



From: DCDS Pers Secretariat
Zone D, Sixth Floor,
MINISTRY OF DEFENCE
Main Building, London, SW1A 2HB.

Chand Bakshi
[REQUEST-11904-
@*]

Our Reference:
13-11-2009-172510-001 Bakshi

Date: 15 September 2010

Dear Chand Bakshi,

We have recently conducted a review of unanswered Freedom of Information requests submitted through the What do They know website and have noticed that there remains a request that you have submitted which appears not to have been answered. Please accept our sincere apologies for this oversight. We have considered your correspondence to be a request for information in accordance with the Freedom of Information Act 2000. You asked the following questions:

“Question 1

- a. You stated all members of the armed services are subject to the Armed forces Act of 2006. Does the Ministry of Defence hold documentation exempting members of the Royal Family serving in the military from any part of the Armed Services Act? If so please provide copies.
- b. Does the Ministry of Defence hold documentation exempting members of the Royal Family serving in the military from court-martial? If so please provide copies.
- c. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) does the Ministry of Defence hold documentation exempting members of the Royal Family serving in the military from prosecution for war crimes if any were to be committed? If so please provide copies.
- d. Does the Ministry of Defence hold documentation exempting members of the Royal Family serving in the military from being handed to the International Criminal Court? If so please provide copies.
- e. Does the Ministry of Defence have any training manuals, guidelines, rules or other documentation produced for its personnel for use when dealing with members of the royal family serving in the military?

Question 2

Please provide copies of any internal memos or emails relating to the request Your ref:SP/08/04808 (AIT ref: 14-05-2009-110651-001)”

You may be aware that The Armed Forces Act 2006, which established a single system of Service law across all three Services came into force on 31 October 2009. Prior to the implementation of the Armed Forces Act 2006, the three British Armed Services each operated a disciplinary system based on one of the three Service Discipline Acts that date back to the 1950s. Under the 2006 Act, all Service personnel will be dealt with under a single system that applies in the same way to the personnel of all three Services, wherever they are in the world.

The main aim of the 2006 Act is to support operational effectiveness, through:

- the establishment of a single system of Service law.
- a common range of offences capable of being heard summarily by commanding officers.
- a single Court Martial system, including the establishment of a Service Prosecuting Authority.

There is no mechanism for exemptions to be sought against the Act and as both Princes William and Harry are fully integrated members of the Armed Forces they are each subject to its terms. A complete copy of the Armed Forces Act 2006 can be found at:

http://www.legislation.gov.uk/ukpga/2006/52/pdfs/ukpga_20060052_en.pdf

You also asked for training manuals or guidance when dealing with members of the Royal Family, to which the answer is that there are none. Our armed forces are currently deployed in the most demanding areas of conflict and their dedication to duty and loyalty to The Queen, her heirs and successors is the foundation on which their willingness to serve is based. It is not considered necessary to provide separate written instructions but they will be advised through the chain of command, normally by way of an oral instruction, how members of the Royal Family are to be addressed when fulfilling a Royal engagement, such as when acting in an Honorary Appointment. Both Prince William and Prince Harry are serving officers so an Honorary Appointment will not carry a rank beyond that what they currently hold. However, they will be received as The Queen's representative and respected as such. This will involve meeting as many serving personnel and their families as time will permit and they will be formerly escorted by the Station Commander or his representative throughout.

In response to Question 2, please find attached all documentation relating to your earlier request for information. However, the information being provided with falls within the scope of Section 40 – Personal Information of the Freedom of Information Act. Therefore, the personal details of junior officials have been removed.

I hope that this information is helpful.

Yours sincerely

Deputy Chief of Defence Staff Personnel and Training

The information supplied to you continues to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including any non-commercial research you are doing and for the purposes of news reporting. Any other reuse, for example commercial publication, would require the permission of the copyright holder. Most documents supplied by the Ministry of Defence will have been produced by

government officials and will be Crown Copyright. You can find details on the arrangements for re-using Crown Copyright from the Office of Public Sector Information at: <http://www.opsi.gov.uk/click-use/index.htm>. Information you receive which is not subject to Crown Copyright continues to be protected by the copyright of the person, or organisation, from which the information originated. You must ensure that you gain their permission before reproducing any third party (non Crown Copyright) information.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Head of Corporate Information, 1st Floor, Zone N, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.gov.uk>.

ATTACHMENT 1

-----Original Message-----

From: XXXXXXXXXXXXXXXX

Sent: 15 May 2009 10:02

To:XXXXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXX; XXXXXXXXXXXXXXXXXXXX

Cc: XXXXXXXXXXXXXXXX

Subject: FW: members of the Royal Family serving in the military PF 14-05-2009-110651-001 Bakshi

FREEDOM OF INFORMATION CORRESPONDENCE - TO BE GIVEN A HIGH PRIORITY

Dear XXXXXXXXXXXX,

The Freedom of Information (FOI) request for information (RFI) below has been placed with you, but not confirmed on the Access to Information Toolkit (AIT). [insert details here, of which area should answer which part of the RFI, if it has been broken into different sections]

Please acknowledge within two working days that you are the appropriate area to respond, or lead, and we will confirm this on AIT. You should respond to the requester within twenty working days of the date the request was made. If you consider another area is more appropriate to respond or lead, then please approach them, also within two working days. Please engage with the FOI Helpdesk at all times when you are looking to place a request elsewhere. The FOI Helpdesk will be pleased to assist during this process.

This request will be automatically allocated to your area, on AIT, after three working days, if the FOI Helpdesk receives no receipt or evidence of action to place the request elsewhere.

If you are copied into this email, you may be a relevant contributor to the response and you should liaise with the lead respondent.

This process is set out to maximise the amount of time to find information and respond, when this request has been placed with the appropriate subject matter expert.

Lastly, please see further headline guidance on FOI correspondence at the attached, or detailed guidance (including model answers) at

<http://defenceintranet.diiweb.r.mil.uk/DefenceIntranet/Admin/RespondToRequestsForInformation/>.

If you have any concerns, or require any assistance with FOI, please contact CIO-Access Operations, we are here to help.

