

From: Mrs S Gardiner



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of Defence

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Head - Information Rights Team

FOI2019/02317

Mr D Gee

Via email: request-554143-3ba5f915@whatdotheyknow.com

20th June 2019

Dear Mr Gee

FREEDOM OF INFORMATION ACT 2000 INTERNAL REVIEW

1. I am writing in response to your email of 11 June 2019 in which you requested an internal review about the way your request for information has been handled under the Freedom of Information Act 2000 (the Act) which is available on the WhatDoTheyKnow website at https://www.whatdotheyknow.com/request/health_and_safety_guidelines_for. 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 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
- d. Section 17(1) which states that any refusal of the request must be provided within the time for compliance provided for section 1(1).

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

3. Your request of 20 February 2019, received on the same day, was as follows:

'Can you please send me whatever document(s) used by the Army Foundation College that set(s) out for enlisted junior soldiers: a) the maximum number of hours a week they can be expected to work; b) the maximum weight they can be instructed to lift (and for how long and using which holds); and c) the maximum distance and/or time they can be instructed to run loaded/unloaded?'

Can you also please send me the document setting out the standards required of new recruits (including Junior Soldiers) in the Role Fitness Test.'

4. Section 10(1) of the Act requires that you receive a response by no later than the twentieth working day following date of receipt (by 20 March 2019). On three occasions (22 March, 15 and 24 April), you emailed the central FOI team asking for a response to be provided. These emails were sent promptly to the Army Secretariat. On 29 April, you asked for an internal review to be conducted. Your emails were not acknowledged, and the substantive response was not provided.

5. Your request for an internal review, and other emails raising a complaint about the handling of your request, should have been passed to me on receipt but were not. I have been unable to determine why this action was not taken, but I have reminded the relevant staff about the way in which I expect them to process letters or emails which raise concerns about the way MOD processes FOI requests, including late responses.

6. On 30 April, Army Secretariat responded and advised that the Department always endeavours to respond to requests within the set 20 working day timescale, but unfortunately this was not always possible. They apologised for the delay and assured you that your request for information was still being considered. You were advised that a response would be provided by no later than the end of May 2019. I can advise that this was not a compliant response under section 10(1), and if any part of the request was being refused, section 17(1) of the Act, for which I apologise.

7. On 11 June, you emailed the central FOI team to advise that you still had not received a response and again asked for an internal review. I can confirm that this email was forwarded to me.

8. On receipt and investigating this further, I have established that the principle reason for the delay in answering your request was a direct result of the high volume of work within the Army Secretariat's business area, and the desk officer specifically. I have been advised that the handling of your request has also posed some difficulties with identifying the information that fell in scope of the request.

9. MOD has clearly not provided any kind of reasonable customer service standard expected of the Department and I sincerely apologise for the unacceptable delay that you have experienced.

10. I have asked the Army Secretariat to provide you with a substantive response in accordance with our obligations under the Act, within five days of the date of this letter.

Conclusion

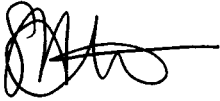
11. In summary:

- a. Under section 1 of the Act, MOD did not state whether or not the information in scope of your request is held.
- b. MOD has also breached section 10(1) by failing to respond to your request within the statutory timescale (by 20 March) and for not providing a compliant response under section 17(1) of the Act if the request was being refused.

- c. I have asked the Army Secretariat to provide you with a substantive response in accordance with our obligations under the Act, within five days of the date of this letter.

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 'Sandra Gardiner', with a long horizontal stroke extending to the right.

Sandra Gardiner