



Ministry
of Defence

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

Ref: FOI2020/00271

E-mail: DefRes-Parliamentary@mod.gov.uk

27 October 2020

Dear [REDACTED]

Further to our letter of 5th February 2020 we are writing to you again with an amended response to your Freedom of Information request below, which is explained at Annex D.

“1. The number of fruitless payments (payments for which liability not to have been incurred or whether the demand for the goods and services in questions could have been cancelled in time to avoid liability) in excess of £30,000 made by or paid for by your department or its predecessor in the following financial years: 2016/17, 2017/18 and 2018/19

2. What each payment was for

3. The value of each payment

4. The reason why the payment was made

5. The reason why the payment was classified as fruitless

6. Whether any disciplinary action was taken as a result of the payment (if there was any disciplinary action, please specify what the action was)”

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 all the information in scope of your request is held.

The information for financial year 2016/17 has already been published in response to a previous FOI under reference number FOI2017/04594 and a copy of this response is at Annex A.

Please find at Annex B and C details of fruitless payments for financial year 2017/18 and 2018/19 as defined in the Ministry of Defence Financial Accounting & Reporting Manual (JSP 472):

“Fruitless payments. Payments where the Department receives nothing useful in return and: should not have incurred the liability; or could have taken appropriate action to avoid incurring the liability. For example: the cost of repairing incorrectly packed equipment damaged in transit, the cost of rectifying design faults arising from poor specification, failure to cancel travel, accommodation and training bookings in time to obtain a refund”.

Please note there are a number of measures being taken by the MOD to tackle the Interest being charged by HMRC for VAT owed by the department which include:

1. The new Contract, Purchasing and Finance system has a tax engine to help determine the correct VAT code.

2. Additional training is being provided to assist MOD management group staff in determining the correct VAT codes, and lessons are learned from any previous mis-coding, reviewing existing contracts to ensure compliance and making the appropriate corrections where necessary.
3. Specialist finance staff are also available to advise on VAT issues, arranges reviews and ensures corrections are processed.
4. Guidance is available from the specialist MOD VAT central team who may themselves contact HMRC if it is required.
5. Where the MOD believe the HMRC ruling does not take full account of an exemption or a new category of exemption is required, an appeal may be raised.

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 us in the first instance at the address above. 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, Ground 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 normally 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,

Defence Resources Secretariat

Annex A – 2016/17

2) What the payment was for	3) Value of payment	4) Reason for payment	5) Why the payment was Fruitless	6) Disciplinary action taken
Interest charged by HMRC for VAT owed	£39,968	VAT coding error - legal requirement	No benefit to the MOD	No
Interest paid to HMRC for underpayment of VAT	£36,879	When set up the contract was incorrectly categorised. This was discovered in FY14/15 and steps were immediately taken to repay the amount owed. It was not realised at the time that the interest should have been treated as a fruitless payment, hence only reported in FY16/17	Interest charge from HMRC would have been avoided if the contract had been correctly categorised	No
Negligent RTA White Fleet	£39,101	Land Rover stolen from RAF base	As the vehicle was leased, it is not deemed a stolen asset, but we still had to pay back the full value to the lease company	No
Interest charged by HMRC for VAT owed	£35,424	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No
Interest charged by HMRC for VAT owed	£31,595	Late payment of bill caused by problems associated with the Contracting, Purchasing & Finance (CP&F) system introduction	Interest payment could have been avoided if paid on time	No
Interest charged by HMRC for VAT owed	£30,275	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No
Interest charged by HMRC for VAT owed	£36,196	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No
Interest payment imposed by HMRC due to payment incorrectly identified as COSVAT	£32,418	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No

Interest charged by HMRC for non-payment of VAT	£175,731	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No
Interest payment imposed by HMRC due to payments incorrectly identified as COSVAT	£154,570	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No
Interest payment imposed by HMRC due to payments incorrectly identified as COSVAT	£129,962	Late payments to HMRC attract interest charge	Correct VAT treatment would have avoided charge	No