Best regards

CIO-Access
Freedom of Information Helpdesk
Telephone: XXXXXXXXXXXXXXXX
Email: xxxxxxxx@xxx.xx
AIT: <http://aitportal/>

-----Original Message-----

From: [Unknown] XXXXXXXXXXXXXXXXX

Sent: 13 May 2009 19:02

To: CIO-FOI (MULTIUSER)

Subject: FW: members of the Royal Family serving in the military PF 14-05-2009-110651-001 Bakshi

From: Chand Bakshi[SMTP:XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX@XXXXXXXXXXXXXXXXXXXX.XXX]

Sent: Wednesday, May 13, 2009 6:59:56 PM

To: XXXXXXXXXXXXXXXXX

Subject: Freedom of Information request - Are members of the Royal Family serving in the military subject to the Armed Forces Act

Auto forwarded by a Rule

Dear Sir or Madam, I would like to know to what extent the members of the Royal Family serving in the Armed forces are subject to the law. In particular I would like to know if the they are

- 1) Subject to the Armed Forces Act of 2006?
- 2) Could they be court court-martialed? For example a General Court-Martial?
- 3) With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable to prosecution for war crimes if any were to be committed?
- 4) Are the any laws prohibiting the U.K. handing them over to the International Criminal Court?
- 5) Has the Ministry of Defence held meetings to discuss these possibilities or produced materials for their staff and soldiers in dealing with royals in the military? If yes please provide copies of any meetings , training manuals etc.

Yours faithfully,

Chand Bakshi

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies: <http://www.whatdotheyknow.com/help/about#officers>

Is xxxxxxx@xxx.xx the wrong address for Freedom of Information requests to Ministry of Defence? If so please contact us using this form: <http://www.whatdotheyknow.com/help/contact>

ATTACHMENT 2

XXXXXXX,

Thanks for your message – I am the main POC for referrals so it’s good your message and the referral form found its way to me. I will be sending it on to the Cabinet Office which now deals with first time Royal requests. I will then forward you any guidance they provide.

Re: what to do since the request came through from “whatdotheyknow.com”, with respect to the response letter you send out, in the last paragraph, please ensure that you use Post titles and central telephone numbers/email addresses when sending out your response to requests coming in via this website. You may use our info-accexxxxxxxxx@xxx.xx email address and use the switchboard number 020 7218 9000 or Info-Access tel no: 020 7218 4848.

Re: claiming the case on the toolkit – don’t worry if you are unable to enter the case for a couple of days. Hopefully, XXXXXXXX will be back next week and can enter it. If not, please contact me and a colleague of mine who deals with AIT can enter it for you.

Regards,

XXXXXXXXX

XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXX
Ministry of Defence
Whitehall
London SW1A 2HB
Tel XXXXXXXXXXXXXXX
Fax XXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXX
Sent: 20 May 2009 10:19
To: XXXXXXXXXXXXXXX
Subject: FW: 20090520-U- FOI Referral Bakshi-Parly C1

XXXXXXXXX

Please see below. Having wrote to XXXXXXXX for help. I have received an OOO. Grateful if you could help in any way.

XXXXXXXXX

XXXXXXXXXXXXXXXXXXXX | XXXXXXXX
XXXXXXX, XXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXXXXX
Email:XXXXXXXXXXXXXXXXXXXX | | XXXXXXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXX
Sent: 20 May 2009 10:17
To: XXXXXXXXXXXXXXX
Subject: 20090520-U- FOI Referral Bakshi-Parly C1

Good Morning XXXXXXXXXXXX

I am not sure if this is for you but may be you can help as this is my first one!

I am the POC for Royal FOI and believe that it is to be referred to the MOJ in the first instance. I have a contact of XXXXXXXXXXXXXXXX but I believe that he may have moved on.

Anyway, please find attached a referral request. I would appreciate it if you could do something with it even if it is to advise who in your dept should be dealing with it.

I am also advised that as the request came through "whatdotheyknow" then caution is to be exercised when sending holding replies as my email address could then be published. Is this something you would forward as I complete?

Finally, I am aware that I am to claim the case on the FOI Toolkit. However, I do not have access and XXXXX XXXXX, who does, is off sick at the moment.

Grateful for any help you can offer.

XXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXX

XXXXXXXXXX | XXXXXXXXXXXXXXXX | XXXXXXXXXXXXXXX,
XXXXXXXXXX, XXXXXXXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXXXXXX
Email:XXXXXXXXXXXXXXXXXXXXX | | XXXXXXXXXXXXXXXXXXXXX

ATTACHMENT 3

From: xxxxxxxxxxxxxxxxxxxx
Sent: 20 May 2009 12:07
To: xxxxxxxxxxxxxxxxxxxx; xxxxxxxxxxxxxxxxxxxx
Subject: RE: 20090520-U-FOI REquest (Royal)-Parly C1

xxxxxxxxxxxxxxxx

Thanks for the 'phone call. I have forwarded your email to xxxxxxxxxxxx in CLS, who deals generally with FOI requests. We will need to consider how far this comes within FOI.

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX
MB XXXXXXXXXX

From: XXXXXXXXXXXXX
Sent: 20 May 2009 11:57
To: XXXXXXXXXXXXXXXX
Subject: 20090520-U-FOI REquest (Royal)-Parly C1

Good Morning

Further to our earlier conversation please see below the questions as posed.

To what extent the members of the Royal Family serving in the Armed forces are subject to the law. In particular would like to know if they are

1. Subject to the Armed Forces Act of 2006?
2. Could they be court-martialed? For example a General Court-Martial?
3. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable to prosecution for war crimes if any were to be committed?
4. Are there any laws prohibiting the U.K. handing them over to the International Criminal Court?
5. Has the Ministry of Defence held meetings to discuss these possibilities or produced materials for their staff and soldiers in dealing with royals in the military? If yes please provide copies of any meetings, training manuals etc.

I appreciate that are simple questions that cover the widest answers but I am grateful for any direction you may be able to offer.

Many thanks

XXXXXXXXXX

XXXXXXXXXXXXXXXX

XXXXXXXX | XXXXXXXXXXXX | XXXXXXXX,
XXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |

Tel: XXXXXXXXXXXXXXXX

Email:XXXXXXXXXXXXXXXXXXXX | XXXXXXXXXXXXXXXXXXXX

ATTACHMENT 4

From: XXXXXXXXXXXXXXXX
Sent: 22 May 2009 10:21
To: XXXXXXXXXXXXXXXX
Subject: Bakshi Royal referral

XXXXXXXXXXXXX,

Cabinet Office has acknowledged receipt of your referral from Mr Bakshi. When ready, please send your draft response to me for forwarding to XXXXXXXXXXXX. Thanks.

