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Department for Levelling Up, Housing and Communities
Knowledge and Information Access Team
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By email to foi@levellingup.gov.uk

**Access to information request for information about opt-outs from the Energy
Performance Certificate register – Internal Review**

Dear DLUHC FOIA Team,

I would like to request an internal review of DLUHC's response to the access to information request that I submitted on 15 December 2023 (your reference EIR2023/06197).

In carrying out your internal review of DLUHC's response, please consider in particular the following points:

1. DLUHC may have erred by handling my request under the Environmental Information Regulations 2004. Although the EPC register itself clearly contains environmental information, my request covers only information about administration of the register and address information without any link to energy performance attributes. I am not sure this is "environmental information" within the meaning of regulation 2(1).
2. DLUHC states that it does not hold information in scope of Q2 of my request ("The number of successful applications for opt-outs, broken down by year of application.) Does this mean DLUHC holds a list of opted-out certificates but without any record of when those opt-outs were requested? This seems odd, as without that information it

would be difficult for DLUHC to demonstrate that public access to those certificates has been lawfully withheld.

Alternatively, does this mean that DLUHC holds information on the dates when the opt-outs were requested, but not in summary form i.e. broken down by year? If so, I believe this information is held within the meaning of FOIA and/or the EIRs and should be disclosed.

3. DLUHC states that it holds information in scope of Q3 and Q4 of my request, but indicates that it considers that the information is exempt from disclosure because it is personal data and disclosure would contravene data protection legislation.

DLUHC's response does not contain any explanation or reasoning as to why it considers the requested information to be personal data.

The information I have requested as Q3 ("A list of the property addresses for which EPCs are not currently publicly disclosed, with the lodgement dates for each EPC") is arguably personal data. While property addresses by themselves are not personal data, disclosure of this list might enable me to identify individuals who have requested an opt-out from the register, and the fact that they have taken that action could be considered personal data.

However, I cannot see any reason why the information I have requested as Q4 ("a list of the first half of the postcode for each EPC (i.e. the postcode area / outward code), with the lodgement dates") should be considered personal data. Postcode areas are large and each contains hundreds of thousands of properties. Even with the addition of lodgement dates, there is no means by which I or another member of the public could identify specific addresses from the requested information – particularly given that the relevant certificates have been removed from public access. Therefore, the information requested as Q4 cannot be used to identify any living individual and cannot be personal data. I believe this information should be disclosed.

Thank you for your attention to this internal review request.

Yours sincerely,

Owen Boswarva