FREEDOM OF INFORMATION ACT 2000 INTERNAL REVIEW

1. I am writing in response to your email of 12 September 2019 in which you requested an internal review of the processing of your request for information under the Freedom of Information Act 2000 (the Act). The correspondence concerning this request is available on the WhatDoTheyKnow (WDTK) which is available on the WhatdDoTheyKnow (WDTK) at https://www.whatdotheyknow.com/request/ministry_of_defence_saudi_arme. 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.

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, and;

   c. Section 3(2)(b) which states that for the purposes of the Act, information is held by a public authority if it is held by another person on behalf of the authority; and

   d. 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.

3. Your request was received on 1 August 2019, and was as follows:

'Please provide a list of companies involved in the Ministry of Defence Saudi Armed Forces Project team (MODSAP)'

4. Section 10(1) of the Act requires that you receive a response by no later than the twentieth working day following date of receipt. MOD's response, dated 2 September 2019, was therefore one day late, for which I apologise. In accordance with section 1, you were advised that some information was held, and you were provided with some advice which noted that BAE Systems was the designated prime contractor for MODSAP. You were correctly informed of the right to appeal.

Substance

5. In your request for a review you stated that MOD had not provided the information requested, noting that:

'While the name of BAE (the prime contractor) is provided this is information that is already in the public domain.

A list that provides the information I requested would obviously have named all the companies involved including sub contractors'.

6. Section 1 of the Act states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have the information communicated to him.

7. I can confirm that a search was conducted within the information holdings of the Saudi Armed Forces Project (SAP) Team, to determine if they held a list of companies involved in the project. The only company with which MOD officials contract for the supply of military equipment and services under the programmes of work agreed between the United Kingdom and the Kingdom of Saudi Arabia is BAE Systems, which you are aware is the designated prime contractor. This information was provided to you in the initial response.

8. As part of this review, fresh searches of the information holdings of the SAP team have been undertaken to establish if they hold any information relating to companies contracted to BAE Systems. The search did not locate any such list and I find that you were provided with all the information held by the SAP team that falls within scope of your request.

9. As there are no other relevant areas within MOD where such information may be held, I can confirm that the specific information you have requested, a list of the sub-contractors employed by BAE Systems in support of the SAP team, is not held by MOD.

10. Finally, I can also confirm that BAE Systems does not hold the information requested on behalf of the MOD. As such, there is no obligation for MOD to approach them in order to obtain a copy of the requested information on your behalf.

Section 16 (advice and assistance)

11. As you may be aware, the principle role of the SAP team is to monitor the progress and performance of the Saudi British Defence Cooperation Programme (SBDCP) prime contractor (BAE Systems), so that the requirements of the Saudi Arabian Government are faithfully met, and contracted programmes of work run smoothly both technically and financially.
12. In fulfilling their role, MODSAP officials facilitate contact between the Saudi Armed Forces and the prime contractor, but as the prime contractor, it is the sole responsibility of BAE Systems to manage the work of its sub-contractors. I can advise you that the SAP team does not have visibility of the commercial arrangements BAE Systems has with any of its vendors, which are confidential to the parties to the contracts. As the SAP team has no business requirement to maintain a list of the type you have requested, it does not hold one.

**Conclusion**

13. In summary, I find that:
   
   a. The substantive response to your request was slightly late and therefore did not meet the requirement of section 10(1) of the Act;
   
   b. MOD does not hold a list of companies or sub-contractors used by the designated prime contractor (BAE Systems). You have been provided with all the information held;
   
   c. MOD has provided advice and assistance under section 16 of the Act to explain why the information you are seeking is not held.

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 the website at: https://ico.org.uk. The address is: Information Commissioner’s Office, Wycliffe House, Water Lane, WILMSLOW, Cheshire, SK9 5AF.

Yours sincerely,

Sandra Gardiner