

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 December 2013

Public Authority: Ministry of Defence

Address: Main Building
Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant has requested a list of physical, physiological and psychological effects which may be caused by using the invisible part of the electromagnetic spectrum on people. The Ministry of Defence (the "MOD") provided some information, cited section 26(1)(defence) in respect of a sentence (which was not disputed by the complainant) and stated that no further information was held. The Commissioner's decision is that, on the balance of probability, the MOD does not hold the requested information. He does not require any steps.

Background

2. This request can be followed on the 'What do they know' ("WDTK") website¹.
3. A different request is referred to by the complainant. This is made via WDTK by a different person. It can also be followed online² and is worded thus:

¹https://www.whatdotheyknow.com/request/effects_of_directed_energy_radiation#incoming-388024

"I would like to know details of the biological effects of microwave weapons that your department is aware of".

4. The Commissioner has previously a decision notice on the subject of whether directed energy devices are being used on persons within the UK³. In that case the Commissioner concluded that the MOD has disclosed any information that it held.
5. Reference is made to DSTL which is the acronym for the "Defence Science & Technology Laboratory". Reference is also made to DST which is the acronym for "Defence Space and Technology". These are both parts of the MOD. Further details can be found online⁴.

Request and response

6. On 24 January 2013 the complainant wrote to the MOD and requested information in the following terms:

"Under Freedom of Information legislation, I would like to request any information which lists the effects which can be caused by directed energy devices on people.

In a response you made to another user on 20th October 2011, you mentioned directed energy weapons and the fact that effects can be characterized as "physical, physiological or psychological". I am aware that there are certain components of the MOD who specialize in the application of directed energy devices, and some who also specialize in human influence.

I would like you to detail the full list of physical, physiological and psychological effects which can be caused by using the invisible part of the electromagnetic spectrum in any way. Preferably with the correlating frequencies detailed".

²https://www.whatdotheyknow.com/request/microwave_weapons#incoming-239706

³[http://www.ico.org.uk/~media/documents/decisionnotices/2013/FS50477818.ashx](http://www.ico.org.uk/~/media/documents/decisionnotices/2013/FS50477818.ashx)

⁴<http://www.dstl.gov.uk>

7. Although it does not appear on WDTK until 17 April 2013, the MOD believed it had responded on 25 January 2013, seeking clarification regarding the previous request to which the complainant refers. On 19 April 2013 the complainant provided this clarification.
8. On 9 May 2013 the MOD disclosed some information to the complainant. It did not cite any exemptions advising:

"The 'full list of physical, physiological and psychological effects which can be caused by using the invisible part of the electromagnetic spectrum in any way' is fully detailed in the open literature (for example the IEEE exposure standard and the ICNIRP guidelines, both attached) for direct effects on human beings [the MOD] has no additional information on this".
9. On 27 May 2013 the complainant asked for an internal review.
10. Following an internal review the MOD wrote to the complainant on 21 October 2013. It divided the request into two parts, namely *"the full list ..."* and *"any information which lists..."*.
11. In respect of the information previously disclosed, the MOD advised that this fell under *"the full list"* element of the request and said it should have applied section 21 of the FOIA (information reasonably accessible to the applicant) as it was already in the public domain. It again stated that it holds no further information in respect of this part of the request.
12. In respect of the broader *"any information which lists"* element it advised that this had not been considered separately. It advised that it had located a small amount of information which it provided, other than a sentence which was redacted under section 26(1) of the FOIA; it maintained that no further information was held.

Scope of the case

13. The complainant first contacted the Commissioner on 17 July 2013 to complain about a lack of internal review. The Commissioner wrote to the MOD about this on 24 July 2013 and again on 3 September 2013 when an internal review had still not been provided.
14. On 3 October 2013 the Commissioner wrote to the complainant and advised that the lack of an internal review was not an issue that could be enforced under section 50 of the FOIA. In its absence, he advised the complainant that if he had any other grounds for complaint - based on the response which had been provided on 9 May 2013 - he should submit these and they would be considered.

15. On 14 October 2013 the complainant advised the Commissioner that his grounds for complaint were that he believed the MOD held more information. He provided publically available documents to support his position.
16. On 21 October 2013 the MOD provided its internal review. The Commissioner therefore asked the complainant to clarify whether this had any bearing on his grounds of complaint. The complainant confirmed that he did not accept that the MOD held no further information. He made no reference to the citing of section 26 so this will not be further considered.

Reasons for decision

Section 1 – general right of access

17. Section 1(1)(a) of FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request.
18. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. The Commissioner must decide whether on the balance of probabilities the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
19. The complainant has argued that he believes the MOD holds further information. He supports his argument by providing copies of five documents, all of which are available on the internet. These are as follows:
 - 1) <https://www.gov.uk/government/news/dstl-working-with-the-best-ideas-in-the-world> (all the document)
 - 2) http://www.powerbase.info/index.php/Defence_Science_and_Technology_Laboratory (text and image)
 - 3) <https://www.innovateuk.org/documents/1524978/2274828/Innovative+solutions+to+protect+and+secure+UK+interests+in+cyberspace+-+Competition+flyer/1456a9d4-ba21-4555-b72d-c231198fae9f> (pages 1,3 and 4)
 - 4) <http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CC8QFjAA&url=http%3A%2F%2Fwww.science.mod.uk%2Fcontrols%2Fgetpdf.pdf%3F270&ei=c9GVUpv>

[3K5GA7QbL3IGgDQ&usg=AFQjCNFfhBGg-SfVIfPoKPLwyBqrFzzPFQ](#)
(pages 1,2,3,5 and 6)

- 5) <http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CC0QFjAA&url=http%3A%2F%2Fwww.science.mod.uk%2Fcontrols%2Fgetpdf.pdf%3F257&ei=EdOVUuyIA8Kw7Aa-34GAAQ&usg=AFQjCNH0q3XTQ7Lr13hn9lu5ot7nhTwtnw>
(pages 3 and 43)

20. He describes the relevance of each item as:

"Item 1 - A short Interview with the Chief Executive of DSTL which outlines what they do

Item 2 - Powerbase DSTL article which hints at the breadth, depth and intricacy of what they do. The image is from their old Annual Report and indicates their weapons specialisms.