XXXXXX

XXXXXXXXXX
XXXXXXXXXXXXX
XXXXXXXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXXXXXXXXXX
Fax: XXXXXXXXXXX

From: XXXXXXXXXXXXXXXXXXXXXXXX
Sent: 22 May 2009 09:18
To: XXXXXXXXXXXXXXXX
Subject: RE: Royal referral

Thanks XXXXXXXXXXXX. Look forward to receiving the draft reply in due course.

XXXXXX

XXXXXXXX
FOI Team
Cabinet Office
Tel: XXXXXXXXXXXXXXXX

-----Original Message-----

From: XXXXXXXXXXXXXXXXXXXX
Sent: 20 May 2009 11:53
To: FOI Team - Private Office -
Subject: Royal referral

Dear Cabinet Office FOI Team,

PSA Royal referral. Thanks.

XXXXXXXXXXXXX

XXXXXXXXXX

XXXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXXXXXXXXXX

Fax: XXXXXXXXXXXXXXXXXXXX

The Cabinet Office computer systems may be monitored and communications carried on them recorded to secure the effective operation of the system and for other lawful purposes.

ATTACHMENT 5

From: XXXXXXXXXXXXXXXX
Sent: 27 May 2009 16:46
To: XXXXXXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXXXXXX
Subject: Release-authorized: 20090520-U- FOI Referral Bakshi-Parly C1

Dear CH,

Please see the attached Royal FOI for the list. Thank you.

XXXXXXXXXX

XXXXXXXXXXXXXXXXXX
Freedom of Information Operations Manager
XXXXXXXXXXXXXXXXXX
Information Access Team
XXXXXXXXXXXX, MOD Main Building
London

External: XXXXXXXXXXXXXXXXXX
DII email: XXXXXXXXXXXXXXXX

Mil Tel: XXXXXXXXXXXXXXXX
Normal: XXXXXXXXXXXXXXXX



DCA Access to Information Central Clearing House Referral Form – New Requests - November 2006

1/ Please complete this form as thoroughly as possible. Referral forms must be used when referring cases to the Clearing House.

2/ When e-mailing this form to the Clearing House, please copy in all relevant departmental contacts in the e-mail cc. field.

3/ You should continue to process the request until a Clearing House case officer contacts you. However, please do not issue a final response before agreement with the Clearing House.

Referring department details and acknowledgement e-mail contacts

Name of department:	Ministry of Defence CIO-Access Ops XXXXXXXXXXXX
Departmental Case Ref:	14-05-2009-110651-001 Bakshi

Timeframes

Date request received:	14 May 09
Deadline for response to applicant (including any PIT extension already issued or due to be issued):	12 Jun 09

Case details and analysis:

Name / organisation of applicant and exact wording of request:	<p><u>Chand Bakshi</u></p> <p>Would like to know to what extent the members of the Royal Family serving in the Armed forces are subject to the law. In particular would like to know if they are</p> <ol style="list-style-type: none"> 1. Subject to the Armed Forces Act of 2006? 2. Could they be court court-martialed? For example a General Court-Martial? 3. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable to prosecution for war crimes if any were to be committed? 4. Are the any laws prohibiting the U.K. handing them over to the International Criminal Court? 5. Has the Ministry of Defence held meetings to discuss these possibilities or produced materials for their staff and soldiers in dealing with royals in the military? If yes please provide copies of any meetings, training manuals etc.
----------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Please give a **detailed analysis** of the request.
You **must** provide information on:

- Subject matter and sensitivities.
- What Clearing House **triggers** are engaged.
- What information is **held** – **please provide a sample with the referral form if possible.**
- What **exemptions you think** may apply and **why.**
- Whether there is a prospect of using **NCND.**
- Whether **media interest** in the response is likely.
- Any other factors you believe to be relevant.

A draft response will follow.

The Clearing House trigger is the Royal Household.

There is not a prospect of using NCND.

Media interest is high.

Do you need to consider the use of Section 23 or 24?	No	What case categorisation (1, 2, 3, or 4) does the department believe would be most suitable (see Clearing House toolkit para 24)	4

Involvement of other government departments and/or NDPBs:

<i>Is this a suspected round robin request?</i>	No
If not a suspected round robin, are any other government departments or NDPBs likely to be involved or have an interest in the request?	

If **“Yes”** or **“possibly”**, please state why and provide contact details for relevant departments where possible:

	Department 1	Department 2	Department 3
Name of Department			
Reasons for (possible) involvement:			
Contact details (if available):			

Contact details of lead departmental FOI practitioner

		Please check if this is first point of contact for Clearing House
--	--	--------------------------------------------------------------------------

Name:		<input type="checkbox"/>
E – mail (check accuracy):		
Telephone Number:		

Contact details of lead departmental policy official

		Please check if this is first point of contact for Clearing House <input checked="" type="checkbox"/>
Name:	XXXXXXXXXX	
E – mail (check accuracy):	XXXXXXXXXXXXXXXXXXXXXXXXXXXX	
Telephone Number:	XXXXXXXXXXXXXXXXXX	

Other key contact details (if applicable)

		Please check if this is first point of contact for Clearing House <input type="checkbox"/>
Name and position:		
E – mail (check accuracy):		
Telephone Number:		



Deputy Chief of Defence Staff (Personnel) Secretariat

MINISTRY OF DEFENCE

ATTACHMENT 7

XXXXXXXXXXXX

Building, Whitehall

London, SW1A 2HB

Telephone: 020 7218 9000



Chand Bakshi
SMTP:REQUEST-11904-
xxxxxxxx@xxxxxxxxxxxxxxxx.xxx

Your
reference:

Our reference: SP/08/04/08
14-05-2009-110651-001

Date: 15 June 2009

Dear Chand

Many thanks for your correspondence dated 13 May 2009 which has been considered to be a request for information in accordance with the Freedom of Information Act 2000. You requested the following information:

To what extent the members of the Royal Family serving in the Armed Forces are subject to the law. In particular you would like to know if they are:

- a. Subject to the Armed forces Act of 2006
- b. Could they be court-martialled
- c. Are they liable to prosecution for war crimes if any were to be committed
- d. Are there any laws prohibiting the UK handing them over to the International Criminal Court
- e. Has the MOD held meetings to discuss these possibilities or produced materials for their staff and soldiers in dealing with royals in the military. If yes please provide copies of any meetings, training manuals etc.

