

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

Date: 7 November 2018

Public Authority: The Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant submitted a request to the Cabinet Office seeking a copy of the report produced by its Implementation Unit in 2016 into the shale gas industry. The Cabinet Office sought to withhold the report on the basis of the following regulations of the EIR: 12(4)(e) (internal communications), 12(5)(e) (confidentiality of commercial information), 12(5)(f) (interests of the person who provided the information) and 12(5)(b) (the course of justice). The Commissioner has concluded that the report is exempt from disclosure on the basis of regulation 12(4)(e) and that for the majority of the content the public interest favours maintaining the exception. However, she has concluded that the public interest favours disclosure of the Background and Executive Summary sections of the report. Albeit, that the Commissioner accepts that some parts of these sections of the report are exempt from disclosure on the basis of regulation 12(5)(e) of the EIR and the public interest favours withholding such information.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Provide the complainant with the Background and Executive Summary sections of the report. In providing the complainant with this information the Cabinet Office can redact any information which it highlighted in yellow in the copy of the report provided to the Commissioner. (For the avoidance of any doubt, the Cabinet Office

cannot however redact any information which was highlighted in green.)

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

4. The complainant submitted the following request to the Cabinet Office on 30 January 2018:

'Please provide me with the 2016 Cabinet Office report entitled "Implementation Unit Report on Shale Gas" in a PDF format.'

5. The Cabinet Office responded on 27 February 2018 and confirmed that it held the requested information but it needed additional time to consider the balance of the public interest test under section 35 (formulation and development of government policy) of FOIA.
6. The Cabinet Office provided the complainant with a substantive response to his request on 14 March 2018 and explained that under FOIA it considered the report to be exempt from disclosure on the basis of the following sections: 35(1)(a); 35(1)(b) (Ministerial communications); 43(2) (commercial interests) and 41(1) (information provided in confidence). In respect of the qualified exemptions it concluded that the public interest favoured withholding the information. To the extent that any or all of the report was considered to be 'environmental information' the Cabinet Office argued that it was exempt from disclosure on the basis of the following exceptions within the EIR: 12(4)(e) (internal communications), 12(5)(e) (confidentiality of commercial information) and 12(5)(f) (interests of the person who provided the information) and that the public interest favoured maintaining the exceptions.
7. The complainant contacted the Cabinet Office on 23 March 2018 and asked it to conduct an internal review of this refusal.
8. The Cabinet Office informed him of the outcome of the internal review on 15 May 2018 and explained that it upheld the position adopted in the refusal notice, with the exception of section 35(1)(b) which it decided did not apply.

Scope of the case

9. The complainant's solicitors submitted a complaint, on behalf of the complainant, to the Commissioner on 1 June 2018 in relation to the Cabinet Office's handling of this request.
10. In summary the complainant argued that the Cabinet Office should have considered the request solely under the EIR, that at least some of the information contained in the requested report would be likely to be information 'on emissions', and that the various exceptions within the EIR cited by the Cabinet Office were either not engaged or if they were, then the public interest favoured disclosure of the withheld information.
11. During the course of the Commissioner's investigation the Cabinet Office explained that it accepted that the report fell to be considered solely under the EIR. However, it did not accept that any of the information fell within the definition of information on emissions. The Cabinet Office also maintained its position that the withheld information was exempt from disclosure on the basis of the EIR exceptions cited in the refusal notice; its position being that the entirety of the report was exempt from disclosure on the basis of regulation 12(4)(e) and that significant parts of the report were also exempt from disclosure on the basis of regulations 12(5)(e) and 12(5)(f). The Cabinet Office also noted that a very small part of the report was also exempt from disclosure on the basis of regulation 12(5)(b) (the course of justice).
12. This decision notice therefore considers whether these exceptions provide a basis upon which the Cabinet Office can withhold the report.

