

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

### **Decision notice**

**Date:** 12 April 2023

**Public Authority:** The 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 the definition of the phrase "property value" in relation to a particular policy. By the date of this notice Department for Business, Energy & Industrial Strategy (BEIS)<sup>1</sup> had not issued a substantive response to this request.
2. The Commissioner's decision is that BEIS 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 BEIS to take the following step to ensure compliance with the legislation.
  - BEIS must provide a substantive response to the request in accordance with its obligations under FOIA.
4. BEIS 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> On 7 February 2023, under a Machinery of Government Change, the Department for Business Energy and Industrial Strategy ("BEIS") began the transition into three separate departments, including the Department for Energy Security and Net Zero ("DESNZ"). The request in this decision was made to BEIS, however this notice will be served on DESNZ as the appropriate authority.

## Request and response

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5. On 10 January 2023, the complainant wrote to BEIS and requested information in the following terms:

“In the context of whether a domestic property should be maintained to meet EPC C, when considering whether this is ‘affordable’, and considering that an element of the affordability criteria will be the ‘property value’, what is the BEIS definition of ‘property value’?”

6. BEIS acknowledged the request on 19 January 2023 declining to respond to the request as it believed the request did not seek recorded information and was therefore an invalid request under the Act.

## Scope of the case

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7. The complainant contacted the Commissioner on 22 February 2023 to complain about BEIS’s failure to respond to their request.
8. The Commissioner considers that the request is valid under FOIA and has therefore considered whether BEIS has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

## Reasons for decision

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9. 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.”

10. Section 10(1) of the 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”.

11. On 3 March 2023 the Commissioner wrote to BEIS, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention BEIS has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that BEIS did not deal with the request for information in accordance with FOIA. The Commissioner finds that BEIS has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

## 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: 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)

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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**