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February 2025

Information Request Statement

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Background and Context

National Energy System Operator (NESO) is an independent, public corporation responsible for planning Britain’s electricity and gas networks and operating the electricity system. NESO is operationally independent from government and is committed to operating with transparency.

As the designated independent system operator and planner, NESO has legal powers to request information that we may reasonably require to undertake our functions, as introduced by the Energy Act 2023¹ and which apply to any person carrying out a relevant activity², or where NESO reasonably considers that the person intends to carry out a relevant activity.

This Information Request Statement sets out further detail on the process that we will follow when requesting information in accordance with these powers. It is subject to the provisions of the Electricity System Operator Licence and the Gas System Planner Licence and will be kept under review and may be updated from time to time. It is subject to approval by Ofgem³, who may ask us to provide comments, summaries or reports on the process at any time, at their discretion.

When a need for external information is identified, NESO will generally endeavour to use our existing relationships with the relevant stakeholders to obtain the required data through informal means and regular engagement. But, when deemed necessary, we may issue a statutory Information Request Notice.

While NESO is regulated by Ofgem, information can be requested by NESO from both parties that are regulated by Ofgem, and some that are not.

Why may a NESO Information Request Notice be issued?

We may issue an Information Request Notice for various reasons, and these will be specified in detail in the notice sent to the recipient. These reasons include (but are not limited to):

- A requirement for specific information for undertaking our own functions or obligations within tight timescales, for instance for post-event or emergency investigations,
- A requirement for formal confirmation that the information is not available to the recipient,
- A requirement where the information is considered confidential and therefore only permitted to be shared following an information request, and
- Information has been provided previously but is required for a different purpose which the owner has not yet agreed to.

Governance Framework

The issue of an Information Request Notice is subject to internal governance with the objective of making sure that the rationale for raising a statutory request has been carefully considered.

Additionally, the purpose of the governance framework is to ensure that a consistent and rigorous approach and approval process is adhered to across NESO when issuing an Information Request Notice.

¹ Section 172 of the Energy Act 2023

² Section 180 and Section 163 of the Energy Act 2023

³ In this Information Request Statement, “Ofgem” is used to refer to both the Gas and Electricity Markets Authority and the Office of Gas and Electricity Markets.

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The internal governance will be overseen by and coordinated through a central team. The purpose of this is to;

- provide guidance to internal teams seeking to issue an Information Request Notice,
- ensure that requests are drafted to comply with the relevant legal powers and licence obligations,
- review requests being drafted to check that they are clearly articulated, with a defined scope, purpose and context,
- confirm that informal routes have already been attempted, are unavailable, or are otherwise inappropriate,
- log all requests in a central repository and maintain a record of all requests issued in line with reporting requirements outlined in the relevant licence conditions.
- and check that each request is subject to an appropriate level of scrutiny.

All Information Request Notices raised are subject to final approval and sign-off by a relevant member of the NESO Executive Leadership team and the Director of Legal and Regulation.

There may be cases where the nature of the information request justifies NESO issuing an Information Request Notice without first seeking information through informal means. We expect that this may apply in particular in some cases where information requested relates to the security or resilience of the network and we consider it appropriate to use our statutory powers from the outset. In these circumstances the governance framework outlined above will also apply.

For all Information Request Notices issued there will be a dedicated point of contact from the central governance team.

What does the NESO Information Request Notice process involve?

An Information Request Notice from NESO will typically be sent as an attachment to an e-mail sent from box.NESOinformationrequest@nationalenergyso.com.

If we are requesting information from a company, the request will be marked for the attention of the Company Secretary at the registered business address. In some cases, we will also send a hard copy by post.

A statutory Information Request Notice will consist of a cover letter, providing the context of the request and the request itself. The latter may have further annexes where the specific questions and data requested are detailed.

