



**Information Commissioner's Office**  
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## **Freedom of Information Act 2000 (Section 50)**

### **Decision Notice**

**Dated 13 April 2006**

**Public Authority:** Ministry of Defence

**Address:** Main Building  
Whitehall  
London  
SW1A 2HB

### **Summary Decision and Action Required**

**The Commissioner's decision in this matter is that the Public Authority has dealt with the Complainant's request in accordance with Part I of the Act in that it has correctly estimated that it could not respond to the request within the cost ceiling provided in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.**

**The Commissioner requires that the public authority responds to the request according to requirements of section 1 of the Act or, if it considers that the information is exempt, it gives the complainant a refusal notice as required by section 17 of the Act.**

- 1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner**
  - 1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').
  - 1.2 Where a complainant has made an application for a decision, unless:
    - a complainant has failed to exhaust a local complaints

- procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

- 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

## **2. The Complaint**

- 2.1.1 The Complainant has advised that on 11 March 2005 the following information was requested from the Public Authority in accordance with section 1 of the Act.

“How many Falklands War Veterans are in receipt of a War Pension on the basis of Post Traumatic Stress Disorder? Please will you break this down by country, Scotland, England, Wales etc. and by year of award 1982 to date.”

- 2.2 “On 5<sup>th</sup> April 2005 the public authority refused the request on the grounds that “the War Pensions Computer System that records and runs the War Pensions scheme is unable to identify this particular (Falklands) conflict and therefore no figures are available.”

- 2.3 The refusal was confirmed on 3 June 2005 following an appeal by the complainant. The Internal Review whilst confirming that no aggregated data had been collated estimated that the cost of locating and retrieving the information would exceed the appropriate limit of £600 provided by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. The Refusal Notice contained a detailed explanation of why it was not possible to comply with what may seem a straightforward request within the limit. In order to advise and assist the complainant the MoD provided the following information:

- 2.4 “The request was for the number of Falklands War veterans in receipt of a War Pension on the basis of PTSD, broken down by country and year of award. At first blush it would seem quite straightforward to extract that from a computer system. Investigation shows, however, that in practice it is not.”

“The difficulty stems from the design of the War Pensions computer system (WPCS) as an aid to the processing of individual cases. The

system was developed by, and for, the Department of Social Security, primarily as a social security benefit assessment and payment engine. It was adapted for the War Pensions Scheme and supports the Veterans Agency's work perfectly adequately."

"The WPCS provides on-line access to support the processing of War Pension claims, reviews and appeals. It prompts staff to take necessary action at various stages, and automatically produces certain documents. Registration of cases is based on different types of "events": for example, a first claim for a pension, a request for a review or a claim for a further medical condition. The system builds up a history of each individual claimant's "events" which can be used to answer enquiries. The system allows for markers to be added to a case to denote various circumstances, notably the legislation or scheme under which the case is being considered and the conflict to which the case is attributed. However, only cases that have been initiated in respect of the Gulf, Bosnian and Kosovo conflicts are so marked. All other Service Pensions cases since 1939 are marked "NW", which stands for "New War", identifying the scheme introduced then. There are approximately 190,000 cases annotated "NW" that could include Falklands War related claims (this figure excludes the cases with specific conflict markers)."

"Following discussions the Veterans Agency staff looked for a way to use the system to reduce this number by identifying post-1982 cases. Unfortunately, because the system is designed to process individual cases identified by claimant, claims are not sorted by dates of service. Indeed, setting aside the time it would take, it would not even be possible to scroll through the cases on screen to identify those in the right period, because the system automatically moves cases which have not been worked on for 18 months, and are not in payment, to an archive store, from which they can be retrieved only individually."

"In principle, it would be possible to develop software to extract the necessary information from the database. However, much would depend on the format in which fields have been completed – if any "free text" is involved, searching will be problematic. In any case, such an exercise would inevitably be expensive. This would leave only the prospect of examining all the paper files individually to find the information sought. This would be an enormous undertaking, with a cost very obviously above the ceiling under the Act of £600."

"One piece of information that 238 claimants cited the Falklands conflict as the cause of their disorder was identified (and it was) provided to the complainant."

### **3. Relevant Statutory Obligations**

#### **3.1 Section 12(1)** of the Act provides –

“Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.”

#### **3.2 Section 12(5)** provides –

“The Secretary of State may, by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.”

#### **3.3 Regulation 3(2)** of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides -

“In the case of a public authority which is listed in Part I of Schedule 1 to the 2000 Act, the appropriate limit is £600.” In effect, such bodies are central government departments, the Houses of Parliament, the Welsh and Northern Ireland Assemblies and the armed forces.

