

2017 CHRISTMAS MESSAGE FROM THE CHAIRMAN

"It is one of the greatest pleasures of my job that I get to see at first-hand the incredible work of our armed forces. Those who serve our country deserve recognition for their sacrifice throughout their lives. I will continue to make sure that they get it." Theresa May@theresa_may 9:41 AM-Dec 13, 2017.

Thesun.co.uk/5125624/v

Dear Veteran,

I wish you and your loved ones a very happy Christmas and a healthy New Year. First let me apologise for the length of this letter but I thought you would wish me to provide you with as full an update as possible. It has been a busy year for many of our activists for which I would like to say thank you to them on your behalf.

As you are aware as each year has passed, the activities of the various medal campaign groups have lessened due to old age, frailty, illness or in many cases death. Consequently in 2007 the National Defence Medal campaign was launched by representatives of these organisations coming together to make one concerted effort to achieve medallic recognition in their life time through a generic medal should their own claims fail. Sadly, this year, as in previous years, some of our veterans are no longer with us and our thoughts are with their families at this particularly difficult time of year. Our thoughts are also with those who are ill or infirmed especially those who have been so active in the various medal campaigns and the NDM campaign over the last ten years. We are all getting older.

As in previous years, since 2014, my Christmas message focuses on the now discredited independent medal review, which was carried out under the sponsorship of the Cabinet Office. The subsequent revelations obtained by Dr Martin Halligan through Freedom of Information Act requests have caused and continue to cause much concern and disquiet within the veteran community.

Dr Halligan uncovered the fact that the Advisory Military Sub Committee (AMSC), a sub-committee of the Honours and Decorations Committee (HDC), meeting minutes showed many of the same subjective comments recorded almost word for word as those which had been made in the previous discredited and aborted MoD medal review, particularly in respect of NDM costs. The AMSC failed to review the Korea Post Armistice medal submission, failed to review the National Service Medal submission, the British Cold War Medal submission and many others. Consequently, significant questions have been raised as to the veracity of the AMSC deliberations and the validity of the advice provided to the HDC from which it made its decisions in respect of the medal review.

Towards the end of last year, you may recall that I wrote on behalf of the various medal campaign groups to our Prime Minister, Theresa May, to explain why veterans considered they had been let down by the medal review and why the review should be reopened. I am unsure if the Prime Minister saw my letter. However, it was forwarded by one of her aides to the Cabinet Office and to the Ministry of Defence who replied to me on her behalf. Both these government departments ignored the case I presented, which had been well researched, and informed me the issue of the NDM was now closed.

I consequently submitted a complaint to the First Secretary of State and Minister responsible for the Cabinet Office in respect of the degradation of the independence of the military medal review; the absence of due diligence overall particularly by the Honours and Appointments Secretariat; the inaccurate information and recommendations by the AMSC to the HDC which lacked substance and the consequent unsound decisions made by the HDC. I requested an independent investigation. Sir Jonathan Stephens KCB the Permanent Secretary to the Northern Ireland Office and the current Chair of the HDC was tasked with carrying out the investigation, he in turn directed a former senior civil servant who had previously worked in both the MoD and the Cabinet Office to undertake the independent investigation.

Unfortunately, the investigation was a whitewash. The investigator considered there was nothing untoward to question the actions of the AMSC or the HDC and that their consideration of the submissions for the various medals had been thorough and full. I will leave you to make your judgement on his assessment after you have read my letter. However, the investigator did conclude that Cabinet Office Ministers had misled Parliament on two separate occasions by attributing the erroneous figure of £475m for the cost of the NDM to the medal review. Consequently, the investigator recommended in his report that Sir Jonathan should apologise to me and the NDM campaign and take an opportunity to set the Parliamentary record straight. He went on to state the HDC regarded affordability as a factor to be considered only if a decision had first been taken that a NDM was right in principle. He therefore assessed that as the HDC did not reach such a decision he was overall confident that the erroneous attribution of £475m cost to the Review did not influence the HDC's position.

