



# Department for Business, Energy & Industrial Strategy

Department for Business, Energy &  
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Our ref : EIR2021/20898

Your ref:

4 January 2022

Dear Mr Geoff Beacon,

Thank you for your email of 2nd September. The Information Rights & Records Unit would like to extend their apologies for any inconvenience the delay in providing a response has caused. Having reviewed the amount of time taken for the Department to provide a response to your request I acknowledge that the Department has missed the statutory deadline of 20 working days as set out under the Act and is in breach of Section 10 of the FOI Act 2000.

You requested the following information:

Please supply the names of the 100 most recent documents (up until 1st April 2021) that mention "GWP100" as found by the search mechanism mentioned in your reply.

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you require
- be provided with that information (subject to any exemptions under the Act which may apply).

Following a search of our records we have produced a list of the names of the documents you have requested. Some of the names have been redacted under the following exemptions.

Section 40(2) exempts information from disclosure if that information constitutes personal data of someone other than the applicant, and if disclosure of that information would contravene any of the data protection principles at Article 5 of the UK General Data Protection Regulation (UK GDPR). In this case, we believe disclosure would contravene the data protection principle at Article 5 (1) (a) of the UK GDPR which provides that Personal Data shall be processed "lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness, transparency')".

Some document names are withheld under Section 42 of the Act. This exempts information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. The information covered by this request is subject to legal professional privilege.

Section 42 is a qualified exemption and therefore subject to the public interest test. There is a general public interest in the disclosure of information; greater transparency makes the government more accountable to the electorate; increases trust and also enables the public contribution to policy making to become more effective.

However, the Government needs to be able to receive comprehensive legal advice about the strengths and weaknesses of its position. Disclosure of such information could be prejudicial to Government's operations, and without open and candid legal advice, the ability of the Department and Ministers to assess the legal implications of possible courses of actions and to defend decisions from legal challenge would be compromised. There is a strong public interest in maintaining legal professional privilege in relation to such advice. Having considered the public interest test, it has been decided that the public interest favours withholding the relevant advice.

Some document names are also withheld under Section 43(2) of the Act for Commercial Interests. This states that "information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)". The requested information contains commercially sensitive information and we consider that the disclosure of that information would be likely to prejudice the commercial interests of a company name or third party.

This is subject to a public interest test and we have carefully considered the balance in this case. We recognise that there is a general public interest in the disclosure of information, as greater transparency makes Government and its decision making more open and accountable. However, against this, there is a strong public interest in ensuring that the commercial interests of external companies are not damaged or undermined by disclosure of information which is not common knowledge, and which could adversely impact current or future business.

It is important that companies and Government are able to have discussions relating to commercially sensitive information as this can play a key role in the Government formulating policy and understanding the challenges faced by companies as well as considering how to respond to those challenges. For such information to be shared, companies must be confident that, whilst the information remains commercially sensitive, the Government will treat the information with the appropriate care and seek to ensure that companies do not suffer unnecessary damage to their wider commercial interests and opportunities. In this case we consider that the public interest in withholding the information outweighs the public interest in disclosure.

## **Appeals procedure**

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be addressed to the Information Rights & Records Unit. It would be helpful if you can tell us why you are dissatisfied with the response to your request so we may address this during the internal review.

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Please remember to quote the reference number above in any future communications.

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. Complaints can be made to the Information Commissioner via their website at: <https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>.

Yours sincerely,

Department for Business, Energy & Industrial Strategy