

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 18 September 2024

Public Authority: Ministry of Defence

Address: Whitehall
London
SW1A 2HB

Section 51

Under section 51 of the Freedom of Information Act 2000 (FOIA), which is set out below, the Information Commissioner (the Commissioner) has the power to serve a notice on a public authority requiring it to furnish him with any information he requires to enforce the requirements of FOIA.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

he may serve the authority with a notice (in FOIA referred to as “an information notice”) requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-293393-Q1B1, for a decision whether a request for information made by the complainant to the Ministry of Defence (MOD) on 8 November 2023, has been dealt with in accordance with the requirements of Part I of FOIA.

Nature of complaint

2. On 8 November 2023, a representative of the 1st (UK) Division, in response to a previous enquiry from the complainant, informed him that:

“On behalf of the General Officer Commanding (GOC), 1st (United Kingdom) Division, I am writing to clarify that the RHon James Cleverly is no longer a member of Army Reserves and has not been so for some time. While, 100 (Yeomanry) Regt RA are not part of the Division, the GOC asked us to confirm so we could pass your letters to the relevant chain of command for action. We will retain the copies of your letters, but do not believe there is further action to be taken as a result of RHon James Cleverly no longer serving.”
3. The complainant subsequently submitted a multipart FOI request to the MOD on 10 November 2023. A copy of this request is included in the annex to this notice.
4. The MOD responded on 7 December 2023. It refused to confirm or deny whether it held any information falling within the scope of the request on the basis of 40(5A) (personal data) of FOIA.
5. The complainant contacted the MOD on 8 December 2023 in order to ask for an internal review. He raised the following points:
 - As he was not the data subject of the request, rather Rt Hon James Cleverly was, the exemption contained at section 40(5A) of FOIA was not relevant.
 - Parts 15, 18 and 19 of his request did not seek any personal data regarding Mr Cleverly.
 - There was a ‘public interest’ in the disclosure of the information he had requested about Mr Cleverly, particularly taking into account the fact that the information provided to him by 1st (UK) Division appeared to contradict the various sources in the public domain concerning Mr Cleverly’s position as an existing reservist in the Army.
6. The Commissioner understands that the internal review has not been completed.
7. The complainant contacted the Commissioner on 9 March 2024 in order to complain about the MOD’s handling of his request.
8. The Commissioner contacted the MOD on 13 June 2024 about this complaint. The Commissioner set out a number of questions regarding the MOD’s response as contained in the refusal notice. However, the

Commissioner acknowledged that it could be the case that the MOD would seek to revise its position with regard to some or all parts of the request. The Commissioner therefore asked the MOD to respond to the questions in his letter as far as they remained relevant to its position, and in any event, asked the MOD to provide him with sufficiently detailed submissions that would allow him to assess this revised position (including copies of any withheld information). The Commissioner asked for a response to this letter within 10 working days.

9. The MOD verbally acknowledged receipt of this correspondence and indicated to the Commissioner that it was likely to revise its position in relation to some aspects of the request. However, to date, the Commissioner has not received a written response to his letter of 13 June 2024.

Information required

10. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that the MOD shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:

- A full and complete response to his letter of 13 June 2024.

Failure to comply

11. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of FOIA, and may be dealt with as a contempt of court.

Right of appeal

12. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

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

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@Justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed by

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Request submitted to MOD on 10 November 2023:

“[1] What was Lt Col James Cleverly's last date of reckonable service in His Majesties Armed Forces (reserve)?

[2] When did Lt Col James Cleverly last serve as a member of Central Volunteers HQ Royal Artillery?

[3] Did Lt Col James Cleverly serve as a Staff Officer in 1st (UK) Armoured Division?

[4] When did Lt Col James Cleverly last serve as a Staff Officer in 1st (UK) Armoured Division / 1st (UK) Division?

[5] Did Lt Col James Cleverly serve with 100 (Yeomanry) Regt RA?

[6] When did Lt Col James Cleverly last serve with 100 (Yeomanry) Regt RA?

[7] When was Lt Col James Cleverly awarded HM The Queen's Platinum Jubilee Medal?

[8] On what grounds was Lt Col James Cleverly eligible for HM The Queen's Platinum Jubilee Medal?

[9] When was Lt Col James Cleverly awarded The King's Coronation Medal 2023?

[10] On what grounds was Lt Col James Cleverly eligible for The King's Coronation Medal 2023?

[11] Is Lt Col James Cleverly (retired - assuming [representative of the 1st (UK) Division name redacted] statement is accurate) still subject to Kings Regulations, Reserve Land Forces Regulations and Administrative procedures in relation to his apparent misrepresentations and the damage it has already caused to the reputation of the British Armed Forces on active deployment in direct support of the ongoing Israeli war crimes, ethnic cleansing and genocide carried out on the Palestinian civilian population of the Occupied Territories, specifically the Gaza Strip?

[12] What actions are being taken or considered by the MOD in respect to any such breach by Lt Col James Cleverly (retired - assuming [representative of the 1st (UK) Division name redacted] statement is accurate) as previously communicated in my letters of 2nd November 2023 and 7th November 2023 (attached)?

[13] What actions are being taken or considered by the British Army in respect to any such breach by Lt Col James Cleverly (retired - assuming [representative of the 1st (UK) Division name redacted] statement is accurate) as previously communicated in my letters of 2nd November 2023 and 7th November 2023 (attached)?

[14] What actions if any are 1st (UK) Division taking or considering taking to urgently communicate with the general public about the serious consequences of this apparent misrepresentation of facts?

[15] What actions if any are 1st (UK) Division taking or considering taking to urgently communicate with the general public about the Divisions training standards and compliance with British Armed Forces Rules of Engagement, and compliance with International Law, including but not limited to the Geneva Conventions and their Additional Protocols?

[16] What actions if any are the MOD taking or considering taking to urgently communicate with the general public about the serious consequences of this apparent misrepresentation of facts?

[17] What actions if any are the British Army taking or considering taking to urgently communicate with the general public about the serious consequences of this apparent misrepresentation of facts?

[18] What actions if any are the MOD taking or considering taking to urgently communicate with the general public about the Divisions training standards and compliance with British Armed Forces Rules of Engagement, and compliance with International Law, including but not limited to the Geneva Conventions and their Additional Protocols?

[19] What actions if any are the British Army taking or considering taking to urgently communicate with the general public about the Divisions training standards and compliance with British Armed Forces Rules of Engagement, and compliance with International Law, including but not limited to the Geneva Conventions and their Additional Protocols?"