

Memorandum

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and
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To: **Kim Graham** Head, Naval Service FOI Coordination Cell M3185-A33

From: **John H Large** 14 January 2010

Cc: David Hoadley - SCANS

Subject: **FOI S27(1) QUALIFIED EXEMPTION – M3185-A31 INFORMAL RESOLUTION
YOUR REF 09-12-2009-141326-001**

Thank you for your letter of 14 January 2010 (Ref 09-12-2009-141326-001) in response to my M3185-A31 of 11 January 2010 request for an informal resolution over the apparent dichotomy of the statement of Cdr Dabell at the public meeting of 4 November 2009 and your nomination of Exemption S27(1a) of the FoI Act.

1) Commander Dabell

Essentially, Cdr Dabell stated that the details of the nuclear propulsion plant in all operational *Classes* of Royal Navy submarines are not subject to any agreement/control by an overseas state, for example the *1958 UK-US Mutual Defence Agreement*, whereas your inclusion of the qualified exemption S27(1a) can only be interpreted to mean that an overseas state does have some element of vested interest in the nuclear plant and/or its operation.

Accordingly, your statement that the qualified, prejudice-based Exemption S27(1a) of the Act is *'appropriately engaged'* can only be interpreted to mean, surely, that Cdr Dabell was incorrect and/or unintentionally misleading with his statement.

I suggest that since Cdr Dabell will wish to correct the record of the public meeting you should communicate this opportunity to him.

2) Correct Application of the Freedom of Information Act

Finally on a matter of procedure and correct application of the FoI Act, my understanding is that the public interest test has to be conducted separately for each exemption being tested and not coupled to other exemptions as inferred by your 2nd paragraph phrase *"... to withhold the information in reliance on the exemption s27(1) in conjunction with exemptions s24(1) and s26(1) . . ."*

Accordingly, please advise me whether or not Exemption S27(1) was considered completely separately to the other exemptions engaged and that, for S27(1), first the likely prejudice that would be caused was established before the balance of the public interest test was determined.

Thank you for your continuing adherence to your obligations under the FoI Act and for being helpful wherever possible.