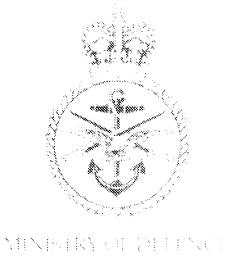


From Andrew Tranham



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CIO-SPP-Information Rights Compliance

Ref: 01-10-2012-094532-003

Mr D. Mackenzie

request-131452-6a7980a7@whatdotheyknow.com

28 March 2013

Dear *Mr Mackenzie,*

FREEDOM OF INFORMATION ACT 2000 - INTERNAL REVIEW

1. I am replying to your letter of 22 February 2013 to the Deputy Head of Corporate Information in which you requested an internal review of the MOD's failure to disclose information in scope of a request you submitted under the Freedom of Information Act (hereafter referred to as 'the Act'). In your initial request you asked the following question:

"Can you tell me whether or [not] substances which alter hormone levels have ever been used in Information Operations?"

2. I have now completed a full independent review of the handling of your request and 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

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 Department on 29 September 2012. In accordance with section 10(1) of the Act, a substantive response was therefore due not later than 26 October 2012. You received a response on 4 February 2013, outside of the timescale set out in the Act. I apologise for this. This response, in line with section 1(1)(a) of the Act, informed you that the information requested was not held by the Department. Further correspondence ensued between you and the Department. I have considered this to be an attempt at informal resolution and it ended with your request for an internal review on 22 February 2013. You were informed of your right to appeal and in all other respects your request was dealt with in line with the Act.

Substance

5. On 4 February 2013 you were informed that the Department does not hold any information in scope of your request. Following an internal review, I can confirm that the Department holds no information that answers the question *"Can you tell me whether or [not] substances which alter hormone levels have ever been used in Information Operations?"* Given that information operations are about the use of information and not the use of any type of substance, this is an unsurprising finding.

6. As mentioned in my letter to you of 3 December 2012 (with regard to request reference 08-08-2012-125045-002), section 1(1) of the Freedom of Information Act gives an applicant the right to access recorded information held by public authorities at the time the request is made and does not require public authorities to answer questions, provide explanations or give opinions unless this is recorded information held. In a decision notice of 15 February 2011 (FS5027927) the Information Commissioner stated that "the Act does not provide a right to ask questions from public authorities. It provides the right to ask an authority for a copy of any recorded information that it holds... Although this is the case, the Information Tribunal has clarified that any written question to a public authority can be considered to be a freedom of information request. If a question can be answered by simply providing the applicant with copies of recorded information that it holds then it should do so. Otherwise it should simply state that it does not hold relevant information." In this case MOD does not hold any information that can answer your question.

Conclusion

7. I summary, I find that:

- The initial response was not handled in a timely manner and the response you received was outside the timescale laid out in the Act. I apologise for this.
- The Department holds no information in scope of your request.

8. If any aspect of this review is unclear, I would 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,

