

Catherine Byrne
request-235535-533b471e@whatdotheyknow.com

Dear Ms Byrne

Thank you for your correspondence of 16 December 2014, in which you requested an internal review of the SIA's response of 12 December 2014 (the "**Response**") to your request for information under the Freedom of Information Act 2000 (the "**FOIA**") dated 23 October 2014 (as subsequently amended on 13 and 19 November 2014) (the "**Request**") and relating to the SIA's contractual relationships regarding the processing of licensing applications.

Internal review process

In line with the SIA's procedures for responding to requests for information under the FOIA, I have undertaken a review of the SIA's Response dated 12 December 2014.

In undertaking my review, I have considered whether the SIA dealt with the Request in accordance with its obligations under the FOIA, taking into account all factors relevant to the issue.

In particular, I have considered:

The terms of the Request;

The information held by the SIA within the scope of the Request;

The Response (including disclosure of information requested to date);

The SIA's obligations under the FOIA;

The positions of third parties potentially affected by disclosure; and

Best practice guidance of the Information Commissioner's Office ("**ICO**") and the Secretary of State for Constitutional Affairs' "Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000".

Outcome of the internal review

Having considered carefully the factors above, I have concluded that:

(i) Aspects of information within the scope of the Request are not subject to any statutory exemptions from disclosure under the FOIA and it is appropriate and necessary for the SIA to disclose that information. Under cover of the SIA's responses dated 12 November and 12 December 2014, you were provided with certain information. Under cover of this internal review, the SIA discloses to you further information which it understands to be within the scope of the Request, relating to:

- the 2009 agreement between the SIA and British Telecommunications plc (“BT”), under which BT delivers licensing application processing services, and under which LDL is BT’s approved subcontractor;
- extensions to that 2009 agreement; and
- a 2014 agreement between the SIA and BT, under which BT is to provide new services relating to licensing applications.

Some of this information is subject to redactions on grounds of statutory exemptions from disclosure, as specified below.

(ii) Additionally, the SIA actively publishes information on its website (www.sia.homeoffice.gov.uk) which is exempt from disclosure under Section 21 of the FOIA on the grounds that the information is accessible to you, as it is already in the public domain.

(iii) On a reasonable and proportionate search, the SIA has not identified any information as at the date of the Request relating to:

- if and when there will be another relevant invitation to tender; and/or
- whether LDL is still BT’s delivery partner under the relevant contract between the SIA and BT.

I have considered the lack of information under these headings and understand that, in relation to the invitation to tender, the execution of the 2014 BT agreement means that no further invitation to tender will be required for the provision of services which are the subject matter of that agreement during the term of that agreement. In relation to LDL, LDL was an approved subcontractor under the 2009 agreement between the SIA and BT (a partially redacted copy of which is disclosed under cover of this letter) and in the absence of any document changing the approved subcontractor, I understand that LDL remain BT’s subcontractor under the 2009 agreement.

(iv) As regards the remainder of the information within the scope of the Request which was held by the SIA at the date of the Request, the SIA’s original refusal notice is upheld. I have set out below my reasons for upholding the original decision that the information was subject to statutory exemption from disclosure.

Application of exemptions under the FOIA

Certain of the information you have requested would, if disclosed under the FOIA, release into the public domain commercially sensitive information related to a competitively-let contract between the SIA and its suppliers. The statutory exemption from disclosure provided by section 43 of the FOIA therefore applies.

Further, certain of the information was obtained from another person or organisation and disclosure would result in an actionable breach of confidence. The absolute statutory exemption from disclosure provided by section 41 of the FOIA therefore applies.

Application of the public interest test

The SIA acknowledges that the statutory exemption provided by section 43 of the FOIA requires the SIA to consider the public interest for and against disclosure of the requested information.

Accordingly, I have considered the public interest arguments for and against disclosure of information to which the exemption provided by section 43 of the FOIA applies, including whether those arguments have changed in substance and/or strength since the original Response.

I have concluded that, notwithstanding the strong public interest in public authorities ensuring accountability and transparency, the following public interest factors apply in the case of the requested information covered by section 43 of the FOIA:

- 1 Both the SIA and third party contracting bodies which the SIA engages to provide services have legitimate commercial interests in ensuring that the terms by which they are able to operate (including the manner in which they contract) are optimal, particularly in the current financial climate within which public bodies operate..
- 2 To release information relating to the SIA's contractual relationships regarding the processing of licensing applications at this stage would:
 - (a) compromise the SIA's commercial and bargaining position with actual and prospective contracting parties in any forthcoming procurement exercise;
 - (b) damage commercial relations between the SIA and the actual or potential third party supplier; and
 - (c) adversely impact on the SIA's ability to manage its relationship with external suppliers; and
 - (d) adversely impact on the SIA's ability to achieve best value solutions with its suppliers, who may be constrained in offering those solutions should they be at risk of disclosure under FOIA.
- 3 It is not in the public interest to place third parties at a commercial disadvantage by disclosure of technical and/or commercial information, such that they are unable to participate on a level playing field in a predominantly private marketplace.
- 4 The public interest in the manner in which the SIA procures services and manages its contracts is served by the external scrutiny which results from the SIA's status as a non-departmental public body sponsored by the Home Office. This includes its annual accounts being audited by the National Audit Office. These accounts are laid before both Houses of Parliament. The SIA is also subject to relevant Cabinet Office guidance, policies and controls relating to its procurement and contracting functions.

Accordingly, I have concluded that it is not in the public interest to prejudice the SIA's and other contractors' commercial interests at the expense of disclosure which serves comparatively little public interest purpose.

Conclusion

With the exception of the documentation disclosed under cover of this letter, I am satisfied that at the time of the Request and of this review it is not in the public interest to release further information for the reasons outlined above. Therefore, I have concluded that on balance the public interest favours withholding the information in respect of section 43. Further, section 41 is engaged in relation to exempt information for the reasons provided above.

I have therefore concluded that it is not appropriate for the SIA to give disclosure further than that provided under the original Response and the additional information provided under cover of this review.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bill Butler', followed by a period. The signature is written in a cursive, flowing style.

Bill Butler
Chief Executive Office – Security Industry Authority