

Draft Information Request Statement

Background and Context

National Energy System Operator (NESO) will be a new, independent, public corporation that will be responsible for planning Britain's electricity and gas networks and operating the electricity system. NESO will have operational independence from government and is committed to transparency and accountability.

As the designated independent system operator and planner, NESO will have 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 activity, 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. This statement has been drafted in line with the conditions of our licences and will be kept under review.

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 formal Information Request Notice.

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

Why may a NESO Information Request Notice be issued?

We will issue an Information Request Notice for various reasons, but the specific reason will be detailed in the formal 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 time 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.

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

¹ Section 172 of the Energy Act 2023

the security or resilience of the network and we consider it appropriate to use our formal powers from the outset.

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 [dedicated email address to be provided]. 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 formal Information Request Notice will generally consist of a cover letter, providing the context of the request and the request itself called the Information Request Notice. The latter may have a number of 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 consequences for failing to comply with the request.

Where practicable, the Notice will be issued in draft form prior to a formal 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 data owner as needed, offering the opportunity for comment. Once the Information Request Notice has been finalised, a formal Notice will be issued and it is at this point that the recipient will provide the requested information by the given deadline.

Under certain circumstances, NESO may determine that issuing a draft Notice initially is not appropriate or possible. In such cases, it will be clearly stated that the formal Notice 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 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, the Information Request Notice and its deadline may be amended 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, 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. Extensions may be granted on a case-by-case basis, where appropriate grounds are provided.

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Once the formal response is submitted, we will acknowledge its receipt and carefully analyse and assess the data provided. If it meets our requirements, we will issue a formal confirmation that the Information Notice is closed, and no further action will be necessary from the recipient. 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 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.

NESO may amend or withdraw an Information Request Notice, where there is a relevant change in circumstances.

What happens if the Notice 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 proceedings².

Specifically, if a regulated person fails to comply with an Information Request Notice this is enforceable by Ofgem under the Electricity Act 1989³ (for electricity regulated persons) and the Gas Act 1986⁴ (for gas regulated persons), in accordance with Ofgem's enforcement guidelines⁵. NESO may notify Ofgem of a failure to comply and it will be for Ofgem to consider and take forwards any enforcement action.

In the case of non-regulated persons, civil proceedings may be pursued in accordance with the Energy Act 2023⁶ leading to an injunction, an order for specific performance of a statutory duty⁷, or any other appropriate remedy or relief.

How will data be managed?

Data Privacy

To the extent that information provided in response to the Notice may contain personal identifiable data, this is to be highlighted accordingly by the Notice recipient.

Any such personal data will be covered by the UK General Data Protection Regulation and the Data Protection Act 2018 and NESO will be the data controller. Such information will be treated confidentially and in line with our Data Code of Conduct.

Freedom of Information Act and Environmental Information Regulations

NESO will be subject to the Freedom of Information Act (FOIA) 2000 and the Environmental Information Regulations (EIR) 2004 which provide a general right of access to information

² [Section 172 of the Energy Act 2023]

³ [Section 25(8) of the Electricity Act 1989]

⁴ [Section 28(8) of the Gas Act 1989]

⁵ [<https://www.ofgem.gov.uk/publications/enforcement-guidelines>]

⁶ [Section 172(6) of the Energy Act 2023]

⁷ [Section 45(b) of the Court of Session Act 1988]

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held by NESO, and this may include information obtained through this process. There are some exemptions to the right of access which allow organisations to withhold information from disclosure. When responding to a FOI or EIR request, NESO will generally consult with the third party that has provided the information in order to determine the confidentiality and sensitivity of the information and to identify any exemptions that may apply prior to the release of information. This is in line with the [FOI Code of Practice on Request Handling](#). However, it is for NESO to take the final decision on release following any consultation it undertakes (subject to any determination by the Information Commissioner's Office).

When responding to an FOI or EIR request and identifying any exemptions that may apply, NESO will consider whether the information may be subject to restrictions on disclosure, for example under the Utilities Act 2000 or under the conditions of NESO's licences.

NESO will also consider whether the information is commercially or business sensitive, or whether it could harm national security or the safety of individuals. Sensitive information of these kinds should be identified by the Notice recipient when the information is submitted to NESO.

Data Transmission, Usage, 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, via secure transfer services, or, where related to national security, to be sent to NESO colleagues with National Security Vetting clearance.

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 years⁸. The data is handled and stored in accordance with our data policy which complies with [Ofgem's Data Best Practice Guidance](#).

⁸ [NESO's Licence Condition D2, Part C]