

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 May 2021

Public Authority: Ministry of Defence
Address: Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Defence (MOD) relating to the Sky Sabre, Sea Ceptor and Land Ceptor weapons systems. By the date of this notice the MOD had not provided a substantive response to the request.
2. The Commissioner's decision is that the MOD has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the MOD to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The MOD must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 4 October 2020, the complainant wrote to the MOD via the What Do They Know website and requested information in the following terms:

"What is the status of the Sky Sabre weapons system (or any weapons system incorporating the Sky Sabre)?

According to a Ministry of Defence release dated 28/5/2018 the weapons system was to be operational in "early 2020" is this the case? Is the system deployed to the Falkland Islands?

<https://www.gov.uk/government/news/briti...>

What is the status of the Land Ceptor? Which units are equipped with it?

Are serving Royal Navy vessels equipped with the Sea Ceptor system? To what vessels has it been fitted?

If these weapons systems are not yet operational why not?"

6. On 31 October 2020 and 7 December 2020, as the complainant had not received a response, he wrote to the MOD to ask for an update on the status of his request.
7. The MOD wrote to the complainant on 18 December 2020 to provide him with an update on the status of his request.
8. On 21 January 2021, as the complainant had not received a response, he wrote to the MOD again to ask for an update on the status of his request.
9. On 15 March 2021 the complainant wrote to the MOD to request an internal review as he had not received a response to his request.
10. The MOD wrote to the complainant on 31 March 2021 to apologise for its delay in responding to the complainant's request. By the date of this notice the MOD had not provided the complainant with a substantive response to his request.

Scope of the case

11. The complainant contacted the Commissioner 12 April 2021 to complain about the MOD's failure to respond to his request.

12. The Commissioner contacted the MOD on 11 May 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
13. The Commissioner also contacted the complainant on 11 May 2021 to explain that the MOD had been given 10 working days from that date within which to provide a response to their request.
14. The complainant has provided evidence that he has received an acknowledgement from the MOD but, by the date of this notice, had not received a substantive response to his information request.
15. The scope of this notice and the following analysis is to consider whether the MOD has complied with section 10 of the FOIA.

Reasons for decision

16. Section 10 of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) To be informed in writing by the public authority whether it holds information of the description specified in the request, and*
 - (b) If that is the case, to have that information communicated to him.*
17. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
 18. The MOD did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the MOD has breached section 10 of the FOIA.

Right of appeal

19. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

20. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Philip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF