



Ministry
of Defence

Army Secretariat
Army Headquarters
IDL 24 Blenheim Building
Marlborough Lines
Andover
Hampshire, SP11 8HJ
United Kingdom

Ref: FOI2015/04243/75037

E-mail: Army_Sec-group@mod.uk

Website: www.army.mod.uk



22 July 2015

Dear [REDACTED],

Thank you for your letter of 24 February 2015 which was sent to Major General Smyth-Osborne CBE requesting the following information:

- *A copy of the case file of the investigation into my complaint against [REDACTED]*

First of all, may I apologise for the length of time that it has taken to respond to your letter. Regrettably, a response was already overdue when this office received your request in May 2015.

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

A search for the information has now been completed within the Ministry of Defence, and I can confirm that some information in scope of your request is held.

The information you have requested can be found enclosed, but some of the information falls entirely within the scope of the absolute exemptions provided for at Sections 40 (1) and 40(2) (Personal Data) and qualified exemption 42 (Legal Professional Privilege) of the FOIA and have been redacted or withheld accordingly.

Section 40(1) and (2) has been applied to some of the information in order to protect personal information as governed by the Data Protection Act 1998. Section 40 is an absolute exemption and there is therefore no requirement to consider the public interest in making a decision to withhold the information.

Section 42 has been applied to some of the information as it constitutes legal professional privilege. Section 42 is a qualified exemption and the Department has to consider whether it is in the public interest to release the information. Whilst it is acknowledged that releasing the information could ensure that the Department is promoting openness and transparency, there is an argument that if such information were released the confidentiality of communications between lawyers and their clients would not be protected. Therefore, after taking into consideration the arguments for and against release, and the very substantial public interest in maintaining the confidentiality of Legal Professional Privileged material; the balance of public interest lies in favour of withholding the information.

Section 1 of the Freedom of Information Act gives an applicant the right to access recorded information held by public authorities at the time the request is made and does not require public authorities to answer questions, provide explanations or give opinions, unless this is recorded information held.

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, <https://ico.org.uk/>.

Yours sincerely,



Army Secretariat