This letter is to inform you that the MOD holds some of the information relating to your request, but we believe the information may fall within the scope of the following qualified exemption: Section 37 (Communications with Her Majesty etc, and honours). Once we have identified this information there may be further exemptions that apply. As such it is necessary for us to decide whether, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosure.

The Freedom of Information Act requires us to respond to requests promptly, and in any case no later than 20 working days after receiving your request. However, as you know, we are considering information relevant to your request against a qualified exemption, so we are permitted to extend the time take to respond for a reasonable period to allow for the conduct of a public interest test. I regret to inform you that it has not yet been possible to complete the public interest test required in this instance. We estimate that it will take

an additional 20 working days to take a final decision on where the balance of public interest lies. We therefore plan to let you have a response by 10 July 2009. If it appears that it will take longer than this to reach a conclusion we will let you know.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Head of Corporate Information, 6th Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail xxxxx@xxx.xx). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provision of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.gov.uk>

Yours faithfully

Original signed

XXXXXXXXXXXXXXXXXX

Chand Bakshi

SMTP:[email address]

Your reference:

Our reference:

SP/08/04/08

14-05-2009-110651-001

Date:

15 June 2009

Dear Chand

Many thanks for your correspondence dated 13 May 2009 which has been considered to be a request for information in accordance with the Freedom of Information Act 2000. You requested the following information:

To what extent the members of the Royal Family serving in the Armed Forces are subject to the law. In particular you would like to know if they are:

- a. Subject to the Armed forces Act of 2006

- b. Could they be court-martialled

- c. Are they liable to prosecution for war crimes if any were to be committed

- d. Are there any laws prohibiting the UK handing them over to the International Criminal Court

- e. Has the MOD held meetings to discuss these possibilities or produced

materials for their staff and soldiers in dealing with royals in the military. If yes please provide copies of any meetings, training manuals etc.

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Yours faithfully

Original signed

XXXXXXXXXXXXXXXXXXXX

Please use this email address for all replies to this request:
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies: <http://www.whatdotheyknow.com/help/about#officers>

ATTACHMENT 9

From: XXXXXXXXXXXXXXXX
Sent: 17 June 2009 16:45
To: XXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090520-U-FOI REquest (Royal)-Parly C1

XXXXXXXXXXXXXXXXXX

If you are around tomorrow am would it help to spend 10 minutes on this? Happy to come to you.

XXXXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXXXXXXXXXX
Sent: 17 June 2009 08:25
To: XXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090520-U-FOI REquest (Royal)-Parly C1

Thanks XXXXXXXXXXXXX

It is fair to say, then, that point 5 could be answered as none?

Your assistance is greatly appreciated while I continue to gain knowledge and experience with FOI.

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX | XXXXXXXXXXXXX,
XXXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXXXXXX
Email:XXXXXXXXXXXX | | XXXXXXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 16 June 2009 18:41
To: XXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090520-U-FOI REquest (Royal)-Parly C1

XXXXXXX,

In respect of points 1 to 4 of the request I suggest the following

“Unfortunately your request as currently formulated on points 1 to 4 is not strictly a request for information held by the Ministry of Defence, but rather a request for the provision of a legal opinion which the Department does not hold. You should also note that even if this information was held, it would be likely to be covered by the exemption at section 42 of the Act (Legal Professional Privilege), subject to the exercise of a public interest balancing test.”

Happy to discuss

XXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX

Sent: 16 June 2009 10:08
To: XXXXXXXXXXXXXXXX
Subject: FW: 20090520-U-FOI REquest (Royal)-Parly C1

Morning XXXXXXXXXXXX

I understand that you are looking into this FOI for me. As it is now time for an update letter, I wonder if you advise on progress and estimated timelines to complete. I appreciate that the questions are sufficient vague and that the answers will require some significant staffwork to complete.

Many thanks

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX | XXXXXXXXXXXX,
XXXXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXXXXXX
Email:XXXXXXXXXXXXX | | XXXXXXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 20 May 2009 12:07
To: XXXXXXXXXXXXXXXX;XXXXXXXXXXXXX
Subject: RE: 20090520-U-FOI REquest (Royal)-Parly C1

XXXXXXX

Thanks for the 'phone call. I have forwarded your email to XXXXXXXX in CLS, who deals generally with Fol requests. We will need to consider how far this comes within Fol.

XXXXXXXXXX

XXXXXXXXXXXXX
MB XXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 20 May 2009 11:57
To: XXXXXXXXXXXXXXXX;XXXXXXXXXXXXX
Subject: 20090520-U-FOI REquest (Royal)-Parly C1

Good Morning

Further to our earlier conversation please see below the questions as posed.

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1. Subject to the Armed Forces Act of 2006?
2. Could they be court-martialed? For example a General Court-Martial?

3. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable to prosecution for war crimes if any were to be committed?
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I appreciate that are the simple questions that cover the widest answers but I am grateful for any direction you may be able to offer.

Many thanks

XXXXXXXXXX

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX | XXXXXXXXXXXXXXX,
XXXXXXXXXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXXXXXXXXXX
Email:XXXXXXXXXXXXXXXXXX | | XXXXXXXXXXXXXXXXXXXX

ATTACHMENT 10

From: XXXXXXXXXXXXXXXX
Sent: 22 June 2009 12:27
To: XXXXXXXXXXXXXXXX
Subject: RE: 20090618-FOI(Royal)-U

Thanks XXXXXXXX. Will let you have our input in the next day or so.

Regards,

XXXXXXXXXXXX

XXXXXXXXXXXX
XXXXXXXXXXXX
Land Forces Secretariat
Mil: XXXXXXXXXXXXXXX
Civ: XXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 22 June 2009 11:31
To: XXXXXXXXXXXXXXXX
Subject: RE: 20090618-FOI(Royal)-U

XXXXXXXXXXXX

The request has come through Whatdotheyknow.com. – Chand Bakshi. Reference No: 14-05-2009-110651-001

From this you will tell that it is already late. It has been with CLS here and the legal eagles have decided that it should go out to the single services for direction as nothing is held with them and point 1, they claim, calls for a legal opinion.

As it is late could I push for a response by cop 25 June 09.

Many thanks

XXXXXXXXXXXX

XXXXXXXXXXXX | XXXXXXXXXXXXXXX,
XXXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXXXXX
Email:XXXXXXXXXXXX | | XXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 22 June 2009 11:00
To: XXXXXXXXXXXXXXXX
Subject: FW: 20090618-FOI(Royal)-U

XXXXXXXXXXXX,

Further to below I would be grateful if you could tell me when you require this by, and some more detail on the request itself i.e. who has asked the question and the reference.