The Information Request Notice and its annexes will stipulate what information is requested and explain the purpose for which the information is needed, as well as the deadline for responding. The request will also include details on the format of the information, the manner or mechanism for sharing the information and the possible consequences for failing to comply with the request.

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Where practicable, the Information Request Notice will be issued in draft form prior to a statutory request being issued to allow for a targeted and clear request to be made. At this stage, the requested information does not need to be provided, and NESO will seek to clarify the request with the recipient as needed, offering the opportunity for comment. Once the draft form of the Information Request Notice has been finalised, a final version will be issued, and it is at this point that the recipient will provide the requested information by the given deadline.

Where possible, NESO will work with the recipient to ensure there is clarity and shared understanding so that the recipient is clear on the form and content of the information being requested, where it is to be sent or submitted to, and by when.

Under certain circumstances, NESO may determine that issuing a draft Information Request Notice initially is not appropriate or possible. In such cases, it will be clearly stated that the final version has been issued, and a response is expected by the specified deadline.

Upon receiving the Information Request Notice, it is the recipient's responsibility to provide a clear, complete, and accurate response, including all data requested in the specified format submitted via the means specified, answering every question posed. If the requested information is not held by the recipient, an explanation of why this is the case should be provided. NESO may follow up ahead of the deadline if no acknowledgement of the receipt of the Information Request Notice is received.

If any clarifications are required, the recipient can contact NESO via the email address provided in the Information Request Notice and NESO will work with the recipient to provide the necessary explanations. The recipient must consider and review these thoroughly and provide an accurate response. Where deemed appropriate, NESO may amend the Information Request Notice and/or its deadline to reflect any clarifications made.

The deadline for responding to the request will be set on a case-by-case basis, taking into account the urgency of the request, the size and complexity of the requested data and the number of questions to be answered. We may also take into account the resources available to the recipient to handle the request where we have information on this.

The request should be reviewed in advance of the deadline, considering the response and the available data, allowing sufficient time for any clarifications to be made. If the deadline cannot be met, the recipient must inform NESO as soon as reasonably practicable with a clear explanation. NESO may grant extensions on a case-by-case basis, where NESO considers that appropriate grounds are provided. Details about when the recipient believes it will be able to fulfil the request, or to what extent the recipient thinks it will be able to fulfil the request are welcomed as part of this explanation.

Once the response has been submitted, we will acknowledge its receipt, within five working days of the response deadline. We will carefully analyse and assess the data provided. If it meets our requirements, we will issue a confirmation that the Information Request Notice is closed, and that no further action is necessary from the recipient in relation to the request. The time between the acknowledgement of receipt and the confirmation of no further action will vary depending on the intended use of the information and the length of the activity or analysis.

Where NESO determines that the response does not fully satisfy the Information Request Notice requirements (for example, failing to answer one or more questions or providing only part of the information requested) this will be communicated to the recipient. The recipient must then submit a revised response to address the necessary rectifications.

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NESO may amend or withdraw an Information Request Notice, where there is a relevant change in circumstances. This will be communicated promptly where applicable.

What happens if the recipient does not provide this information?

Should the recipient fail or refuse to comply with a statutory Information Request Notice so far as reasonably practicable, or knowingly or recklessly provide false or misleading information to NESO, a formal escalation process may be launched that could lead to enforcement action or civil proceedings⁴.

In the event that NESO intends to launch a formal escalation process, the recipient of the Information Request Notice will be informed in advance of our plan to do so.

If a regulated person fails to comply with an Information Request Notice this is enforceable by Ofgem under the Electricity Act 1989 (for electricity regulated persons⁵) and the Gas Act 1986 (for gas regulated persons⁶). NESO will notify Ofgem of a failure to comply, following which Ofgem will consider and decide whether to take any enforcement action.

