

# Memorandum

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and  
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To: **Anita McDonald** Naval Service FOI Coordination Cell M3185-A19

From: **John H Large** 7 December 2009

Cc: David Hoadley - SCANS

Subject: **SOTONSAFE – SCANS**

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I refer to your e-mail of 20 November 2009 – I have attached a copy of the text of your e-mail for ease of reference.<sup>i</sup>

You are correct that in conversation with Mrs Graham I raised my concerns on i) aspects of how my requests for further information were being processed; ii) on the length of the additional time required to answer certain of these requests, and iii) that my communication M3185-A19 of 16 November 2009 should not have been subject to the procedures set out in the *Freedom of Information Act 2000* (FoI):

- i) If, as I discussed with Mrs Graham, my clients SCANS decide to refer this matter to *Internal Review* then I shall reiterate any remaining dissatisfaction with your processing of my requests at that time. Suffice to note here that I do not accept Mrs Graham's allusions that the actions and intentions of my clients in their instruction for me to make these quite proper requests were in any way vexatious, and/or an unnecessary distraction from the frontline activities of your department nor, indeed, unjustifiably expensive.
- ii) Apart from the partial response to M3185-A2 of 22 October 2009, all other requests seemed to have been delayed with extension time blocks of 20 working days or thereabouts. If you intend to extend each of my requests by 20 working days is this because you are under some misapprehension that the Act permits you to extend the response time in blocks of 20 working days?

Forgive me, but my understanding of the Act is that the time limit can only be extended if you are considering refusing the information under an exemption to which the public interest test applies and then only by a '*reasonable period*', with this additional period of time being determined by you seeking advice from a subject specialist. Is it therefore entirely fortuitous that each of your blocks of extended time coincides with the FoI S10 20 working day period that, properly, should relate only to the first time period in which a response must be made from receiving the original request?

For example, your letter of 20 November (20-11-2009-084059-001) you advised me that the additional time required to consider and reply to my three itemised but interlinked requests will require 40 working days, or thereabouts, to respond whilst you apply the public interest test. Surely, you must agree with me that it is the height of silliness to justify this extraordinary delay on the hypothesis that it is possible that current or future operations or the capability, effectiveness or security of our Armed Forces might otherwise be compromised if you were to reveal, again for example, the preset alarm setting of a radiation dosimeters (item 3 of M3185-A22) that are to be issued to individuals who are effectively members of the public (non R14 registered individuals under REPPiR) going about their employment duties.

- iii) Now I refer to the statement of RN Commander Dabell at the public meeting of 4 November 2009 (not 14 November as cited in your e-mail).

According to your e-mail assertion, it is not my '*belief*' that Cdr Dabell had offered to provide further assistance if I wrote to him reiterating my spoken questions, it is *absolute fact* that he *invited* me to write to him and he did so several times throughout the meeting.<sup>ii</sup> On the basis of Cdr Dabell's undertaking, I expect my

correspondence (M3185-A19) to be treated as official correspondence and not, therefore, subject to the quite extraordinary delays that you seem determined to impose via the guise of FoI processing.

At the 4 November public meeting I took Cdr Dabell's invitation at face value, that is that he genuinely desired to provide accurate and reliable information to SCANS in response to its concerns about the docking of a nuclear powered submarine at Southampton – I did not then see it as a ruse or some sort of gaming strategy being deployed, however seriously, to deny SCANS its rightful opportunity to request and receive the information that it considers should be openly accessible in the public domain.

Finally, I note to you my disappointment your Department's inability to meet any reasonable timescales in responding to my quite proper requests for further information. This has been demonstrated by the fact that although you undertook to advise me how and when my enquiries would be answered (eg under FoI or as 'Official Business') within a week of 20 November (4<sup>th</sup> paragraph of your e-mail) nothing in this or any other respect has been forthcoming – a turn of events that does not suggest to me that you take your FoI obligations '*seriously*' and that you have been '*helpful*' wherever possible.

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i  
E-mail from FLEET-DCS FOICELL-f (MULTIUSER) [FLEET-DCSFOICELL-f@mod.uk](mailto:FLEET-DCSFOICELL-f@mod.uk)  
20 November 2009 15:34  
ENQUIRIES/FOI REQUESTS SOUTHAMPTON Z BERTH

In your earlier conversation this afternoon with Mrs Graham, you raised concerns about the way in which your recent enquiries are being handled. You believe that your enquiries forwarded under your letter of 16 Nov 09 did not necessarily require to be processed under the FOI Act. You consider that they may be handled as official correspondence since you believe that the Naval Commander had agreed at the presentation at Southampton on 14 Nov had offered to provide further assistance. With regard to your enquiries within your letter of 19 Nov 09, you accepted that each request for information may be handled as single individual request.

I can now confirm that we will treat the enquiries for information within your letter of 19 Nov as three separate FOI requests and we will advise further on whether each enquiry may be answered within the 20 working day response time limit or whether further time will be required if any of the information to answer that enquiry falls under a qualified exemption.

With regard to your letter of 16 Nov, we will look again as to whether it is necessary for any of the seven questions raised to be handled as a formal FOI request (again indicating which ones may be handled within 20 working days or if further time is required) and those enquires which may be handled under the guise of official business.

We anticipate that we will be able to advise you further concerning the handling of your enquiries some time next week. If you have any further questions, please contact Mrs Graham on 023 9262 8695.

We hope that this demonstrates that the Department takes its obligations under the FOI Act and as a Public Authority seriously, and is helpful wherever possible.

ii  
So that there can be no doubt for the record, I have invited those individual members of SCANS who attended the 4 November meeting to confirm to you their own recollection of the undertaking so clearly made by Cdr Dabell.