

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 26 June 2023

**Public Authority:** Department for Energy Security and Net Zero  
**Address:** 1 Victoria Street  
London  
SW1H 0ET

#### **Decision (including any steps ordered)**

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1. The complainant requested information about communications between the government and Ofgem from the Department for Business, Energy & Industrial Strategy (BEIS)<sup>1</sup>. By the date of this notice the Department for Energy Security and Net Zero (DESNZ) which took over BEIS' functions in regards to this request had not issued a substantive response.
2. The Commissioner's decision is that the DESNZ has breached section 10(1) of 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 the DESNZ to take the following step to ensure compliance with the legislation.
  - the DESNZ must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The DESNZ 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 FOIA and may be dealt with as a contempt of court.

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<sup>1</sup> Although this request was submitted to BEIS, in February 2023 BEIS was replaced with a new government department, namely the Department for Energy Security and Net Zero (DESNZ). This decision is therefore served on DESNZ.

## Request and response

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5. On 3 March 2023, the complainant wrote to the BEIS and requested information in the following terms:

"Please provide sight of all records from 2017 onwards of government's communications with Ofgem related to:

1. Catastrophic data losses within consumer / retail energy company billing systems and their impact on customer billing, to include cross-contamination of reconstituted customer billing records,
2. The use of uncertified / uncalibrated / inaccurate metering and its impact on retail customer billing.

To clarify point 2: Ofgem has already stated that although domestic energy metering certification and calibration is stipulated within the Electricity & Gas Acts, Ofgem has no responsibility to monitor metering certification / calibration, that responsibility resting solely with the government department."

6. To date, a substantive response has not been issued.

## Reasons for decision

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7. Section 1(1) of 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."

8. Section 10(1) of 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".

9. On 23 May 2023 the Commissioner wrote to the DESNZ, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

10. Despite this intervention the DESNZ has failed to respond to the complainant.

11. From the evidence provided to the Commissioner in this case, it is clear that the DESNZ did not deal with the request for information in accordance with FOIA. The Commissioner finds that the DESNZ has breached section 10(1) by failing to respond to the request within 20 working days and the DESNZ is now required to respond to the request in accordance with FOIA.

## Right of appeal

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12. 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](mailto:grc@justice.gov.uk)

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

13. 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.
14. 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**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**