

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 July 2017

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

#### Decision (including any steps ordered)

---

1. The complainant has requested information regarding his late father's service record. The Ministry of Defence (MOD) responded and informed the complainant that it did not hold any relevant information.
2. The Commissioner's decision is that, on the balance of probabilities, the MOD does not hold the requested information.
3. The Commissioner does not require the MOD to take any further steps.

#### Request and response

---

4. On 16 September 2015, the complainant wrote to the MOD and asked that:  
*"necessary steps may be taken for getting the details from the MOD Civilian Personnel records of my late father [named individual] in British Naval Base in British Singapore"*
5. The complainant wrote to the Commissioner on 12 May 2016 as he had not received a response to his request for information.
6. The Commissioner contacted the MOD on 20 May 2016 to request a response to the complainant's request.
7. The MOD responded to the Commissioner on 31 May 2016 and confirmed that a response had been issued on 29 September 2015. The MOD also confirmed that following the Commissioner's contact, the

response has been sent to the complainant again on 25 May 2016. The MOD's response confirmed that it had been unable to locate any information regarding the complainant's late father.

8. The complainant requested an internal review in a letter dated 12 August 2016 which was received by the MOD on 6 September 2016.
9. On 5 October 2016, the MOD wrote to the complainant to provide the outcome of its internal review. The MOD acknowledged that the request had been handled as a 'business as usual' enquiry rather than a request under the FOIA and apologised for the error.
10. The MOD explained the searches that it had undertaken and confirmed that it was unable to locate any records relating to the complainant's late father.

### **Scope of the case**

---

11. The complainant contacted the Commissioner by letter dated 14 November 2016 to complain about the way his request for information had been handled.
12. The complainant disputes the MOD's assertion that it holds no records relating to his late father.
13. The Commissioner considers the scope of this investigation is to determine whether, on the balance of probabilities, the MOD is correct when it states it does not hold the requested information.

### **Reasons for decision**

---

14. Section 1(1) of the FOIA states:

*Any person making a request for information to a public authority is entitled –*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

15. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – in

accordance with a number of First Tier Tribunal decisions – applies the civil standard of the balance of probabilities.

16. The Commissioner will consider the scope, quality and thoroughness of the searches performed, and whether the searches were appropriate and adequate. She will consider any other explanations provided by the public authority for why the information is not held. The Commissioner will also consider the arguments or evidence provided by the complainant as to why they consider the requested information must be held.

### **The complainant's position**

17. The complainant considers that, as his father served under the Singapore Naval Base Depot, the MOD must have records relating to this employment.
18. In his request for internal review, the complainant provided the MOD with the dates his father worked for the MOD and the Ministry of Public Building and Works (MPBW), his staff identify card number, staff insurance number and job title.
19. The Complainant also provided the MOD and the Commissioner with a Certificate of Termination of Service dated 30 January 1968 issued by the MPBW. The complainant states that this certificate has the official seal and emblem of the British Government and, therefore, he disputes that the MOD cannot find any records relating to his father's employment.

### **The MOD's position**

20. In its internal review, the MOD provided a detailed explanation of the searches it had undertaken to ascertain what, if any, information was held by the MOD falling within the scope of the request.
21. The MOD confirmed that all relevant MOD business units that may hold the information had been consulted, including Navy Command, Defence Business Services (DBS) and the archive at Swadlincote.
22. The MOD explained that the Civilian Archive Record Books held by DBS are stored in two sets; up to and including 1939, and 1940 onwards. The MOD further explained that the books contain records that are listed in alphabetical order by surname, first name(s), date of birth, and staff number, where known.
23. The MOD explained that a search had been made of both sets of books and no results found. The MOD advised that when a person's name is

not listed, it usually means that there is no personnel file held in the MOD Archive.

