

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 December 2014

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

#### Decision (including any steps ordered)

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1. The complainant submitted a request to the Ministry of Defence (MOD) for information related to his medical treatment by the RAF in the 1990s. The MOD considered the request to be vexatious and therefore refused to answer it on the basis of section 14(1) of FOIA. The Commissioner has concluded that the MOD is entitled to rely on section 14(1).

#### Request and response

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2. The complainant submitted the following request to the MOD on 26 February 2014:

*'Please see attached a copy of a letter dated 15 July 1994 by Sqn Ldr J R M Singleton about by QR1625 Complaint, I wish to refer to paragraph 1 and quote:*

*A. "After a thorough investigation of the case it was not possible to support the complaint of negligence against [name redacted]. Consequently DPH (RAF) (DDH1th) so recommended to AOC MU's who has accepted the recommendation".*

*I now wish also to refer you to paragraph 2 of the attached copy letter dated 21 September 1994 by Sqn Ldr C M Smith OC PTS at RAF North Luffenham which states:*

- B. *"After examining the evidence DGMS (RAF) concurred with DDH1th that there is no case to support the complaint of negligence against [name redacted]."*

*Also, former MoD Minister Roger Freeman's stated words in his letter to my MP of 11<sup>th</sup> November 1994 when he remarks about my 13/12/93 QR1625 complaint of medical negligence before it apparently was personally examined by DGMS (RAF), I quote from page 2;*

- C. *"This submission has been investigated by senior RAF medical staffs and no evidence of negligence has been found".*

*I therefore request the following information based on the above MOD investigations:*

- 1. Do you hold any information that would explain to me what the DPH (RAF) and DDH1th specifically means and the names and rank of the people in A and B above who apparently investigated my case apart from DGMS(RAF).*
  - 2. In the letter of 15 July 1994 it states that under information: HQ PTC and HQ 1 Gp. Please can you provide information that helps me to understand what HQ PTC stands for, who is HQ 1 GP and where these HQ's either based or located.*
  - 3. Also in the 15 July 1994 letter it refers to the AOC MU's. Please provide a copy of the relevant Air Force List that shows the name and rank of the AOC MU's that Sqn Ldr Singleton refers to.*
  - 4. At C above the Minister stated that "this submission has been investigated by senior RAF medical staffs"...Can you please provide the information as to who (names and rank) these senior RAF medical staffs were that the Minister refers to.*
  - 5. In 2004 I accepted damages for Employers Negligence re: the 1991 Belize accident, not the QR1625 medical accident case which was not part of the legal process. I believe I signed a form in 2004 that precludes me from making any further claims in relation only to the 1991 accident in Belize, please supply me with a copy of this signed form that the MOD hold'.*
3. The MOD responded on 9 April 2014. It explained that it considered these requests to be vexatious and therefore it was relying on section 14(1) of FOIA.

4. The complainant contacted the MOD on 29 April 2014 in order to ask the MOD to conduct an internal review of this decision. In doing so he acknowledged that request 5 sought his own personal data and thus he was withdrawing this request and would re-submit it as a subject access request in due course.
5. The MOD informed the complainant of the outcome of the internal review on 23 May 2014. The review upheld the decision to cite section 14(1) as a basis to refuse the requests of 26 February 2014.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 16 July 2014 in order to dispute the MOD's decision to refuse to answer requests 1 to 4 on the basis that they were vexatious. The complainant provided the Commissioner with detailed grounds of complaint which are considered below.

### **Reasons for decision**

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#### **Section 14 - vexatious**

7. Section 14(1) of FOIA allows a public authority to refuse to comply with a request if it is considered to be vexatious.
8. In the Commissioner's view, section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
9. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority. Where relevant, this will involve the need to take into account wider factors such as the background and history of the request.

#### The MOD's position

##### *Background*

10. The MOD explained that a search of its FOI log revealed that the complainant had made 14 FOI requests over an eight year period, many of them taking the form of multiple requests. It noted that there had

been an overlap between these requests and enquiries made under the subject access provisions of the Data Protection Act (DPA).

11. The MOD argued that there had been an overarching theme of these requests; they related to an injury sustained by the complainant in Belize in 1991 whilst serving with the RAF and the subsequent administration of his medical treatment, compensation and related Service complaints over the following years. In particular the MOD noted that the complainant acknowledged, in his request for an internal review, that *'I am only seeking the truth to a QR1625 complaint'* and that *'recent evidence...you have listed has helped support my belief that my QR1625 complaint was not properly investigated in 1994'*.

