



Policy Legacy FOI Team
Headquarters 38 (Irish) Brigade
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Reference: FOI: 2019/10174

Date: 8 November 2019

Dear [REDACTED]

REQUEST FOR INFORMATION – INFORMATION RELATING TO THE MURDER OF GUNNER PAUL SHEPPARD ON 1 MARCH 1978

I can confirm that your request has been considered under the provisions of the Freedom of Information Act 2000 (FOI (A)), and the process is now complete.

You asked for the following:

"Death of 24422607 Gunner Paul Sheppard at 20 Clifton Park, Avenue Belfast, Northern Ireland

Information requested on the gunmen (Believed to be 2 men) who were convicted in court, for the killing of Gunner Paul Sheppard on the 1st March 1978, during the "Troubles" in Northern Ireland, (Operation Banner).

Can you please provide me with the following information of a former Regimental colleague.

- 1. The names of the men who were convicted in court for the killing of Paul Sheppard.***
- 2. Please confirm that following their conviction that they were imprisoned.***
- 3. Please confirm the prison sentence that was given to the men.***
- 4. Please confirm that the men have since been released from prison under the terms of the Good Friday Agreement.***
- 5. How long did the men serve in prison prior to their release.***
- 6. Were these men convicted in court for killing any other person(s) either military, or civilians in Northern Ireland during the "Troubles"***
- 7. if at request number 5 the answer is "Yes" can you please provide details of deaths the men were convicted of, i.e Date of the incident, name(s) of the people killed."***

I can confirm that the MOD holds some information relating to the murder of Gunner Paul Sheppard. This information has been located in a range of documents.

Some of the information you have requested could be exempt under Section 23(1) of the Freedom of Information Act, which relates to the bodies dealing with security matters, although it is also possible that the information relates to none of the bodies dealing with security matters. Sections 23(1) and 24(1) are being cited in the alternative as it is not appropriate, in the circumstances of

the case, to say which of the two exemptions is actually engaged so as not to undermine national security or reveal the extent of any involvement, or not, of the bodies dealing with security matters. Section 23 is an absolute exemption and, if it were engaged in this material, the MOD would not be required to consider whether the public interest favours disclosure of this information.

Any information that is not exempt from disclosure under Section 23(1) could be exempt under Section 24(1) of the FOI(A), which exempts information from disclosure if its exemption is required for the purpose of safeguarding national security. We cannot say which of the two exemptions is actually engaged, but to the extent that S24(1) might be engaged. We acknowledge the public interest in openness and transparency, but we consider that there is a stronger public interest in protecting national security.

All Police Service of Northern Ireland (PSNI) cases remain open and if new evidence comes forward the PSNI will reinvestigate. Release of these documents must be carefully considered under Section 31 (Law Enforcement) of the FOI(A).

I have completed this consideration through a public interest test including consultation with the PSNI who have advised that release of some of the information could adversely impact on any investigative process, and may jeopardise any future prosecutorial process. On this basis I am withholding some of the information under Section 31 of the FOI(A).

I appreciate that this incident took place 41 years ago and the passage of time can be a factor in diminishing the applicability of exemptions to information. However, in this instance the passage of time is less relevant as the PSNI continue to investigate Troubles-related murders and the overall balance is in favour of partial exemption.

In addition, some of the information falls within the scope of Section 38 (Health and Safety) of the FOI(A), as its release could endanger the physical or mental health of any individual or endanger the safety of any individual.

Section 38 is a qualified exemption and we have conducted a public interest test to determine whether the information should be released or withheld. The factors for this public interest have determined that whilst disclosure would demonstrate openness and transparency this is outweighed by the detrimental effect disclosure could have on those mentioned in the documents, or their family members and friends. I have concluded that whilst disclosure may be of historical interest, the health and safety of individuals must be taken into account especially where release would be likely to endanger, the physical or mental health of any individual. Some information has therefore been redacted under Section 38 of the FOI(A).

Additionally, some of the information contained within the disclosure constitutes personal information, such as names and addresses. Under FOI(A) this information is exempt under Section 40 (2) by reason of the first condition under Section 40 (3) (a) (i), as disclosure would contravene data protection principles under the Data Protection Act 2018 (DPA 2018). This is an absolute exemption and does not require a public interest test to be conducted in order for this information to be exempt from disclosure. Therefore, all personal information has been redacted.

By way of further advice (a principle outlined in Section 16 of the FOI(A)) I can advise that the Northern Ireland Office (NIO) and the Department of Justice may hold information that could be of relevance to your request. You are advised to approach them for any information held in scope of your request. To submit an FOI request to the NIO or the Department of Justice you should send a request to their FOI team:

Freedom of Information Manager
Stormont House,
Belfast,
Northern Ireland,
BT4 3SH

Telephone 028 9076 5431
Email foi@nio.gov.uk

Department of Justice
Freedom of Information Team
Information Services Division
Block 2
Knockview Buildings
Ballymiscaw
Stormont
Belfast
BT4 3SL

Telephone 028 9037 8617
Email foi@justice-ni.x.gsi.gov.uk

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.gov.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 FOI(A). 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

38 (Irish) Brigade FOI Team