

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 November 2022

Public Authority: Department for Business, Energy and Industrial Strategy

Address: 1 Victoria Street
London
SW1H 0ET

Decision (including any steps ordered)

1. The complainant requested information about minutes of particular meetings between then secretary of state Kwasi Kwarteng, Vitol and Ofgem. By the date of this notice, the Department of Business, Energy and Industrial Strategy ("BEIS") 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.

Request and response

5. On 29 September 2022, the complainant wrote to BEIS and requested information in the following terms:

"[...] I would like to request, under FOI regulations, minutes for the following meetings:

1. 27/09/2021 between Kwasi Kwarteng and Vitol and Ofgem;
2. 11/10/2021 between Kwasi Kwarteng and Vitol;
3. 20/12/2021 between Kwasi Kwarteng and Vitol;
4. 02/03/2022 between Kwasi Kwarteng and Vitol;
5. 04/03/2022 between Kwasi Kwartenf and Vitol."

6. BEIS acknowledged the request on 29 September 2022 but, to date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 31 October 2022 to complain about BEIS's failure to respond to their request.
8. The Commissioner has considered whether BEIS has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

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 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 7 November 2022 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

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

Website: 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF