

Memorandum

Large
and
ASSOCIATES

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To: **Gareth Rowlands** DE&S Policy Secretariat (Submarines) M3185-A29

From: **John H Large** 30 December 2009

Cc: David Hoadley – SCANS

Subject: **SCANS – FURTHER CLARIFICATION OF FOI REQUEST M3185-A5 & A15**

Thank you for your letter of 23 December 2009, your reference 145714-00, 101131-004 and 100832-005 which relates to three separate items requested under *the Freedom of Information Act 2000* (FoI).

Here I shall refer to the first of the three bullet pointed items identified in your letter, although much the same applies to the second and third items that derive from my M3185-A15 request of 29 November 2009.

The first bullet point was originally requested as Item 4) of my M3185-A5 of 24 October 2009, this being subject to a ‘holding’ response on 20 November 2009 from your Navy Command colleagues – this stated that additional time was required to undertake a S26 public interest test (PIT) and that I would be advised by 18 December 2009 if the PIT process had not by then been completed.

You should note that i) I never received this advice and I assume your letter of 23 December 2009, albeit late, supplants the awaited but now overdue Navy Command advice.

Now I refer to paragraph 1 of page 2 of your letter of 23 December 2009 which relates to ii) what may be your misapplication of the FoI provisions and iii) your justification or at least further account of what I consider to be the extraordinary long time it has taken you and your Navy Command colleagues to respond.

On ii), but forgive me if I am in error, 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 PIT applies and then only by a ‘reasonable period’, with this additional period of time being determined by you seeking advice from a subject specialist. However, your letter seems to convey that you have chosen to ‘restart the clock’, so to speak, by specifying that a substantive response will be forthcoming “. . . *within 20 working days, by no later than 25 January 2010*”. In the absence of your further explanation, this additional time block could be taken to coincide with the FoI *S10* 20 working day period that, properly, should only be applied to the first time period in which a response must be made from receiving the original request?

Noting that my M3185-A5 request is dated from 24 October 2009 and not the date upon which the request was transferred to you from your Navy Command colleagues, please advise me whether or not it is pure coincidence that this second bout of additional time required to complete

the PIT is the same as the S10 period allowed for responding to FoI requests – in other words, have you taken advice from a subject specialist and is the additional time derived from this advice a properly justified ‘*reasonable period*’ in accord with the Act?

On iii), your letter suggests with its provisional deadline of 25 January 2010, that you and your Navy Command colleagues require in total 60 working days, or thereabouts 3 months, to receive, manage and consider a quite proper request for information originally submitted on 24 October 2009. With respect, it is not at all clear from your letter if a) your Navy Command colleagues had already, as they stated in their letter of 20 November 2009, commenced the process of the S26 PIT but b) had not completed the PIT prior to handing the request over to you; or, indeed, c) had not started the PIT leaving my request in abeyance before passing it over to you to complete the PIT; or d) that even though Navy Command had completed the PIT, you now intend to complete an entirely separate PIT of on behalf DE&S Policy Secretariat (Submarines)?

So, at your invitation of para 2 page2, I am seeking further information from you about the handling of my request. In compiling your response to this letter please refer to and specifically address my items i), ii) and iii) a) to d) and, where appropriate, I would greatly appreciate you citing the specific sections of the *Freedom of Information Act 2000* relied upon and, of course, your speedy rejoinder to this matter of complaint.

Finally, my seeking further information and justification of your handling of my request should not, in my opinion, introduce any further delays in your response to my original M3185-A5 and A15 application which should, of course as required by the Act, be undertaken promptly.