



Fleet Headquarters

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Telephone: 02392 625081
Military: 93832 5081
DII: FLEET-DCS-INFO-FOI1
E-mail: fleetdcs-foicellmailbox@mod.uk

Our Reference: 11-04-2007-155115-007

20 June 2007

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Dear Mr XXXXXXX,

Refusal of Release of Information

Further to our previous letter dated 11 May 2007, I am now in a position to provide a substantive response to your request for information communicated to and from Chief of the Defence Staff concerning the detention by Iran of 15 Naval personnel in March 2007.

I can confirm that the Department holds information of the description specified in your request. However, some of the information falls within the scope of the exemptions in the FOI Act at section 24 (National Security), section 26 (Defence). The remaining information is exempt under Section 36 (prejudice to the effective conduct of public affairs) as it comprises of advice to Ministers in which the Chief of the Defence Staff was a copy addressee. After careful consideration and for the reasons set out below, it is concluded that there is no obligation under the Act to disclose this information.

Section 24(1) of the Act states that information is exempt from disclosure for the purpose of safeguarding national security.

Section 26(1)(b) of the Act states that information is exempt if its disclosure would, or would be likely to, prejudice the capability, effectiveness or security of any relevant forces. As this is a qualified exemption, we have considered the balance of the public interest in disclosing and withholding the information by maintaining the exemption. We have decided that if released, the information would compromise the effectiveness of Royal Naval operations and prejudice the operational capability and effectiveness of our Armed Forces. On balance, therefore, the conclusion has been reached that the public interest in withholding the information outweighs the public interest in its release, in other words that Section 2(2)(b) of the Act applies.

Section 36(2)(b)(i) states that Information is exempt if, in the reasonable opinion of a qualified person, disclosure would inhibit the free and frank provision of advice. I

can confirm that a MOD Minister has concluded that the information should be exempt under that Section.

Section 36 is a qualified exemption which means that the public interest must be considered before the exemption can be applied. Whilst it is recognised that there is a high degree of public interest in lessons being learned from the handling of the Iranian hostages issue, the disclosure of information must be weighed against the harm that would be caused to policy formulation or to the provision of advice to Ministers. There is a likelihood that officials will be constrained in future from offering free and frank advice to Ministers, whether on policy or on other matters, and that ministers would be denied sufficient freedom to consider it, if this advice is made public. There is a strong public interest in maintaining the Department's private thinking space, particularly on sensitive matters such as this. The public interest in disclosure of information about the handling of this matter is already served by the publication of the Hall review. On balance, and taking into account the steps already taken to meet the public interest in this matter, we have therefore concluded that the public interest balance favours the information being withheld.

This letter constitutes the notice required to be given under section 17(1), (3) and (7) of the Act.

You may also wish to note that information about the detention of the 15 RN/RM personnel by the Iranians and related media handling is available in the publication of the Hall Report and the statement on the Fulton Review. These may be found on the MOD website at the following link [www.mod.uk/hall report](http://www.mod.uk/hall-report)

If you are unhappy 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 Director of Information Exploitation, 6th Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail Info-XD@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 unhappy 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 the case until the 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

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