

From: Mrs S Gardiner



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FOI2018/06361

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Mr Chris Cole
chris@dronewars.net

Dear Mr Cole

FREEDOM OF INFORMATION ACT 2000 – INTERNAL REVIEW

1. I am writing in response to your email of 25 July 2018 requesting an internal review of the processing of your request for information under the Freedom of Information Act 2000 (the Act). 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 Practice¹ under Section 45 of the Act. I apologise for the delay in responding to you.

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 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.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722165/FOI-Code-of-Practice-July-2018.pdf

- e. Section 17(1) which states that, where it claims that information is exempt information, the public authority must, within the time for complying with section 1(1), give the applicant a notice which states the fact, specifies the exemption(s) in question and states why the exemption applies;
- f. Section 17(2) which states that the notice under section 17(1) must, if applicable, state that a decision has not yet been made whether the public interest in maintaining an exemption outweighs the public interest in disclosing the information and give an estimate of the date that the authority expects such a decision will be made;
- g. Section 17(3)(b) which states that, where the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the public authority must state the reasons for claiming this.

3. Your request for information received by the Department on 10 May 2018 was worded as follows:

*"1) How many RAF Reaper qualified pilots and sensor operators are currently assigned to a) 39 Squadron b) 13 Squadron, c) embedded with USAF d) assigned elsewhere?
2) How many RAF personnel have qualified as Reaper pilots and sensor operators in each of the last five years (2013-2017)?
3) Which companies support the RAF in a) the training of RAF Reaper personnel and b) the maintenance and support of RAF Reapers?"*

4. Section 10(1) of the Act requires that you receive a response within 20 working days, which in this case was by 8 June 2018. The Department wrote to you within this timescale, on 6 June 2018, to advise you that MOD held some information in scope of your request, but it was considered that it may fall within the scope of the qualified exemption provided at section 26 (defence) of the Act. As such it was necessary to decide whether, in the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosure. You were correctly advised of your right to appeal.

5. The Act requires public authorities to comply with requests for information within 20 working days following receipt of the request. In cases where a public authority is considering the application of exemptions subject to a public interest test (PIT), the Act requires the authority to reach its decision "within such time as is reasonable in the circumstances". I am aware that the Information Commissioner's Office, in its good practice guidance, considers that in cases where the public interest considerations are exceptionally complex it may be reasonable to take longer but that, in their view, in no case should the total time exceed 40 working days, in this case by 6 July 2018.

6. On 20 July 2018, which was outside of this timescale, the Department wrote to you to advise a public interest test had been conducted with the conclusion that some information in scope of part one, and all of the information in scope of part 2 of your request fell entirely within the scope of section 26 and was withheld. You were provided with the number of RAF Reaper qualified pilots and sensor operators embedded with the USAF and were advised that none were assigned elsewhere. You were also informed that no information in scope of part 3 of your request is held. You were again advised of your rights to appeal under section 50 of the Act.

7. In summary, your request was not handled fully in accordance with section 10(1) of the Act, for which I apologise.

Substance

8. I have considered your request again from first principles and my findings are below.

Section 26 (Defence)

9. Section 26(1) states that information is exempt if its disclosure under the Act would, or would be likely to, prejudice (a) the defence of the British Islands or of any colony, or (b) the capability, effectiveness or security of any relevant forces. Section 26 is a qualified exemption and is subject to a PIT.

10. The information withheld in scope of this request relates to the current level of manpower within the UK Reaper Task Force which contributes to the capability of the armed forces of the Crown. Therefore, I find that it was reasonable and correct to consider the application of the exemption at section 26 of the Act in this case. This exemption is subject to an assessment of the balance of public interest, which was carried out as part of the initial handling of your case.

11. It is accepted that release of information regarding the current assigned numbers and training rates of RAF Reaper Pilots and Sensor Operators would increase public understanding of the UK Reaper Force, which plays a huge role in support of attack and intelligence gathering missions and increase public confidence and trust in how overseas operations are conducted, as well as promoting openness and transparency about such matters. It would also provide an insight in to the working relationship between a Reaper pilot and a sensor operator providing the public with a greater understanding of how the Reaper force operates.

12. However, there is a degree of sensitivity about the number of UK Reapers, which form part of UK Forces' wider air capability, and therefore a number of arguments against the release of this information. To reveal a breakdown of the number of pilots and sensor operators would provide an indication of the number of Reaper tasking lines that could currently be supported. This information could, potentially, be used by those with hostile intent to threaten the integrity and security of future UK military operations and put the safety of UK armed forces personnel at risk. The release of current assignment figures in a broken-down format could give an indication of size and structure of the Reaper task force when connected with information already in the public domain. Additionally, the release of detailed growth figures, which the yearly training statistics could reveal, could give an indication of the capability of the Reaper Task force through extrapolation.

13. Taking all these factors into consideration, I am satisfied that the balance of the public interest lies in withholding the information, and that the information is correctly withheld under section 26(1)(b) of the Act. I judge the level of prejudice in relation to the release of this information to be set at the lower level of 'would be likely to' prejudice the capability, effectiveness or security of any relevant forces.

Information held in scope of part 3

14. I have reviewed the searches conducted for information in scope of part 3 of your request and I am satisfied that no information is held on what companies are used to train RAF Reaper personnel. As stated in the response to you, all training is contracted through a Foreign Military Sales agreement with the US government. The MOD is not aware of what companies are used. However, I can confirm that details of the companies used for maintenance and/or support of RAF Reapers is held. A list of the relevant companies is released to you below:

General Atomics Aeronautical Systems Inc
Honeywell
Raytheon
Cobham
MAG Aerospace
L3

Conclusion

15. In summary, I find that:

- Your request was handled in accordance with section 10(1) of the Act;
- Some information is correctly withheld under section 26(1)(b) (defence) of the Act.
- Some information that you were previously advised was not held, has been located and is provided with this review.

If you are dissatisfied with the review, you may wish to 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 her website at: <https://ico.org.uk>. The address is: Information Commissioner's Office, Wycliffe house, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,



Mrs S Gardiner