This was inaccurate as in October I received a letter from the Head of Honours Policy of the Honours and Appointments Secretariat in response to an FOI request I had submitted in which she stated that, *'the estimated figure of £475m was correctly reported and came from an MoD options paper which formed part of the evidence considered by the HDC.'*

It is apparent from these two differing statements that there is confusion on this matter in the Cabinet Office however, on the 14 September Chris Skidmore MP, Minister for the Constitution submitted a Ministerial Correction on behalf of the Cabinet Office to Parliament and I have received a short apology from Sir Jonathan Stephens.

This less than adequate independent investigation is not acceptable. Once I have received the outcome of the Upper Tribunal into Tony Morland's case and we have details of which members of the HDC did not attend the various meetings, I will apply in the New Year to the Parliamentary Ombudsman in the House of Lords for a review of the investigation and its findings.

You may remember that David Cameron before becoming Prime Minister in 2009, again in 2010 on becoming Prime Minister and subsequently in 2012 when he directed the MoD medal review should be aborted and be handed over to the Cabinet Office, he assured veterans from the medal campaign groups that he would address their claims, the injustice and draw a line in the sand once and for all in respect of these outstanding claims which have been ongoing for decades. He has been badly let down and so have we.

This whole process attracted the attention of a documentary film producer who I worked with over a few months during this year. Indeed, many of you submitted your individual stories of your time in the armed forces for inclusion and agreed to appear in the TV production. Sadly, the draft outline was screened out at the first stage of the BBC documentary review; there are just so many other more *'interesting'* events. However, the documentary producer has not given us up and we will review any updates or turn of fortunes of our campaign in late Spring next year.

Perhaps the most time consuming and demanding task this year was the progression of the FOI request made by former NDM Co-Chairman Tony Morland to the Upper Tribunal in October. This was a result of the appeal by the Cabinet Office against the decision of the First Tier Tribunal (FTT) which directed them to produce the information sought by Tony.

You may recall that Tony had, in April 2015, submitted an FOI request to the Cabinet Office for the redacted minutes of the HDC meeting which took place in February 2015 and dealt with what was in effect the correspondence between myself and the Head of the Honours and Appointments Secretariat during the period November 2014 to January 2015 in respect of just what evidence had been presented to the HDC at their meetings which dealt with the medal review. The Cabinet Office turned down Tony's request. This rejection was upheld on Internal Review by the Cabinet Office and on appeal by Tony to the Information Commissioner who found in favour of the Cabinet Office stating that the public interest test was balanced finely in the Cabinet Office favour. Convinced that this was not correct, Tony appealed to the FTT. After much debate the FTT found in Tony's favour on 10 January 2017 and directed that the Cabinet Office should provide the information sought.

On the very last day before the release of the information was due in February 2017 the Cabinet Office appealed to the Upper Tribunal against releasing the redacted minutes. It had taken almost two years to get to this stage. The Upper Tribunal hearing was set for 26 October 2017. The paperwork for the tribunal was extensive. Tony did not have any legal representation and therefore I represented him as a 'Litigant in Person'. Against us in Court and leading up to the hearing was a barrister and two aides, and a solicitor and senior civil servant representing the Cabinet Office and working in tandem with them was a barrister and a solicitor representing the Information Commissioner's Office. The hearing lasted all day in front of three judges.

Basically, this large legal representation all paid for by public funds were arguing that the redacted minutes dealing with the NDM at the February 2015 HDC meeting could not be released as the FTT Judge had erred in not accepting that the NDM submission was still 'live' and about the definition of 'relates to' not just being about medals that are to be awarded by Her Majesty but also medals that do not exist. Our case was simple; MPs around the country and veterans had received letters from the Honours and Appointments Secretariat stating that there were no plans for further work on the issue of the NDM. Hardly a situation that could be termed as the NDM being 'live', other than us all keeping it so by calling for the medal review to be reopened. As far as the definition of 'relates to' was concerned it was amazing

to listen to qualified barristers talking on a simple definition for hours and getting into quite a muddle.