Regards,

XXXXXXXXXX

XXXXXXXXXXXXX
XXXXXXXXXXXXX
Land Forces Secretariat
Mil: XXXXXXXXXX
Civ: XXXXXXXXXXXXXXXXXXXX

From: XXXXXXXXXX
Sent: 18 June 2009 16:42
To: XXXXXXXXXXXXXXXX
Subject: RE: 20090618-FOI(Royal)-U

XXXXXXX,

I will look into this on behalf of the Army.

Can you please let us know when you would like our input.

It would also be useful to know who has asked the question and what the reference is.

Many thanks,

XXXXXXXXXX

XXXXXXXXXXXXX
XXXXXXXXXXXXX
Land Forces Secretariat
Mil: XXXXXXXXXX
Civ: XXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 18 June 2009 14:00
To: XXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXX
Subject: 20090618-FOI(Royal)-U

Good Afternoon

I am currently dealing with an FOI request in respect of members of the Royal family serving in the forces. While the majority of it I can answer with CLS here. I would be grateful if you could check with each of your legal people the response to these:

To what extent the members of the Royal family serving the Armed Forces are subject to the law. In particular are they:

Subject to the Armed forces Act 2006

Has the Ministry of Defence held meetings to discuss these possibilities or produced materials for their staff and soldiers in dealing with Royals in the military? If yes please provide copies of any meetings, training manuals etc.

Not really sure if the response is going to be very clear as it will require a legal opinion but if there is anything in a cupboard somewhere then grateful for any help.

Kind regards

XXXXXXXXXX

XXXXXXXXXXXXX | XXXXXXXXX,
XXXXXXXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXX
Email:XXXXXXXXXXXX | | XXXXXXXXXXXX

ATTACHMENT 11

From: Mr XXXXXXXXXXXXXXXX



Ministry of Defence
Main Building, Whitehall, London SW1A 2HB
Telephone 020 7218 9000

Deputy Chief Of Defence Staff (Personnel) - Secretariat

SP 01.02.04.03
14-05-2009-110651-001 Bakshi

Chand Bakshi
XXXXXXXXXXXXXXXXXXXX@XXXXXXXXXXXXXXX

20 July 2009

Dear Chand

Thank you for your e-mail of 13 May 2009 which has been considered to be a request for information in accordance with the Freedom of Information Act 2000. I am sorry for the delay in responding. You requested the following information:

'Are members of the Royal Family serving in the military subject to the Armed Forces Act. In particular, you would like to know if they are:

1. Subject to the Armed Forces Act of 2006?
2. Could they be court-martialled? For example a General Court Martial?
3. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable for prosecution for war crimes if any were to be committed?
4. Are there any laws prohibiting the UK handing them over to the International Criminal Court?
5. Has the Ministry of Defence held meetings to discuss these possibilities or produced material for their staff and soldiers in dealing with royals in the military? If yes please provide copies of any meetings, training manuals etc".

It is the view of the Ministry of Defence Legal Department that some of this request calls for a legal opinion and as such the Freedom of Information Act is not the appropriate

means by which to seek such an opinion. However, in response to your first question, I am able to confirm that all members of the Armed Forces are subject to the Armed Forces Act 2006.

For the remaining questions the Ministry of Defence, in reliance on the exemptions in section 23(5) and section 24(2) of the Act neither confirms or denies whether it holds the information you requested as the duty in section 1(1)(a) of the Act does not apply by virtue of sections 23(5) and 24(2) of the Act.

To the extent that section 24(2) of the Act applies, we have determined that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether the MOD holds the information. To give a statement of the reasons for this would involve the disclosure of information which itself would be exempt information. Therefore, under section 17(4) of the Act, the MOD is not obliged to give such a statement. However, this should not be taken as necessarily indicating that any further information that would meet your request exists or does not exist.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Head of Corporate Information, 6th Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail xxxxxx@xxx.xx). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.gov.uk>.

Yours sincerely

XXXXXXXXXXXXXXXXXX

ATTACHMENT 12

From: XXXXXXXXXXXXXXXX
Sent: 23 July 2009 12:01
To: XXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090720-FOI(Royal)-U

XXXXXXXX / XXXXXXXXXXXXXXXX

Apologies – I should have spotted earlier that the request does not ask for recorded information and that the way it is worded, the requester seems to be seeking an opinion. I am content with your approach.

XXXXXXXXXX

XXXXXXXXXXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXXXXXXX
Fax: XXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 23 July 2009 10:44
To: XXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090720-FOI(Royal)-U

XXXXXXXX / XXXXXXXXXXXXXXXX

I've revised the draft reply slightly to try and make clear it is not a valid request.

We are however in a slightly tricky position as you have already issued a PIT extension - which I have seen on the what do they know website. In future, it would be really helpful if you would consult me asap on these requests - as it makes our handling of this harder now that you have already replied.

Are you content with this approach? The AG's Office used it in response to a very similar request from the same applicant here:
http://www.whatdotheyknow.com/request/to_what_extent_are_the_queen_and#comment-2850

If so, I'll clear the draft with the Palace. (NB - please don't issue this until I get back to you)

XXXXXXXX

~~XXXXXXXXXXXXXXXXXX~~
FOI Team
Cabinet Office
Tel: ~~XXXXXXXXXXXXXXXXXX~~

-----Original Message-----
From: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Sent: 20 July 2009 15:32
To: FOI Team - Private Office -
Subject: 20090720-FOI(Royal)-U

Dear Cabinet office FOI team,

PSA draft response and retrans of CH Referral form for the Chand Bakshi request. Please forward any guidance to both me and the relevant desk officer – xxxxxxxxxxxxxx. Thank you.

Regards,

xxxxxxxxxxx.

XXXXXXXXXXXXX
XXXXXXXXXXXXX
XXXXXXXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXXXXXXX
Fax: XXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 20 July 2009 14:59
To: XXXXXXXXXXXXXXXX
Subject: 20090720-FOI(Royal)-U

XXXXXXXXXXXXX

Your expert advice please.

