

From: Mrs S Gardiner



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Head - Information Rights Team

FOI2019/09261

Mr J Fisher

Via email: request-582776-908ccda2@whatdotheyknow.com

h
30 September 2019

Dear Mr Fisher

FREEDOM OF INFORMATION ACT 2000 INTERNAL REVIEW

1. I am writing in response to your email of 6 September 2019 in which you requested an internal review of the processing of your request for information under the Freedom of Information Act 2000 (the Act) which is available on the WhatDoTheyKnow website at <https://www.whatdotheyknow.com/request/army-cadet-force-va-spending-dat>. The purpose of this review is to consider whether the requirements of the Act have been fulfilled. Its scope is defined by Part 5 of the Code of Practice¹ under section 45 of the Act.

Handling

2. In conducting my review of the handling of your request, I have focussed on the following requirements of the Act:

- a. Section 1(1)(a) which, subject to certain exclusions, gives any person making a request for information to a public authority the entitlement to be informed in writing by the public authority whether it holds information of the description specified in the request;
- b. Section 1(1)(b) which, subject to certain exemptions, creates an entitlement to receive the information held by the public authority;
- c. Section 1(3) states that if a public authority reasonably requires further information in order to identify and locate requested information and informs the applicant of this, it is not obliged to comply with the request until it has received the information in question.
- d. Section 10(1) which states that, subject to certain provisions allowing extensions of time, the public authority must comply with the requirements of section 1(1) promptly, and in any event not later than the twentieth working day following the date of receipt; and

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722165/FOI-Code-of-Practice-July-2018.pdf

e. Section 16(1) where it is the duty of a Public Authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, request for information to it.

3. Your request of 7 August 2019, received on the same day, was as follows:

*'1. total number of CFVA on strength, for the last 3 years for PER COUNTY under 7 x
2. total number of VA paid OUT , for the last 3 years PER COUNTY under 7 x
3. amount of VA over spend or under spend, for the last 3 years PER COUNTY under 7 x*

Could you advise if I can request full accounts of public funds of a cadet county ?

RATHER RTHAN REFUSING THIS REQUEST ITS UP TO YOU TO GIVE ME DATA AND YOU HAVE MADE NO ATTEMPT SO I RESERVE THE RIGHT TO REQUEST AN INTERNAL REVIEW'

4. On 8 August, my office responded and advised that your email would be logged as a new, refined request. In response to your question about requesting the full accounts of a cadet county you were informed that you were entitled to make such a request and advised to be specific about which cadet force and which county you were particularly interested in if you were to do so. As you had stated that you reserved the right to request an internal review, this office confirmed that one would not be conducted at this time but should you be dissatisfied with the substantive response when you received it, we would conduct a review.

5. Section 10(1) of the Act requires that you receive a response by no later than the twentieth working day following date of receipt. MOD's response dated 3 September, which I note was sent to you on 5 September, was provided within the statutory timescales. MOD confirmed that the refined request would look at the list of counties requested in your original request of 12 June 2019, as follows:

- Lincolnshire
- Derbyshire
- Nottinghamshire
- Leicestershire, Northamptonshire and Rutland

6. In accordance with section 1 of the Act, you were advised that some information was held. While the information relating part one and two was provided in the response, you were advised that the information in scope of part three of your request was not held. The response also correctly informed you of the right to appeal.

7. You contacted the Department the next day, 6 September, to explain that you were not satisfied with the response provided as follows:

'there are a couple of issues

2. Total number of VA paid OUT, for the last 3 years PER COUNTY under 7 x

you have nort provided this per year as requested so i cant use it with the item in question 1 , can you please provide per year plese as the data is no use in this format'

8. On the same day, MOD responded and stated that, as the original request had not sought a yearly breakdown, your email was being treated as a new FOI request. You were advised that it had been logged under reference FOI2019/10373 and the target date for response was 4 October 2019.

9. You responded later that day to request an internal review of the way the request had been handled.

Substance

10. Your complaint centred on the interpretation of the request and presentation of the data provided in relation to part two of your request, which you stated was inconsistent with '*standard accounting practice*'. My review has focussed on this part of your request and the concerns you raised.

Interpretation of Request

11. According to the Information Commissioner's guidance '*Interpreting and clarifying requests*,² public authorities must interpret information requests objectively and should avoid reading into the request any meanings that are not clear from the wording. The authority must answer a request based on what the requester has actually asked for, and not on what it thinks they would like, should have asked for or would be of most use to them.

12. In part two of your request of 7 August, you asked for the '*Total number of VA paid OUT, for the last 3 years PER COUNTY under 7 x*'. MOD did not consider it necessary to seek clarification as you had described the information requested sufficiently in your refined request in order for the Department to locate it.

13. In the substantive response, MOD provided a table containing the total amount of volunteer spend by county over the last three financial years. They also advised you that the total provided for each county included both the Volunteer Allowance that you had requested and wider expenses which had been reclaimed, noting that further granularity of data was not held centrally.

14. I find that MOD's interpretation of your request was reasonable as you had asked for the 'total number' and you had not specifically asked for the information to be broken down to show the spend in each year. However, I also find it reasonable for you to expect to receive information presented in accordance with '*standard accounting practice*', and that the format would be consistent with that of the information that was provided to part one of your request.

15. On receiving your clarification of 6 September, MOD was, therefore, technically correct to treat this as a new request. However, as you noted in your email that the intention of your original request had been to gain access to financial data as a total '*per year*' this should have been considered a complaint and forwarded to my team for action, and not logged as a new request.

16. Finally, I can advise that it is the duty of MOD staff to provide the recorded information that is held at the time of a request, subject to any exemptions that may apply. I can confirm that the information in scope of part two of your request is held as a total figure and for the last 3 financial years for the units. This information is now provided at Annex A.

Conclusion

17. In summary, I find that:

- a. Your request was handled in accordance with the Act.
- b. MOD's interpretation of your request of 7 August was reasonable and the information in scope of part two of your request, was provided to you.
- c. Your expectation that you would receive a breakdown showing the total for each of the last three years was also reasonable.

² <https://ico.org.uk/media/for-organisations/documents/1162/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf>

- d. Your email of 6 September should have been considered as a complaint about the interpretation of your request and not treated as a new request in the first instance. The information you have requested, in the form of a total for the three year period with a breakdown showing yearly spend for each unit is provided with this review.

If you are dissatisfied with the review, you may make a complaint to the Information Commissioner under the provisions of section 50 of the Act. Further details of the role and powers of the Commissioner can be found on the website at: <https://ico.org.uk>. The address is: Information Commissioner's Office, Wycliffe House, Water Lane, WILMSLOW, Cheshire, SK9 5AF.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'SG' followed by a long horizontal stroke.

Sandra Gardiner

Information in scope of part 2 of request: FOI2019/09261

2. total number of VA paid OUT , for the last 3 years³ PER COUNTY under 7 x

ACF UNIT	Apr 16 - Mar 17	Apr 17 - Mar 18	Apr 18 - Mar 19	Total Adult Cadet Volunteer Pay for the period Apr 16 - Mar 19
Derbyshire	£203,370.66	£197,307.36	£175,730.08	£576,408.10
Leics, Northants and Rutland	£290,917.77	£309,451.89	£310,898.55	£911,268.21
Lincolnshire	£217,513.68	£231,986.13	£206,519.15	£656,018.96
Nottinghamshire	£222,453.91	£178,762.71	£163,870.67	£565,087.29

³ Financial Years