

From Mrs S Gardiner



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Our reference:  
FOI2020/05799

Mr G Roberts

Via email: [request-665943-82556ec5@whatdotheyknow.com](mailto:request-665943-82556ec5@whatdotheyknow.com)

10<sup>th</sup> July 2020

Dear Mr Roberts

### **FREEDOM OF INFORMATION ACT 2000 – INTERNAL REVIEW**

1. I am writing in response to your email of 26 June 2020 in which you requested an internal review of the handling of your request under the Freedom of Information Act 2000 (the Act) which is available on the WhatDoTheyKnow (WDTK) website at [https://www.whatdotheyknow.com/request/which\\_anthrax\\_was\\_used\\_in\\_200520](https://www.whatdotheyknow.com/request/which_anthrax_was_used_in_200520). Your email was therefore passed to this office. 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 Practice<sup>1</sup> under section 45 of the Act.

#### **Handling**

2. In conducting my review of the handling of your request, I have focussed on the following provisions in 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 1(3) which states that, where a public authority (a) reasonably requires further information in order to identify and locate the information requested, and (b) has informed the applicant of that requirement;

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

d. 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

e. Section 16(1) which states that it is the duty of a public authority to provide help 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, requests for information to it.

3. Your request for information received by the MOD on 19 May 2020 was worded as follows:

*"Which anthrax vaccine was used in the 'Titled' Vaccine Interaction Research which was supposed to be a comparison vaccination study? 2005 - 2006. Where it states 'Independently Endorsed by Prof Donald Davies.*

*For some reason carried out not in 91,92 or 93 but 15 years after the Gulf War?*

*Remembering medical documents were lost during and post Gulf War. Then there was the lessons learned not to lose medical data. Then more medical data was lost in the years up to 97. In which year did MOD learn to stop losing the medical data surrounding our Gulf War troops?*

*As this data is from 2005/2006. Did MOD manage to not lose these? So finally we can have a question answered?"*

4. In accordance with section 10(1) of the Act, a substantive response was due by no later than 17 June 2020. The Department wrote to you on this date and advised you that, under section 1(3) of the Act, a public authority is not obliged to respond to an FOI request where it requires further information in order to identify and locate the information requested. You were asked to clarify the sources that you referenced in your request, in particular, providing further details of the study. You were correctly advised of your right to appeal.

5. While the Act permits public authorities 20 working days to notify a requester that their information request requires clarification, MOD's own processing guidance indicates that clarification should be sought as soon as possible after the receipt of the request.

6. In summary, the response met the requirements of section 10 of the Act but fell short of the customer service standards expected within the Department for such cases.

### **Substance**

7. As I have advised in a recent review<sup>2</sup>, officials cannot be expected to know the basis upon which you have made an information request if you do not provide sufficient detail about the sources of the documents or studies that you refer to in your request. The provision of such detail or electronic link to the reference material cited in a request for information can greatly assist the Department in processing the request and remove the need to seek clarification with requesters.

8. However, on this occasion I find that it is clear the 'Vaccine Interaction Research' study you mentioned in your request is the Vaccines Interactions Research Programme. The findings of this programme, which was overseen by an independent panel chaired by Donald Davies, Emeritus Professor in Toxicology Imperial College London, were published in 2005 and 2006.

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<sup>2</sup> FOI2020/02232 dated 6 July 2020.

9. The study was sponsored by the Ministry of Defence and a section dedicated to it can be found on the gov.uk website at the following link:

<https://www.gov.uk/guidance/gulf-veterans-illnesses>.

10. Ordinarily, where a request for clarification is found to be unnecessary, I would direct that it is processed within the original twenty working day period. Unfortunately, this is not possible in this case.

11. I note, however, that you have responded to the request for clarification. Your response (attached at the Annex to this review) was received on 26 June and logged under reference FOI2020/06930. A response to this request is due by 16 July 2020.

### **Section 16 (advice and assistance)**

12. Section 16(1) of the Act places a duty on a public authority to provide advice and assistance, where possible, to those making or intending to make a request for information. Although I have concluded that your original enquiry was sufficiently clear for officials of this Department to locate and retrieve relevant recorded information, I note that you did not provide the requested information in your response to a request for clarification.

13. I have explained several times that the Act provides members of the public with a right to make requests for recorded information and not to ask questions or seek the views and opinions of officials based on their corporate knowledge. I would again encourage you to follow the ICO's advice and guidance on submitting FOI requests which is available at the following link: <https://ico.org.uk/your-data-matters/official-information/>. Failure to follow this advice could result in requests being delayed, clarified or otherwise refused where they do not clearly describe the recorded information that is being sought.

### **Conclusion**

14. In summary, I find that:

- a. The description of your request was sufficient for it to be processed under section 1; it did not require clarification;
- b. You responded to the request for clarification and this was logged as a new request (FOI2020/06930). The Department has until 16 July 2020 to provide a response to this new request.
- c. Advice and assistance under section 16 has been provided as part of this review.

If you remain 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 following website: <https://ico.org.uk>. The address is: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,



Sandra Gardiner

**Clarification**

*"I put it to MOD, it was impossible to compare the same batches of vaccines specifically developed for the Gulf War in 90/91 15 years later in 2005/2006. Due to the shelf life 3 years) and/or the destruction of returned vaccines. I'm simply requesting the data that proves otherwise! Does any original Porton Down data exist at all? Not forgetting this is still LIVE , Veterans are still sick ! MOD 'Duty of Care' is out of the window on this matter. MOD have admitted vaccines are linked ( but only part linked). We believe fully responsible for the epidemic levels (1in3+). Nothing has been put in front of us that proves otherwise. We can dismiss all other exposures with available evidence that we have. MOD's attitude has been no short of disgraceful and dishonourable on this matter.*

*"It is our strong belief .The so called vaccine study was a waste of time and purely another smokescreen. The data backs this opinion up. Unless you can convince us otherwise? If you cannot convince us, then you will have really no hope of convincing a Judge in the Court Arena!*

*"How is it possible to reproduce the exact same vaccines 15 years later. Not forgetting you have informed us you have no information who was involved in the original vaccine production ! The so called vaccine study was flawed and corrupt.*

*We're asking for data to prove otherwise. It seems you do not have any, but cannot say. We want the original data ( Not an interpretation or a brief over view! Have you got it on file from 2005/2006 or not? Also the data explaining the reason a study that should have been carried out independently within 3 years following '91' was delayed for 15 years and MOD still had control over it! Any data explaining the reason/s behind this delay?"*