

**FREEDOM OF INFORMATION ACT 2000 (SECTION 50)**

**DECISION NOTICE**

**Dated 30 November 2005**

**Name of Public Authority: Ministry of Defence**

**Address of Public Authority: Main Building  
Whitehall  
London  
SW1A 2HB**

**Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 24th January 2005 the following information was requested from the Ministry of Defence (the "MOD") under section 1 of the Freedom of Information Act 2000 (the "Act"):

A copy of [*name redacted*]'s full naval medical and service records from 1938 to 1948.

It is alleged that the MOD has not provided the complainant with the requested information.

**The Commissioner's Decision**

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The MOD has stated that they would normally only hold two types of service records for Royal Marines who served during the period 1938 to 1948, the certificate of service and the attestation pack. The MOD has informed the Commissioner that the certificate of service details the roles, locations and dates of the Marine's service alongside information relating to conduct, qualifications and personal details. The contents of the attestation pack are broadly similar but it also contains information relating to a Marine's enlistment and discharge. By letter dated 7<sup>th</sup> March 2005, posted on 9<sup>th</sup>

March 2005, the MOD provided the complainant with a copy of [*name redacted*]'s certificate of service and attestation pack.

The MOD also located medical records relating to Mr [*name redacted*] which are held at the Institute of Naval Medicine. These records consist of personal medical notes alongside an entry in the Invalids Book of HM Naval Base Chatham. These records were provided to the complainant's mother's solicitors in January 2004 by the Institute of Naval Medicine. The MOD has stated that in a telephone call made following the receipt of her written request, the complainant stated that she did not wish to receive any records that had been previously provided to her mother's solicitors. The MOD has stated that no other medical records are held relating to Mr [*name redacted*] other than those previously provided to the complainant's mother's solicitors and therefore did not provide the complainant with these records again.

The MOD have stated that no other service or medical records relating to Mr [*name redacted*] are held nor, given the record keeping procedure of the time, would they be expected to be held.

In view of the above, the Commissioner is satisfied that the MOD has complied with section 1(1) of the Act by providing the complainant with copies of Mr [*name redacted*]'s certificate of service and attestation pack. However, in not providing this information until 9<sup>th</sup> March 2005, the MOD has failed to comply with section 10 of the Act.

Section 10 of the Act provides that a public authority must "... comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt".

Section 1(1) of the Act states:

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

### **Action Required**

In view of these matters the Commissioner does not require any steps to be taken by the Ministry of Defence.

Reference: FS50080313

## Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 30th day of November 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF