



Ministry
of Defence

Naval Service FOI Section
Navy Command Headquarters
MP 1-4, Leach Building
Whale Island
PORTSMOUTH
PO2 8BY

Reference: 2015-09176

Telephone [MOD]: [REDACTED]

Facsimile [MOD]: [REDACTED]

E-mail: [REDACTED]

[REDACTED]
Via email: [REDACTED]

10 November 2015

Dear [REDACTED]

Request for Information

Thank you for your email dated 19 October 2015 requesting the following information:

I am writing to you today to request full disclosure of the Professional Standards Unit investigation carried out in the Joint Provost Security Unit in HMS Rooke Gibraltar with respect to the case against [REDACTED].

I am treating your correspondence as a request for information under the Freedom of Information Act 2000.

The information you have requested falls within the scope of the section 31(Law Enforcement) exemption of the FOI Act. After careful consideration, and for the reasons set out below, it is concluded that the Ministry of Defence has no obligation under the Act to disclose this information and it is therefore being withheld in entirety.

Section 31(2) of the FOI Act provides that information is exempt if it has at any time been held by the authority for the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on.

The information you have requested concerning the reports relating to the RNP Professional Standards Unit Investigation comes within this exemption. This is a qualified exemption which means that the decision to disclose the requested material is subject to a public interest test. A public interest test has been prepared and it may assist you to understand our decision if I outline the factors that were taken into account.

While it is recognised that the disclosure of recorded information demonstrates openness and transparency giving the public a greater understanding of the how an investigation is conducted, this must necessarily be balanced against a general recognition that it is in the public interest to safeguard the police investigative process and that a statutory right of access to request disclosure of recorded information should not be allowed to discourage individuals from coming forward and giving evidence. Additionally, both investigators and witnesses might feel inhibited if they believe their communications may subsequently be published. Disclosure could also have a prejudicial

effect on the decision making as well as to adversely affect the process in the event of any disciplinary action being taken.

Taking into account the factors for and against disclosure, it is considered that the balance of public interest lies in not disclosing any of the contents of the report.

I also need to address the further query in your request worded as follows:

'With ██████████ being a key witness in this case I feel it was totally unacceptable not to record a witness statement from her as mentioned in an email from ██████████ ██████████.

Quote from ██████████ email.

*"In respect of the ██████████ investigation, a full review of the case file has been conducted, and PSU staff visited Gibraltar to conduct enquiries and to examine unit records. The findings of their investigation led ██████████ to conclude that those responsible for the conduct of the investigation acted professionally, impartially and with integrity. **Furthermore, investigative decisions including not to record a Statement of Witness from you were acceptable in the circumstances.**"*

In accordance with section 16 of the FOI Act, the duty to provide advice and assistance, and in order to give you certainty about ██████████ having the opportunity to give witness evidence, the following statement about it has been obtained from the RN Police:

'You have stated within your FOI request that it was unacceptable to not record a witness statement from this witness ██████████. ██████████) – ██████████) replied to ██████████ via email on 23 Oct 14, and stated that ██████████ was satisfied that this was acceptable in the circumstances. However, in addition to this, albeit ██████████ was satisfied with this decision, he subsequently consulted with the Service Prosecuting Authority (SPA) and this resulted in the opportunity being offered to ██████████ to provide ██████████ witness evidence; this was prior to the commencement of court proceedings against you. ██████████ informed ██████████ on 23 Oct 14, via email, that ██████████ would speak to ██████████ lawyer in relation to providing her witness evidence to the Royal Navy Police. Thereafter, she did not take up the offer to provide ██████████ evidence, and no further contact in this specific regard was established by ██████████ with the Royal Navy Police.'

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>.

Yours sincerely

Navy Command Secretariat – FOI Section