



Department
of Energy &
Climate Change

REDACTED
REDACTED

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Our ref: EIR 2015-05453

5 June 2015

Dear REDACTED

Thank you for your letter of 10 March in which you asked:

1) ***I am requesting information on correspondence between, on the one hand:
- United Kingdom Onshore Oil and Gas (UKOOG)***

And on the other hand,

***- any grade 6 or above, employees of the Department for Energy or
- any employee of the Office of Unconventional Gas and Oil (OUGO)***

***I am requesting correspondence generated in the period beginning 15/05/2014
and 30/06/2014.***

Please ensure that your search for correspondence includes:

- ***Email correspondence (including attachments)***
- ***Transcripts***
- ***Memos***
- ***Reports***
- ***Briefing documents or the equivalent***
- ***Letters***
- ***Telephone records and any notes made during and after telephone calls***
- ***Correspondence includes any other type of correspondence frequently used
by the department, including text messages and private emails.***

2) I am also requesting any information on any meetings between, between, on the one hand:

- United Kingdom Onshore Oil and Gas (UKOOG)

And on the other hand,

- any grade 6 or above, employees of the Department for Energy or

- any employee of the Office of Unconventional Gas and Oil (OUGO)

I am requesting correspondence generated in the period beginning 15/05/2014 and 25/06/2014.

In our view, some of the information in your request falls under the Freedom of Information Act 2000 (FOIA) and some within the definition of 'environmental information' stated in the Environmental Information Regulation 2004 ('the EIRs'). Your request has therefore been considered under the terms of both the FOIA and EIRs.

Following a search of our paper and electronic records, I have established that the Department holds information falling within the terms of your request both under points one and two. Redacted copies of information are attached in **Annex A**.

For the avoidance of doubt the information we hold is between United Kingdom Onshore Oil and Gas (UKOOG) and any employee of the Office of Unconventional Gas and Oil.

After careful examination, DECC considers that some the information is exempt from disclosure under either an EIR exceptions or FOIA exemption and is therefore withheld:

EIR exceptions include:

- Regulation 12(4)(d) - material which is still in the course of completion, unfinished documents, or incomplete data
- Regulation 12(5)(e) - confidentiality of commercial information
- Regulation 12(5)(f) - disclosure of information would adversely affect the interest of the person who provided the information in confidence
- Regulation 13(1) - disclosure of personal data

FOI exemption includes:

- Section 40 – personal data

Regulation 13(1) of the EIRs and Section 40 of the FOIA are absolute exception/exemption and are not subject to public interest test. The remaining exceptions are qualified, and subject to a 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. The FOI Act does not contain a similar provision, but DECC applies the same principle to requests that come within the ambit of that legislation.

Regulation 12(4)(d) - material which is still in the course of completion, unfinished documents, and incomplete data

Regulation 12(4)(d) of the EIRs relates to unfinished documents where this information may be misleading to the public or inaccurate and where it may, as a result, require significant Departmental efforts to replace the incomplete information into its relevant context and to provide corrective statements to any potential inaccuracies expressed therein.

In applying this exception, we have considered the public interest in disclosing the information. In this respect we recognise that disclosure can, in certain cases, enhance public understanding of the work between Government departments and facilitate the accountability and transparency of Government decisions in relation to the government publications.

However, shale gas policy is still being developed and is subject to discussion within Government. Releasing such documents would have a detrimental effect on the on-going policy formulation process by inhibiting a thorough exploration of a range of ideas and would lead to civil servants being less frank in expressing their opinions in the future. This is likely to have a detrimental effect on the policy formulation process and on the quality of policy derived therefrom. In addition, information contained within these draft documents is incomplete and may prove misleading.

Having considered the balance of public interest, we have concluded that the public interest in withholding outweighs the public interest in disclosing certain information in this instance.

Regulation 12(5)(e) of the EIRs- material which is likely to prejudice the confidentiality of commercial or industrial information or the commercial interests of any person

The Department considers that some of the information is commercially sensitive and should be withheld under the exception in Regulation 12(5)(e) where the disclosure of the information would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect legitimate economic interests.

DECC recognises that there is a general public interest in disclosure of information to help the public understand the United Kingdom's economic, industrial and commercial policy. We also recognise that openness by DECC may increase public trust and engagement with government. However, 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 could adversely impact on future business. Disclosure of commercially sensitive information provided to DECC in confidence could damage the commercial interests of UKOOG and potentially undermine future communication with the industry. That would make it harder for Government to understand the industry's position, which would be detrimental to the effective development of policy.

Taking into account all the circumstances of the case, we conclude that the public interest in engaging this exception outweighs the public interest in disclosing certain information.

The Department's decision is therefore to withhold commercially sensitive information within the scope of this request.

Regulation 12(5)(f) of the EIRs - information provided in confidence and voluntarily

Regulation 12(5)(f) of the EIRs provides an exception to disclosure if information was provided in confidence and the person who provided the information was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority; did not supply it in circumstances such that DECC or any other public authority is entitled apart from these regulations to disclose it; and has not consented to its disclosure. This exception is subject to a public interest test.

UKOOG provided information to DECC voluntarily and in confidence, without any obligation to do so. Making such information public would inhibit future communications with them and others in the industry. Disclosing such information could harm the interests of the organisation and inhibit open and constructive discussions between the Department and industry in the future.

Taking into account all the circumstances of the case, we have concluded that the balance of public interest favours withholding this information.

Regulation 13(1) of the EIRs and Section 40(2) FOI relating to personal data

Finally, some of the information constitutes personal data and has been withheld. Regulation 13(1) of the EIRs and Section 40(2) of the FOIA provides an absolute exception/exemption for personal data which then falls to be dealt with under the Data Protection Act (DPA).

Personal data of third parties can only be disclosed under 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 DPA. We do not think it is fair to release the names and contact details of DECC staff below Senior Civil Service level, or staff in other organisations, and do not think that any of the relevant conditions in Schedule 2 of the DPA apply. As a result, this information has been redacted from your copy.

Appeals Procedure

If you are dissatisfied with the result of your request for information, you may request an internal review within two months of the date of receipt of the response to your original letter. If you wish to request an internal review, please contact:

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

Email: foi@decc.gsi.gov.uk

Please 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, Cheshire, SK9 5AF.

Yours sincerely

Office of Unconventional Gas and Oil