This has been hanging around for a while due to the lawyers deliberating. The bottom line is that members of the royal family are subject to the armed forces act. The remaining questions call for legal advice. If this advice has been requested or given then it would be exempt under legal privilege. Some background detail has been given regarding both the Princes' time at Sandhurst and that they were both subject to the same disciplinary process as any other cadet but no formal guidance was issued. However, I suspect that there may have been some constitutional guidance given. I know from my own time in the service that we were all briefed through orders how to address the royal family and various security measures that needed to be taken.

In the spirit of trying to be helpful you will see in my draft response that I have confirmed their applicability to the Armed forces Act but have then used NCND, (maybe incorrectly?) Is this exemption specifically for security matters or could it be applied in this case? I suspect that it might just be wise to say questions 2- 4 call for a legal opinion but I would appreciate any direction you could give.

Many thanks

XXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX | XXXXXXXXXXXXXXX,
XXXXXXXXXXXXXXXXXXXX | MOD Main Building | Whitehall |

London SW1A 2HB |

Tel: XXXXXXXXXXXXXXXX

Email:XXXXXXXXXXXXXXXXXXXX | XXXXXXXXXXXXXXXX

The Cabinet Office computer systems may be monitored and communications carried on them recorded, to secure the effective operation of the system and for other lawful

ATTACHMENT 13

From: XXXXXXXXXXXXXXXXXXXX
Sent: 25 June 2009 09:06
To: XXXXXXXXXXXXXXXXXXXX
Subject: FW: FOI REQUEST - ROYAL FAMILY SERVING IN ARMED FORCES

XXXXXXXXXXXXX,

Please see below input from RN SME

Regards

XXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
1-4 Leach Building
NCHQ
XXXXXXXXXX
XXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXXXXXX
Sent: 24 June 2009 15:35
To: XXXXXXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Subject: RE: FOI REQUEST - ROYAL FAMILY SERVING IN ARMED FORCES

Members of the Royal Family will be subject to the Armed Forces Act 2006 whilst serving as a regular member of the Armed Forces, just as every member of the AF is.

If a member is in the Reserves, then the position depends on whether they are on duty/recalled to duty. Each situation would be judged on its own merits.

Although I don't have the definitive answer on the second question, anything to do with terms and conditions of service of any member of the royal family should have been dealt with by the Palace and MoD, with agreed protocols. I am advised that they would have been dealt with by the Defence Services Secretary who may well have the required records.

XXXXXXXXXXXXX
Cdr RN
XXXXXXXXXXXXX
XXXXXXXXXXXXX, Leach Building (MP G-1)
Whale Island
PORTSMOUTH
P02 8BY
Mil: XXXXXXXXXXXXX
Civ: XXXXXXXXXXXXXXXX
IGS: XXXXXXXXXXXXX

The information included in this e-mail, and attachments hereto, is of a confidential nature and is intended only for the addressee. If you are not the intended addressee any disclosure, copying or distribution by you may be unlawful. Disclosure to any party other than the addressee, whether inadvertently or otherwise, is not intended to waive privilege or confidentiality. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy. Any disclosure of this material must only be done with reference and prior agreement from the Director Naval Legal Services. Recipients should note that e-mail traffic

ATTACHMENT 14

From: XXXXXXXXXXXXXXXXXXXX
Sent: 31 July 2009 12:13
To: XXXXXXXXXXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXXXXXX
Subject: Chand Bakshi request for FOI internal review (AIT ref: 14-05-2009-110651-001)

XXXXXXXXXXXXXX,

Mr Bakshi has asked for an independent internal review of the above case that I believe you are handling. Can you please arrange for me to be sent the required documents (preferable electronically) as per our standard CIO internal review list attached?

A response to me, if possible, by 5 Aug 09 would be most helpful. Meanwhile, I will write to the requestor and acknowledge his request for a review.

What is the hold-up exactly? I see the reply was due on 10 Jul. His questions 1 to 4 do not require application of the FOI Act as they are not requests for recorded information. They only need a "yes" or a "no" type answer. His fifth question only becomes FOI if such discussions have taken place and we hold relevant recorded information in scope of his request.

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXX

MB XXXXXXXXXX

BT XXXXXXXXXX

Copy to XXXXXXXXXX for info.

**Freedom of Information Act and Environmental Information
Regulations: Internal Review Purpose**

Important guidance –please read before assisting with an Internal FOIA/EIR
Review

1. The purpose of an FOIA/EIR internal review is to provide a thorough independent assessment of how a request was handled by MOD, ensuring that it was processed in accordance with the Act/Regulations and that the department’s handling will stand up to scrutiny should it be appealed to the Information Commissioner.
2. Any lessons learnt from the review will be fed into the CIO Access Operations team for wider dissemination to focal points. This will allow the department to improve its initial responses to requests for information.
3. The department has an internal target of 40 working days, (and an Information Commissioner’s Office best practice target of 20 working) days, for completing reviews. You must therefore respond to this email within 5 working days.
4. There will be valid reasons why much of the information held by the department can not be released under FOIA/EIR. The review process provides the department another opportunity to ensure that it has fulfilled its legal obligations.
5. Very occasionally the department internal review process finds it necessary to overturn either partially or wholly the original decision. It may also be necessary to apply additional exemptions. It is recognised that many FOI requests are not straightforward to handle and sometimes misjudgements are made, especially in complex cases, so if we do overrule a decision please don’t take it personally!

We thank you in advance for your cooperation,
The Review Team

Review Team

XXXXXXXXXXXXX: XXXXXXX
(XXXXXXXX)

Information required for an Internal Review

Please complete checklist and return with information required for review

- The original request(s)
- The information considered to be within the scope of the request(s)
(Where there is a large volume of documents it may be helpful to produce a schedule in the form of a table)
- If responding that information is not held, a record of all those parts of the department which were contacted in the search
- Any acknowledgements to the original request(s)

- Any requests for clarification

- Any notifications of additional time to examine the public interest

- Any other letters, e-mails or records of telephone calls to the applicant in the course of responding to the request(s)

- Where information has been withheld or redacted, an indication of where individual redactions apply to the information (this is required for audit trail purposes)

- Documents setting out the public interest test if qualified exemptions were used to withhold information

- Where Section 12 is applied (exceeds the cost limit for compliance) details of how cost was calculated.

