

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 12 June 2023

**Public Authority:** Department for Energy Security & Net Zero  
**Address:** 1 Victoria Street  
London  
SW1H 0ET

#### **Decision (including any steps ordered)**

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1. The complainant requested information relating to correspondence concerning specific subjects between Baroness Lindsay Northover and former ministers of the Department for Business, Energy and Industrial Strategy (BEIS). By the date of this notice the Department for Energy Security & Net Zero (DESNZ) had not issued a substantive response to this request.<sup>1</sup>
2. The Commissioner's decision is that DESNZ has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires DESNZ to take the following step to ensure compliance with the legislation.
  - DESNZ must provide a substantive response to the request in accordance with its obligations under FOIA.
4. DESNZ must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

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<sup>1</sup> Although this request was submitted to a BEIS email address, in February 2023 BEIS was replaced with new government departments, including the Department for Energy Security and Net Zero. This decision is therefore served on DESNZ.

## Request and response

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5. On 15 March 2023, the complainant wrote to BEIS and requested information in the following terms:

"I request a list of all written correspondence (including emails and letters) which:

a) were shared between Baroness Lindsay Northover and each of the following former BEIS ministers: 1) Nadhim Zahawi (please search between 1 October 2020 and 15 September 2021); 2) Kwasi Kwarteng (please search between 1 October 2020 and 31 July 2022); 3) Anne-Marie Trevelyan (please search between 8 January 2021 and 15 September 2021); 4) Greg Hands (please search between 16 September 2021 and 31 July 2022) and; 5) Lee Rowley (please search between 17 September 2021 and 6 July 2022)

and

b) that mention or concern at least one of the following subjects: 1) APPG on Critical Minerals; 2) critical minerals; or 3) Pensana PLC.

The list should include the date of each communication, the purpose of each communication, and the name of the minister (or ministers) involved in each communication. (sic)"

6. To date, DESNZ has not acknowledged the request for information.

## Reasons for decision

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7. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

8. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".

9. On 19 May 2023 the Commissioner wrote to DESNZ, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
10. Despite this intervention DESNZ has failed to respond to the complainant.
11. From the evidence provided to the Commissioner in this case, it is clear that DESNZ did not deal with the request for information in accordance with FOIA. The Commissioner finds that DESNZ has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

## Right of appeal

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12. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

13. 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.
14. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**