



**IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000**

Appeal No. EA/2011/0128

BETWEEN:

CLIFFORD PAINTER

Appellant

and

THE INFORMATION COMMISSIONER

First Respondent

and

MINISTRY OF DEFENCE

Second Respondent

CONSENT ORDER APPROVAL

PURSUANT to Rule 37(1) of the Tribunal Procedure (First-tier) (General Regulatory Chamber) Rules 2009, the Tribunal approves the Consent Order in this matter in the form attached hereto, which has been signed by all parties.

Tribunal Judge: Ms A Dhanji

Dated: 2 November 2011

GENERAL REGULATORY CHAMBER (INFORMATION RIGHTS)

B E T W E E N :

CLIFFORD PAINTER

Appellant

-and-

THE INFORMATION COMMISSIONER

First Respondent

-and-

MINISTRY OF DEFENCE

Second Respondent

CONSENT ORDER

Preamble:

A. The Appellant made the following Freedom of Information request on 7 October 2008 (the **Request**):

“Under the Freedom of Information Act, I seek answers to specific problems.

- a. Please tell me how many Service personnel have submitted a claim for disabilities caused from and due to exposure [internally and externally] to: insecticides; herbicides; Defoliants [such as Agent Orange, Agent Purple, Agent White etc]; and any other type of toxic chemicals during their service, and where that service occurred. That would include all chemicals that form part of shells [eg. Mustard gas], and their resulting residue.*
- b. How many such claims, to put a time frame on it have arisen in the period January 1990 to December 2010? (time period was amended in Appellant’s emails dated 7 and 19 October 2011)*
- c. How many of those claims were successful?*
- d. Of the successful claims, how many were awarded due to such exposure whilst serving in Canada?*

This may seem a lot of work, but I cannot believe that this question has not already been posed”

- B. The Second Respondent relies on the s.12 Freedom of Information Act 2000 refusal and the basis of the cost estimate which underpins it, which was upheld by the First Respondent in his Decision Notice dated 23 May 2011.
- C. The Second Respondent does not consider that there is an obligation to carry out a search up to the cost limit of £600 in support of meeting its responsibilities under s16 of the Freedom of Information Act 2000. However, in compliance with the Tribunal's Direction dated 30 September 2011 the Parties have reached the agreement set out below.

By Consent it is Agreed That:

1. The Appellant withdraws his appeal, such withdrawal to take effect once the Tribunal has received a copy of this Consent Order signed by all parties;
2. The Second Respondent searches a further 67 War Pension files, which are to be selected at random by the Second Respondent from the War Pensions Computer System from the period identified by the request (January 1990 to December 2010), and reviewed to ascertain whether any information is held within the terms of the Request;
3. The Second Respondent records the methodology of the search; and provides to the Appellant details of this, and details in each case of any causes of disability found to be recorded which match those specified in his request and the outcome of the claim; and
4. The Appellant and the First Respondent be provided with the results of the searches by no later than 20 working days from the date upon which the Second Respondent is provided with the Appellant's signed copy of the Consent Order.

Dated:

Signed:

The **Appellant** - Mr Clifford Painter, 3 Temple Road, Stowmarket, Suffolk, IP14 1AX

Dated:

Signed:

The **First Respondent** - Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Dated:

Signed:

The **Second Respondent** – the Ministry of Defence, represented by the Treasury Solicitor's Department, One Kemble Street, London, WC2B 4TS – Ref.: Z1163106/EVS/B4