Total number of fruitless payments for 2016/17: 11

Annex B – 2017/18

2) What the payment was for	3) Value of payment	4) Reason for payment	5) Why the payment was Fruitless	6) Disciplinary action taken
Interest payment on late payment of Invoices	£98,909.65	Interest became due on commercial invoices that payment had been with-held but subsequently was adjudged needed to be paid	Had payment on the invoice not been withheld, payment would have been made and no late	No
Interest payment on late payment of Invoices	£124,809.77	Interest became due on commercial invoices that payment had been with-held but subsequently was adjudged needed to be paid	Had payment on the invoice not been with-held, payment would have been made and no late	No
Interest on VAT payment to HMRC	£31,697.56	After several years, interpretation of VAT treatment on an activity was reviewed and adjudged to be inappropriate. This meant that an inter-governmental payment to HMRC was due for back-payments of VAT and interest on these payments	Had the interpretation of the VAT treatment been appropriate initially, interest payments would not have been necessary	No
Interest on VAT payment to HMRC	£67,319.49	After several years, interpretation of VAT treatment on an activity was reviewed and adjudged to be inappropriate. This meant that an inter-governmental payment to HMRC was due for back-payments of VAT and interest on these payments	Had the interpretation of the VAT treatment been appropriate initially, interest payments would not have been necessary.	No
Software	£115,013.65	Software Purchase	Software purchased to enable a particular development was no longer needed due to changes in delivery timescales in the wider project. This is part of what is termed routine impairment of software and is	No

			common especially when using "Agile" development methodology	
Late payment interest charge	£57,724.62	Interest and compensation payable to contractor due to issues with CP&F matching causing delay in payment being made within specified period	Payment could have been avoided	No
Interest on VAT liability	£69,131.04	VAT coding reviews highlighted incorrect VAT coding, interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£39,693.88	VAT coding reviews highlighted incorrect VAT coding, interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£47,765.09	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£33,563.67	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£84,302.41	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£35,311.35	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£86,886.01	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£38,184.10	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£69,809.90	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£43,632.98	VAT Interest following a contract review	Payment could have been avoided	No
Interest on VAT liability	£33,400.32	VAT Interest following a contract review	Payment could have been avoided	No
Interest on VAT liability	£35,863.63	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£35,558.74	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£35,445.71	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No

Interest on VAT liability	£45,719.07	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£99,651.45	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£62,726.43	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£135,325.22	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Interest on VAT liability	£146,743.22	Interest paid to HMRC on underpaid VAT	Payment could have been avoided	No
Minimum Order Quantity	£363,000.00	Contractor had minimum order quantity for operational ration packs	Minimum order quantity was higher than requirement, but it was not possible to procure a smaller quantity	No
Contractual payment	£3,274,704.00	Leased gas cannisters not returnable to contractor.	Payment could have been avoided	No
VAT penalty and interest payment to HMRC.	£61,436.67	Wrongly VAT coded landing and handling transactions incurred charges.	This payment could have been avoided if the transactions were correctly coded	No
Rental on MoD houses	£539,859.71	Payments contractually due rental for 182 demolished properties for a 12 month period	MoD has no beneficial use of the properties	No
Late interest payment	£44,554.64	Rent was not paid on time	This payment could have been avoided.	No
Interest payment to HMRC	£42,436.58	Underpayment of VAT due.	This payment could have been avoided	No

