taken and any other record"

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.

I can confirm that the Department does not hold any emails, letters, notes of telephone calls or other communications between Lord Browne and Secretary of State, Ministers or the Permanent Secretary during the period of your request. We do hold some information regarding meetings with Lord Browne. This information is withheld in accordance with the exception in Regulation 12(4)(e), Regulation 12(5)(e) and Regulation 12(3) or Regulation 13(1) of the EIRs.



Department of Energy & Climate Change

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.

Regulation 12(4)(e) provides an exception to the disclosure of internal communications. Briefing papers, minutes of meetings and emails 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.

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) provides an exception to the disclosure of information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. We recognise the general public interest in the disclosure of information as this can lead to greater transparency and accountability in Government. However, against this there is a strong public interest in ensuring that the commercial and economic interests of external businesses are not damaged or undermined by disclosure of information which is not common knowledge and which would adversely impact on future business. Releasing such information would adversely affect the commercial and economic interest of the company involved. Also in disclosing this information, we believe it would make it less likely that companies would provide the Department with commercially sensitive information in the future and consequently undermine the ability of the Department to fulfil its role.



Department
of Energy &
Climate Change

Regulations 12(3) and 13(1) excepts 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 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 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.

You may wish to be aware that details of DECC Ministers and the Permanent Secretary's meetings with external organisations are published on a quarterly basis on the www.gov.uk website at the following link:

https://www.gov.uk/government/publications?departments%5B%5D=department-of-energy-climate-change&publication_type=transparency-data

Information covering the period of the final quarter of 2013 (October – December) and the first quarter of 2014 is being compiled and checked and will be published in due course.

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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