The formal escalation process in respect of regulated persons shall take the form of a two-stage process which may commence once NESO has requested information it reasonably requires, and this leads to a disagreement between NESO and the regulated person regarding the information requested:

- Stage One - Following disagreement, NESO notifies the regulated person that the formal escalation process will commence and Ofgem will be made aware of the disagreement. NESO then makes Ofgem aware of the disagreement.
- Stage Two - Ofgem may then decide to take enforcement action, in accordance with Ofgem's enforcement guidelines,⁷ against the regulated person following any investigation that Ofgem may carry out.

In the case of non-regulated persons, civil proceedings may be pursued in accordance with the Energy Act 2023⁸ leading to an injunction, an order for specific performance of a statutory duty or any other appropriate remedy or relief.

Ofgem will be notified of any formal escalation processes launched by NESO.

How will data be managed?

Data Privacy

To the extent that information provided in response to an Information Request Notice may contain personal data, this is to be highlighted accordingly by the recipient of the Information Request Notice in their response.

⁴ Section 172 of the Energy Act 2023

⁵ Section 25(8) of the Electricity Act 1989

⁶ Section 28(8) of the Gas Act 1989

⁷ <https://www.ofgem.gov.uk/publications/enforcement-guidelines>

⁸ Section 172(6) of the Energy Act 2023

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Any such personal data will be covered by the UK General Data Protection Regulation and the Data Protection Act 2018.

Such information will be treated confidentially in line with internal policies.

Freedom of Information Act and Environmental Information Regulations

NESO is subject to the Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR) which provide a right of access to information held by public bodies. Information that recipients provide to NESO may be requested under these laws.

NESO recognises that our partners and stakeholders will want reassurances about the confidentiality of the information that they provide to NESO and the level of care that NESO will take when considering information requests which relate to information received from recipients of an Information Request Notice.

When providing information to NESO, recipients should specify which information, or which types of information are regarded as confidential or sensitive and the reasons for this.

NESO will look carefully at exemptions and exceptions that apply to confidential and commercially sensitive information, personal data, information that could harm national security, and to any information which may be subject to restrictions on disclosure (e.g. under Section 105 of the Utilities Act 2000 or under our licence conditions).

Exemptions and exceptions only apply to confidential and commercially sensitive information meeting specific criteria and recipients should only identify information as such where this is justified. FOI and EIR requests need to be considered on a case-by-case basis, noting for instance, that the sensitivity of information may change over time and a document may be marked as confidential on the basis of some, but not all, of the content being sensitive.

It is intended that NESO will in general not disclose information that has been provided to us marked as confidential in response to an EIR/FOI request without first consulting with the relevant parties who provided it.

NESO has the legal obligations under these laws and are accountable for decisions to disclose information or to refuse information requests. We also have an obligation to consider the wider public interest and to conduct a public interest test to many of the FOI exemptions and all the EIR exceptions. Like most other public authorities, therefore, we draw attention to our transparency obligations and to our responsibility to make the final decision on responses to FOI or EIR requests.

The Freedom of Information Code of Practice⁹, which NESO is committed to following, sets out good practice on consultation with third parties (which in the case of an Information Request Notice may include the recipient) in order to consider whether information is suitable for disclosure and highlights the expert view that the third party may be able to provide. The Code also emphasises that it is ultimately for the public authority handling the request to take the final decision on releasing information following any consultation that it undertakes. The FOI and EIR are regulated by the

⁹ [Freedom of Information Section 45 Code of Practice](#)

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Information Commissioner's Office which may review NESO's handling of requests and its responses.

Data Transmission, Retention, and Storage

The Information Request Notice will specify the data transmission method, which will be appropriate to the sensitivity of the material being supplied. The information can be requested to be sent via email with or without encryption, via cloud storage or via secure transfer services.

To evidence the decisions reached as a result of the information provided through the Information Request Notice process, NESO is required to retain this information for 6 years¹⁰. The data is handled and stored in accordance with the principles of Ofgem's Data Best Practice Guidance.

¹⁰ NESO's Licence Condition D2, Part C