

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 1 June 2023

Public Authority: Department for Energy Security & Net Zero
("DESNZ")

Address: 1 Victoria Street
London
SW1H 0ET

Section 51

Under section 51 of the Freedom of Information Act 2000 (FOIA), which is set out below, the Information Commissioner (the Commissioner) has the power to serve a notice on a public authority requiring it to furnish him with any information he requires to enforce the requirements of FOIA.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

he may serve the authority with a notice (in FOIA referred to as "an information notice") requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-161206-K7Z7, for a decision whether a request for information made by the complainant to Department for Business,

Energy and Industrial Strategy ("BEIS")¹ on 12 October 2021 has been dealt with in accordance with the requirements of Part I of FOIA.

Nature of complaint

2. On 12 October 2021 the complainant made the following request for information:

"I would like to place this request.

Minutes relating to the following meetings:

1. 26/10/2017 Between Richard Harrington and Vitol (and others) to discuss "energy"
 2. 19/04/2018 Between Claire Perry and Vitol Group (and others) to discuss "interconnectors, Capacity Market and Industrial Strategy"
 3. 26/11/2020 Between Alok Sharma and several energy sector industry representatives to discuss "industrial decarbonisation"
 4. 02/11/2020 Between Kwasi Kwarteng and Vitol to discuss "industrial decarbonisation"
 5. 20/11/2020 Between Kwasi Kwarteng and Vitol to discuss "the Ten Point Plan for a Green Industrial Revolution"
 6. 10/03/2021 Between Anne-Marie Trevelyan and several energy sector industry representatives to discuss "energy and Net Zero."
3. On 12 January 2022 BEIS responded to the request. It advised that it did not hold information on all points of the request excluding meeting 4. It explained that regarding point 4. no minutes are held but a readout for the meeting is held. It provided a redacted copy of the readout with information redacted in reliance of regulation 12(5)(e) – where disclosure would adversely affect the confidentiality of commercial or industrial information.
4. On 12 January 2022 the complainant requested an internal review. They challenged that BEIS did not hold minutes of such important meetings and questioned the thoroughness of the searches. They also challenged

¹ On 7 February 2023, under a Machinery of Government Change, the Department for Business Energy and Industrial Strategy ("BEIS") began the transition into three separate departments, including the Department for Energy Security & Net Zero ("DESNZ"). The request in this case was made to BEIS, however this notice will be served on DESNZ as the appropriate authority.

the application of the exception at regulation 12(5)(e) to the information held in respect of the fourth meeting cited in the request.

5. Following the intervention of the Commissioner the internal review was provided on 4 April 2022. BEIS upheld its application of regulation 12(5)(e) to the redactions in the readout of the fourth meeting and in addition it explained that it had found a readout of the sixth meeting and would provide the information with the internal review. However, this information was not attached to the internal review.
6. The complainant contacted the Commissioner on 14 March 2022. He explained that BEIS had not provided an internal review. Following the provision of the internal review on 4 April 2022 the complainant wished to pursue his case.
7. The Commissioner informed BEIS on 6 April 2022 that he had accepted the complaint, that it would be allocated in due course and that he expected the public authority to use the time prior to allocation to ensure that it was ready for the investigation, once the complaint was allocated.
8. On 6 December 2022 the Commissioner wrote to BEIS asking for an unredacted copy of the withheld information and responses to his standard investigation questions for the exception cited. He also asked questions regarding the searches undertaken by BEIS in order to locate the requested information. He asked for a response within 20 working days. This correspondence was neither acknowledged nor responded to.
9. On 27 January 2023 the Commissioner wrote to BEIS chasing its response. This correspondence was neither acknowledged nor responded to.
10. On 15 February 2023 the Commissioner contacted the public authority and received an update that the response was still in progress.
11. On 21 February 2023 the public authority emailed and advised that an update would be provided the next day. On 22 February 2023 the Commissioner was advised that the public authority was having difficulty progressing the response.
12. On 20 March 2023 the public authority contacted the Commissioner by telephone to explain that its response had been delayed for various reasons including the Machinery of Government changes which were on-going.
13. On 6 April 2023 the Commissioner spoke with the public authority and was updated on the progress of the response.

14. On 12 April 2023 the Commissioner was advised that a response would be forthcoming as soon as possible.
15. On 4 May 2023 the Commissioner chased the public authority for an update on the response.
16. On 12 May 2023 the Commissioner chased the public authority and stressed the urgency of receiving a response. The public authority contacted the Commissioner on the same day to explain that the response was still underway.
17. On 18 May 2023 the public authority advised the Commissioner that the response was not ready. Complications resulting from locating the appropriate contacts originally involved in the responses to the complainant had been problematic.
18. To date the response and the withheld information remain outstanding. In view of the age of this case and the allowances he has made regarding the difficulty of providing a response in the particular circumstances of this case, the Commissioner has determined that an information notice is required.

Information required

19. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that DESNZ shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
 - A substantive response covering all the points in his letter of 6 December 2022.
 - A copy of the withheld information.

Failure to comply

20. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of FOIA, and may be dealt with as a contempt of court.

Right of appeal

21. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@Justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed

Susan Hughes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF