



Ministry
of Defence

Navy Command FOI Section
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2017-09223

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1 February 2018

Dear [REDACTED]

Release of Information

Thank you for your email 26 September 2017 in which you requested the following information:

'Please provide copies of: All emails, letters, reports, plans, images and photographs in either electronic or paper format made, sent or received between 1 January 2004 and 31 December 2008 referring to, and/or in connection with, HMS Fantome.

The HMS Fantome I am referring to was commissioned between 1810 and 1811 (and had formerly been the French Brig the (la) Fantôme). The ship was wrecked off the coast of Nova Scotia in late November 1814.'

Your enquiry is being treated as a request for information under the Freedom of Information Act 2000.

Please find enclosed information on HMS Fantome you refer to in your request. However we believe that some of the information falls within the scope of the following qualified exemptions:

- s21 (Information reasonably accessible to the applicant by other means),
- s27 (International Relations)
- s40 (Personal Data)
- s41 (Information provided in confidence)
- s42 (Legal Professional Privilege)

With respect to the exemptions s27 (International Relations) and s42 (Legal Privilege) these are subject to a Public Interest Test.

With regard to s27(1)(a), information is exempt if its disclosure would, or would be likely to, prejudice the interests of the UK abroad or the promotion or protection by the UK of its interests abroad. Some of the information may, if disclosed, impact negatively on, or prejudice the UK's international relationships and interests.

Under s42(1), a public authority is exempt from the duty to communicate information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. It is likely

that some of the information may comprise confidential communications provided to the Department by a solicitor or in-house lawyer which is protected by legal professional privilege.

The balance of public interest will usually weigh in favour of public disclosure only in exceptional cases. In this instance, there is no compelling or specific justification for disclosure to outweigh the obvious interest in protecting communications between lawyer and client, which the client supposes to be confidential.

In respect of s21, I can confirm that the information contained within document 14 can be accessed via the following links:

<http://www.cbc.ca/news/canada/nova-scotia/court-finds-permit-refusal-for-treasure-hunters-unfair-1.708131>

<https://beta.theglobeandmail.com/news/national/treasure-hunter-gets-second-crack-at-ns-wreck/article18448004/?ref=http://www.theglobeandmail.com&>

Section 40(2) applies to personal data relating to third parties. The release of personal information relating to other individuals would contravene the principles of the Data Protection Act 1998, namely Principle 1 – personal data shall be processed fairly and lawfully and not unless certain specified conditions are met, and Principle 2 – personal data shall be obtained and processed only for specified and lawful purposes and not further processed in a manner incompatible with the purposes.

Section s41, information is exempt if its disclosure would or would be likely to constitute a breach of confidence, this is an absolute exemption.

Under section 16 (Advice and Assistance) I can provide you with a link to the court decision:

<https://decisions.courts.ns.ca/nsc/nssc/en/item/13054/index.do?r=AAAAAQAHZmFudG9tZQ>
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You will note that documents 2 and 3 contain a large amount of information which is not within the scope of the request and has therefore been redacted.

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

Navy Command Secretariat – FOI Section