



Fleet Headquarters

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Our References: 15-06-2007-100816-001
15-06-2007-101739-002
15-06-2007-102811-003
15-06-2007-103545-004
15-06-2007-104257-005

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(formerly reference 11-04-2007-084209-006)

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20 June 2007

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 concerning the 15 Naval personnel detained by Iran in March 2007. For ease of reference your request has been itemised as follows:

1. Information about the prospect of detainees selling their stories.
2. Advice given to detainees about conduct/professional responsibilities in the event of selling or recounting their story.
3. Communications after 15 March between MOD and OGD about the prospect of detainees selling their stories.
4. Draft advice following decision to allow payments to the detainees.
5. Communications within MOD about the withdrawal of the earlier decision to allow payments.

I can confirm that the Department holds information of the description specified in respect of Item 1 of your request. However, some of the information you have requested relates to the formulation or development of policy and is therefore exempt under Section 35(1) (a) of the FOI Act. The remaining information is exempt under Section 36(2) (b) (i) of the Freedom of Information Act (prejudice to the effective conduct of public affairs). That Section 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 has concluded that the information should be exempt under that Section.

Both Section 35 and Section 36 are qualified exemptions 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.

In respect of Item 2 of your request, this issue has been addressed by the Hall Report which may be found on the MOD Website [www.mod.uk/hall report](http://www.mod.uk/hall-report) . Under Section 21 of the Act we are not obliged to provide information that is already reasonably assessable to the public.

I can confirm that no relevant information is held within the Department in respect of Items 3, 4 and 5 of your request.

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

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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