



Ministry  
of Defence

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23 February 2015

Dear [REDACTED]

Release of Information

Thank you for your correspondence dated 22 January 2015 requesting the following information:

- Why has the Government now accepted the principle of "Surface Artefact Collection."
- Has new information been made available about the condition of the wreck to alter the Government's previously stated position.
- Can you supply a full and complete copy of the project design.

Your enquiry has been considered to be a request for information in accordance with the Freedom of Information Act 2000.

I can confirm that that the Ministry of Defence holds information within the scope of your request.

I must, however, preface my response by noting that the Secretary of State for Defence's decision to allow the Maritime Heritage Foundation (MHF) to proceed with the next phase of the project for the management of the wreck site is conditional on MHF obtaining a licence for the work from the independent Marine Management Organisation; and the decision is now subject to a claim for Judicial Review.

The 2010 report<sup>1</sup> by the Ministry of Defence (MOD) and the Department for Culture Media and Sport on the public consultation on options for the management of the wreck site of HMS Victory (1744) states that:

Taking into account all the views expressed by respondents to the consultation and as proposed by a number of contributors, the Government intends to adopt a phased approach to the management of the site. In line with the provisions of the rules of the annex to the UNESCO Convention, *in situ* management will be adopted as an initial approach, pending further study of the site, before deciding on any further physical intervention.

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<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/105731/victory\\_response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/105731/victory_response.pdf)

The Project Design and associated site survey report submitted by the Maritime Heritage Foundation demonstrate that options for in-situ management of the site have been considered but cannot deliver a sustainable means of sharing the site's values or safeguarding its long-term conservation. The site surveys also show that the site is at risk from bottom fishing and natural erosion; we also know that the site is at risk from looting, as demonstrated by the illegal removal of a cannon, which was later recovered.

For these reasons the Government decided that recovery of items was the best way to ensure that artefacts from HMS Victory 1744 will be available for the future appreciation and education of all.

Some information relating to the project is already available on the website <http://victory1744.org/> but the detailed Project Design was submitted to the Government in confidence. I am therefore withholding release of the Project Design under exemption s41 (Information the disclosure of which would be an actionable breach of confidence) of the Freedom of Information Act 2000. Under Section 41 of the Freedom of Information Act (FOIA), information is exempt if it was obtained by the public authority from any other person and the disclosure of it would constitute a breach of confidence, actionable by that or any other person. A public authority will not only be under an obligation of confidence where it has accepted information on the express understanding that it will remain confidential, but will also be bound by an obligation of confidence where the circumstances in which it receives information suggest that the information is to be held confidentially, even where the information is supplied to the public authority by someone other than the person to whom the obligation was originally owed.

Under s16 of the Act, Duty to provide advice and assistance, it may be helpful if I explain that while Rule 9 of the Annex to the UNESCO Convention on the Protection of Underwater Cultural Heritage requires a detailed Project Design to be developed and submitted to the competent authorities for authorization and appropriate peer review (for which the Government established an Advisory Group), there is no requirement for it to be published.

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, 1<sup>st</sup> Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail [CIO-FOI-IR@mod.uk](mailto: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

**Navy Command FOI Section**