Reasons for decision

Regulation 12(4)(e) – internal communications

13. Regulation 12(4)(e) states that a public authority may refuse to disclose information to the extent that the request involves the disclosure of internal communications. It is a class-based exception, meaning there is no need to consider the sensitivity of the information in order to engage the exception. Rather, as long as the requested information constitutes an internal communication then it will be exempt from disclosure.
14. Regulation 12(8) of the EIR states that for the purposes of regulation 12(4)(e), internal communications includes communications between government departments.
15. The complainant noted that as a report from the Cabinet Office's Implementation Unit to the Prime Minister, the Cabinet Office classified

the document as an internal communication. However, the complainant noted that the refusal notice referred to the extensive information contributed by third parties to the report. The complainant suggested that it was not clear whether the report had been shared, in whole or in part, with these or any other third parties. The complainant argued that if it had been, then this information can no longer be considered as internal communications and could not therefore be exempt from disclosure on the basis of regulation 12(4)(e).

16. In its submissions to the Commissioner the Cabinet Office confirmed that the requested report was produced by its Implementation Unit and sent to the Prime Minister. The Cabinet Office also explained that the report was distributed only to officials (and, in some cases, Ministers and Special Advisers) in the following central government departments: Cabinet Office (including No. 10), HM Treasury, Department for Energy and Climate Change, Department for Communities and Local Government. In light of this the Cabinet Office argued that the report clearly fell within the description of an internal communication and thus was exempt from disclosure on the basis of regulation 12(4)(e).
17. In light of the Cabinet Office's confirmation that this report had not been distributed to parties outside of government departments, the Commissioner is satisfied that it falls within the scope of regulation 12(4)(e) of the EIR.

Public interest test

18. Regulation 12(4)(e) is subject to the public interest test contained at regulation 12(1)(b) of the EIR. Therefore, the Commissioner must determine whether in all the circumstances of the case the public interest in maintaining the exception outweighs the public interest in disclosing the information. Regulation 12(2) specifically provides that public authorities should apply a presumption in favour of disclosure.

Public interest arguments in favour of disclosing the withheld information

19. The complainant argued that that the Cabinet Office's application of the public interest test under this exception was significantly flawed in that it had failed to consider all relevant circumstances of the request and to apply appropriate weight to the various considerations. More specifically, the complainant argued that the requested report is two years old and no longer highly sensitive. Indeed, the complainant noted that the government had acknowledged that certain data provided by the industry in 2016, which is likely to be contained in the report, is now out

of date.¹ Furthermore, the complainant argued that numerous policy decisions have been made in relation to shale gas exploration since the report's completion and consultations have been conducted. Consequently, the complainant argued that the need for private thinking space has substantially diminished.

20. In contrast, the complainant argued that there are numerous public interest factors that had not been considered by the Cabinet Office. First, it emphasised that shale gas and fracking is a deeply contentious issue and it has numerous impacts on the environment and there is significant debate and uncertainty about the scale of these impacts. The complainant argued that there is also considerable mistrust on the part of the public, not least in relation to whether these impacts can be properly mitigated and whether fracking should proceed in the UK.
21. The complainant suggested that whilst the Cabinet Office's refusal notice recognised that decisions regarding fracking 'may have a significant impact on the lives of citizens', it appeared to assume that the public interest in this regard is limited to transparency about such decisions, as opposed to the need for the public to be able to use such information to inform and affect policy-making in advance of crucial decisions being taken.
22. The complainant noted that the government had recently announced a consultation on whether shale gas exploration should be treated as permitted development.² Therefore, the complainant argued it is of the utmost importance that the public have access to all relevant information so that they are fully-informed before responding to this consultation.
23. In addition, the complainant argued that there is an increased public interest regarding the disclosure of information about the environmental impacts of shale gas exploration techniques, or the potential or known impacts of any exploration that has been carried out. It argued that such information is vital in informing public debate and ensuring adequate health and environmental protections are in place.

¹ See written answer from Claire Perry MP on 27 February 2018 to written parliamentary question from Caroline Lucas MP: "Based on information provided by industry dating from 2016, BEIS previously estimated in 2017 that there could be around 155 wells by around 2025. This figure is now considered to be out of date."

² Written Statement of 17 May 2018, Secretary of State for Business, Energy and Industrial Strategy, available at <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-05-17/HCWS690/>

24. The complainant also noted that the request did not seek deliberations regarding shale gas policy but rather what appears to be a key text that Ministers have used to base their decisions on. It argued that there was a precedent for release of the report in full; in 2014 DEFRA published a redacted version of its internal report entitled 'Shale Gas: rural economy impacts' and the Commissioner subsequently ordered DEFRA to disclose an unredacted version of this document.³
25. Consequently, and taking into account the presumption in favour of disclosure, the complainant argued that the public interest in maintaining the exception did not outweigh the public interest in disclosing the information under regulation 12(4)(e).

