



Ministry of Defence

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Our reference: FOI2016/02493

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24 March 2016

Dear xxxxxxxxxxxx,

Thank you for your letter dated 24 February 2016 requesting the following information:

The JSP763 2004 version procedure, chapter 5 deals with the involvement of the police when a formal complaint has been made.

The DO having referred the complaint to the Police when he considers a criminal offence has possibly taken place in the complaint.

1 What are the Police responsible for doing when informing the DO following their Investigation? Is this also a fact in both Civilian and Service cases under this 763procedure?

2 If their responsibility is only to deliver the investigation decision, then where is it stated in the procedure, where does it make clear how and where the collated evidence from the Police is to be obtained by the Deciding Officer. As it certainly has to be considered, in the formal investigation that takes place internally following the Police investigation.

3 The Police collate evidence during their own detailed investigation, which may be critical in the areas of evidence corroboration, especially in cases where there are no witnesses. So it has to be a procedural fact that evidence collated by the Police is given to the DO and not allowed to be simply considered the same as the complainant's statement for any reason, where is this determined to avoid misunderstanding?

I am writing to confirm that we are treating your correspondence as a request for information under the Freedom of Information Act 2000.

The current version of JSP 763 (The MOD Bullying and Harassment Complaints Procedures) is dated 1 July 2013, and chapter 5, paragraphs 5.10 to 5.11 set out what a

Deciding Officer (DO) must do if they consider that alleged bullying or harassment might constitute a criminal or Service disciplinary offence. Should such an occasion arise, the DO should immediately refer the matter to the MOD Police (MDP) or Service Police who will carry out an investigation. Where the Police investigation identifies that no criminal or Service disciplinary offence has occurred, the MDP or Service Police is responsible for notifying the DO of the outcome of their investigation; this is set out in chapter 5, paragraph 5.18. The complaint should then be progressed by the DO in accordance with JSP 763.

The JSP does not specifically refer to the Harassment Investigation Officer (HIO) being provided with a copy of the Police investigation report or any evidence gathered during the Police investigation - annex N, paragraph 8 details the key documents the HIO should have copies of prior to starting the investigation. Current policy does not therefore make it a requirement to have the Police investigation report/evidence, however, it does not say that they cannot request it. I would therefore consider it to be within the remit of the HIO to request it and the JSP states that the HIO must have access to all paperwork relevant to the complaint.

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,

Defence People Secretariat