

From Andrew Tranham



Ministry
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CIO-SPP-Information Rights Compliance

Ref: 24-01-2013-130817-010

Mr D. Mackenzie

Request-146915-1305ece6@whatdotheyknow.com

21 October 2013

Dear *Mr Mackenzie*

FREEDOM OF INFORMATION ACT 2000 - INTERNAL REVIEW

1. I am replying to your letter of 27 May 2013 in which you requested an internal review of the MOD's decision to withhold information in scope of a request you submitted under the Freedom of Information Act 2000 (hereafter referred to as 'the Act'). Your initial request is outlined below:

"Under Freedom of Information legislation, I would like to request any information which lists the effects which can be caused by directed energy devices on people.

In a response you made to another user on 20th October 2011, you mentioned directed energy weapons and the fact that effects can be characterized as "physical, physiological or psychological". I am aware that there are certain components of the MOD who specialize in the application of directed energy devices, and some who also specialize in human influence.

I would like you to detail the full list of physical, physiological and psychological effects which can be caused by using the invisible part of the electromagnetic spectrum in any way. Preferably with the correlating frequencies detailed."

2. I have now completed a full independent review of the handling of your request and the substance of the response you received. The purpose of the internal review is to consider whether the requirements of the Act have been fulfilled. The scope of the review is defined by Part VI of the Code of Practice under section 45 of the Act, which can be found at <http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-section45-code-of-practice.pdf>.

Handling of the Request

3. In conducting my review of the handling of your request, I have focussed in particular 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 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;
- d. 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.

4. Your request for information was received by the MOD on 24 January 2013 and, in accordance with section 10(1) of the Act, a response was due within the following 20 working days. I have been advised that MOD believed it had responded on 25 January 2013, but there is no copy of this reply, either within the Department or on the "What Do They Know Website". A response was not received by you until 17 April 2013. I apologise for this delay. This letter asked you to clarify your request, which you did on 19 April 2013. You received a further response on 9 May 2013 (within twenty working days), which gave you some information which was 'detailed in the open literature.' You were informed that MOD held no additional information of its own in scope of your request. You responded to this request in an attempt at informal resolution and, before the Department had replied, asked for an internal review of your request on 27 May 2013. You were provided with the appropriate information about your rights to appeal and in all other respects the response you received was in line with the Department's obligations under the Act.

Substance

5. You provided some specific guidance as to what information you required, asking for information on 'the full list of physical, physiological and psychological effects which can be caused by using the invisible part of the electromagnetic spectrum in any way.' You were provided with relevant information in scope of this request. However, you should have been informed that the information you had requested was exempt under section 21 of the Act (information reasonably accessible by other means), as it was detailed in the open literature. The Department holds no other information in scope of this request.

6. You also, more broadly, requested 'any information which lists the effects which can be caused by directed energy devices on people.' This part of your request was not addressed in the initial response you received by the Department. It seems your request was prompted by the Department's response letter to another requester about the effects of direct energy devices. I can advise, however, that this information was not provided under the Department's section 1 obligation. The Department at that time believed it held no recorded information in scope of that request, but an official created the information from his own specialist knowledge in order to be helpful to the requester and it would be wrong to infer from that answer that the Department held recorded information about the specific physical, physiological and psychological effects of direct energy devices on which that reply was based. Since that time, as a result of work on your other requests, limited

information about an effect that may be produced from the use of one type of device ie the Long Range Acoustic Device (LRAD) has been found. This is included below:

'The Long Range Acoustic Device (LRAD) is a directed sound communications system capable of generating harmful, pain inducing tones over longer distances than normal loudspeakers.'

One sentence of this is exempt under section 26(1)(b) (Defence). In favour of release is the public interest in knowing how the armed forces can use their equipment. Against release is that identifying in detail how our forces may use equipment could be exploited by those with hostile intent. A public interest test has been conducted and the balance of public interest found against release of this information as it would be likely to prejudice defence capability.

7. Some additional material about the LRAD is exempt under Section 21 as we have already given this to you, namely in the LRAD Standard Operation Procedures document. (https://www.whatdotheyknow.com/request/use_of_directed_energy_devices_i)

8. Under section 16 (duty to provide advice and assistance), you may wish to note that the LRAD's power output is 152 decibels (dB) at 1 m, this is clearly a very loud noise, and could damage hearing. This is also shown in the diagram of LRAD Standard Operation Procedures p3, which highlights the danger to hearing with proximity to the LRAD (this is exempt under Section 21). LRAD was deployed during OP Olympic, but was not used.

9. The third aspect of your request was '*a full list of physical, physiological and psychological effects which can be caused by using the invisible part of the electromagnetic spectrum in any way*'. I am satisfied that relevant specialist staffs in the area concerned who would have a full knowledge of what recorded information is held by the Department on this subject have been consulted and that a full list of the effects you are interested in is not held by the Department.

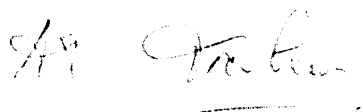
10. I understand that you have made a complaint to the Information Commissioner about MOD's handling of this request so I am copying this internal review to his office.

In summary I find that:

- Your request was broadly handled in accordance with the act although you did not receive the response on time.
- Information provided to you in the final response was exempt under section 21.
- The department held a small additional amount of information in scope of your request. Some of which was exempt under Section 21, and the remainder has been provided.
- Relevant searches were conducted which unfortunately overlooked this information about the LRAD. Whilst regrettable, this error has now been rectified.

If any aspect of this review is unclear, I should be happy to explain it. 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 his website at: www.ico.gov.uk. His address is: Information Commissioner's Office, Wycliffe House, Water Lane, WILMSLOW, Cheshire, SK9 5AF. Fax 01625 524 510.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Alan Parker', with a horizontal line underneath.