Public interest arguments in favour of maintaining the exception

26. The Cabinet Office noted that the underlying rationale behind this exception is that public authorities should have the necessary space to think in private.
27. The Cabinet Office that argued that the public interests in disclosure have to be weighed against a stronger public interest that the provision of information to Ministers is of the highest quality and informed by a full consideration of all the options. It explained that the report contained a free and frank assessment of the likely state of the shale gas market in 2020 and 2025 and recommendations to address the identified challenges to accelerate industry's progress. The Cabinet Office explained that it is critical to informed decision-making that such advice is frank, so that Ministers are fully informed on the available options and understand the possible implications.
28. The Cabinet Office argued that disclosure would adversely affect the candour with which officials and Ministers express their views on the subject in future. It suggested that shale gas exploration is likely to continue to evolve to meet both public and industry concerns. Therefore, the Cabinet Office argued that it is not inconceivable that officials and Ministers could become much more conscious of the weight of public opinion and thus more circumspect when expressing their views and considering options for fear of how the public might react. The Cabinet Office argued that this would affect the quality of the advice given, the discussions on that advice, and the decisions taken on the basis of that advice.

³ https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1431897/fer_0562043.pdf

Balance of the public interest arguments

29. With regard to attributing weight to the public interest in favour of maintaining the exception, the Commissioner notes that the Cabinet Office's arguments focus on a chilling effect occurring on future internal communications on this subject if the withheld report was disclosed. In essence chilling effect arguments envisage that the disclosure of internal discussions would inhibit free and frank discussions in the future, and that the loss of frankness and candour would damage the quality of advice and lead to poorer decision making.
30. The Commissioner does not consider that chilling effect arguments will automatically carry much weight in principle. The weight accorded to such arguments will instead depend on the circumstances of each case, including the timing of the request, whether the issue is still live, and the content and sensitivity of the information in question.
31. In the circumstances of this case, with regard to whether the issue is still live the Commissioner acknowledges that the report was nearly two years old at the point that the complainant submitted his request. In her view it is not sustainable to argue that the *all* of the issues covered and addressed in the report could still be said to be live at the time of the request; indeed as the complainant has emphasised a number of policy decisions have been taken since the report was completed and a number of consultations regarding shale gas have been conducted. Nevertheless, the Commissioner accepts the Cabinet Office's point that shale gas exploration in the UK is an issue which continues to develop and evolve and it is no way inconceivable that Ministers and officials would need to consider and discuss issues associated with it in the near future again.
32. In terms of the content of the withheld information itself, the Commissioner accepts that it does contain a detailed and candid assessment of various issues associated with the shale gas industry. The nature of this content therefore supports, in the Commissioner's view, the Cabinet Office's argument that disclosure of this information could have a chilling effect on the candour of similar discussions in the future.
33. Taking these factors into account, the Commissioner accepts that disclosure of the report in its entirety would be likely to have a notable chilling effect on the production of similar internal reports in the future. In reaching this conclusion the Commissioner accepts that the report is two years old; but it is a detailed assessment of the shale gas industry and she accepts that officials and Ministers will be likely to have the need to discuss or revisit some of these issues in the near future as the industry develops. In attributing such weight, the Commissioner has also taken into account the fact that shale gas industry is one that has

attracted controversy and in her view this adds to the likelihood that disclosure of information may cause such a chilling effect.

