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Head - Information Rights

FOI2015/08411

[Redacted]

22nd March 2016

Dear [Redacted]

FREEDOM OF INFORMATION ACT 2000 INTERNAL REVIEW

1. I am writing in response to your email of 25 Jan 16, in which you expressed dissatisfaction with MOD's handling of your request for information under the Freedom of Information Act 2000 (the Act). In order to respond to your complaint, I have now completed a full independent review of the handling of your request and substance of the responses 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

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/235286/0033.pdf. I apologise for the delay in completing this review.

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;
- d. Section 12(1) which states that Section 1(1) does not oblige a public authority to comply with a request for information where the cost of compliance exceeds the appropriate limit;

- e. 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.

3. This review will focus on your refined request (FOI2015/08411) of 21 Sept 15 which was expressed in the following terms:

"You say

The MOD may be able to provide some information in scope of this request if you reduce or refine it to bring the cost of compliance under the limit by narrowing your request to six months and asking about a specific type of Force Development (FD) training event, for example, an expedition, or Battlefield studies (see definitions of FD below). Please contact this office if you would like to refine your request or require advice on doing so, and I will be pleased to consider it again.

Please can I have this information in respect of the RAF for the last six months?"

4. The detail of the information requested was contained in your earlier request (FOI2015/07256) which I have included in full below:

- 1) *Please either confirm or deny that the MoD holds information in a centralised and accessible format about "force development" events organised by...*
- 2) *For last six months, please provide details of "force development" events organised by*
 - i) *The date of the event*
 - ii) *The venue of the event*
 - iii) *The reason for the event*
 - iv) *The internal spend on the event*
 - v) *The name of external vendors and caterers*
 - vi) *The amount spent on each external vendor and caterer*
 - vii) *The name of event sponsors*
 - viii) *The amount received from each event sponsor*
 - ix) *The job title of the booking officer(s)*

5. Section 10(1) of the Act requires public authorities to provide a substantive response within 20 working days following the receipt of the request, in this case by 23 Oct 15. The Department's response of 19 Oct 15 was provided within the specified timescale. As required under section 1 of the Act, MOD confirmed that some information in scope of your request was held. You were advised that the Department would not be able to answer your request without exceeding the appropriate limit because the time taken to locate, retrieve, and extract information would involve searches at individual RAF stations at locations that were spread over a wide geographical region. This would involve spending well in excess of the appropriate cost limit and section 12 was therefore applied.

6. MOD advised that some information in scope of your request was held centrally by Air Command. You were invited to reduce or refine your request to bring the cost of compliance under the limit by narrowing your request to a specific type of Force Development event such as Adventurous Training, or staff rides. You were correctly informed of your right to appeal.

7. On 12 Jan 16, you emailed the Department as follows:

"You say

The MOD may be able to provide some information in scope of this request if you reduce or refine it to bring the cost of compliance under the limit by narrowing your request about a specific type of Force Development event. For example, HQ Air Command holds information about some aspects of Force Development such as Adventurous Training, and staff rides, which are training events to promote and develop learning on air power, leadership and other key aspects of Force Development. Please contact this office if you would like to refine your request or require advice on doing so, and I will be pleased to consider it again.

Please note that under ICO guidance on Section 12 you must provide "cogent evidence" of your costings when refusing a request under Section 12.

You have not provided this.

Therefore please release all email correspondence about this request, as well as cogent evidence of your costings/estimates.

Nor have you provided any advice under Section 16 that would allow to bring my request to within the cost/time limit.

Therefore please also advise precisely what I can access within cost/time restrictions."

8. On 25 Jan 16, MOD advised that your request *"Please release all email correspondence about this request, as well as cogent evidence of your costings/estimates"* had been logged as a new request and that a response would be provided within 20 working days. MOD handled the remaining elements of your email above as an informal resolution. You were informed that a public authority may provide a cost estimate breakdown but is not required to do so. I can confirm that there is no statutory obligation on a public authority to provide a detailed estimate of the costs of the compliance in a refusal notice citing section 12, however some general details about the work involved were provided i.e. that it would take at least two months to determine whether information was held, where it was located, and then to extract it.

9. MOD also stated that on 19 Oct 15, the Department did provide advice regarding refining your request which was reiterated in the response. In addition, MOD stated that *"It is not appropriate for the Department to advise what information is available within the restrictions. If we were to do so, particularly for a request such as yours, we could face accusations of steering you towards 'easier' or 'less contentious' information. As you rightly point out below, I find that this advice was not consistent with the ICO's guidance, for which I apologise.*

10. Your complaint of 25 Jan 16 was as follows:

"But I require further assistance under Section 16 of FOIA.

You say:

It is not appropriate for the Department to advise what information is available within the restrictions. If we were to do so, particularly for a request such as yours, we could face accusations of steering you towards 'easier' or 'less contentious' information.

However, you will note from ICO guidance on Section 12 which states:

A public authority should inform the requestor of what information can be provided within the appropriate limit.

