

Public

FOI-24-0044

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9 May 2025

Dear requester

You requested an internal review of our handling of your information request on 7 April 2025.

We have reviewed the response to determine if we have met the requirements of the Environmental Information Regulations 2000 (EIR).

My role at NESO is Director of Legal and Regulation. I have not been involved in the handling of your request before performing this review.

Your original request

"This is an EIRs request.

NESO recently produced some advice and analysis for DESNZ on the impact on Great Britain's electricity system covering the period 2027 to 2031, if bespoke support for large-scale biomass generation at Drax (2.5 GW capacity) and Lynemouth (0.4 GW capacity) was withdrawn from 2027.

The analysis showed that without large-scale biomass, security of supply would not be ensured in scenarios with additional supply losses. While alternative options could deliver the same outcomes, these options have greater delivery risks.

The department then announced new policy on 10 February.

https://urldefense.com/v3/_https://questions-statements.parliament.uk/written-statements/detail/2025-02-

10/hcws424 ;!!B3hxM_NYSQ!l_wi6bDuPgysFsGslccBWJdOWWWayoDZcInolrmt8kqINRrjplDEtBtqPs_08CvjWhZl6-LlegTf5x92Mzj7QyAD9aDmFrX4h3t-TNrrjxivosLEO\$

I am writing to request a full copy of the advice and analysis produced by NESO for DESNZ. Please ensure this includes supplementary annexes and datasets."

We received your request on 26 February 2025 and issued our response on 27 March 2025. We considered your request under the Freedom of Information Act 2000 (FOIA) as we determined the information you requested did not meet the definition of 'environmental information' provided at Regulation 2(1) of the EIR and your request was therefore outside the scope of the EIR.

Your concerns

In your request for an internal review, received on 7 April 2025, you stated:

"[Thanks] for your response to my EIRs request. You have not explained why the information does not meet the definition of environmental information under the regulations....

"I am now asking for an internal review. please consider whether by virtue of Regulation 2(1)(c) the request is environmental and process it accordingly."

Internal Review

We have conducted a review of our response to your original request under the EIR and the decision has been to uphold your complaint in part:

1. Whilst we informed you that the information you requested did not meet the definition of 'environmental information' under Regulation 2(1) of the EIR and, as a result, your request was outside the scope of the EIR, we have decided that we did not go as far as we might have in explaining why the information does not meet the definition of 'environmental information' under the EIR. We take the opportunity to explain this further below.
2. Your complaint is only upheld as far as outlined in point 1 above and we have decided that our response to your request was otherwise correct. We do not consider that the information you have requested meets the definition of 'environmental information' under the EIR and your original request was therefore outside the scope of the EIR. This is explained in the further information below.

Further information

Regulation 2(1) of the EIR states (our **emphasis** added):

"environmental information' has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity

and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, **affecting or likely to affect the elements of the environment referred to in (a)**;

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities **affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements**;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);".

In considering your original request, we reviewed the definition of 'environmental information' under Regulation 2(1)(a) of the EIR and neither your request nor our review identified an element of the environment (and the state thereof) relevant to your request. As such, the factors in Regulation 2(1)(b) of the EIR are not engaged (because these apply by reference to elements of the environment) and similarly the measures in Regulation 2(1)(c) of the EIR are not engaged (because these apply by reference to elements of the environment and factors affecting or likely to affect the elements of the environment).

Next steps

If you still feel that we have not responded appropriately to your information request, you can complain to the Information Commissioner's Office (ICO). You should make complaints to the ICO within six weeks of receiving the outcome of an internal review. The easiest way to lodge a complaint is through their website: www.ico.org.uk/foicomplaints. Alternatively, they can be contacted at Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Yours sincerely,

Zoe Morrissey

Director of Legal and Regulation

National Energy System Operator (NESO)