34. With regard to the attributing weight to the public interest arguments, the Commissioner agrees with the complainant that it is relevant to take into account the need for public authorities to be transparent but *also* the benefit of disclosing information in order to allow the public to use the information and affect policy making. In the circumstances of this case the Commissioner agrees with the complainant that these arguments should attract considerable weight given that the government's policy towards fracking for shale gas is a matter of considerable public interest. In the decision notice involving DEFRA which the complainant cited, the Commissioner acknowledged that *'The Government's policy towards fracking for shale gas is a matter of considerable public interest. Fracking offers considerable economic opportunities and there is a public interest in the UK being able to exploit the benefits. There is significant expert opinion supporting the case that the risks from fracking are acceptable and manageable. However, public concern remains, and this is understandable given the novel and environmentally invasive nature of fracking.'*⁴ The Commissioner considers such points to apply equally in this case. Furthermore, she accepts that disclosure of the withheld report would provide the public with a detailed insight into the government's own assessment of the shale gas industry at 2016 and its prospects of future development and therefore release of this information would directly meet the public interest arguments identified above.
35. However, clearly a balance has to be struck between the benefits of disclosing the information and protecting against the prejudicial consequences of disclosure. The Commissioner has carefully considered the content of the report in order to reach a decision as to how this balance could, and should, be struck. Releasing the report in its entirety would of course best meet the public interests in disclosure, but for the reasons discussed above the Commissioner has genuine concerns that this could result in a significant chilling effect on the production of similar reports in the near future. Withholding the report in full would of course be the best way to protect against such consequences, but equally the Commissioner does not consider that such a position adequately meets the significant public interests in disclosure of the information. On balance she has therefore decided that the public interest is best served by the Cabinet Office disclosing the Background and Executive Summary parts of the report. Such an outcome would

⁴ Paragraph 62 of decision notice FER0562043.

provide a direct insight into the methodology and findings of the Implementation Unit's work without revealing all of its detailed and candid analysis.

36. In reaching this conclusion the Commissioner recognises that the complainant argued that there was a precedent for this report to be disclosed in full given her findings in the DEFRA decision notice. (In that case DEFRA had disclosed a redacted version of the report which was the subject of that request but the Commissioner concluded that the full report should be disclosed under the EIR.) However, the Commissioner wishes to emphasise that although this present case and the DEFRA one clearly concern information about the same subject matter, ie the shale gas industry, each request has to be considered on its own merits and her findings in the DEFRA case do not provide a precedent for disclosure of all of the information in this case.

Regulation 12(9)

37. The Cabinet Office has argued that the parts of the Background and Executive Summary also attract the exceptions contained at regulations 12(5)(e) and 12(5)(f) of the EIR. Before considering whether either of these exceptions provide a basis to withhold the information in question, she has considered whether any of the information relates to information on emissions.
38. This is because regulation 12(9) of the EIR provides that:
- 'To the extent that the environmental information to be disclosed relates to information on emissions, a public authority shall not be entitled to refuse to disclose that information under an exception referred to in paragraphs [12](5)(d) to (g).'*
39. The Cabinet Office argued that none of the information contained within the report could be considered to be information relating to emissions. In support of this position it argued that although there are high-level references to traffic (pollution), noise pollution, and monitoring groundwater, there is no information regarding the environmental consequences. It argued that the general language used in the report means that the sort of information intended to be caught by the override in regulation 12(9) is not present. The Cabinet Office noted that the text does not speculate about gas leaks or water pollution or climate change impacts or other environmental consequences, or make estimates of these. Therefore it considered there is no information in the report that would count as information on 'emissions' for the purpose of the emissions override in regulation 12(9).
40. The complainant argued that the definition of emissions under the EIR is broad and includes both past and future emissions, localised and low level emissions and would include, for example, carbon dioxide. The

complainant suggested that given the subject of the report, it is likely to contain at least some information relating to emissions.

41. Having reviewed the parts of the Background and Executive Summary to which the Cabinet Office has applied the exceptions contained at regulations 12(5)(e) and 12(5)(f) of the EIR the Commissioner has concluded that they do not relate to information on emissions. She has therefore gone on to consider whether either of these exceptions provide a basis upon which to withhold the parts of the Background and Executive Summary to which the Cabinet Office has applied them.

Regulation 12(5)(e) – confidentiality of commercial or industrial information

42. Regulation 12(5)(e) provides an exception to the extent that disclosure of the information in question would adversely affect:

'the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest'

43. The wording of the exception sets out a number of tests or conditions that must be met before the exception can be engaged, namely:

- Is the information commercial or industrial in nature?
- Is the information subject to confidentiality provided by law?
- Is this confidentiality provided to protect a legitimate economic interest?
- Will the confidentiality be adversely affected by disclosure?

44. The Commissioner has considered each in turn below. It is important to note that the information which the Cabinet Office is seeking to withhold on the basis of this exception falls into two categories: (a), information that relates directly to identifiable market players and (b), information that contains anonymised or distilled views of the market players.