Item 3 - Document explicitly stating that their Cyber and Influence dept includes Directed Energy Weapons research.

Item 4 - Document providing more depth on what Cyber and Influence do and specifying some of the detrimental and direct effects of technology on their targets.

Item 5 - The two pages specified are ones which are part of a slide show at a Ministry of Defence weapons conference which indicate Directed Energy Weapons being a key capability and a growth area for them".

21. The Commissioner has viewed all the complainant's evidence. He can find nothing within the content which would convince him that the requested information would be held. He notes that there is a 'call' by the public authority for any interested parties to submit ideas for suggested research into some areas which may or may not relate to the subject matter of the request, but it only asks for submissions by any such parties. There is no evidence to suggest that such research proposal has been agreed or carried out or, even if it had been, that it would produce the information sought by the complainant.
22. During his investigation, the Commissioner asked the MOD to explain its position and to provide details of any searches for information that it had undertaken. It provided a very clear response, which is summarised below.
23. The MOD had contacted DSTL, this being its lead research area on such matters. DSTL had in turn also asked DST to search for any information

that might be held. The Commissioner accepts that these were the appropriate business areas to engage with.

Response from DSTL

24. DSTL explained that it had already provided links to any information that it held, namely literature that was already in the public domain. It confirmed that:

"No additional information is held because the UK's Radio Frequency Directed Energy Weapons (RF DEW) Programme is not concerned with producing direct effects on humans". For any safety and medical-legal assessments of RF DEW, MOD uses the safety reviews, standards and guidelines available in the open literature, chiefly those produced by ICNIRP and IEEE"

"Regarding both parts of his request, effects of the sort [the complainant] appears to be looking for (physical, physiological and psychological), the IEEE Standard states: "Despite more than 50 years of research, low-level biological effects have not been established. No theoretical mechanism has been established that supports the existence of any effect characterised by trivial heating other than microwave hearing. Moreover, the relevance of reported low-level effects to health remains speculative and such effects are not useful for standard setting". Dstl has no additional evidence of direct effects of RF DEW on humans. Indeed neither does the state of knowledge in the current scientific community".

25. DSTL also confirmed the following regarding searches for information that it had undertaken:

"Searches were conducted electronically, but the futility of these was obvious as the national research experts whose job is to research directed energy devices knew its impossibility. The list of past and current projects was searched, using multiples combination of directed energy device, physical, physiological, psychological, and electromagnetic spectrum. As were electronic document file stores. No information is held on personal computers."

"When Dstl has to answer questions similar to [the complainant]'s for their research, or on medical or legal grounds we use the exact documents given to [the complainant] as our evidence. The person in the department answering this is an international expert in effects of electromagnetic fields, and is at the cutting edge of research. Consequently, when this person tells us that not only have extensive searches been done, but that further searching is

futile as there is no robust evidence at Dstl or elsewhere for biological effects other than those detailed in the IEEE standard and ICNIRP guidelines, the MOD is satisfied that comprehensive searches have been conducted".

Response from DST

26. DST confirmed the depth of the searches it had undertaken when looking for any relevant information. It advised that it had spoken to those areas which it considered might hold information within scope of the request, and it had also checked its own paper files, its electronic record management system, its research database and any local books and research literature. It also confirmed that: *"No standalone PCs or ordinary Laptops are used or held by DST"*.

27. It added:

"The request is for 'a full list of physical, physiological and psychological effects which can be caused by using the invisible part of the EM spectrum in any way. Preferably with the correlating frequencies'. This information is currently not held by the MOD. It would be an incredibly useful piece of information to have ... It would be the result of considerable research and effort (looking at every single frequency, and both short and long term exposure at different intensities, and the associated impact). If the MOD held such information this would be very valuable and would not have been deleted / erased / destroyed or forgotten about. The MOD does not hold such a list".

Conclusion

28. In view of the detailed submissions made by the MOD above, in contrast with the lack of evidence to support the view of the complainant, the Commissioner has concluded that, on the balance of probabilities, the MOD does not hold any further information relevant to the request.

Other matters

29. The Commissioner also notes that the complainant said to him: *"If this does not make sense or if you disagree with any of the points I have made I would like to politely ask that you engage in discourse with me on this"*. In such circumstances the Commissioner will exercise his discretion in deciding whether or not it is appropriate or necessary to

engage further with a complainant; this is in much the same manner as he may decide whether to engage in further discourse with a public authority. On this occasion, although he has obviously disagreed with the points made by the complainant, he has not found it necessary to engage in any further contact in order to reach a formal decision.

Right of appeal

30. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

31. 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.
32. 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

Graham Smith
Deputy Commissioner
Information Commissioner's Office
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SK9 5AF