24. The MOD confirmed that searches of the DBS electronic personnel records were made under the categories of pay, personnel and pension but no information was located.
25. The MOD confirmed that it had searched the Civilian employee microfiche held by DBS for Plymouth Naval Base to establish if any record may have been committed to microfiche. The MOD explained that information on the microfiche data set is held by surname, first name(s) and date of birth. The MOD confirmed that no records were held.
26. The MOD confirmed that it had searched the archive using variations on the spelling of the surname provided but this yielded no results.
27. The MOD confirmed that a search of the people, pay and pensions accounts personnel files archive was also conducted. The MOD explained that records held in this archive are filed under Surname, Date of Birth and Staff Number. The MOD confirmed that electronic searches were made using the variations on the spelling of the surname and the staff number provided and no results within the scope of the request was located.
28. The MOD explained that following receipt of the complainant's request for internal review and the information provided in it, further searches were conducted and an archive that holds records of civilians who worked for the Royal Navy was searched. The MOD explained that within these archive records, information is held at box level and contains books with service sheets, held in alphabetical order by surname where service ended 1965 to 1969. The MOD confirmed that no information about the complainant's late father was found.
29. In the MOD's submission to the Commissioner, it explained the searches it had performed as set out in its internal review.
30. The MOD explained that in addition to the civilian archive from 1965-1969, it had searched a further five MOD collations which included:
  - Pre-1960 civilian records
  - Pre-1961 civilian records
  - Pre-1963 civilian records
  - Pre-1964 civilian records
  - Pre-1970 civilian records

31. The MOD confirmed that all of the identified archive collations contain records, in books, in alphabetical order.
32. The MOD also confirmed that it held no record of any information having been held but subsequently destroyed.
33. The MOD explained that records relating to information held in personnel files with regard to Employment and Career, and for the purposes of Pensions administration, are generally kept for 100 years from the date of birth. The MOD also confirmed that if the named individual had been employed directly by the MOD, the information would have been held for Employment, Career and Pensions administration.
34. The MOD explained that the Certificate of Termination of Service provided by the complainant was issued by the MPBW. The MOD explained that although there are connections with the MPBW, it is likely that the named individual was not employed directly by the MOD and any employment records relating to the named individual may have been absorbed into the successor organisations of the MPBW.

### **The Commissioner's position**

35. The Commissioner has reviewed the MOD's submission detailing the searches performed and the complainant's arguments as to why the information must be held.
36. The Commissioner considers that the MOD has performed thorough and detailed searches for records relating to the named individual's employment record.
37. The complainant stated in his complaint to the Commissioner that the MOD had searched for the wrong surname and therefore the searches were wrong. The Commissioner has reviewed the complainant's request for internal review and the last name searched for by the MOD is the one clearly given by the complainant.
38. The Commissioner understands that naming conventions may differ and that an individual's surname or family name is not necessarily their last name. However, the Commissioner notes that the name on the evidence provided by the complainant follows the convention assumed by the MOD and therefore it is unlikely that the MOD would hold the information in a manner that differed from the official documents provided by the MPBW.
39. The Commissioner considers it would be disproportionate to perform the searches again using the provided first name in place of the surname given the evidence that the complainant's late father had provided. The Commissioner also notes that searches were performed on the staff

identity number and, therefore, considers that had the records been found with a differing naming convention, it is unlikely that the MOD would have dismissed the record simply because the name was in a different order to that expected.

40. The Commissioner has reviewed the Certificate of Termination of Service and she notes that it was issued by the MPBW and not the MOD. The Commissioner does note that the certificate states "3.12.1957 to 31.3.1963 (MOD Navy) 1.4.1963 to 20.1.1968 (MPBW)" however it is not possible to state with any certainty whether the named individual was employed directly by the MOD during those dates.
41. The Commissioner considers that if information is held regarding the named individual's employment between these dates, it will likely be held by the organisation(s) that took over responsibility for the MPBW.
42. The Commissioner notes that the complainant was informed of this at internal review where the MOD stated

*"20. A search of The National Archives (TNBA) provides a detailed history of the Ministry of Public Building and Works <http://discovery.nationalarchives.gov.uk/details/r/C260>. The Ministry of Public Building and Works continued until 1970 when it was absorbed into the Department of the Environment (DoE) and in 1972 most former Works functions were transferred to the Property Services Agency (PSA) formed in that year.*

*21. Although there are connections with MOD in respect of the functions [named individual] and the Ministry of Public Building and Works undertook it may be likely that any employment was not directly for the MOD and records for [named individual] may have been absorbed into successor organisations of the Ministry of Public Building and Works".*
43. The right of access under the FOIA is to recorded information held by the public authority at the time of the request. A public authority is not obliged to obtain information from an external agency or other public authority in order to fulfil a request for information.
44. The Commissioner considers that the MOD has performed adequate searches and provided the complainant with advice and assistance regarding where the information may be held.
45. The Commissioner therefore considers that, on the balance of probabilities, the requested information is not held by the MOD.

## Right of appeal

---

43. 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 1234504

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)

44. 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.
45. 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** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**