#### **3.4 Regulation 3(3)** of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides -

“ In the case of any other public authority, the appropriate limit is £450.”

#### **3.5 Regulation 4 (3)** provides –

“ In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only of the costs it reasonably expects to incur in relation to the request in-

(a) determining whether it holds the information,

(b) locating the information, or a document which may contain the information,

(c) retrieving the information, or a document which may contain the information, and

(d) extracting the information from a document containing it.”

- 3.5 **Regulation 4(4)** provides that, for the purpose of estimating the cost of the activities listed in 4(3), the cost of staff time may be assumed to be £25 per hour.

#### 4. Review of the case

- 4.1 The complainant has argued that the public authority could have responded to the request within the appropriate limit.
- 4.2 The Commissioner contacted the public authority on 23 June 2005 in order to establish the basis for its estimate. The Commissioner asked the following questions;
- Is there a way in which the complainant could refine his request to extract some of the data?
  - Is PTSD defined as a medical condition on the WPCS?
  - Would it be possible to search New War cases with PTSD as a defined medical condition at first prompt?
  - Other than the 238 cases mentioned in the Internal Review, are there any other such cases that the MoD is aware of or can the MoD suggest some-where that the complainant more appropriately addresses his request to?
  - Could you demonstrate more clearly why the costs would exceed £600?
  - Can you confirm whether or not the MoD holds the aggregated statistics?
- 4.2 The MoD answered the questions in some detail and confirmed that the War Pensions computer system (WPCS) has technological limitations that prevent MoD from readily identifying Falklands War veterans who are in receipt of a War Pension as a result of suffering from Post-Traumatic Stress Disorder (PTSD). Further investigation of the functionality of WPCS has shown that this is still the case.
- 4.3 The MoD confirmed that PTSD is defined as a medical condition on the WPCS. It is possible that WPCS could be searched to ascertain those pensioners who cited PTSD as a contributory disorder to the award of their pension. This action would identify those pensioners suffering from PTSD where the disorder resulted from service in any conflict from 1939 onwards. Unfortunately, again due to technological limitations, it would not be possible to use WPCS to narrow down the field, for example to disregard those pensioners whose pensions were awarded prior to 1982. The resulting individuals' paper files would

have to be located, retrieved, logged and then searched to ascertain if the PTSD resulted from service in the Falklands War.

- 4.4: The MoD investigated the possibility that the information may be available from other MoD sources but, unfortunately, the Veterans Agency is the only possible source of the information.
- 4.5 The costs would be accrued on locating, retrieving, logging and searching the individuals' paper files. 238 claimants cited the Falklands conflict as the cause of PTSD in the 2003 court action. Given that this was only a six month conflict and that there have been many conflicts since 1982. The MoD argued that it is reasonable to assume a figure of 1,000 pensioners whose paper files would have to be searched. Allowing 5 minutes for each file would take 83 hours. A working day of 8 hours would amount to over 10 working days for the paper search alone.
- 4.5 The MoD reaffirmed that it does not hold the aggregated statistics.
- 4.6 The Commissioner asked what action in light of section 16 of the Act the MoD had exercised in responding to this request. The MoD responded by explaining that in conducting the internal review I held various telephone conversations with the complainant both before and after the internal review report was sent to him. These suggested that he was only interested in the specific statistics requested in relation to the Falklands Conflict. The MoD as part of their investigation found that it would be theoretically possible, within the appropriate limit, to produce a figure for the number of War Pensioners with PTSD as a contributory disorder (this would have involved a special tasking for the Defence Analytical Services Agency and was not carried out).

The MoD stated that they were conscious of responsibility under s.16 of the Act but decided that the only way of refining the request would be to concentrate on the known figure of 238 claimants who cited the Falklands conflict as the cause of their PTSD disorder in court action against MoD in 2003 (this figure does not correlate with the award of War pensions and, of course, others who are in receipt of a pension may not have taken court action). The MoD also believed that explaining the technological limitations of WPCS, in some detail, in the internal review report helped to fulfil their duties and responsibilities under s.16 of the Act.

**5. The Commissioner’s Decision**

- 5.1 The Commissioner’s decision in this matter is that the public authority has dealt with the complainant’s request in accordance with Part 1 of the Act and, in particular, the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.
- 5.2 The Commissioner has reached this view because the MoD has provided a sufficient explanation of the complexities of the WPCS and the associated costs of complying with the information request.

**6. Action Required**

- 6.1 In the light of the above matters, the Commissioner requires no additional steps to be taken by the public authority.

**7. Right of Appeal**

- 7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

- 7.2 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 13th day of April 2006**

**Signed .....**

**Phil Boyd  
Assistant Commissioner**

**Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**