

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 29 November 2022

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

Address: 1 Victoria Street
London
SW1H 0ET

Decision

1. The complainant requested information from the Department for Business, Energy and Industrial Strategy (BEIS) relating to a specific heat network.
2. The Commissioner's decision is that on the balance of probabilities, BEIS does not hold information within the scope of the request. The Commissioner does not require BEIS to take any steps.

Request and response

3. The complainant made the following information request to BEIS on 25 January 2022:

"In the period 2012-2014 a District Heating Network, comprising three biomass boilers and related infrastructure was installed for the 72 residents at [address redacted]. The estate was developed by [company name redacted] and the biomass installation was installed and commissioned by [company name redacted].

I am now writing to you under the Freedom of Information Act 2000 to request the following information from the BEIS.

Please may you provide me with:

Any information pertaining to this District Heating Network. Viz. including but not limited to, acquisition, cost, installation, commissioning, ownership, changes in ownership, revenues arising, maintenance records, insurance records, audits, compliance with the Heating and Billing Regulations (2014) as amended, provision for asset replacement (Sinking Funds) and any other information you hold."

4. The final position of the BEIS was that it does not hold information within the scope of the request.

Reasons for decision

5. This reasoning covers whether BEIS is correct when it says that it does not hold information within the scope of the request and is therefore, entitled to rely on regulation 12(4)(a) of the EIR to refuse to comply with the request.
6. The complainant believes that BEIS holds information within the scope of their request. In their complaint to the Commissioner, the complainant explained that operators of heat networks must submit a notification to the Office of Product Safety and Standards (OPSS) when they install a heat network. As operators of heat networks must submit a notification to the OPSS when a heat network is installed, the complainant considers that the operator who installed the heat network referred to in the request must have submitted a notification to the OPSS when they installed the heat network. As the OPSS is part of BEIS, the complainant considers that BEIS holds information relating to the notification submitted to OPSS which falls within the scope of their request.
7. In its submissions to the Commissioner, BEIS acknowledged that it should hold information within the scope of the request. Specifically, BEIS stated that it should hold information relating to a notification submitted by the operator of the heat network referred to in the request to the OPSS. BEIS explained that under regulation 3 of the Heat Network (Metering and Billing) Regulations 2014, heat network operators are required to submit a notification to the OPSS containing information relating to the heat networks operation and its compliance with the Heat Network Regulations when they install a heat network.
8. BEIS explained that information collected from a heat network notification is uploaded onto a SQL database where it is held and processed. BEIS explained that the OPSS has conducted a search of the

SQL database for information within the scope of the request using the search terms '[postcode redacted]', '[company name redacted]' and '[company name redacted]'. However, no information within the scope of the request was located.

9. As the OPSS' search did not locate any information within the scope of the request, BEIS considers that the operator who installed the heat network referred to in the request, did not submit the required notification to the OPSS.
10. Whilst the Commissioner recognises that BEIS should hold information within the scope of the request, he accepts BEIS' reasoning for not holding information within the scope of the request.
11. The Commissioner considers that BEIS has carried out adequate searches for information held within the scope of the request. Therefore, his decision is that on the balance of probabilities, BEIS does not hold information within the scope of the request and so the exception provided by regulation 12(4)(a) is engaged.
12. As no information within the scope of the request is held, the Commissioner can only find that the public interest in maintaining the exemption at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because there is no information to disclose.

Right of appeal

13. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

14. 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.
15. 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

Daniel Perry
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