And these explanations must, according to ICO guidance on Section 12, come with "cogent evidence" — which you have not yet provided.

Therefore, please provide these.

You also say:

We are however, able to provide suggestions on how requests can be refined, if at all. As such, in our response, I suggested refining your request by narrowing it to a specific type of Force Development event, for example such as staff rides or adventurous training. This is because Force Development encompasses almost every training event outside of formal training.

I require further advise before I can submit a refinement."

Please can you advise under Section 16 of FOIA what are the different types of force development?"

This office acknowledged that a review would be conducted into your complaint on 27 Jan 16.

Substance

11. As part of this internal review, I have looked at your request again from first principles and find that the information in scope of your entire request is not held in a central location and the staff costs involved in complying fully with it would exceed the appropriate cost limit. I therefore find that it was appropriate to apply section 12(1) of the Act. Section 12 (exceeding the appropriate cost limit) of the Act states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit (which for a Central Government Public Authority is set at £600 and equates to 3.5 days, 24 man-hours' effort). The reasons are set out below.

12. For part 1) of your request at para. 4, I can confirm that MOD holds some "information in a centralised and accessible format about "force development" events organised". For example, HQ Air Command holds limited information centrally about the Force Development (FD) activity relating to overseas Staff Rides¹ in an accessible format i.e. excel spreadsheet. There are 69 events of this kind held centrally which fall in scope of your request. However, for part 2) and for centrally held information alone, I can confirm the following:

- For questions i, ii and iv: the date, venue (location) and internal spend on the event is recorded.
- For question iii: The information requested is not specifically recorded for each event although I note that HQ Air Command confirmed the reasons for the activities i.e. promote and develop learning on air power, leadership and other key aspects.
- For Questions v – ix: information is not held.

Similar information about Adventurous training events is also centrally held.

¹ Staff Ride Facilitation Course: Staff Rides explore historical campaigns and identify lessons that are relevant for the ops of today and tomorrow. They are excellent training vehicles to promote and develop learning on air power, leadership and other key aspects of the FD domains such as the spectrum of military ops, deployed ops and ethos & heritage - see <http://www.raf.mod.uk/pmdair/ethosandheritage/staffrides.cfm>.

13. The term 'Force Development' (see para. 20 below) for the RAF covers a broad range of disparate activities, most of which are organised at local unit level and often falls under routine business for which there is no requirement for centralised records. I have been informed that the scope and volume of FD activities will vary between stations.

14. Gathering the information requested on all RAF FD activity for the period requested would involve contacting at least 27 RAF Stations with a designated FD point of contact (POC) in order to determine if the information is held and then to locate, retrieve and extract it. However, with RAF personnel employed both individually and in groups across Defence, FD is not confined to those units alone. I have been advised that it would take 1 day to collate centrally held information and contact the RAF stations with a designated FD POC to initiate searches in order to determine if any information is held. It is estimated that it would take at least a further 81 days to collate all of the information requested for each Station FD POC, including manual searches for any information which is not recorded electronically. For example, for question v) of part 2 of your request, it is assumed '*external vendors and caterers*' refers to any organisation or individual paid directly or indirectly by the MOD in support of the FD activity. This information is not held centrally. Some information may be held at unit level, but without consulting the RAF stations, it is not known what is or is not held in scope of your request; however, staff would be required to conduct manual searches i.e. by locating and reviewing any unit or individual subsistence claims held.

15. In summary, the information in scope of your entire request is not held centrally and I find that it would exceed the section 12 cost limit to determine if all of the information requested is held and then to locate, retrieve and extract it.

Section 16 (advice and assistance)

16. Section 16 of the Act sets out the duty on public authorities to provide advice and assistance, as far as it is reasonable to expect the public authority to do so, to anyone who is considering, or has made, a request for information to it. Some suggestions were made on narrowing your request under section 16 but it may have been helpful if MOD had advised what information was held centrally in scope of part 2 of your request. I note that although you refined your request '*for the last six months*', it was also not refined to a specific FD activity suggested.

17. It may also have been helpful if MOD had provided you with the definitions of the RAF FD activities which may have assisted you in refining your request. It should have only suggested refinements to the terms of the request so that compliance within the appropriate limit was assured; if this was not possible no refinement should have been offered because to do so risked (and in this case actually led to) on-going section 12 refusals to failed refinements of the original request.

18. Public Authorities are only obliged to offer requesters advice and assistance under section 16 as far as is reasonable practicable. Where it is not practicable for a public authority to offer advice on the terms of a refinement which will avoid the section 12 refusal with any certainty, this should be explained in the response and no refinement suggested.

19. I have now determined there is advice the Department can offer that will result in a request which can be handled within the appropriate limit, as follows:

- Limit your questions at part 2 of your request to i), ii) and iv) and refine your request to centrally held information only for the last six months; or

- Limit your questions at part 2 of your request and to one RAF station for the last six months. The RAF stations with FD activities are listed at Annex A to this review. As mentioned above, some information may be held at unit level, but without consulting the RAF stations, it is not known what is or is not held in an accessible format and in scope of your request.

