



Ministry
of Defence

Navy Command FOI Section
Navy Command Headquarters
MP 1-4, Leach Building
Whale Island
PORTSMOUTH
PO2 8BY

FOI 2018-06983

E-mail: navyse-foimailbox@mod.gov.uk

18 July 2018

Dear [REDACTED]

Release of Information

Thank you for your email of 23 May 2018 in which you requested the following information:

Q1. The written agreement or contract signed for the 2018 gift of HMS Erebus and HMS Terror to the Canada and Inuit Governments this year. Please provide a copy of any contract or agreement.

Q2. Any written copy of an archaeological project design formulated by Parks Canada that informed the decision to gift HMS Erebus and Terror to Canada. Can you confirm whether such a document exists?

Q3. Written documentation confirming whether and how MoD and HM Government ensured the gift of these wrecks conformed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage.

Clarified question 4

Q4. All communications concerning Erebus and Terror between MoD and Parks Canada in which Historic England are included as primary correspondent or copied to letters or documents, including those documents - January 2016 to the present day.

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

A search has now been completed within the Ministry of Defence (MOD) and I can confirm that some information in scope of your request is held. The answers to your request are attached at Annex A to this request.

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

Q1. The written agreement or contract signed for the 2018 gift of HMS Erebus and HMS Terror to the Canada and Inuit Governments this year. Please provide a copy of any contract or agreement.

A1. In our previous correspondence, we provided confirmation that a search had been conducted within the Ministry of Defence and information in scope of your request is held. However, in the same correspondence we also explained that it was determined that to provide some of the information you requested could fall within the scope of the exemption at Section 27(1)(a) and (c) (International Relations) of the Act. After careful consideration, it has been concluded that no prejudice would be caused by the release of this information and the balance of public interest therefore lies in releasing the information. A copy of the Deed of Gift and Memorandum of Understanding is included with this response.

However the personal data for the officials involved has been withheld under Section 40(2) (Personal Data) of the FOI Act where such a response would disclose information relating to another individual who can be identified from that information. Section 40(2) of the FOI Act 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

Q2. Any written copy of an archaeological project design formulated by Parks Canada that informed the decision to gift HMS Erebus and Terror to Canada. Can you confirm whether such a document exists?

A2. No information held.

Under Section 16 of the Act (Advice and Assistance), In 1997, a Memorandum of Understanding between the UK and Canadian Governments was signed, prior to the wrecks being found, assigning custody and control of the wrecks and their contents to the Government of Canada (Parks Canada).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/458500/MOU_FOI_0286-15.pdf

The 1997 MOU accepted that any site investigation, excavation or recovery of either the wrecks or their contents would be under Canada's control and recovered contents were dealt with in accordance with applicable Canadian law with a plan and procedures approved by Canadian archaeologists of the Government of Canada.

The 2018 Deed of Gift and supporting MOU was drafted taking into consideration the 1997 agreement but ensuring that certain conditions were included to ensure that the wrecks and artefacts are appropriately protected.

Q3. Written documentation confirming whether and how MoD and HM Government ensured the gift of these wrecks conformed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage.

A3. No information is held between MOD and HMG. The gifting of the wrecks and their contents was a government to government gift. While neither Government is party to the

UNESCO Convention for the Protection of Underwater Cultural Heritage, both abide by the spirit of it's internationally accepted principles and guidelines.

Q4. All communications concerning Erebus and Terror between MoD and Parks Canada in which Historic England are included as primary correspondent or copied to letters or documents, including those documents - January 2016 to the present day.

A4. No informaiton held.



Ministry
of Defence

Navy Command FOI Section
Navy Command Headquarters
MP 1-4, Leach Building
Whale Island
PORTSMOUTH
PO2 8BY

FOI 2018-06983

E-mail: navyse-foimailbox@mod.gov.uk

18 July 2018

Dear [REDACTED]

Release of Information

Thank you for your email of 23 May 2018 in which you requested the following information:

Q1. The written agreement or contract signed for the 2018 gift of HMS Erebus and HMS Terror to the Canada and Inuit Governments this year. Please provide a copy of any contract or agreement.

Q2. Any written copy of an archaeological project design formulated by Parks Canada that informed the decision to gift HMS Erebus and Terror to Canada. Can you confirm whether such a document exists?

Q3. Written documentation confirming whether and how MoD and HM Government ensured the gift of these wrecks conformed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage.

Clarified question 4

Q4. All communications concerning Erebus and Terror between MoD and Parks Canada in which Historic England are included as primary correspondent or copied to letters or documents, including those documents - January 2016 to the present day.

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

A search has now been completed within the Ministry of Defence (MOD) and I can confirm that some information in scope of your request is held. The answers to your request are attached at Annex A to this request.

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

Q1. The written agreement or contract signed for the 2018 gift of HMS Erebus and HMS Terror to the Canada and Inuit Governments this year. Please provide a copy of any contract or agreement.

A1. In our previous correspondence, we provided confirmation that a search had been conducted within the Ministry of Defence and information in scope of your request is held. However, in the same correspondence we also explained that it was determined that to provide some of the information you requested could fall within the scope of the exemption at Section 27(1)(a) and (c) (International Relations) of the Act. After careful consideration, it has been concluded that no prejudice would be caused by the release of this information and the balance of public interest therefore lies in releasing the information. A copy of the Deed of Gift and Memorandum of Understanding is included with this response.

However the personal data for the officials involved has been withheld under Section 40(2) (Personal Data) of the FOI Act where such a response would disclose information relating to another individual who can be identified from that information. Section 40(2) of the FOI Act 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

Q2. Any written copy of an archaeological project design formulated by Parks Canada that informed the decision to gift HMS Erebus and Terror to Canada. Can you confirm whether such a document exists?

A2. No information held.

Under Section 16 of the Act (Advice and Assistance), In 1997, a Memorandum of Understanding between the UK and Canadian Governments was signed, prior to the wrecks being found, assigning custody and control of the wrecks and their contents to the Government of Canada (Parks Canada).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/458500/MOU_FOI_0286-15.pdf

The 1997 MOU accepted that any site investigation, excavation or recovery of either the wrecks or their contents would be under Canada's control and recovered contents were dealt with in accordance with applicable Canadian law with a plan and procedures approved by Canadian archaeologists of the Government of Canada.

The 2018 Deed of Gift and supporting MOU was drafted taking into consideration the 1997 agreement but ensuring that certain conditions were included to ensure that the wrecks and artefacts are appropriately protected.

Q3. Written documentation confirming whether and how MoD and HM Government ensured the gift of these wrecks conformed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage.

A3. No information is held between MOD and HMG. The gifting of the wrecks and their contents was a government to government gift. While neither Government is party to the

UNESCO Convention for the Protection of Underwater Cultural Heritage, both abide by the spirit of it's internationally accepted principles and guidelines.

Q4. All communications concerning Erebus and Terror between MoD and Parks Canada in which Historic England are included as primary correspondent or copied to letters or documents, including those documents - January 2016 to the present day.

A4. No informaiton held.