

## Environmental Information Regulations 2004 (EIR)

### Decision notice

**Date:** 7 March 2016

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

### Decision (including any steps ordered)

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1. The complainant has requested information from the Department for Energy and Climate Change (DECC) relating to the Biomass Suppliers List (BSL). DECC set out its response to questions 1, 2, 4 and 5 of the request but in response to question number 3, relied on regulation 13 (personal information) to refuse the request. During the course of the investigation, DECC disclosed the information requested at question 3.
2. The Commissioner's decision is that DECC has disclosed the requested information but that disclosure for part of the requested information was outside the statutory 20 day time limit and accordingly DECC has breached regulation 5(2) EIR. The Commissioner does not require DECC to take any further steps.

### Request and response

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3. On 30 January 2015, the complainant wrote to DECC and requested information in the following terms:

*"Request for information under the Freedom of Information Act.*

*All below regarding the Biomass Suppliers List. (BSL)*

1. *When did the BSL commence and what are its core objectives.*
2. *Please advise how BSL is funded and where it's accountable to.*
3. *The senior management structure and who are the current post holders.*

- 4. Process applied to Gemserv Ltd being selected to operate the BSL.*  
*5. Please supply details of the setup cost and projected annual cost of the BSL and where this information exists in the public domain."*

4. DECC responded on 27 February 2015. It set out its responses to the questions detailed but in respect of question 3 relied on Regulation 13 stating that the requested information constituted personal data and that under the Data Protection Act 1998 (DPA) disclosure would be unfair and would breach the first data protection principle. DECC provided a link to the senior management structure of Gemserv, the company which operates the BSL.
5. Following an internal review request dated 26 March 2015 in relation only to the response to question 3, DECC maintained its position in respect of regulation 13 in a review response dated 23 April 2015. It did provide a fresh link in relation to the senior management structure as the complainant had identified that the original did not open.

### **Scope of the case**

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6. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He specifically complained about DECC's reliance on Regulation 13 in respect of question 3. The Commissioner clarified that his complaint was in respect of DECC's response to question 3 only. During the course of the investigation the requested information was disclosed and the complainant informed the Commissioner that he wanted a decision notice issued in respect of the delay in disclosure.

### **Reasons for decision**

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7. Regulation 5(2) EIR states:

*"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."*

8. Upon receiving a letter setting out the scope of the Commissioner's investigation, DECC reviewed its handling of the request and amended its position. In a letter dated 21 December 2015, DECC disclosed the information requested at question 3.

9. The Commissioner notes that almost a year had passed between the original request and disclosure of the information. Accordingly he considers that DECC has breached Regulation 5 EIR in disclosing the information outside of the statutory 20 day time scale.

## Right of appeal

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10. 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 123 4504

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)

11. 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.
12. 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** .....

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**