Total number of fruitless payments for 2017/18: 31

Annex C – 2018/19

2) What the payment was for	3) Value of payment	4) Reason for payment	5) Why the payment was Fruitless	6) Disciplinary action taken
VAT Interest/penalty	£77,928.56	Late payment interest due to issues with 3-way matching on CP&F causing delays in paying invoices within the specified period	Payment could have been avoided	No
Demurrage Charge	£37,530.22	Demurrage Charge	Payment could have been avoided	No
VAT Interest/penalty	£92,855.98	Payment of interest charges to HMRC following incorrect recovery of VAT	Payment could have been avoided	No
VAT Interest/penalty	£64,402.19	Interest charges to HMRC following incorrect recovery of VAT	Payment could have been avoided	No
VAT Interest/penalty	£34,929.96	Interest charges to HMRC following incorrect recovery of VAT	Payment could have been avoided	No
VAT Interest/penalty	£59,560.86	VAT liability and interest charges due to HMRC	Payment could have been avoided	No
VAT Interest/penalty	£65,068.82	Interest to HMRC on an outstanding VAT balance	Payment could have been avoided	No
VAT Interest/penalty	£31,706.49	Part of PDS PVA008 VAT exercise	Payment could have been avoided	No
VAT Interest/penalty	£68,906.24	Interest on underpaid VAT to HMRC	Payment could have been avoided	No
VAT Interest/penalty	£172,790.23	Interest on underpaid VAT to HMRC	Payment could have been avoided	No
VAT Interest/penalty	£184,423.20	Interest on underpaid VAT to HMRC	Payment could have been avoided	No
VAT Interest/penalty	£171,476.61	Interest on underpaid VAT to HMRC	Payment could have been avoided	No
Payment for work not completed	£177,357.71	Safety provision payments for work not completed	Payment could have been avoided	No
VAT Interest/penalty	£34,805.24	Interest charges from HMRC	Payment could have been avoided	No
VAT Interest/penalty	£51,574.40	VAT Interest payment	Payment could have been avoided	No
HMRC Interest Payment	£55,040.57	After several years, interpretation of VAT treatment on an activity was reviewed and adjudged to be inappropriate. This	Had the interpretation of the VAT treatment been appropriate initially, interest payments would not have been necessary	No

		meant that an inter-governmental payment to HMRC was due for back-payments of VAT and interest on these payments		
HMRC Interest Payment	£43,646.95	Interest on late payment of tax due review of the costs of school bus journeys in Cyprus leading to costs over several years being reclassified as a Benefit in Kind	Had the interpretation of the tax treatment been appropriate from the start, interest payments would not have been necessary	No
Rental on MoD houses	£515,203.59	Contractually due rental for 184 demolished properties for a 12-month period.	MoD has no beneficial use of the properties	No
Interest payment to HMRC	£58,690.15	Underpayment of VAT due	This payment could have been avoided	No
Contract termination costs for RNAS Culdrose Air Day 2017, paid to organiser AHA Events	£39,782.86	For work carried out by AHA Events in anticipation of RNAS Culdrose Air Day 2017, prior to cancellation	The decision to cancel RNAS Culdrose Air Day 2017 was made (and no further Air Days have been held) after work had already started on planning and booking displays, contractors etc, therefore organiser AHA Events had incurred costs for which we were responsible under the terms of the contract we had with AHA Events	No
Fine imposed by HM Treasury for Contract Letting Standards	£149,000	The case to let the Defence Learning and Management Capability (DLMC) Bridging Capability contract beyond 13 November 2016 was initially rejected by Minister for the Cabinet Office (CO) and Paymaster General (MCO), and thereafter referred to HM Treasury (HMT) as contentious	In consultation with the CO, HMT proposed that the Department agreed to the payment of a fine of 1% of the value of the contract to reflect a number of process omissions. The Department received no benefit as a result of the payment	No

Total number of fruitless payments for 2018/19: 21

Annex D

Please note the payment of £157,000 to McKinsey was originally classified as a fruitless payment in 2018 in our original response to you, in line with the Defence Nuclear Organisation's (DNO) understanding of the contractual arrangements associated to this work. Upon further investigation, we have concluded that poor information management at the time gave the impression that this item of work was outwith the agreed contractual timelines.

McKinsey were contracted to conduct this review as the final deliverable in a four-part independent review, lasting January 2017 – July 2018. Unless formally agreed, the associated contract was to cease on the 31st July 2018, with all deliverables to be provided in their completed or uncompleted state at time of contract expiry. At the direction of the then Director General Nuclear, the work for this final deliverable was actually carried out September-October 2018. A formal extension to the contract, to accommodate the adjusted timeframe, was either not provided or is not stored within available records, leading to an inaccurate classification as a 'fruitless payment' at a later stage. However, DNO is content that there is sufficient evidence that this final review was indeed requested by DNO, carried out in full, and since utilised, with senior leadership engaged in the process throughout. The associated payment is therefore not 'fruitless' as previously recorded and this FOI response has been updated and reissued accordingly.

DNO was founded in 2017, through the amalgamation of a collection of interdependent organisations within the Defence Nuclear Enterprise. It has since undergone significant development, and we continue to expand our capabilities, communications and governance considerably. We are confident that appropriate commercial and financial controls are now established to monitor contracts more closely, to avoid incidents such as this happening again.