



Ministry
of Defence



Defence Equipment and Support
Maple 0a, #2043
MOD Abbey Wood
Bristol BS34 8JH



Email: DESSec-FOI@mod.uk



Our Reference:
FOI2015-04180
Date:
03 June 2015

Dear 

Thank you for your email of 5 May 2015 requesting the following information:

1. *Could an explanation be provided why MoD Contract CSS/0047 was terminated.*
2. *Mod's Termination of Contract (CPS), section 67 states: Before exercising any right of termination, Acquisition teams must seek advice from CLS-CL and D/IPR where appropriate and ensure that they have a plan in place to: a. record those actions taken to date together with any further action which is necessary to terminate in accordance with the terms of the contract. Could a record be provided of the advice requested and received from CLS, and a copy of the 'plan' referred to.*
3. *Why was the contract terminated with immediate effect despite the contract having a notice period.*
4. *MoD's own guidance for contacts under 250k which states: 'In respect of contracts below the threshold of £250K, DEFCON 656 is to be exercised only when the customer has withdrawn the requirement' . Could MoD please provide an explanation to why this guidance exists, and for what reason a Commercial Officer would choose to ignore this guidance.*
5. *Could MoD provide other examples of this guidance being ignored and the reasons behind such decisions.*

In addition, you separately requested the following information on 5 May 2015:

6. *Are employees within MoD's Central Legal Services team regarded as civil servants and therefore subject to the 'Civil Service Code'?*

This request, previously logged under reference FOI2015-04179, is also addressed within this response. I am treating both items of correspondence as a request for information under the Freedom of Information Act 2000.

A search for the information has now been completed within the Ministry of Defence (MOD) and I can confirm that information in the scope of your request is held. Answers to your questions are below.

1. *Could an explanation be provided why MoD Contract CSS/0047 was terminated.*

Defence Equipment & Support

3. *Why was the contract terminated with immediate effect despite the contract having a notice period.*

An explanation for the termination of contract CSS/0047 has already been provided within the email sent to you by DES CAAS-Ships-CRM-DepHd dated 19 September 2013, timed 09.56 and email sent by DES Ships Comrcl-Hd on 19 September 2013, timed 18.00, which have also been sent to you under previous FOI requests and in relation to Ministerial Correspondence reference MC2015-01906. As such, this information is considered to fall within scope of Section 21(1) of the FOI Act (Information accessible to the applicant by other means) and is therefore being withheld.

2. *Mod's Termination of Contract (CPS), section 67 states [...]. Could a record be provided of the advice requested and received from CLS, and a copy of the 'plan' referred to.*

The extract to which you refer, from the MOD Commercial Toolkit, is for guidance and it was not deemed appropriate under the circumstances to seek advice from Central Legal Services.

4. *MoD's own guidance for contacts under 250k which states [...]. Could MoD please provide an explanation to why this guidance exists, and for what reason a Commercial Officer would choose to ignore this guidance.*

5. *Could MoD provide other examples of this guidance being ignored and the reasons behind such decisions.*

The guidance exists to support commercial officers. There is no central repository of information regarding the use of guidance, termination of contracts and the reasons for termination. As such, we would need to request information from each MOD Commercial Branch, of which there are more than 190. Section 12 of the Act makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for central government is set at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the department holds the information, locating, retrieving and extracting the information. It is estimated that identifying, retrieving and extracting information relating to information on the termination of contracts would take at least 190 hours at a cost of around £4,750.

6. *Are employees within MoD's Central Legal Services team regarded as civil servants and therefore subject to the 'Civil Service Code'?*

Employees within the Central Legal Services are civil servants and, as such, the Civil Service Code applies.

If you are not satisfied 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 Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@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 dissatisfied 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 your case until the MOD 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.org.uk>.

Yours sincerely,

[REDACTED]