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7 December 2021

Dear XXX

Thank you for your email of 6 October 2021 in which you requested the following information:

I would wish to be provided with all submissions made to ministers from 2019 — present with regards to the NISGS with Special Constable status.

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

A search for the information has now been completed within the Ministry of Defence, and I can confirm that information in scope of your request is held. Some of the information is exempt from release under sections 40 (personal information) and 42 (legal professional privilege) of the Freedom of Information Act.

Section 40 of the FOI Act is an absolute exemption and there is therefore no requirement to consider the public interest in making a decision to withhold the information that falls under that exemption.

S42 exempts information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. This is a qualified exemption which requires a public interest test to establish the balance on releasing or withholding information. In this case, the arguments for release include the public interest in the openness and transparency of Defence activity. Arguments to withhold information include the fact that the release of advice to a Minister from lawyers would be likely to impact a Minister's ability to speak freely and frankly with his or her legal adviser in order to obtain appropriate legal advice. This is a fundamental requirement of the English legal system. Withholding the information from disclosure will help to protect the thinking space in which free and frank exchanges of views between Ministers and their legal advisors can take place, safe in the knowledge that the legal advice and discussion will be kept confidential. It has therefore been decided that, on balance, some of the information should be withheld.

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

Workforce Leader
Army Policy & Secretariat