

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2022

Public Authority: The Department for Business, Energy and Industrial Strategy

Address: 1 Victoria Street
London
SW1H 0ET

Decision (including any steps ordered)

1. The complainant requested information from the Department for Business, Energy and Industrial Strategy (BEIS) relating to correspondence between BEIS and Sir John Hayes MP. By the date of this notice BEIS had not issued a substantive response to this request.
2. The Commissioner's decision is that BEIS has breached section 10(1) of the 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 BEIS to take the following step to ensure compliance with the legislation.
 - BEIS must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. BEIS 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 10 November 2021, the complainant wrote to BEIS and requested information in the following terms:

"I am sending this request under the Freedom of Information Act.

- 1) Please provide a copy of all correspondence (sent and received) between ministers of your department and Sir John Hayes MP relating to

a) BB Energy Trading Ltd

b) Oil and gas trading

Please include emails, texts, WhatsApp messages or messages on equivalent platforms such as Signal, internal work instant message such as Slack, Teams, or Gchat, and a list of any minutes or any calls.

Please also list the titles of attachments to emails or messages within the scope of this request.

- 2) Please provide a record of all meetings between ministers of your department and Sir John Hayes MP relating to

a) BB Energy and Trading Ltd

b) Oil and gas trading

Please provide

- A list of these meetings, including topics
- A copy of the minutes recorded of these meetings
- A copy of briefings prepared ahead of these meeting for the minister concerned.
- A list of the titles of any documents considered at these meetings.

I am happy to limit my request to electronically held records

Please provide information held between 1 January 2020 to date."

6. BEIS wrote to the complainant on 10 November 2021 to acknowledge the request. By the date of this notice, BEIS has not provided the complainant with a response to his request.

Scope of the case

7. The complainant contacted the Commissioner on 17 January 2022 to complain about BEIS' failure to respond to his request.
8. The Commissioner has considered whether BEIS has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the 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."
10. Section 10(1) of the 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".
11. On 25 January 2022 the Commissioner wrote to BEIS, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention, BEIS has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that BEIS did not deal with the request for information in accordance with the FOIA. The Commissioner finds that BEIS 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 the FOIA.

Right of appeal

14. 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

15. 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.
16. 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
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