

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 22 November 2023

**Public Authority:** The Security Service (MI5)

**Address:** 12 Millbank  
London  
SW1P 4QP

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

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1. The complainant requested information from the Security Service ("MI5") relating to carbon emissions.
2. MI5 cited regulation 12(5)(a) of the EIR to withhold the information.
3. The Commissioner's decision is that MI5 correctly applied regulation 12(5)(a) of the EIR.
4. The Commissioner does not require any steps to be taken.

#### **Request and response**

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5. On 13 February 2023, the complainant made the following request for information to MI5:

"In accordance with the Environmental Information Regulations, please provide me with a copy of the following information:

1. The amount of CO<sub>2</sub>e produced by MI5, broken down by scope 1, 2 and 3 emissions during 2021 and 2022.
  2. A list of activities that are included in your scope 3 emissions calculation."
6. MI5 responded on 13 March 2023, stating:

"MI5 does hold data on the organisation's carbon emissions. We have considered the presumption in favour of disclosure contained in regulation 12(2) and we have concluded that we are unable to disclose this information because to do so would have an adverse effect on national security (12)(5)(a). We acknowledge the public interest in disclosure of this environmental information but have concluded that the public interest in maintaining the exception outweighs this."

7. On 10 July 2023, MI5 upheld this decision on internal review.
8. On 1 November 2023, following engagement with the Commissioner, MI5 disclosed some information to the complainant in relation to part 2 of the request.

## Reasons for decision

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### **Regulation 12(5)(a) – international relations, defence, national security, or public safety.**

9. Regulation 12(5)(a) of the EIR states that information is exempt if its disclosure would adversely affect international relations, defence, national security, or public safety.
10. To engage regulation 12(5)(a), a public authority must demonstrate that disclosing the requested information **would** have an adverse effect on international relations, defence, national security, or public safety. This sets a high threshold; the adverse effect has to be more probable than not if the information was released.
11. In this case, MI5 considers that disclosure of the information requested would adversely affect national security.
12. In its internal review response, MI5 explained that the potential for information to be inferred from its carbon emissions data which would be of interest to hostile state actors, such as estimates regarding energy usage and therefore its computing capabilities, would adversely affect national security.
13. MI5 further explained that disclosures of carbon emissions data over a period of time would allow hostile actors to adapt to perceived changes in MI5's business activity, which would impact MI5's ability to function effectively and thus damage national security.
14. During the course of his investigation the Commissioner has viewed the withheld information and had discussions with MI5 and, as a result, the Commissioner is satisfied that the causal link between disclosure and

the adverse effect on national security has been demonstrated and that the exception in regulation 12(5)(a) is engaged. However, the Commissioner cannot elaborate on his rationale behind this finding without compromising the content of the withheld information and defeating the object of the exception.

15. As the exception in regulation 12(5)(a) is engaged, the Commissioner has gone on to consider the associated public interest test.

### **Public interest test**

#### **Public interest in disclosure**

16. The complainant argued that there is a strong public interest in the scrutiny of the environmental performance of public sector authorities. The complainant's view is that: "Due to the climate crisis, it is overwhelmingly in the public interest for this information to be released. It would help to inform wider public debate, increase accountability of decision making and provide reassurance that the security service is having due regard to monitoring and reducing all aspects of its carbon footprint."
17. The complainant further argued that there was also a strong public interest in public sector decision-making and how this affects public spending. In particular, arguing that: "As MI5 is part of the UK security services, the mechanisms for holding the authority's leadership to account are more limited than those that apply for public sector bodies in general. For this reason, there is an additional public interest in the disclosure of information under EIR as one of the very few available mechanisms of accountability for the authority."
18. MI5 acknowledged that there was a public interest in the environmental impact of its activities and stated that it was committed to "managing its business in an environmentally sustainable manner".
19. The Commissioner accepts that the public needs to be assured that MI5 operates in an environmentally responsible way, and that disclosure of the withheld information might enable the public to better scrutinise how MI5 operates in respect of its carbon emissions.

#### **Public interest in maintaining the exception**

20. Regarding the public interest in withholding the information, MI5's argument is the position described at paragraphs 12 and 13 of this notice. MI5 stated that "any increase in understanding that the public might gain by a disclosure of this information is overshadowed by the adverse effect on national security".

### **Balance of public interest**

21. The Commissioner acknowledges that there is always some public interest in disclosure, for example, to promote transparency, accountability and greater public awareness and understanding of decisions relating to the operation of public bodies.
22. The Commissioner acknowledges the complainant's very serious concerns about carbon emissions and climate change, and the public interest in, and importance of, the accountability of public bodies as regards their carbon footprint.
23. However, he considers that significant weight should be given to the public interest in protecting national security in this case and considers that, were this information to be disclosed routinely, it would enable hostile actors to gather valuable information about the activities of MI5.
24. This means that the Commissioner's decision, whilst informed by the "presumption in favour of disclosure" under the EIR (Regulation 12(2)), is that the balance of the public interest favours maintaining the exception provided by Regulation 12(5)(a) in respect of the withheld information.

## Right of appeal

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25. 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)

26. 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.
27. 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 .....**

**Gerrard Tracey**  
**Principal Adviser**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**