- Any communications with, opinions of, or advice from third parties on release (including the MOJ Clearing House or other Government Departments, if they advised)

- Evidence of 1* approval to use exemptions

- The final response(s) sent

ATTACHMENT 16

From: XXXXXXXXXXXXX
Sent: 31 July 2009 14:27
To: XXXXXXXXXXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXXXXXX
Subject: RE: Chand Bakshi request for FOI internal review (AIT ref: 14-05-2009-110651-001)

XXXXXXXXXXXXXXXXXX

Further to our telephone conversation, I would strongly advise that you differentiate in your response those parts of his request that are being answered under FOI and those which are simply yes and no answers in the way of normal business correspondence.

His right of appeal to CIO-Head of Corporate Information is in relation to FOI responses only.

The Act gives a right of access to *recorded* information held by, or on behalf of, a public authority; the bulk of what Mr Bakshi has asked for is a series of one word answers to factual questions which are outside the scope of the legislation.

xxxxxxxxxx

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXX
MB XXXXXXXXXXXX
BT XXXXXXXXXXXX

From: XXXXXXXXXXXXXXXXXXXX
Sent: 31 July 2009 12:13
To: XXXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXXXXXX
Subject: Chand Bakshi request for FOI internal review (AIT ref: 14-05-2009-110651-001)

XXXXXXXXXX

Mr Bakshi has asked for an independent internal review of the above case that I believe you are handling. Can you please arrange for me to be sent the required documents (preferable electronically) as per our standard CIO internal review list attached?

A response to me, if possible, by 5 Aug 09 would be most helpful. Meanwhile, I will write to the requestor and acknowledge his request for a review.

What is the hold-up exactly? I see the reply was due on 10 Jul. His questions 1 to 4 do not require application of the FOI Act as they are not requests for recorded information. They only need a "yes" or a "no" type answer. His fifth question only becomes FOI if such

discussions have taken place and we hold relevant recorded information in scope of his request.

xxxxxxxx

XXXXXXX

XXXXXXXXXX

XXXX

MB XXXXXX

BT XXXXXX

Copy to XXXXXXXXXXXX for info.

ATTACHMENT 17

From: XXXXXXXXXXXXXXXX
Sent: 03 August 2009 16:19
To: XXXXXXXXXXXXXXXX
Subject: RE: Chand Bakshi request for FOI internal review (AIT ref: 14-05-2009-110651-001)

XXXXXXX

Please find attached the letter released this afternoon following approval from the Palace. The redraft was crafted by XXXXXXXX who cleared the response.

You will note that it does not contain my details as it is with WHATDOTHEYKNOW.

Do you still need the case work as I have been led to believe that he is not able to seek a review due to it not being an FOI request.

XXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX | XXXXXXX,
XXXXXXX | MOD Main Building | Whitehall |
London SW1A 2HB |
Tel: XXXXXXXXXXXX
Email:XXXXXXXXXXXX | | XXXXXXXXXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXX
Sent: 31 July 2009 14:27
To: XXXXXXXXXXXXXXXX
CcXXXXXXXXXXXXXXXXXXXX
Subject: RE: Chand Bakshi request for FOI internal review (AIT ref: 14-05-2009-110651-001)

XXXXXXXXXXXX,

Further to our telephone conversation, I would strongly advise that you differentiate in your response those parts of his request that are being answered under FOI and those which are simply yes and no answers in the way of normal business correspondence.

His right of appeal to CIO-Head of Corporate Information is in relation to FOI responses only.

The Act gives a right of access to *recorded* information held by, or on behalf of, a public authority; the bulk of what Mr Bakshi has asked for is a series of one word answers to factual questions which are outside the scope of the legislation.

xxxxxxxxxx

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
MB XXXXXXXX
BT XXXXXXXXXXXX

From: XXXXXXXXXXXX
Sent: 31 July 2009 12:13
To: XXXXXXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXX
Subject: Chand Bakshi request for FOI internal review (AIT ref: 14-05-2009-110651-001)

XXXXXXXXXX,

Mr Bakshi has asked for an independent internal review of the above case that I believe you are handling. Can you please arrange for me to be sent the required documents (preferable electronically) as per our standard CIO internal review list attached?

A response to me, if possible, by 5 Aug 09 would be most helpful. Meanwhile, I will write to the requestor and acknowledge his request for a review.

What is the hold-up exactly? I see the reply was due on 10 Jul. His questions 1 to 4 do not require application of the FOI Act as they are not requests for recorded information. They only need a "yes" or a "no" type answer. His fifth question only becomes FOI if such discussions have taken place and we hold relevant recorded information in scope of his request.

xxxxxxxx

XXXXXXX
XXXXXXXXXXXXX
XXXXXXX
MB XXXXXX
BT XXXXXXXXXXXX

Copy to XXXXXXXXXXX for info.

ATTACHMENT 18

Ministry of Defence

Building, Whitehall, London SW1A 2HB
Telephone 020 7218 9000

Deputy Chief Of Defence Staff (Personnel) - Secretariat

SP 01.02.04.03

14-05-2009-110651-001 Bakshi

Chand Bakshi

XXXXXXXXXXXXXXXXXXXX@XXXXXXXXXXXXXXX

20 July 2009

Dear Chand

Thank you for your e-mail of 13 May 2009 which has been considered to be a request for information in accordance with the Freedom of Information Act 2000. I am sorry for the delay in responding. You requested the following information:

‘Are members of the Royal Family serving in the military subject to the Armed Forces Act. In particular, you would like to know if they are:

1. Subject to the Armed Forces Act of 2006?
2. Could they be court-martialled? For example a General Court Martial?
3. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable for prosecution for war crimes if any were to be committed?
4. Are there any laws prohibiting the UK handing them over to the International Criminal Court?
5. Has the Ministry of Defence held meetings to discuss these possibilities or produced material for their staff and soldiers in dealing with royals in the military? If yes please provide copies of any meetings, training manuals etc”.

The Freedom of Information Act provides applicants with a right of access to recorded information. Your request is not a request for recorded information. We would of course be happy to re-consider the question asked should it be re-phrased as a request for recorded information. A ‘valid’ request under the Act is one that asks to see recorded information held by the public authority, such as information on a specific issue, or process, not one that asks for opinion or seeks answers or calculations etc.

I am sorry that my previous letter, of 15 June, implied that we would treat your request as a ‘valid’ one under the Act, and explained that the Ministry of Defence needed further time to consider the public interest test. This was a mistake, for which I apologise, and we should have written to you sooner to confirm that your email is not a legitimate request.

However, outside our obligations under the Act, in response to your first question, I am able to confirm that all members of the Armed Forces are subject to the Armed Forces Act 2006.

