

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 23 February 2024

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

Decision (including any steps ordered)

1. The complainant has requested information from the Department for Energy Security & Net Zero (DESNZ) regarding a copy of the plan to meet the UK's 2050 net zero commitment. DESNZ provided the complainant with links to the requested information and advised that no further information was held.
2. The Commissioner's decision is that on the balance of probabilities DESNZ does not hold a copy of a plan or any further information in relation to the request.
3. The Commissioner does not require any steps as a result of this decision notice.

Request and response

4. On 17 August 2023, the complainant wrote to DESNZ and requested information in the following terms:

"Can you please provide a copy of the high-level plan to meet the UK's 2050 net zero commitment. I would expect such a plan to show, where defined:

- *activities
- *deliverables
- *timescales
- *workstreams
- *dependencies
- *key assumptions

I do **not** want, nor expect to see any contractual, commercial or financial information related to the delivery of the plan.”

5. DESNZ responded on 1 September 2023. It provided the complainant with several links to information in relation to the request.
6. Following an internal review DESNZ wrote to the complainant on 23 October 2023. It stated the publications provided in the original response provide the outline of its net zero commitments, which detail the information the complainant requested. It added that there is no further information it would be able to provide.

Scope of the case

7. The complainant contacted the Commissioner on 23 October 2023, to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, any further information is held within the scope of the request.

Reasons for decision

Regulation 5(1) – duty to make environmental information available on request

9. Under regulation 5(1) of the EIR, a public authority must make environmental information available on request if it holds the information and it is not subject to an exception.
10. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any further information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.

11. In this case, DESNZ provided links to documents that contain the requested information.
12. DESNZ explained to the Commissioner that the publications provided to the complainant outline the net zero commitments, which include the details of deliverables, timescales, assumptions and workstreams, which have been taken into account for the UK to reach net zero by 2050.
13. DESNZ advised that the complainant had asked for a high level plan for it to meet the net zero 2050 commitments. DESNZ explained that its plan is set out in the Net Zero Strategy published in 2021 and updated in the Powering up Britain publications in 2023, including, as part of it, the Carbon Budget Delivery Plan. DESNZ explained that this sets out the action the government plans to take across all sectors and how it comes together to meet the legally binding carbon budgets. It added that the government does not hold a separate plan that has not been published.
14. The Commissioner has considered the complainant's concerns and that they believe a high-level plan, with the specified six aspects, ought to exist, given the importance of the policy. However, the EIR only looks at information that is held by a public authority. There is no requirement for a further information to be created to respond to a request for information. A public authority cannot provide information that it does not hold. The Commissioner cannot consider whether further information ought to be held, only whether it is, as a matter of fact, held.
15. In the Commissioner's view, DESNZ has provided the complainant with the information it holds which relates to the request and on the balance of probabilities, it does not hold a further plan that falls within the scope of the request. Therefore, the Commissioner is satisfied that DESNZ has complied with the requirements of regulation 5(1) of the EIR.

Right of appeal

16. 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

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

17. 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.
18. 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

Roger Cawthorne
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