



Ministry  
of Defence

Our Ref: FOI2015/01149

Your Ref:

[REDACTED]  
[REDACTED]

Ministry of Defence  
Main Building  
Whitehall  
London SW1A 2HB  
United Kingdom

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24/02/2015

Dear [REDACTED]

Thank you for your email of 29 January 2015 requesting the following information:

*"I would like to know the authority under which my personal data is being handed to a private company for sale over the Internet:*

*<http://www.pastarchive.com/cart/index.php?route=product/category&path=59>*

*I would also like to know under what authority my personal data is being published on the gov.uk site?*

*<https://www.gov.uk/government/publications/armed-forces-list-2013>"*

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 email containing the authority to publish the 2013 Army List on [www.gov.uk](http://www.gov.uk) can be found enclosed at Annex A.

Section 40(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.

In 2006, the Army Historic Branch decided to modernise the production of the Army List by working with TownsWeb Archiving Ltd to produce an electronic version of the Army List. Army Historic branch however do not hold the details of the current contract.

Under Section 16 of the Act (Advice and Assistance) you may find it helpful to note that the Army List has been published since 1740. Unfortunately the original documentation containing authority to publish and the reasons for publication cannot be found.

The Armed Forces Lists including the Army List have been placed on Gov.UK and Data.Gov.UK as part of the Government's Transparency Agenda. The intention for placing these lists online was to allow members of the public to access the data without charge online. It also allows other publishers the opportunity to produce their versions of the list to be sold, creating a more competitive market.

With regards to the authority to publish, Schedule 2, Section 6(1) of the Data Protection Act, Processing of personal data states:

*'The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.'*

You may also find an extract from an internal review response regarding the release of the Army List to Dandy Publishing of interest:

*'I note that section 40 (personal data) of the Act was applied to the information held for The Army List. In this case, I have considered the requirement to process personal data fairly and lawfully as set out in the first data protection principle of the Data Protection Act 1998 (DPA). I have also taken into account the previous policy of publishing personal information relating to Service Personnel in the Lists and the London Gazette. I find that as such Service lists have long been placed in the public domain and Service personnel are well aware of their existence releasing this information would not constitute unfair or unlawful processing of personal data. I find that, in these circumstances, section 40 (personal data) does not apply.'*

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, 1<sup>st</sup> Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail [CIO-FOI-IR@mod.uk](mailto: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,

Information Rights Team.