



Ministry of Defence

Ministry of Defence
Main Building
Whitehall
London
SW1A 2HB

Our Reference: FOI2018/01983

Email: [REDACTED]

26 February 2018

Dear [REDACTED]

Thank you for your email dated 7 February 2018 in which you requested the following information:

- 1/What was the legal Age of Consent for Homosexual acts for personnel in HM Forces prior to 2000 ?
- 2/What date did the legal equalisation of such acts with civilian laws take place ?
- 3/Under what Legislation (incl Armed Forces Act(s) and Civilian Law was that change included ?
- 4/Was the change included in Queens Regulations ?
- 5/Was the Act(s) that changed the Law intended to apply retrospectively back to 1967 (Sexual Offences Reform Act.. Decriminalisation of Homosexuality) ?
- 6/Would those in HM Forces who committed such sexual acts have had the benefit defence of 'Consent' before the Act changed ?

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOI Act).

I can advise you that following a search of our records, I have established that the Ministry of Defence (MOD) does hold information within the scope of your request. This is provided in the Annex below.

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,

(Original Signed)
Defence People Secretariat

I will answer each question in the order you have provided:

1. What was the legal Age of Consent for Homosexual acts for personnel in HM Forces prior to 2000 ?

There was no separate age of consent for people serving with the Armed Forces as they are subject to the laws of England and Wales, the age of consent being 18 between 1994 and 2001. However, prior to Jan 2000, it was policy that homosexuality in the Armed Forces was not allowed.

2. What date did the legal equalisation of such acts with civilian laws take place?

The policy not allowing homosexuality in the Armed Forces was lifted in Jan 2000.

3. Under what Legislation (incl Armed Forces Act(s) and Civilian Law was that change included ?

Section 14 of the Armed Forces Act 2016 reflects the Government's commitment to the fair and equal treatment of LGBT Armed Forces personnel. It repeals two provisions regarding homosexuality in the Armed Forces which are inconsistent with the Department's current policies and the Government's equality and discrimination policies more generally.

Section 14 of the Armed Forces Act 2016 amended sections 146(4) and 147(3) of the Criminal Justice and Public Order Act 1994. Those sections contained wording stating that the provisions do not prevent a homosexual act from constituting grounds for discharging a member of the Armed Forces. Section 14 of the 2016 Act removed that wording.

When sections 146 and 147 were enacted, it was Government policy that homosexuality was incompatible with service in the Armed Forces and, accordingly, members of the Armed Forces who engaged in homosexual

activity were administratively discharged. That policy was abandoned in January 2000, following a judgment of the European Court of Human Rights.

Since then, those provisions have had no practical effect and they were therefore redundant.

4. Was the change included in Queens Regulations ?

No, because Queens Regulations for each Service did not specify homosexuality.

5. Was the Act(s) that changed the Law intended to apply retrospectively back to 1967 (Sexual Offences Reform Act.. Decriminalisation of Homosexuality) ?

No, Section 14 of the Armed Forces Act 2016 only repeals the provisions of the Criminal Justice and Public Order Act 1994.

6. Would those in HM Forces who committed such sexual acts have had the benefit defence of 'Consent' before the Act changed ?

No.