#### *Detrimental impact*

12. The MOD argued that the disruption, irritation and distress caused by the latest request, when seen in the context of the aforementioned background, was indicated by three factors.
13. Firstly, the MOD argued that this request was evidence of unreasonable persistence on the part of the requester. He has continued over eight years to submit FOI requests that often sought either his own, or other individuals' personal data, despite it being evident that such information could not be provided to him under FOIA.
14. As further evidence of this unreasonable persistence, the MOD also argued that the complainant has sought extracts from the Queen's Regulations (RAF) and the relevant Air Force List relating to his case. The MOD noted that both are Crown Copyright publications and available commercially from The Stationary Office or from The British Library and from the complainant's local reference library via the inter-library loan system.
15. Secondly, the MOD argued that the complainant had a strong personal motivation in submitting these requests given that he did not believe that his medical negligence complaints were properly investigated in the 1990s even though they were processed at the time and he exercised his right of appeal. The MOD suggested that despite the fact that FOI prohibits the release of a requester's personal data, he had sought to use the legislation as a means to continue to investigate the handling of his medical treatment and examine the administrative policies and processes associated with his claim for compensation and Service complaints.
16. Thirdly, the MOD noted that under FOIA the complainant had sought the names of individuals who he believed were involved in the provision of his medical care, staffing his medical negligence case and related

Ministerial correspondence. The MOD explained that the complainant had previously contacted a number of individuals to question them about their actions with regard to this case. In one instance, he contacted a former RAF Director General Medical Services at his home address, many years after his retirement. The MOD also explained that it has established that the complainant has telephoned an individual who formerly worked in the Medical (Finance and Secretariat) organisation in order to ask her questions about the administration of his case even though the individual had no involvement with his case and had ceased to be involved in medical administration some years ago.

### *Limited value*

17. The MOD argued that the public interest in the matters covered by the complainant's requests was never very strong; rather they are matters which are of personal interest to the complainant because he maintained a grievance long after the events in question. Provision of the information sought by the latest request would serve no useful purpose; the MOD would not re-open his service grievance. The MOD noted that the complainant was at liberty to seek his own legal advice on whatever civil remedy (if that was appropriate) that is open to him at such a late date, but that was a matter that should be dealt with outside of FOIA.

### *Weighing exercise*

18. The MOD argued that the point had been reached where to expend any further effort on processing new information requests from the complainant on this subject was disproportionate to any value he may gain from the MOD's responses. In reaching this conclusion the MOD emphasised the lack of any wider public interest in the request, its view that his complaints were appropriately examined in the 1990s and the limited resources of the RAF focal point for FOI requests.

### The complainant's position

#### *Serious purpose*

19. The complainant disputed the MOD's suggestion that he has investigating the handling his RAF case, rather he argued that he was only researching the case due to the MOD not being open and transparent during their investigations. He suggested that '*getting to the truth is what matters, but the MOD doesn't want that, they are covering up the cover up*'.
20. More broadly, the complainant argued that his injury was caused by RAF negligence and the cost to the tax payer in disability is very high. Therefore he believed that there is public interest in the disclosure of

information which explains why, in his view, the MOD abused its duty of care to him. He noted that his MP had supported his attempts to get justice and secured an Adjournment Debate in February 2009 in order to raise this matter. He disputed the MOD's view that the complaints he made at the time were thoroughly and fairly investigated. Furthermore he alleged that the MOD is worried about the disclosure of the information he requested on 26 February 2014 as it would strengthen a criminal investigation into its *'dishonest, corrupt and secretive ways that covered up an assault on an injured serviceman and the MOD will know there is no statute of limitations to investigate criminality and abuses of power'*.

#### *Detrimental impact*

21. The complainant disputed the MOD's suggestion that the relevant Queen's Regulations and Air Force List were available via the methods identified above. Thus it was not unreasonable for him to seek copies of this information from FOIA.
22. The complainant also pointed to what he considered to be evidence of the MOD failing to provide him with documents and information he had asked for or indeed providing him with the wrong information, both in the 1990s and in response to recent FOI requests he had submitted. He argued that such an approach resulted in a waste of MOD resources, and its approach in this regard should be considered when the MOD argued that complying with his previous requests had resulted in a significant use of its resources.

#### The Commissioner's position

23. In the Commissioner's view, the detrimental impact of the request is not, on the face of it, overwhelming: the complainant has only submitted 14 requests over an eight year period. Moreover, responding to the request of 26 February 2014 would not appear to be overly onerous. Nevertheless, seen in the broader context and history of the requests as outlined above, the Commissioner accepts that the request of 26 February 2014 can be objectively seen as effectively harassing the MOD and thus placing a detrimental impact upon it. The Commissioner has reached this view given that the request seeks information about a matter which was investigated and concluded nearly 20 years ago. In the Commissioner's view, in such circumstances, to continue submitting requests after this period of time has the effect of disrupting and causing irritation to the MOD, particular so given that the MOD will not reopen its investigation into the complainant's service complaint.
24. Against this, the Commissioner is not persuaded that there is any particular wider public interest in the disclosure of the requested

information. Rather, in the Commissioner's view, the complainant is simply seeking the information to pursue a highly personalised matter in order to challenge the MOD on an issue which has already been fully considered by the MOD. In light of this, and taking into account the broader history of the complainant's requests, he is satisfied that the disruption caused to the MOD by answering the request of 26 February 2014 is not justified by its purpose and value.

## **Right of appeal**

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25. 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 123 4504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

26. 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.
27. 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 .....**

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**