Is the withheld information commercial or industrial in nature?

45. The Commissioner considers that for information to be commercial or industrial in nature, it will need to relate to a commercial activity of either the public authority concerned or a third party.
46. The Cabinet Office argued that the report contains information that is both commercial and industrial in nature. The information is industrial in nature as it relates to an activity, ie shale gas extraction or 'fracking'. The Cabinet Office suggested that industrial is generally understood to include the processing of raw materials, in this case shale gas.

47. The Commissioner is satisfied that the information in question is commercial information as it relates to the activities of the shale gas industry and is also industrial in nature.

Is the withheld information subject to confidentiality provided by law?

48. The Commissioner considers that 'provided by law' will include confidentiality imposed on any person by the common law of confidence, contractual obligation or statute.
49. The Cabinet Office explained that the Implementation Unit and officials working directly on the project confirmed that the information withheld on the basis of this exception was sought from and provided by market participants in confidence and they shared their views and plans with the Cabinet Office with the clear expectation that these would not be shared, especially with competitors. The Cabinet Office emphasised that the information was not trivial and had not been put into the public domain by the Cabinet Office. It therefore considered the requested information to be confidential.
50. With regard to the distilled information, the Cabinet Office argued that this draws on the information given in confidence to it by the market participants, it therefore considered that the distilled information meets the second condition.
51. The Commissioner accepts that the circumstances in which the Cabinet Office was provided with the information by the market participants means that for the first category of information, ie the information that relates directly to identifiable market player, meets this condition. In terms of the second category, ie the distilled information, the Commissioner also accepts that this condition is met given that it draws directly from these views.

Is the confidentiality provided to protect a legitimate interest?

52. The First Tier Tribunal confirmed in *Elmbridge Borough Council v Information Commissioner and Gladedale Group Ltd* that, to satisfy this element of the test, disclosure of the confidential information would have to adversely affect a legitimate economic interest of the person the confidentiality is designed to protect. It is not enough that disclosure might cause some harm to an economic interest. The public authority needs to establish that, on the balance of probabilities, ie more probable than not, disclosure would cause some harm.
53. The Cabinet Office argued that disclosure of both categories of the information would adversely affect the economic interests of each market participant identified as they contain information that would be useful to their competitors in the future. More specifically, the Cabinet Office explained that legitimate economic interests relates to the

identified market participants retaining or improving their market position, and ensuring that competitors do not gain an advantage. The Cabinet Office noted that even if those distilled views are not related to individual companies, disclosure of such information might potentially give an advantage to other companies currently not involved in the UK market and also affect the commercial position of the market and companies within it.

54. With regard to the distilled information, having considered this the Commissioner is not persuaded that disclosure of this *would* have an adverse effect on the commercial interests of the existing market participants. She has reached this decision given that the information contains summarised or overarching comments and moreover, as the complainant noted above, dates from nearly two years prior to the request being submitted. Furthermore, the Commissioner considers the Cabinet Office's suggestion that disclosure of this information could assist companies not currently in the market to be somewhat speculative given both the content of this information and the level of knowledge and research such companies must have already done and have access to if they are in fact seriously considering entering the UK shale industry.
55. However, in contrast the Commissioner is persuaded that given the content of the information which relates directly to market participants, disclosure would harm the commercial interests of these companies. She has reached this decision given that the content of the information details specific plans and aims of the players in question. Whilst this information is relatively brief she accepts that it could be used by their competitors to gain some insight into their plans and thus some commercial advantage. In reaching this decision, the Commissioner accepts that the report was nearly two years old at the point that the request was submitted. However, the withheld information concerning the activities of identified market participants details the plans of companies beyond this timeframe and thus at the time of the request was not outdated.
56. To clarify her findings, the Commissioner is therefore satisfied that the third condition *is* met in relation to the information about identifiable companies but is *not* met in relation the distilled information.

Will the confidentiality be adversely affected by disclosure?

57. Although this is a necessary element of the exception, once the first three elements are established the Commissioner considers it is inevitable that this element will be satisfied. Disclosure of truly confidential information into the public domain would inevitably harm the confidential nature of that information by making it publicly

available, and would also harm the legitimate economic interests that have already been identified.