I have not included details of our internal review procedure, or how to complain to the Information Commissioner, as your questions are not valid requests under the Act and these appeal procedures only apply to legitimate requests.

ATTACHMENT 19

From: XXXXXXXXXXXXX
Sent: 24 August 2009 13:13
To: XXXXXXXXXXXXX
Cc: XXXXXXXXXXXXX
Subject: RE: 20090720-FOI(Royal)-U

XXXXXXXX,

PSA final response to this request.

Regards,

XXXXXXXXXX

XXXXXXXXXX
XXXXXXXXXX
XXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXXXXXXX
Fax: XXXXXXXXXXXXX

From: XXXXXXXXXXXXXXXXXXXXX
Sent: 24 August 2009 10:53
To: XXXXXXXXXXXXX;XXXXXXXXXXXX
Subject: RE: 20090720-FOI(Royal)-U

XXXXXXXX / XXXXXXXX,

I don't think I've received a copy of the final response to this case yet?

(Apologies if you have sent it through and I've missed it though). If not, could you send it to me please.

XXXXXXX

-----Original Message-----

From: XXXXXXXXXXXXX -
Sent: 31 July 2009 11:04
To: XXXXXXXXXXXXXXXXXXXXX;XXXXXXXXXXXX
Cc: XXXXXXXXXXXXXXXXXXXXX -
Subject: RE: 20090720-FOI(Royal)-U

Both,

I've now heard back from the Palace about this and they are happy with our suggested revised draft (re-attached).

So, over to you to send out.

Could you send me a copy of the final response when it has gone out in due course.

XXXXXXXX - Meridio file here: XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
thanks
XXXXXXXXXX

XXXXXXXXXX

FOI Team
Cabinet Office
Tel: XXXXXXXXX

-----Original Message-----

From: XXXXXXXXXXXXXXXXXXXX
Sent: 23 July 2009 12:01
To: XXXXXXXXXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090720-FOI(Royal)-U

XXXXXXXXXX / XXXXXXXX,

Apologies – I should have spotted earlier that the request does not ask for recorded information and that the way it is worded, the requester seems to be seeking an opinion. I am content with your approach.

XXXXXXXXXX

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXXXXXX
Fax: XXXXXXXXX

From: XXXXXXXXXXXXXXXXXXXX
Sent: 23 July 2009 10:44
To: XXXXXXXXXXXXX;XXXXXXXXXXXXXXXXXXXX
Subject: RE: 20090720-FOI(Royal)-U

XXXX / XXXXXXXX,

I've revised the draft reply slightly to try and make clear it is not a valid request.

We are however in a slightly tricky position as you have already issued a PIT extension - which I have seen on the what do they know website. In future, it would be really helpful if you would consult me asap on these requests - as it makes our handling of this harder now that you have already replied.

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http://www.whatdotheyknow.com/request/to_what_extent_are_the_queen_and#comment-2850

If so, I'll clear the draft with the Palace. (NB - please don't issue this until I get back to you)

XXXX

XXXXXXXXXX
FOI Team
Cabinet Office
Tel: XXXXXXX

-----Original Message-----

From: XXXXXXXXXXXXXXXXXXXX

Sent: 20 July 2009 15:32
To: XXXXXXXXXXXX
Subject: 20090720-FOI(Royal)-U

Dear Cabinet office FOI team,

PSA draft response and retrans of CH Referral form for the Chand Bakshi request. Please forward any guidance to both me and the relevant desk officer – XXXXXXXXXXXXXX. Thank you.

Regards,

XXXXXXXXXX

XXXXXXXXXX
XXXXXXXXXX
XXXXXX Main Building
Ministry of Defence
Whitehall
London SW1A 2HB
Tel: XXXXXXXX
Fax: XXXXXXXX

From: XXXXXXXXXXXX
Sent: 20 July 2009 14:59
To: XXXXXXXX
Subject: 20090720-FOI(Royal)-U

XXXXXXXXXX

Your expert advice please.

This has been hanging around for a while due to the lawyers deliberating. The bottom line is that members of the royal family are subject to the armed forces act. The remaining questions call for legal advice. If this advice has been requested or given then it would be exempt under legal privilege. Some background detail has been given regarding both the Princes' time at Sandhurst and that they were both subject to the same disciplinary process as any other cadet but no formal guidance was issued. However, I suspect that there may have been some constitutional guidance given. I know from my own time in the service that we were all briefed through orders how to address the royal family and various security measures that needed to be taken.

In the spirit of trying to be helpful you will see in my draft response that I have confirmed their applicability to the Armed forces Act but have then used NCND, (maybe incorrectly?) Is this exemption specifically for security matters or could it be applied in this case? I suspect that it might just be wise to say questions 2- 4 call for a legal opinion but I would appreciate any direction you could give.

Many thanks

XXXXXXXXXX

XXXXXXXXXX | XXXXXXXXXXXX XXXXXXXX,
XXXXXXXXXX | MOD Main Building | Whitehall |

London SW1A 2HB |
Tel: XXXXXXXX
Email: XXXXXXXX | | XXXXXXXXXXXXXX

The Cabinet Office computer systems may be monitored and communications carried on them recorded, to secure the effective operation of the system and for other lawful purposes.

ATTACHMENT 20

Ministry of Defence
Building, Whitehall, London SW1A 2HB
Telephone 020 7218 9000

Deputy Chief Of Defence Staff (Personnel) - Secretariat

SP 01.02.04.03
14-05-2009-110651-001 Bakshi

Chand Bakshi

XXXXXXXXXXXXXXXXXXXX@XXXXXXXXXXXXXXX

20 July 2009

Dear Chand

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2. Could they be court-martialled? For example a General Court Martial?
3. With some members having served in recent conflicts (for example Prince Harry in Afghanistan) are they liable for prosecution for war crimes if any were to be committed?
4. Are there any laws prohibiting the UK handing them over to the International Criminal Court?
5. Has the Ministry of Defence held meetings to discuss these possibilities or produced material for their staff and soldiers in dealing with royals in the military? If yes please provide copies of any meetings, training manuals etc”.

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However, outside our obligations under the Act, in response to your first question, I am able to confirm that all members of the Armed Forces are subject to the Armed Forces Act 2006.

I have not included details of our internal review procedure, or how to complain to the Information Commissioner, as your questions are not valid requests under the Act and these appeal procedures only apply to legitimate requests.