

Ref: FOI2020/04233

23 April 2020

E-mail: [REDACTED]

Dear ,

Thank you for your email of 30 March 2020 requesting the following information:

*“Under the FOI act, would you please disclose to me how much the MOD has spent on legal fees, to this date, on the continued persecution of myself, ....., Nat Ins number ..... I would be interested in the total cost from the time you received the spurious and misleading email which instigated your vendetta against a veteran. The persecution is ongoing and along with the total squandered thus far, perhaps you could also include an estimate for the final amount.”*

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

I can advise that Section 40(5) of the FOI Act is engaged for the information you have requested. I should explain that under the terms of the Act, the release of personal data may be prohibited, as all releases under the Act are to the world at large and therefore, where any confirmation (or denial) of holding such, would be a breach of the Data Protection Principles<sup>[1]</sup> as defined by the General Data Protection Regulations (GDPR) and Data Protection Act 2018 (DPA18).

In order not to breach these principles, a public authority is required to respond with the application of the exemption at section 40. In this case, section 40(5B)(a)(i) states that:

*“The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—*  
*(a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—*  
*(i) would (apart from this Act) contravene any of the data protection principles.”*

The first data protection principle under Article 5(1)(a) GDPR is the most relevant, which states that 'Personal data shall be processed lawfully, fairly and in a transparent

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<sup>[1]</sup> General Data Protection Regulation (GDPR) Article 5: <http://www.privacy-regulation.eu/en/article-5-principles-relatinci-to-processing-ofpersonal-data-GDPR.htm>

manner in relation to the data subject'.

I find that section 40(5) is engaged, by virtue of section 40(5B)(a)(i) of the Act and the Department is unable to confirm or deny whether any information is held within the scope of your request.

Under Section 16 (Advice and Assistance) of the Act, I can advise that requests for personal data are handled under the DPA2018. As such, you may wish to ask the MOD Data Protection Team to consider your request under DPA2018.

Further details on how to contact them can be found at the link below: <https://www.gov.uk/guidance/obtain-information-about-yourself-held-by-mod>

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 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,

Defence Business Services Secretariat