58. Therefore, the Commissioner accepts that this condition is met in relation to the information about identifiable companies and such information is exempt from disclosure on the basis of regulation 12(5)(e).

Public interest test

59. Regulation 12(5)(e) is subject to the public interest test contained at regulation 12(1)(b) of the EIR. Therefore the Commissioner must determine whether in all the circumstances of the case the public interest in maintaining the exception outweighs the public interest in disclosing the information. As with the public interest test under regulation 12(4)(e), regulation 12(2) specifically provides that public authorities should apply a presumption in favour of disclosure.

Public interest in favour of maintaining the exception

60. The Cabinet Office argued that it was not in the public interest to disclose information which would harm third parties' ability to engage, perform and compete in the shale gas market.
61. The Cabinet Office also argued that it was vital to policymaking, particularly in the nationally important area of energy production, for there to be a voluntary flow of information from private sector third parties (in this case potential developers). It argued that if the market players did not have confidence that their commercially sensitive information would be protected by the Cabinet Office they would be less willing to engage with or share such information with the government. The Cabinet Office argued that such private sector engagement is integral to the Government's efforts to meet the challenges identified in the report, and it considered that any action which would discourage or undermine such engagement would clearly not be in the public interest.

Public interest in favour of disclosing the information

62. In addition to the public interest arguments outlined under the analysis of regulation 12(4)(e), the complainant argued that if the information withheld under regulation 12(5)(e) related to the environmental impacts of a particular exploration site or technique there is an increased public interest in this information being disclosed. The complainant also noted that the Cabinet Office's refusal notice stated that the release of information '*could call into question the industry's viability*'. The complainant argued that this highlighted the significant nature of the information and therefore the increased public interest in disclosure.

Balance of the public interests

63. For the reasons discussed above, the Commissioner considers there to be a significant public interest in the disclosure of information which would provide an insight into government's analysis of the shale gas industry. Disclosure of the information which the Commissioner accepts is exempt from on the basis of regulation 12(5)(e) would provide the public with some, albeit limited, insight into the plans of certain key players in the market and she accepts that there is a public interest in the disclosure of this information.
64. However, the Commissioner considers there to be a considerable and weighty public interest in ensuring that third parties are able to engage in their commercial activities without their commercial interests being harmed. Furthermore, she also accepts that there is a significant public interest in ensuring that the Cabinet Office is able to benefit from being able to engage with private sector third parties in order to inform policymaking.
65. On balance taking into account the cumulative weight of these two factors, and the limited extent to which disclosure of the withheld information would meet the public interests in disclosure, the Commissioner has concluded that the public interest favours maintaining the exception contained at regulation 12(5)(e).

Regulation 12(5)(f) – interests of the person who provided the information

66. The Cabinet Office has also relied on regulation 12(5)(f) to the same information to which it has applied regulation 12(5)(e). She has therefore considered whether regulation 12(5)(f) provides a basis upon which to withhold the parts of the Background and Executive Summary which she has concluded are not exempt from disclosure on the basis of regulation 12(5)(e), ie the distilled information.
67. Regulation 12(5)(f) states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect:

'(f) the interests of the person who provided the information where that person—

(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;

(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

(iii) has not consented to its disclosure'

68. Therefore, in order for this exception to be engaged, disclosure of the information has to firstly adversely affect the interests of the person who provided it to the public authority and also the three criteria listed at (i) to (iii) have to be met.
69. As discussed above at paragraph 54, the Commissioner is not persuaded that disclosure of the distilled information would harm the commercial interests of the key players. Furthermore, the Cabinet Office's submissions to her do not appear to have identified any other clear way in which disclosure of this information could harm their interests. The Commissioner has therefore concluded that the distilled information is not exempt from disclosure on the basis of regulation 12(5)(f) because disclosure of it would not harm the interests of the companies who provided the Cabinet Office with the information.
70. In light of her findings in respect of regulation 12(4)(e), the Commissioner has not considered whether the remainder of the report beyond the Background and Executive Summary is exempt from disclosure on the basis of the other exceptions cited by the Cabinet Offices, ie regulations 12(5)(b), 12(5)(e) and 12(5)(f).

Right of appeal

71. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

72. 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.
73. 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

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