



Ministry of Defence

Ref: FOI2016/00278

Ministry of Defence
Main Building
Whitehall
London SW1A 2HB
United Kingdom

Telephone: [REDACTED]

E-mail: [REDACTED]

2 March 2016

Thank you for your email of 8 January 2016 requesting the following information:

Since 1 May 2014 how many times has Philip Dunne MP met with representatives of Serco PLC, Captia, G4S and ATOS.

Can you please state the date and time of the meeting. Can you please state the venue. Can you please provide a full list of all those present at the meeting including where possible employees and representatives of both parties. Can you please state the purpose of the meeting and provide any related minutes.

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence, and I can confirm that some information in scope of your request is held.

Firstly I must inform you that some of your request is exempt under section 21 of the FOI Act because the information is reasonably accessible to you by other means. As this is an absolute exemption it does not require a Public Interest Test to be conducted. All meetings between MOD Ministers and External Organisations are published online via Data.gov.uk on a quarterly basis as part of the on-going Transparency Agenda which has been in place since 2010. The most recent returns were published up until the end of September 2015 and these can be accessed via the following link:

www.gov.uk/government/publications?departments%5B%5D=ministry-of-defence&publication_type=transparency-data. Further data will be published online in due course to cover the rest of 2015.

In relation to the request for 'any related minutes' only one such record was held within the scope of your FOI. This information falls entirely within the scope of the absolute exemption provided for at Section 40 (Personal Data) and qualified exemptions provided for at Section 36 (Effective conduct of public affairs), 26 (Defence Capability) and 43 (Commercial Interests).

Section 40(2) has been applied to some of the information in order to protect personal information as governed by the Data Protection Act 1998. Section 40 is an absolute exemption and there is therefore no requirement to consider the public interest in making a decision to withhold the information.

Section 36 (Prejudice to Effective Conduct of Public Affairs) has been applied to some of the information requested, and this information has been withheld as a result.

In the MOD, determining whether disclosure would have a detrimental effect, as defined by the Section 36 exemption, falls to a Minister as the qualified person to make a decision. All the relevant information was provided to allow the Minister to make a fully informed decision on the application of Section 36. The Minister has decided that section 36(2) (b) and (c) applies to some of the information requested as outlined above.

In applying this exemption we have had to carefully balance the public interest in disclosing the information against the public interest in withholding it. Whilst we accept that releasing this information into the public domain would show dedication to transparency and demonstrate that there was no improper conduct between the MOD and its commercial partners, on balance the arguments for withholding this information were stronger. Section 36 is applied if it is felt that the free and frank exchange of advice and views were likely to be inhibited by release, or that disclosure would prejudice the effective conduct of public affairs. The meeting record requested would ultimately prevent Defence Ministers and commercial partners from exchanging free and frank views during meetings and would therefore prevent the effective conduct of public affairs through fear that conversation would be released into the public domain. This would also affect the free flow of information between the MOD and its commercial partners which could damage commercial relationships, both current and in the future, and affect other contracts in the long term, jeopardizing the UK's defence capability.

Section 26(1)(b) (Defence Capability) has been applied to some of the information because it contains details which are operationally sensitive which would prejudice the capability and effectiveness of UK defence. The balance of public interest was found to be in favour of withholding the information given that, overall, the public interest is best served in not releasing any details of Defence Capability as this would prejudice the security of UK armed forces both at home and abroad which would provide tactical advantage to our enemies and for these reasons I have set the level of prejudice against release of the exempted information at the higher level of "would" rather than "would be likely to".

Section 43 (Commercial Interests) has also been applied to some information requested. Section 43 (2) provides exemption of information on the assumption that release would likely prejudice the commercial interests of any person. In applying this exemption we have carefully balanced the public interest in disclosing the information against the public interest in withholding it. Whilst we recognise there is a public interest in ensuring that commercial arrangements are being effectively and proactively managed, the arguments against release were greater. The MOD must ensure that the commercial interests of external businesses are not damaged or undermined by disclosure of information which is not common knowledge and which could adversely impact on future business. Releasing some information discussed within private meetings could weaken the position of UK companies as it is market sensitive information and this could adversely affect the company in question and give an advantage to any competitors if the information was to be release into the public domain.

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, <https://ico.org.uk/>.

Yours sincerely,

Top Office Group Business Manager