



Department  
of Energy &  
Climate Change

3 Whitehall Place,  
London SW1A 2HD  
E: [julian.wells@decc.gsi.gov.uk](mailto:julian.wells@decc.gsi.gov.uk)  
[www.decc.gov.uk](http://www.decc.gov.uk)

Caroline Lucas MP

Our ref: 13/0367

16 April 2013

By e-mail to: [caroline.lucas.mp@parliament.uk](mailto:caroline.lucas.mp@parliament.uk)

Dear Ms Lucas

**REQUEST FOR INFORMATION UNDER THE ENVIRONMENTAL INFORMATION REGULATIONS 2004 AND FREEDOM OF INFORMATION ACT 2000**

I refer to your e-mail of 15 March which made the following request:

*"I would like to request the following information:*

- *Details of meetings between DECC civil servants or Ministers with Lord Browne of Madingley over the last three years.*
- *Location of each meeting (if precise locations are not readily available please state whether each meeting took place inside DECC offices or at an external venue).*
- *Names and job titles of DECC staff in attendance.*
- *Date of each meeting.*
- *Purpose of each meeting and topics discussed. In addition, I would specifically like to know whether shale gas was discussed if that information is available."*

Some of the information which you have requested may constitute environmental information for the purposes of the Environmental Information Regulations 2004 (EIRs). However, to the extent that the information requested is not environmental we have also considered your request under the Freedom of Information Act 2000 (FOIA). Accordingly, your request has been considered under the terms of the EIRs and FOIA.

After a trawl of our Ministers' Private Offices and very Senior Civil Servants in DECC we can confirm that there have been four meetings with Lord Browne during the period you specify in your request. These all took place in DECC's offices in 3 Whitehall Place and took place on the following dates:

- Chris Huhne MP – Lord Browne - end 2011 / early 2012 (*we do not have precise date*)
- Greg Barker MP – Lord Browne – end 2011 / early 2012 (*we do not have precise date*)
- Lord Marland – Lord Browne & Cuadrilla – 12.03.12

- Charles Hendry MP - Lord Browne & Cuadrilla – 02.07.12

Simon Toole, Head of Oil & Gas Licensing Exploration & Development, Energy Development Unit (EDU), DECC, attended all of these meetings and Stephen Speed, Head of EDU, also attended the meeting of 02.07.12. The Department does not hold any minutes of the first three meetings listed above, but can confirm that Cuadrilla's activity plans and shale gas were discussed.

DECC does hold a note of the 02.07.12 meeting. After careful consideration, DECC considers that elements of the note of the 02.07.12 meeting are exempt from the right of access under the FOIA. A redacted copy of the meeting note is attached to this letter. The exemptions which are applicable are those contained in sections 43(2) and Section 40(2). The application of these exemptions and the public interest balance are explained below.

#### Section 43(2) – Commercial Information

The meeting note contains commercial information provided to Government in confidence. Lord Browne and other attendees from Cuadrilla attended a meeting for a private discussion with the Minister and were not told their views could be made public. It would be likely to prejudice the commercial interests of Cuadrilla and inhibit communications with this organisation on an ongoing basis if we were to release details of what they said. Private discussions with commercial players in the energy markets are essential to the formulation of energy policy.

In addition certain aspects of UK exploration activity are commercially confidential. The information withheld includes information that has been supplied in confidence and concerns commercial details and individual project data provided by Cuadrilla. We have considered the balance of the public interest in releasing or withholding this information.

Section 43(2) of the FOIA requires us to consider the balance of the public interest in releasing or withholding this information. Although there is a general public interest in the open scrutiny and accountability of government, DECC greatly values the information companies provide it with and takes the view that if it were to disclose the information this would deter those companies, or other stakeholders, unhappy that their confidential commercial information might be at risk, from providing similar assistance in the future. We are of the view that disclosure of this information in this case would be likely to prejudice the commercial interests of Cuadrilla. We therefore consider the public interest lies in the withholding of this information.

#### Section 40(2) – Personal Data

Some personal information has been redacted from the information released under section 40(2). Section 40 of the FOIA provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act. Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the Data Protection Act. We do not think that it is fair to release the names of junior members of staff and do not think that any of the relevant conditions apply.

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

Your request has also been considered under the EIRs. After careful consideration, DECC considers that elements of the note of the 2 July meeting are exempt from the right of access under the EIRs. The exceptions which are applicable are those contained

in Regulations 12(5)(e) and 12(3). The application of these exceptions and the public interest balance is explained below.

Regulation 12(5)(e)

Regulation 12(5)(e) exempts information where the disclosure of the information would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. This exception is subject to a public interest test and we have applied a presumption in favour of disclosure as required by Regulation 12(2) of the EIRs.

We recognise the general public interest in the disclosure of information which can lead to greater transparency in Government, however there is a strong public interest in ensuring that the commercial and economic interests of external businesses are not prejudice or undermined by disclosure of information which is not common knowledge and which could adversely impact on future business. For the reasons described above we consider it would not be in the public interest to disclose this information.

Regulation 12(3)

Regulation 12(3) provides an absolute exemption for personal data, which then falls to be dealt with under the Data Protection Act 1998 (DPA). Personal data of third parties can only be disclosed in accordance with the data protection principles. As described above, the first data protection principle requires that disclosure must be fair and lawful and we do not think that it is fair to release the names of junior members of staff or third parties.

Appeals procedure

If you are unhappy with the handling of your request for information you may request an internal review within two calendar months of the date of this letter. If you wish to request an internal review, please contact us at: [foi@decc.gsi.gov.uk](mailto:foi@decc.gsi.gov.uk).

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

*Julian Wells*

Julian Wells  
Oil & Gas Licensing Exploration & Development  
Energy Development Unit