



Ministry
of Defence

Navy Command FOI Section
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FOI2020/06141

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Dr E Briant
request-667498-65a9a2f9@whatdotheyknow.com

3 June 2020

Dear Dr Briant,

Release of Information

Thank you for your correspondence of 28 May 2020 in which you requested information in relation to a named individual.

Your enquiry has been considered to be a request for information in accordance with the Freedom of Information (FOI) Act 2000.

In response to your request, section 40(5B) of the FOI Act is engaged. I should explain that under the terms of the FOI Act, the release of personal data is specifically prohibited as all releases of information are to the world at large and therefore, any confirmation (or denial) of such would be a breach of the Data Protection Principles as defined by the General Data Protection Regulations (GDPR) and Data Protection Act 2018 (DPA18).

In order not to breach these principles, a public authority is required to respond with the application of the exemption at section 40. In this case, section 40(5B)(a)(i) which states that:

The duty to confirm or deny does not arise in relation to other information if, or to the extent that any of the following applies:

(a) Giving a member of the public the confirmation or denial that would have to be given to comply with section.

(i) Would (apart from this Act) contravene any of the data protection principles.

The first data protection principle under Article 5(1)(a) GDPR is the most relevant, which states that 'Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject'.

I find that 40(5B)(a)(i) applies, by virtue of section 40(5)(b)(i) and the Department is unable to confirm or deny whether any information is held within scope of your request.

The application of the Neither Confirm or Deny provision should not be taken as an indication that information in scope of your request is held.

Under section 16(Advice and Assistance) of the FOI Act, the following link provides an explanation as to the process of applying for personal records of Service Personnel which may of some assistance to you:

<https://www.gov.uk/get-copy-military-service-records>

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

Navy Command Secretariat – FOI Section