We shall, of course, be willing to consider any other suggestions you may have on refining your request having now been provided with the information in scope of FOI 2016/00489 which is released with this review (see para. 22).

Force Development

20. On 25 Jan 16, you asked '*Please can you advise under Section 16 of FOIA what are the different types of force development?*'. The definition of RAF FD is contained in the AP 7000 document and is provided below:

'c. Force Development (FD). FD is the RAF's primary work-place generic delivery mechanism and aims to improve operational effectiveness. Delivery of activity is through a broad range of methods, the governance and administration for which are detailed in AP3379 Lflt 2410.'

21. The AP3379, Leaflet 2410 explains that "In support of RAF Force Development (FD) Trg Strategy, there is a clear need to provide trg that develops knowledge and understanding in the 5 FD domains of:

- a. Air Power/Air Warfare.
- b. Leadership.
- c. RAF Ethos and Heritage.
- d. Trg for Deployed Operations.
- e. Common Military Skills.

Examples of FD activities include:

Staff Rides
High/Low Ropes
Mobile Team Challenge
Air Power Seminars/Lectures
Ceremonial Events
Historical Lectures/Visits
Minor Tactics

These FD activities listed above are available in the public domain on some RAF websites e.g. RAF Boulmer at <http://www.raf.mod.uk/rafboulmer/aboutus/fdsqn.cfm> and others such as the University Air Squadrons at <http://www.raf.mod.uk/universityairsquadrons/findasquadron/ubasforcedevelopment.cfm> where each Air Squadron is listed. The RAF FD mission and vision with contact points is published on the RAF website at <http://www.raf.mod.uk/pmdair/forcedevelopment/>.

FOI 2016/00489

22. Your request of 12 Jan 16 was as follows: "*Please release all email correspondence about this request, as well as cogent evidence of your costings/estimates*" relating to FOI 2015/08411.

23. On 4 Feb 16, you were advised that the information in scope of this request was held but it was exempt under section 22 (information intended for future publication) of the Act because it was also in scope of this internal review. The public interest test was outlined to you. As part of this review and for ease, I attach the email correspondence in scope of this request which will also be published on the gov.uk website at https://www.gov.uk/government/publications?departments%5B%5D=ministry-of-defence&publication_type=foi-releases. This release includes centrally held information that meets the description of your request at para. 4 to some extent.

Section 40(1) and (2) (personal data)

24. Section 40(1)(personal data) of the Act exempts public authorities from the requirement to make available any information which is also the requester's own personal data. Some of the information held in scope of this request relates to or was provided by you and it is appropriate for MOD to apply section 40(1). Disclosure of information under the Act is in effect to the world at large and not merely to the individual requester. In addition, the names and contact details of junior officials have been redacted in the correspondence attached and in accordance with the Department's policy by virtue of section 40(2) as disclosure of this information would not be fair or lawful, and would breach the first principle of the DPA. Section 40 is an absolute exemption and does not require a Public Interest Test (PIT). Section 40(2) of the Act is the relevant part which provides exemption for personal information of which the applicant is not the data subject.

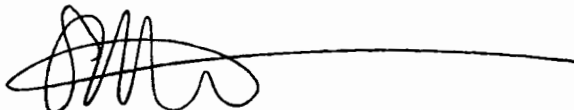
Conclusion

25. In summary, I find that:

- Your request was not fully handled in accordance with the Act.
- Section 12 (exceeding the appropriate cost limit) of the Act was correctly applied as to locate, retrieve and extract the information in scope of your entire request would exceed the cost limit.
- Although MOD provided advice and assistance under section 16 of the Act, this was insufficient to enable you to refine a request in a way that was certain to avoid the application of the Section 12 cost limit. Consequently your subsequent refined requests met with refusal. I have now included with this review some definitive advice to allow you to refine your request in a way that will allow compliance within the appropriate limit.
- The information in scope of FOI 2016/00489 is provided with this review; personal data is withheld under sections 40(1) and 40(2) of the Act.

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,



PP A Tranham

RAF Stations with Force Development activities

AKROTIRI (AIR BASE)
RAF BOULMER
RAF HALTON
RAF ST ATHAN
RAF ODIHAM
ABBAY WOOD
RAF HONINGTON
RAF LOSSIEMOUTH
RAF HENLOW
RAF HIGH WYCOMBE
RAF VALLEY
RAF WYTON
RAF MARHAM
RAF CONINGSBY
RAF DIGBY
RAF SCAMPTON
RAF WADDINGTON
RAF ST MAWGAN
RAF LEEMING
NORTHWOOD
RAF BENSON
RAF BRIZE NORTON
RAF WITTERING
RAF NORTHOLT
RAF BOSCOMBE DOWN
CHICKSANDS
SHAWBURY
RAFC CRANWELL
RAF STAFFORD
SHRIVENHAM
DCAE COSFORD
RAF LINTON ON OUSE