



Ministry of Defence

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Ref: FOI2020/08869

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Mr Gavin Roberts

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26 October 2020

Dear Mr Roberts,

1. I am writing in respect of your FOI request, our reference, FOI2020/08869, received by the MOD on the 3 August 2020 and in addition a number of other outstanding requests you currently have with the MOD. This request is available on the WhatDoTheyKnow (WDTK) at https://www.whatdotheyknow.com/request/adjuvants_in_experimental_vaccin . I apologise for the delay in responding.

2. Your request under FOI2020/00869 requested the following information:

'Q1-Is there any data that states any of these adjuvants were removed from these vaccines for the purpose of this experiment of combinations on our troops? Or data that even suggests that any of the adjuvants were removed or reduced?'

Section 12 (Cost Limits)

3. I have reviewed the costs of compliance for your request and I can advise that the cost of searching the information repositories held by the MOD to identify if any information in scope of your request is held will exceed the appropriate cost limit.

4. This is because there are a number of business areas where information could be held across the Department, including information that could be held in MOD Archives (both hardcopy and electronic) and a number of other IT systems which would involve an extensive search to make a definitive assessment on whether any information in scope of your request is held.

5. I must therefore advise, that where a request may exceed the cost limit, then section 12 of the Act can be engaged. The appropriate limit is specified in regulations and for central government this is set at £600. This represents the estimated cost of one person spending three and a half working days in determining whether the Department holds the information and locating, retrieving and extracting it.

6. Specifically, in this case, it is section 12(2) which applies, which states:

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

7. This means that if even to determine whether information in scope of a request is held would exceed the cost limits, then the Department can refuse to process such a request. As your request is seeking a specific element of wider information potentially held across the Department on the medical countermeasures at the time of the Gulf War it would require a significant search to enable the MOD to make a declaration.

Section 12(4) (aggregation of requests)

8. However, further to this I have also considered the effort required against the cost limits incorporating other requests from you currently being considered by the Department. Under the Appropriate Limit and Fees Regulations public authorities can aggregate two or more requests where they relate to any extent, to the same or similar information provided certain conditions are met, which are where requests:

- *are made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;*
- *are received within any period of 60 consecutive working days; and*
- *relate, to any extent, to the same or similar information; and*
- *are received by the public authority within any period of sixty consecutive working days.*

9. Provided these conditions are met, the Department is permitted to regard the estimated cost of complying with any of the requests to be the estimated total cost of complying with all of them for the purpose of determining whether the request would exceed the appropriate limit.

10. Aside from the request above, I am aware that in the last six months you have submitted 21 requests under the Act which all relate to the medical countermeasures

used during the Gulf War 1990/91. The current situation is that the MOD has 14 outstanding requests made by you.

11. To ensure the MOD meets its obligation for each of these requests under Section 1 of the Act, it is required to determine whether information in scope of each of your requests is held. However, due to the volume and rate of requests you have submitted on this subject and the potential for information to be held across numerous repositories of information, it has proved difficult to meet the deadlines for a response in the Act.

12. Your requests relate to the same or similar information as they have an overarching theme or common thread in that your requests relate in some way to the medical countermeasures used during the Gulf War 1990/91.

13. Therefore, additionally it has been estimated that the aggregated cost of complying with all 11 requests received within a sixty day period from your most request FOI2020/08869 (inclusive), would undoubtedly exceed the appropriate limit to determine whether any information is held for all your requests and these requests have been aggregated under section 12(4). I have provided an Annex to this letter which identifies the requests captured by the application of section 12(4)

Section 16 (Advice and Assistance)

14. The previous responses you have received from the MOD have provided an outcome following a reasonable search for information under the Act. However, your requests have covered a significant timeframe and information is held by a number of different areas of the Department and across numerous information repositories used during the timeframe of your requests, requiring a detailed search each time. As explained above, the effort required to determine if information is held and to locate, retrieve and extract it across your outstanding requests has resulted in the application of section 12(4) of the Act.

15. Where section 12(4) has been applied, it is appropriate to provide a suggested refinement to your aggregated requests to enable you to formulate and consider a request which would not engage the cost limit. This can take the form of identifying which of your requests aggregated under section 12(4) you would like us to take forward and process in isolation.

16. To do this the burden on the Department needs to be managed and any future requests you make submitted in a way to prevent future aggregation, where one or more requests are received in a 60-day period that when aggregated would exceed the cost limits. Therefore, it is open to you to submit one new request or choose one of the requests listed at Annex A, for instance you could choose to proceed with request FOI2020/08839, which followed the outcome of an internal review.

17. We will then be able to take that request forward with the appropriate areas of the Department and fully consider what information, if any, may be held. I would however caution, depending on the wording of your request, it is possible that following consideration of any new request that section 12 could be still engaged, if to locate retrieve and extract the information or to ascertain whether the MOD holds it would exceed the cost limit.

18. If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.gov.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely,

Defence People Secretariat

Annex to FOI response FOI2020/08869**Dated October 2020****Requests in scope of Section 12(4)**

FOI number	Received	Request details
FOI2020/06138	28 May 2020	Data surrounding anthrax developed for 2005/2006 Interaction research study https://www.whatdotheyknow.com/request/data_surrounding_anthrax_develop#outgoing-1036181
FOI2020/06289	2 Jun 2020	Pertusis date of purchase and supplier for the titles Vaccine Interaction Research 2005/2006 https://www.whatdotheyknow.com/request/pertusis_date_of_purchase_and_su#outgoing-1057724
FOI2020/06563	9 Jun 2020	https://www.whatdotheyknow.com/request/minutes_of_meeting_that_led_to_d#outgoing-1057720
FOI2020/06624	10 Jun 2020	https://www.whatdotheyknow.com/request/data_showing_the_reason_why_mod#incoming-1630363
FOI2020/06728	15 Jun 2020	https://www.whatdotheyknow.com/request/20052006_vaccine_study_flawed#incoming-1630364
FOI2020/06766	8 Jun 2020	https://www.whatdotheyknow.com/request/information_of_porton_down_staff#outgoing-1031283
FOI2020/06807	15 Jun 2020	https://www.whatdotheyknow.com/request/data_for_human_experiments_post#outgoing-1042511
FOI2020/06930	17 Jun 2020	https://www.whatdotheyknow.com/request/which_anthrax_was_used_in_200520#outgoing-1045477
FOI2020/08605	24 Jul 2020	https://www.whatdotheyknow.com/request/vaccine_data_used_in_20052006_re#outgoing-1055185
FOI2020/08839	30 Jul 2020	Question surrounding the Unlicensed Adjuvant discussed in MOD document https://www.whatdotheyknow.com/request/question_surrounding_the_unlicen#outgoing-1047406
FOI2020/08869	3 Aug 2020	https://www.whatdotheyknow.com/request/adjuvants_in_experimental_vaccin