



# Ministry of Defence

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Ref: FOI2018/10819

Ms Carla Ferstman  
request-512185-a7323b81  
@whatdotheyknow.com

18 Oct. 18

Dear Ms Ferstman,

Thank you for your email dated 21<sup>st</sup> August 2018 requesting the following information:

"Could you share with me the decision of the DSP not to bring charges in the case IHAT 84 (death of Tariq Sabri Mahmud) and IHAT 93 (death of Waleed Fayay Mezban)?"

The issues that you raise are considered as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Service Prosecuting Authority, and I can confirm that information within the scope of your request is held.

It is inferred in your request seeking the decision of the DSP not to bring charges in the respective investigations, that you are aware that such decisions were made, and that your enquiry is into the reasoning behind those decisions. However, the information that you have requested falls within the scope of the qualified exemptions at section 30 (Investigations and Proceedings conducted by Public Authorities) and section 42 of the FOIA (Legal Professional Privilege (LPP)), and is thereby withheld.

Section 30 is applied because the information requested was held for the purposes of any criminal proceedings that the SPA had power to conduct. It has been concluded that, on balance, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 42 is also applied because the information contained in communications between the SPA and investigators/chain of command has been provided by lawyers in confidence as legal advice. It has been concluded that, on balance, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Notwithstanding the above, assistance can be given under section 16 of the FOIA to the effect that in the cases of IHAT 84 and IHAT 93 the Full Code Test as contained in the Code for Crown Prosecutors was applied, and in both instances it was decided that there was insufficient evidence to provide a realistic prospect of conviction. Should it be of further assistance, the Code is found at: [www.cps.gov.uk/sites/default/files/documents/publications/code\\_2013\\_accessible\\_english.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/code_2013_accessible_english.pdf).

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.gov.uk](mailto:CIO-FOI-IR@mod.gov.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,

A handwritten signature in blue ink, consisting of the letters 'S', 'D', and 'A' in a stylized, cursive-like font.

Service Prosecuting Authority