

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

Decision notice

Date: 16 July 2012

Public Authority: Department of Energy & Climate Change
Address: 3 Whitehall Place
London
SW1A 2AW

Decision (including any steps ordered)

1. The complainant has requested information relating to solar panel installations in a particular postal district. The Department of Energy & Climate Change (DECC) explained that there were 113 installations in the postal district but refused to provide a further breakdown of the figures by full postcode under regulation 13 of the Environmental Information Regulations 2004 (EIR).
2. The Commissioner's decision is that the DECC has correctly applied regulation 13 EIR in this case.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 25 January 2012, the complainant wrote to the DECC and requested information in the following terms:

"Can you please provide me with the MCS database which the DECC uses to record solar photovoltaic installations."
5. This information was withheld under regulations 13 and 12(5)(e) EIR. The complainant then made a follow up request for the following information on 16 February 2012:

"If the entire database can't be provided, could you please summarise the data?"

I'm looking for the number of installations per street within the TD1 postal district."

6. The DECC told the complainant that there were 113 installations in this postal district but refused to release a further breakdown of the information by full postcode within the postal district under regulation 13 EIR.
7. Following an internal review, the DECC wrote to the complainant on 4 April 2012. It maintained its original position.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant asked the Commissioner to consider whether the DECC had been correct to apply regulation 13 in this case.

Reasons for decision

9. Regulation 13(1) EIR states that:

To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.

10. Regulation 13(2) EIR states that:

The first condition is –

- (a) in a case where the information falls within any paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene –

- i. any of the data protection principles;

11. The DECC considers that the requested information is the personal data of the members of public who had FITs (feed-in tariff schemes) installations installed on their property in the TD1 area. The DECC explained that it holds the information with reference to the relevant full postcode rather than street name, however the two are closely linked. It said that the number of installations per postcode is statistically very

small, fewer than 5 in all but one instance, and often with only one installation per postcode. It acknowledged that in some instances, solar PV (photovoltaic) installations may not be visible at street level. However it explained that the use of internet tools such as Google Satellite and other resources such as the electoral register or online directory databases, in conjunction with the postcode data means individuals with properties with solar PV installations could easily be identifiable.

Is the Requested Information Personal Data?

12. The Commissioner has first considered whether the requested information is personal data. 'Personal data' is defined under section 1(1) of the Data Protection Act 1998 (DPA) as data which relates to a living individual who can be identified from that data, or from that data and other information which is in the possession of the data controller or is likely to come into the possession of the data controller.
13. Based on DECC's submissions the Commissioner considers that the requested information is personal data relating to living individuals which would allow individuals to be identified, when considered in conjunction with other information that is already in the public domain.
14. The Commissioner has therefore gone on to consider whether disclosure of personal data in this case would breach any of the Data Protection Principles.

Would Disclosure of the Information Breach any of the Data Protection Principles?

15. The first principle of the Data Protection Act 1998 (DPA) states that personal data shall be processed fairly and lawfully. The DECC considers that it would be unfair to the individuals concerned to disclose the requested information and that doing so would constitute a breach of the first principle of the DPA. The Commissioner has therefore gone on to consider whether disclosing the information would breach the fairness requirements of the first principle of the DPA.

Reasonable Expectations of the Data Subjects

16. The DECC has explained that there is nothing in the MCS (Microgeneration Certification Scheme) Installer Guidelines which requires installers of solar panels and other technologies to explain to customers that their data may be made publicly available; and there is no process through which customers give their consent to such disclosure. It said therefore that there is a reasonable expectation by individuals participating in the FITs scheme, that information would be held in confidence and used only for the purpose intended, which in this

instance is to get their installation certified under MCS as a valid installation for FITs accreditation.

17. The Commissioner does not consider that the data subjects would have expected the requested information, which would enable them to be identified, to be disclosed into the public domain.

Would Disclosure Cause Damage and Distress to the Data Subjects?

18. The DECC explained that owners of Solar PV installations accredited for FITs receive an income based on the generation capacity of the installation. It said that this information relates to individual's private lives which the data subjects may not want to be disclosed into the public domain.
19. The Commissioner considers that the requested information does relate solely to the individuals' private lives and that in some circumstances disclosing information about an individual's income may cause damage and/or distress to that individual.

The Legitimate Public Interest

20. The Commissioner does not consider that there is a legitimate public interest in disclosing information which would enable names of individuals who have Solar PV Installations accredited by MCS to be identified. He considers that there is a legitimate public interest in knowing how many such installations exist in a particular area and this information has already been disclosed to the complainant.
21. In this case the Commissioner considers that it would be unfair to disclose information would lead to information on individual installations being disclosed and ultimately individuals becoming identifiable. He therefore considers that regulation 13 was correctly engaged in this case.

Right of appeal

22. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

23. 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.
24. 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

Pamela Clements
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Wycliffe House
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