Regardless of whether the definition of 'live' or 'relates to' put forward by the Cabinet Office was accepted by the three judges it would have to pass the Public Information Test and prove that it was in the public interest not to release the information. Our case for the release was again simple; we considered it in the public interest to release the information and for the Cabinet Office to explain:

- The loss of the AMSC sub-committee of the HDC inaugural minutes.
- The lack of independence in the composition of the AMSC.
- The lack of objectivity displayed at meetings to discuss the various medal submissions.
- A failure to appropriately review medal submissions.
- A lack of due diligence by Cabinet Office staff.
- Questions in respect of the soundness of advice provided to the HDC.
- Questions about the attendance of HDC members at its meetings.
- Questions surrounding the HDC knowingly making decisions based on unsound advice which could not be substantiated and when alerted to the situation taking no steps to rectify the situation.
- Production and promulgation of erroneous NDM costs together with other spurious statements surrounding the medal review;
- The misleading of Parliament, individual MPs and the public;
- A less than adequate Cabinet Office investigation into a dossier of complaints surrounding the medal review;
- Reluctance by both the MoD and Cabinet Office to provide the openness and transparency of the review as directed by Prime Minister David Cameron.
- An inordinate amount of undisclosed expenditure of taxpayers' money on legal fees to keep information of public interest out of the public domain together with a lack of manual and electronic records of such expenditure on legal fees over a two-year period.

There is now also clear evidence that shows why it is in the public interest that the 'safe-space' claimed by the Council for the Cabinet Office in exploring the definitions of 'relates to' or 'conferring of' should be dismissed. I believe Her Majesty would wish to be assured that all medal recommendations or details of those that are turned down are based on facts that can be substantiated. That is not the case in respect of the National Defence Medal submission and many other medallic claims that have been part of this medal review. I also requested the Tribunal judges consider the possibility of creating case law that determines, *'where inaccurate, erroneous or misleading advice is provided to a committee, from which it makes its decisions, that this will be taken into consideration when deciding the issue of 'safe-space' as an exemption to the release of information'*.

The Judges had anticipated making their decision on the Cabinet Office appeal not to release the information Tony sought at the end of the hearing, that did not happen and eight weeks on we are still awaiting a decision.

The delay in the Upper Tribunal decision has implications for other Freedom of Information Act requests which have progressed through to the First Tier Tribunal stage because of the Cabinet Office or the MoD refusing to release the information requested. They have all been delayed awaiting the outcome of Tony's. Those FOIs involved include a request by:

Andrew Davies - British Cold War medal campaign

Richard Farrar - Korea Post Armistice medal campaign

Dr Martin Halligan - medal campaign for those injured in conflict/NDM

We have had one FOI success this year. On the 16 February I submitted the following FOI request to the Cabinet Office, *"Please forward to me details of which of the eight members (includes the Chairman) of the Honours, Decorations and Medals Committee **DID NOT** attend the HD Committee meetings which dealt with the military medals review in January 2014; July 2014 and February 2015."*

The Cabinet Office responded on 17 March stating it was withholding the requested information and that it was in the public interest to do so. I requested an internal review and on 13 April the Cabinet Office wrote to me upholding their initial response. On 18 April, I requested the Information Commissioner review the way in which my complaint had been handled and the information sought be released as I had not requested information relating to the formulation or development of government policy or information relating to conferring by the Crown of any honour or dignity; and did not request details as to why the members did not attend or where they were at the time of the meetings.

The Cabinet Office claimed it should not release the information as it related to government policy in relation to the National Defence Medal and at the time of the request it was a live issue. The ICO responded noting that I had made no mention of the NDM or any policy concerning any medal; it was a simple request for details of the committee members not in attendance. The ICO discussed this with the Cabinet Office who asserted that to disclose details of individuals who did not attend specific meetings would undermine the collective decision-making process. The Cabinet Office also stated its concerns that the disclosure of who did not attend a meeting could be used to infer a lack of rigour or questionable decision making. In addition, they saw no problem as to whether the members were physically at the meetings as their views were either represented in writing or through a senior representative.

