

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 September 2013

Public Authority: Ministry of Defence

Address: Main Building
Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant requested information regarding his late father's Royal Navy service record. The Ministry of Defence disclosed some information and explained that it did not hold any further recorded information.
2. The Commissioner's decision is that the Ministry of Defence was correct to claim that it did not hold any further recorded information and therefore had complied with section 1(1).
3. The Commissioner does not require the Ministry of Defence to take any steps.

Request and response

4. On 12 June 2012, the complainant wrote to the Ministry of Defence (the MoD) and requested information about his late father's service in the Royal Navy - see appendix 1 for the full request.
5. The MoD responded on the same day, explaining that it held no further recorded information in relation to the request. The complainant complained to the Commissioner on 20 June 2012 and was advised to request an internal review.
6. The complainant initially complained to the Commissioner on 18 December 2012 stating that the MoD had not answered his questions. Given that the complainant had submitted several requests to the MoD, the Commissioner asked him for clarification about which specific questions he was complaining about.

7. The complainant provided clarification on 8 January 2013 explaining that he was complaining about the MoD's application of section 41 to his late father's medical information and the way in which it had dealt with his request of 12 June 2012. The Commissioner contacted the complainant and explained that he would be considering whether the MoD had applied section 41 appropriately (this was subsequently dealt with in decision notice FS50476248) and that he would be considering how the MoD had handled the request of 12 June 2012, separately.
8. The Commissioner contacted the MoD about the way in which it had handled the complaint's request of 12 June 2012. The Commissioner notes that although the MoD carried out an internal review, it did not clarify which questions it had already answered and which questions it was saying that it held no recorded information in relation to. The MoD agreed to review its responses to the complainant's requests of 12 June 2012.
9. The Commissioner informed the complainant that the MoD was carrying out another internal review.
10. Following a discussion with the Commissioner, the MoD carried out an internal review on 11 March 2013. It provided answers (some of which it had provided to the complainant previously) and clarified those questions on which it held no recorded information.

Background

12. The complainant has made several requests regarding his late father's naval service record and medical health record. The MoD has previously disclosed the complainant's late father's naval service record.

Scope of the case

13. The complainant contacted the Commissioner on 15 May 2013 to complain about the way his request for information had been handled.
14. The Commissioner notes that in relation to questions 1, 6, 8, 9 and 23 the MoD answered the questions and that the complainant wanted to ask further questions about those responses. The Commissioner explained to the complainant that if he wanted to ask further questions in relation to answers he had received, he would need to submit them directly to the MoD.

15. With regard to question 20 the complainant acknowledged that the MoD had provided him with information about this previously, therefore the Commissioner will not be considering this point any further. The complainant has not complained about the MoD's response to questions 4, 5, 12, 13, 17, 21, and 22, and the Commissioner will therefore not consider these any further.
16. In relation to question 2 the MoD explained that it did not hold any recorded information about the initials 'KG'. It advised the complainant that the abbreviation would not be a person but could stand for 'Kit Gratuity'. However, the MoD also explained that it was unable to confirm this from historical records.
17. The MoD also clarified that it did not hold any recorded information in relation to questions 3, 7, 10, 11, 14, 15, 18 and 19.
18. In relation to question 16 the complainant asked the MoD whether it had all of the information it needed regarding him being considered a personal representative. The Commissioner considers this is not a request under FOIA as it is not a request for recorded information and therefore will not be considering this any further.
19. The Commissioner will therefore consider whether the MoD holds any further recorded information in relation to questions: 2, 3, 7, 10, 11, 14, 15, 18 and 19. He will also consider the time taken to carry out the internal review.

Reasons for decision

20. Section 1(1) of FOIA states that:

'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.'

21. The Commissioner has to determine whether, on the balance of probabilities, the MoD holds any further recorded information which it has not disclosed to the complainant.
22. The Commissioner wrote to the MoD asking it a number of questions regarding whether it held any more recorded information in relation to questions 2, 3, 7, 10, 11, 14, 15, 18 and 19.

23. The MoD had previously provided the Commissioner with answers to his questions (as set out below) on 11 March 2013, about whether it held any further recorded information regarding the questions asked by the complainant in June 2012 and related questions asked by the complainant in April 2012 (the April 2012 questions have been dealt with in a separate decision notice).
24. On 30 July 2013 the MoD confirmed that the answers of 11 March 2013 still applied to questions 2, 3, 7, 10, 11, 14, 15, 18 and 19, as set out below.

- What searches were carried out for information falling within the scope of this request and why would these searches have been likely to retrieve any relevant information?

MoD response: Searches were conducted by the following departments:

TNT, Swadlingcote – MOD Archive Repository for Service documentation.

CN Pers (formerly known as DN Pers), Whale Island – Authority for release of Service documentation and the Inquest Support Section for the Service records of deceased Service personnel.

Institute of Naval Medicine, Alverstoke – Authority and Repository for Service Medical Records.

AWE, Abbey Wood – Holder of the "Blue Books" listing Nuclear Test Veterans.

