

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 March 2020

Public Authority: Ministry of Defence

Address: Main Building
Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant submitted a request to the Ministry of Defence (MOD) seeking a copy of the service record of his late father. The MOD responded by explaining that it could not locate any such record. The complainant believes that the MOD is likely to hold his father's service record. However, the Commissioner has concluded that on the balance of probabilities the MOD does not hold the information sought by the complainant.
2. The Commissioner does not require the MOD to take any steps in relation to the request.

Request and response

3. The complainant submitted an application to the Royal Navy Disclosures Cell (RNDC) of the MOD which was received on 3 September 2019. This application sought the Royal Navy Service records of the complainant's late father and in support of this application the complainant provided what he understood to be his late father's service number.
4. The RNDC responded on 25 September 2019 and explained that after an extensive search of the Naval Archive and all available databases it had not been able to locate any service records for the complainant's late father.
5. The complainant contacted the RNDC on the same day to express his disappointment in this response. The RNDC replied on 30 September 2019 and confirmed that they could not find any service records relating to his late father. It also explained that the service number that he had provided was not a Royal Navy service number.
6. The MOD subsequently conducted an internal review into its handling of the request. The MOD set out the findings of this review in a letter dated 21 November 2019. It explained that it had conducted a number of searches for the service record but could not locate any relevant information. In line with its duty at section 16 of FOIA to advise and assist requesters the MOD suggested to the complainant that it may be the case that the complainant's father had worked alongside British armed forces whilst serving in the armed forces of another nation.

Scope of the case

7. The complainant contacted the Commissioner on 22 November 2019 in order to complain about the MOD's failure to provide him with the information he had requested.

Reasons for decision

Section 1 – Right of access to information

8. In cases such as this where there is some dispute as to whether information falling within the scope of the request is held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.

9. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request.
10. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches, or other explanations offered as to why the information is not held.

The complainant's position

11. The complainant explained to the Commissioner that his father was born in Berbera in 1933 which is now in modern day Somalia, but in 1933 was in British Somaliland. The complainant explained that as a result his father was British and did not hold any other nationality. The complainant also explained that his father was a member of the British armed forces and that he had fought in the Korean War and also served in Suez canal Crisis and in Aden. The complainant explained that his father was injured as part of his service. In light of this the complainant was of the view that the MOD should have a service record for his father.

The MOD's position

12. In its internal review response the MOD explained that it had conducted searches of all relevant Royal Navy records for an individual with the name provided by the complainant but no records were located. Furthermore, the MOD explained that for completeness it had also conducted searches of the relevant records within the British Army and Royal Air Force. Again, no relevant records could be located. Furthermore, the MOD confirmed that the service number the complainant had provided was not one issued by the Royal Navy or by any other part of the British armed forces.

The Commissioner's position

13. In the Commissioner's opinion the searches conducted by the MOD area sufficient to ensure that if it held the complainant's late father's service record this would have been located. It has searched, using the name provided by the complainant, not only the relevant records of the Royal Navy, but also those of the Army and Royal Air Force without any information being located. Furthermore, the Commissioner notes that the service number provided by the complainant as belonging to his father was not one issued to any member of the British armed forces. In the Commissioner's view in light of this it is difficult to see what other steps the MOD could take to locate the information sought by the complainant. Consequently, the Commissioner has therefore concluded that on the balance of probabilities the MOD does not hold the information falling within the scope of this request.

Right of appeal

14. 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: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. 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.
16. 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

Jonathan Slee
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