



Ministry
of Defence

Our Ref: FOI2014/07461

Ministry of Defence
Main Building (01/M/21)
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Telephone [REDACTED]

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[REDACTED]

23 January 2015

Dear [REDACTED]

Thank you for your email of 23rd November 2014 requesting the following information relating to the closed version of the Report of the Detainee Inquiry:

1. *The contents page of the report, or any other information listing titles of chapters, annexes, and any other section headings;*
2. *The number of paragraphs in each chapter, plus a brief description of any information lying outside of a numbered paragraph (e.g., a table, or list of terms, or similar);*
3. *The number of words in each chapter, annex or other section (word counts to include headings and footnotes);*
4. *The name of any document referred to in the closed version of the Report, along with (as applicable) the document's date, author and original recipient. Please note that I am not asking for a copy of these documents themselves;*

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 (MOD) and I can confirm that some information in scope of your request is held.

Section 21 (Information accessible to applicant by other means) has been applied to part 1 of your request. The wording on the contents page in the closed report reflects that contained on the contents page in the open version of the report to which you have access.

Section 32(2)(b) (Court records, etc.) has been applied to parts 2 and 3 of your request. This is because the closed version of the Report of the Detainee Inquiry is a document which has been created by Sir Peter Gibson who was conducting the Inquiry for the purposes of the inquiry.

The information you have requested in part 4 of your request is not held. Under section 16 (Advice and Guidance) you might find it useful to know that all documents referred to in the open report are also referenced in the closed report. There are references to a number of other documents in the closed report but I am unable to provide the specific information you are seeking. The closed report cites the documents by their reference only and those documents are not held by the MOD.

Section 23 (1) has also been applied to Part 4 of your request because it is clear from the text that some of the information you are seeking (i.e. excluding the documents referenced in the open report) relates to one or more of the bodies contained in Section 23 (3).

In addition the information you are seeking in parts 1 to 4 of your request falls entirely within the qualified exemption provided for at Section 24 (National Security) of the FOIA and is being withheld.

Section 24 is a qualified exemption and is subject to public interest testing which means that the information requested can only be withheld if the public interest in doing so outweighs the public interest in disclosure.

The starting point for the public interest test can be found at paragraphs 1.2 and 31 of the open version of the Report of the Detainee Inquiry. In paragraph 1.2 Sir Peter Gibson and the Panel state that:

"The Inquiry prepared a closed and an open version delivered to Government on 27 June 2012. The closed version comprised a narrative, supported by illustrative examples. Those examples are generally taken from highly classified source material which, the Inquiry believes, cannot properly be published for reasons explained in paragraph 31 of this Chapter."

And in paragraph 31:

"For national security reasons, including the need to avoid undermining international intelligence sharing understandings, the closed version cannot be published. Such publication might also prejudice the work of the future inquiry. In the Panel's view it would therefore not be in the public interest to publish the closed version of the Report"

After taking that view into account I have concluded that the release of any information contained in the closed report which is not available in the open report risks compromising the safeguards envisaged by the Report's authors who have already considered the public interest.

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.gov.uk>.

Yours sincerely,



Directorate of Judicial Engagement Policy