

Public

Ref: FOI/25/052

National Energy System Operator

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www.neso.energy

08 July 2025

Dear requester

Request for Information

Thank you for your request for information which we received on 11 June 2025. Your request has been considered under the Freedom of Information Act 2000 (FOIA).

Request

You asked us:

- Please provide all correspondence between officials or special advisers at DESNZ and officials at NESO, between 5th November 2024 and 21st December 2024, which include the word "evidence".*
- Please provide all correspondence between officials or special advisers at DESNZ and officials at NESO, between 5th November 2024 and 21st December 2024, which include the word "proof".*

This was a refined request, following our refusal of an earlier information request. The response to this earlier request is available on NESO's FOI and EIR disclosure log: [FOI/25/029](https://www.neso.energy/foi/25/029).

Our response

We confirm that we hold information in scope of your request.

We have not requested clarification on this request but have proceeded on the understanding that by 'officials or special advisers at DESNZ and officials at NESO' you mean correspondence between any staff member at DESNZ and any staff member at NESO. This follows the clarification received on 23 May 2025 following our request for clarification on these terms in relation to the previous request FOI/25/029.

We have undertaken a centralised search of NESO's Microsoft tenancy for items containing the terms 'evidence' or 'proof' sent between the dates stated in your request where a 'participant' in the communication had the domain name @energysecurity.gov.uk (to locate correspondence with staff at DESNZ). This returned 3022 items containing the term 'evidence' and 546 items containing the term 'proof'.

Given the nature of your request, each of those 3568 items may be considered to be in scope of your request i.e., they will represent correspondence between NESO and DESNZ that contains one of the terms provided.

Section 14 of the Freedom of Information Act states: 'Section 1(1) [of the FOIA] does not oblige a public authority to comply with a request for information if the request is vexatious'. The four broad themes that may be considered when determining if a request is vexatious are:

- the burden on the public authority and its staff;
- the motive of the requester;
- the value or purpose of the request; and
- any harassment or distress of and to staff.

It is important to recognise that it is an information request itself that is deemed vexatious, not the individual submitting the request.

Although each item returned by the search may be considered to be in scope of your request we would be required to review each individual item to determine whether a) it is indeed in scope; b) whether it is all / partially disclosable and or c) if or what exemption may be applicable. A conservative estimate would be that this would take a minimum of 5 minutes per item, although it is likely that for some items the Information Rights team would be required to consult with subject experts within NESO and with DESNZ to determine whether any exemptions apply. Although we have considered the time required to review each item, we are not refusing this request under Section 12 of the FOIA i.e., that compliance would exceed the appropriate cost limit. This is because the time taken or likely to be taken in considering whether any exemptions apply cannot be taken into account when calculating the likely cost to the organisation.

Whilst ensuring that the public interest in transparency is upheld, public authorities must consider whether the amount of time required to review and prepare information for disclosure would impose an oppressive burden on the organisation, both in terms of time and cost. It is likely that there would be information shared between NESO and DESNZ that would be potentially exempt, and it would be difficult to isolate potentially exempt information held within correspondence. Those considerations in conjunction with the volume of items requiring review lead us to conclude that there would be a significant burden on the organisation in responding to your request.

Alongside the cost and time burden on an organisation, public authorities can consider the likely motives and the potential value or purpose of a request when considering whether a request is likely to cause a disproportionate or unjustified level of disruption. A request for all correspondence held that contains a single commonly used word does not have an immediately obvious value or purpose. The word 'proof' or 'evidence' could be used in an infinite range of topics that may be discussed in correspondence. We do not know at this point, but it is likely that much of the information would have very limited value and the resource required to review the information would not be proportionate to any value obtained from disclosure. Requesting all correspondence containing a single, commonly used word could be considered to be a 'speculative request'. The ICO's guidance on FOI and EIR requests is clear that speculative requests or 'fishing expeditions' are not necessarily problematic, vexatious, or manifestly unreasonable, but does refer to the potential for such requests to impose a significant burden on public organisations by obliging us to sift through a substantial volume of information, and for such requests to encompass information which is only of limited value because of the wide scope of the request.

We are therefore refusing your request under Section 14 of the Freedom of Information Act as we believe that to respond to your request would represent a disproportionate burden on the organisation and its staff (both in terms of cost and time), and the speculative nature of this request means that we cannot clearly determine that the value or purpose of the request would justify the burden.

This concludes our response to your request.

Advice and assistance

When a request is refused under Section 14 of the Freedom of Information Act there is no legal obligation on a public authority to provide advice and assistance. We provided advice and assistance in response to your request FOI/25/029 and the comments we provided there remain relevant to this request.

Next steps

If you are dissatisfied with our handling of your request, you can ask us to review our response. If you want us to carry out a review, please let us know within 40 working days and quote the reference number at the top of this letter. You can find our procedure here: [Freedom of Information and Environmental Information Regulations | National Energy System Operator](#). The ICO's website also provides guidance on the internal review process: [What to do if you are dissatisfied with the response | ICO](#).

If you are still dissatisfied after our internal review, 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.

Thank you for your interest in the work of the National Energy System Operator (NESO).

Regards,

The Information Rights Team,

National Energy System Operator (NESO)