- If searches included electronic data, please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.

MoD response: The above searches were all related to manual records with the exception of:

1. The Naval Memorial Database – held locally on work computers used by key officials.

2. The National Radiation Protection Board (NRPB) database – held locally on work computers used by key officials.

- If searches included electronic data, which search terms were used?

MoD response: In respect of 1 above, the terms used for the memorial databases search was the service number unique to the individual.

- If the information were held would it be held as manual or electronic records?

MoD response: Other than the electronic databases detailed above, all of the remaining information is held as manual records.

- Was any recorded information ever held relevant to the scope of the complainant's request, but deleted/destroyed?

MoD response: Manual records associated with the individual's service would have been held at the time he was serving. The Department has only been able to locate the complainant's late father's Service and Medical records and Pay and Victualing (P&V) ledgers for 1951.

- If recorded information was held but is no longer held, when did the MoD cease to retain this information?

MoD response: We cannot confirm when the Department ceased to retain this information. We can confirm that after extensive searches within the Department, no further information has been located and on the balance of probabilities, this information is no longer held by the Department.

- Does the MoD have a record of the document's destruction?

MoD response: The MoD does not routinely record a document's destruction if it is unclassified (as would have been in this case).

- What does the MoD's formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the MoD describe the way in which it has handled comparable records of a similar age?

MoD response: We can only assume that such ledger information was destroyed in conjunction with the record retention policy in effect at that time and no destruction certificates to that effect have been retained.

- Is there a business purpose for which the requested information should be held? If so what is the purpose?

MoD response: No.

- Are there any statutory requirements upon the MoD to retain the requested information?

MoD response: No.

25. The Commissioner has considered the MoD's response to his questions about the searches it carried out. He is satisfied that given the age of the information it is reasonable that it would no longer be retained and therefore, on the balance of probabilities, the MoD does not hold any recorded information in relation to questions 2, 3, 7, 10, 11, 14, 15, 18 and 19.
26. The Commissioner does not consider that the MoD has breached section 1(1).

Other matters

27. Part VI of the section 45 Code of Practice makes it good practice for a public authority to have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his '*Good Practice Guidance No 5*', the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by FOIA, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.
28. The Commissioner notes that in response to a complaint from the complainant on 12 June 2012 regarding the way his request had been handled the MoD did not carry out the internal review until 8 June 2012. The MoD should ensure that it carries out internal reviews promptly in future, although in this particular case the Commissioner notes that the MoD had answered some of the questions in the request previously.

Right of appeal

29. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

30. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Jon Manners
Group Manager
Information Commissioner's Office
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SK9 5AF

Appendix 1

12 June 2012 questions

- 1) 16 November 1951 dad's service record shows NEPTUNE, is this HMS Neptune Faslane NBCD river Clyde Scotland? yes or no
- 2) Do you have details of who is K.G. shown on dad's service record 6.11.51 giving him ten pounds?
- 3) Do you have details of dad's commanding officer(s) between November 1951 and December 1952 inclusive? yes or no
- 4) On dad's medical records is QR and A1420 and QR and A11602 do you know what they mean? Yes or no
- 5) Do you have any P and V records for 1952? yes or no
- 6) Do you dad's location on 2-4 October 1952 and 1-16 November 1952? yes or no
- 7) Do you know who dad was boxing when he was injured in November 1953 as shown on his medical records? yes or no
- 8) Do you know what date he was injured boxing in November 1953? yes or no
- 9) From the P and V record supplied can you confirm dad was on HMS Slinger, Chatham, Kittiwake 3510? yes or no
- 10) On dad's medical forms is a reference to MAINE so you know if the other medical forms (unavailable) show any reference to MAINE? yes or no
- 11) On the medical record dated 2.12.1952 is a reference to dad's commanding officer. Do you know who this in reference to QR and A1420? yes or no
- 12) Do you have any photos, film, records of my dad's boxing career as referred in his medical records? yes or no
- 13) Do you have any details of the boxing tournament when he was injured November 1953? yes or no
- 14) During dad's service in 1951-1953 inclusive did dad serve with [3 named people]? yes or no

15) Dad's medical records refer to reports for dad between 3 March 1954 and 2 April 1954. Do you have these reports/medical records (see Rugg-Gunn). yes or no

16) Do you have all the paperwork required for proof of a personal representative? yes or no

17) In 1958 dad's service record shows PEMBROKE. Can you tell me which section Pembroke 1, 11, 111 or 1V yes or no

18) Do you know if dad was on duty between 17 May 1958 and 20 May 1958 inclusive? yes or no

19) Do you know dad's location between 17 May 1958 and 20 May 1958 inclusive. yes or no

20) Do you know the last person to see dad alive? yes or no

21) Do you know who was the military personnel who attended dad's funeral? yes or no

22) Was dad between 1946 and 1958 inclusive always serving the British Royal navy and no other service?

23) Do you know the meaning of the acronyms on dad's medical report 20 May 1958 and why they needed to know he was dead?