The Information Commissioner reminded the Cabinet Office that the FOIA does not make a provision for creating an exemption to disclosure of information in case the public make assumptions from the release of that information.

The Cabinet Office further claimed that it did not have to release the information sought as it related to both decisions on eligibility and formulation of policy in relation to honours and medals. However, the Information Commissioner stated that although the interpretation of

'relates' was broad it did not relate to the conferring of an honour by those members who did not attend the meetings. Consequently, no exemption to provide the information could be used. The Cabinet Office now have until 12 January 2018 to provide the information about which members did not attend the Honours and Decorations Committee which made its decisions in respect of the medal review or submit an appeal against this decision by the Information Commissioner to the First Tier Tribunal by 4 January 2018.

This decision raises questions as to the rules surrounding whether these HDC meetings were considered quorate and the decisions valid. It also questions many statements made in correspondence by or on behalf of the Head of the Honours and Appointments Secretariat to Members of Parliament. Here are a few examples, there are many more:

- The NDM received very thorough attention by the Honours and Decorations Committee.
- The NDM submission arguments were exhaustively examined by the Committee.
- The NDM was considered at length and it was only after full and careful discussion that the Honours and Decorations Committee, taking advice from the Advisory Military Sub-Committee, concluded a strong enough case could not be made for the NDM.
- The decision by the Honours and Decorations Committee was based on a full consideration of the merits of the case for the NDM and went beyond financial considerations.

The funding of the NDM has always been a contentious issue and resulted over the years with both representatives of the Ministry of Defence and Cabinet Office making wildly exaggerated assessments. I am pleased to inform you that the reputable medal producer who provided a quote a few years ago has kept the cost frozen at £5.00 per medal, this is a cost to the Treasury as Her Majesty is the fount of all medals and it would be inappropriate for recipients of the NDM to buy the NDM. It is accepted that recent predictions show the MoD as being short of money, but this expenditure should be viewed as a 'spend to save measure' by the Government as it would generate much needed positive publicity for service in the Armed Forces. Individual recipients will still be expected to apply for the medal and fund both administration and postage.

I am grateful to the defence minister for veterans, Tobias Ellwood MP, for announcing that Britain's 2.5 million veterans will be given their own identity card in the form of a special driving licence stamped with a large "V", which is likely to be introduced in 2019. Hopefully there are plans to produce some form of recognition for those veterans who do not drive by choice, are now infirmed, disabled or just too old to drive.

Of course, the quote at the top of my letter from Prime Minister May was about the recognition of veterans through this driving licence and not medallic recognition.

Although I am sure if the Prime Minister were aware of the disrespect that has been shown to our veterans throughout this medal review process her statement:

Those who serve our country deserve recognition for their sacrifice throughout their lives. I will continue to make sure that they get it.”

Theresa May@theresa_may

would also include medallic recognition.

Sadly, the injustice of medallic recognition continues. The medal review terms of reference specifically excluded the LS&GC being reviewed however, the HDC in making its decisions on the medal review appear to have decided that the LS&GC should this year be awarded to all officers who have served 15 years and be back dated to the date of the review findings so that those officers who were serving in July 2014 are eligible for the medal. Congratulations if you are in that service band.

Finally, let me close by reminding those veterans, non-veterans and the media who may read my letter on our website that all the various medal campaign groups have ever sought, yet continually been denied, is an open and transparent medal review where their submissions are fairly assessed and if they have a case their submission is recommended to Her Majesty and if not, evidence based reasons are provided as to why not. This does not seem unreasonable or a lot to ask by our veterans who have kept this Nation and its interests safe and secure since the ending of the Second World War.

Veterans are not just for Christmas they are for life.

Happy New Year

Best wishes

Terry

Colonel Terry Scriven

Chairman

UK National Defence Medal Campaign