

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 8 February 2017

**Public Authority:** Department for Environment, Food and Rural Affairs (DEFRA)

**Address:** Area 4C  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

### Decision (including any steps ordered)

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1. The complainant has requested information relating to any discussions or meetings that took place from January 2014 onwards relating to the Shale Gas Rural Economy Impacts paper. To date DEFRA has not responded to this request.
2. The Commissioner therefore finds DEFRA in breach of section 10 of the FOIA and requires it to take the following steps to ensure compliance with this legislation:
  - DEFRA should issue a full response to the complainant in accordance with the FOIA.
3. The public authority must take these steps 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

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4. On 6 August 2015, the complainant wrote to DEFRA and requested information in the following terms:
5. "Please provide **correspondence and meetings** between
  - Secretary of State for DefraAnd

- Secretary of State for DECC
- DECC's Office for Unconventional Gas and Oil (SG1 and above)
- DECC's Oil and Gas Authority (SG1 and above)

**Where the meetings or correspondence have focused on the Draft Shale Gas Rural Economy Impacts paper recently released by DEFRA after an ICO decision.**

For each meeting, could I be supplied with the:

- Date/Location
- Names and titles of the people in attendance
- Agendas/Minutes/Briefing notes etc

Similarly, for each item of correspondence, to include but not be limited to, telephone calls, emails or text messages, could I be supplied with the:

Time/Date

- Names and titles of other people party to the correspondence
- Any attachments to emails or supplementary documents included
- Any associated documents generated as a direct result of this conversation e.g briefing notes, minutes, memos, transcripts or summaries

I am looking for any information generated since January 2014 which I believe will cover the time period from the original production of the Shale Gas Rural Economy Impacts paper to its disclosure by Defra after the ICO decision."

6. To the date of this notice, DEFRA has failed to issue a response in accordance with the FOIA. Instead it has issued at least 14 letters to the complainant extending the deadline.

### Scope of the case

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7. The complainant contacted the Commissioner on 15 November 2016 to complain about the way his request for information has been handled. The complainant is unhappy that DEFRA has still not responded to his request.

### Reasons for decision

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8. Section 10(1) of the FOIA states that, subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the 20th working day following the date of receipt.
9. Subsection (3) is the relevant exception in this case. This states that a public authority need not comply with section 1 of the FOIA until such time is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.
10. This subsection can be used if a public authority requires extra time to consider the public interest test in connection with a qualified exemption upon which it wishes to rely.
11. In this case, the Commissioner notes that DEFRA issued a notice (in fact numerous ones) in accordance with section 17(1) advising the complainant that it required extra time to consider the request. It is also noted that in each notice DEFRA advised the complainant of the revised deadline.
12. However, in this case, it is noted that the request dates back to August 2015. Section 10(3) allows the time for compliance to be extended in cases where a public authority needs extra time to consider the public interest test. But this section stipulates "as is reasonable in the circumstances".
13. The Commissioner does not consider a delay of over 16 months is reasonable. A reasonable extension would equate to a further 20 working days. She cannot envisage any circumstances where such a significant extension would be justified and so she finds DEFRA in breach of section 10 of the FOIA in this case.

## Right of appeal

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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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**