

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 8 November 2022

Public Authority: Department for Transport
Address: Great Minster House
33 Horseferry Road
London
SW1P 4DR

Decision (including any steps ordered)

1. The complainant has requested assumptions used in the Government's transport decarbonisation strategy. The above public authority relied on regulation 12(4)(e) of the EIR (internal communications) to withhold the information.
2. The Commissioner's decision is that the balance of the public interest favours disclosing the information.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Disclose the withheld information to the complainant.
4. The public authority must take these steps 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 7 March 2022, the complainant wrote to the public authority and requested information in the following terms:

"In the document Decarbonising Transport: A Better, Greener Britain, with respect to Figure 2: Decarbonising Transport domestic transport GHG emission projections, versus the baseline (page 45), I request you publish the following:

- 1) The assumed levels of road traffic (miles or kilometres) (split by cars, light goods vehicles and heavy goods vehicles) for the upper and lower boundaries of both the Baseline and Decarbonising Transport Projection for each year or five year period where you have made an assessment
 - 2) The proportion of the miles or kilometres that are driven by electric vehicles for cars and, if available for light goods vehicles and heavy goods vehicles, for the upper and lower boundaries of both the Baseline and Decarbonising Transport Projection for each year or five year period where you have made an assessment. If you have assumed different technologies from battery electric may perform the decarbonisation role for goods vehicles then please publish your assumptions.
 - 3) The full set of assumptions used in separating out the high and low projection lines as a result of 'Short-term COVID-19 Uncertainty' as labelled on Figure 2."
6. The public authority responded on 4 April 2022. It relied on regulation 12(4)(e) of the EIR to withhold the information – although it indicated, in a subsequent response, where some similar information could already be found. The public authority's maintained its position at internal review.

Reasons for decision

7. The Commissioner considers this information to be environmental as it is information on a series of measures that the Government has taken, will take, or is considering taking, to reduce vehicle emissions.
8. In the interests of brevity (and given his findings below) the Commissioner has assumed that the information has not been shared outside of central Government (including executive agencies) and that the communication is therefore "internal" – engaging the exception.

9. The Government published its strategy "Decarbonising Transport: A Better, Greener Britain" in July 2021 – a full nine months prior to issuing its refusal notice to this request. Any need for a safe space in which to decide what options to include in the strategy and how to present the strategy should have long since have disappeared.
10. In terms of the policy alternatives being considered, the Commissioner sees little in the withheld information that goes beyond what has already been published in the decarbonisation strategy. There is no exchange of views and very little that could be said to represent "private internal thinking."
11. The public authority has argued that some discussions still remain live. The Commissioner accepts that such a policy, because it is so wide-ranging, will continue to evolve. However, in publishing this paper, the government has decided on an overarching objective, set a strategy or framework by which future policy decisions will be taken and committed itself to a series of specific policies designed to achieve that objective. The Commissioner therefore considers that this represents a natural break in the policy process – where a policy is announced and that particular piece of work is regarded as having been completed.
12. The Commissioner considers that there is a very strong public interest in publication of data that will assist the public in understanding policy decisions – especially those designed to be as far-reaching and long-lasting as the transport decarbonisation strategy. Disclosure will help the public to understand where the Government's proposals are too ambitious, not ambitious enough or about right. That is of course the purpose of the EIR.
13. Given that decisions have been taken and announcements published, the Commissioner considers that the underlying data should now be subject to scrutiny.
14. The Commissioner therefore takes the view that the public interest in this case favours disclosing the information.

Right of appeal

15. 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

16. 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.
17. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF