

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice**

Date: 2 June 2023

Public Authority: Council of the University of Durham
Address: The Palatine Centre
Stockton Rod
Durham
DH1 3LE

Decision (including any steps ordered)

1. The complainant has requested copies of contracts. The above public authority ("the public authority") provided some information but the complainant believes more is held.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority has disclosed all the information it holds. The public authority breached regulation 5(2) of the EIR as it failed to respond to the request within 20 working days.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 18 February 2023, the complainant wrote to the public authority and requested information in the following terms:

"I would like to request a copy of all contracts between Equinor and Durham University relating to this agreement:

"Equinor has partnered with Integrated Smart Energy Laboratory (ISEL), a sub-group of the North East Energy Catalyst, through

which the developer will work with the UK research institutions to support research and development activities targeted at key offshore wind industry challenges.

“ISEL combines existing smart grid capabilities at Durham University, Newcastle University, and the Offshore Renewable Energy (ORE) Catapult in Blyth, creating a new capacity with an internationally unique offer, Equinor said.

[https://www.offshorewind.biz/2022/07/11/equinor-teams-up-with-uk-integrated-smart-energy-lab-to-bolster-offshore-wind-industry/.](https://www.offshorewind.biz/2022/07/11/equinor-teams-up-with-uk-integrated-smart-energy-lab-to-bolster-offshore-wind-industry/)”

5. The public authority responded on 21 March 2023. It provided a copy of a non-disclosure agreement, but the complainant argued that further information should be held.
6. Following an internal review the public authority wrote to the complainant on 18 April 2023. It stated that it held no further information beyond that already provided.

Reasons for decision

Would the requested information be environmental?

7. Regulation 2(1) of the EIR defines environmental information as being information on:
 - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
 - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
 - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;
 - (d) reports on the implementation of environmental legislation;

- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
 - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);
8. As it is information relating to energy production (and, in particular, renewable energy production, the Commissioner believes that the requested information (if it were held) would be likely to be information on measures affecting the elements of the environment. For procedural reasons, he has therefore assessed this case under the EIR – though this makes it no more or less likely that further information is held.

Held/not held

9. The Commissioner can rarely prove beyond doubt that particular information is or is not held. When a dispute arises, his role is to determine whether the public authority is more likely than not to hold further information.
10. The complainant has argued that there should be a formal contract in addition to the non-disclosure agreement.
11. The public authority explained in its internal review that it had consulted with legal services and the head of the relevant department to check whether further information was held – they confirmed that it was not.
12. The public authority subsequently confirmed that it was not a party to a contract and that no contract was held on its behalf (or was even in existence). No payments were made as a result of the partnership and therefore the only information that was held was the only information required: the non-disclosure agreement.
13. Having looked at the article referenced in the request carefully, the Commissioner accepts that nothing in the article contradicts anything the public authority has said in its responses or its submissions.
14. Whether the public authority ought to hold further information is not a question the Commissioner is required to consider – only whether it does, as a matter of fact, hold further information.
15. The Commissioner has seen nothing that would undermine the public authority's stance that it does not hold further information – and the

searches it has carried out appear as though they would have located any relevant information that was held. He therefore considers that, on the balance of probabilities, no further information is held.

Procedural matters

16. As the public authority provided its response on the 21st working day, it breached regulation 5(2) of the EIR.

Right of appeal

17. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may 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

18. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

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