

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 September 2017

**Public Authority:** Ministry of Defence  
**Address:** Whitehall  
London  
SW1A 2HB

#### **Decision (including any steps ordered)**

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1. The complainant submitted three requests to the Ministry of Defence (MOD) seeking information about the procurement of a particular contract. The MOD refused to answer requests on the basis that they were considered to be vexatious and further that given its previous correspondence with the complainant it was not under an obligation under section 17 of FOIA to issue a formal refusal notice to that effect. The Commissioner has concluded that the requests are vexatious and therefore the MOD is not obliged, on the basis of section 14(1) of FOIA, to answer them. The Commissioner has also found that on basis of previous communications with the complainant the MOD was entitled to rely on the provisions contained at section 17(6) not to provide the complainant with a refusal notice stating that section 14(1) applied to his requests.

#### **Background**

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2. The requests which are the subject of this complainant concern the MOD's procurement of covert body armour. In particular, they concern the MOD tender, SSP/00135, which sought bids for the manufacture and supply of a scalable body armour system.
3. The MOD's evaluation process of the tenders submitted comprised three phases. Only the two highest placed bidders at the end of phase two were taken through to the third phase. Following the completion of this evaluation process the MOD awarded the contract in December 2016 to the winning bidder. However, as part of this process the MOD concluded that neither of the two bidders considered at the third phase of the assessment of the original tender met the criteria in respect of the 'level

2 requirement' of the tender. Therefore the contract awarded in December 2016 did not cover this requirement.

4. Instead the MOD re-ran the competition for the outstanding Level 2 requirement as a 'Revise & Confirm' exercise which allowed all of the original bidders, ie not just the two taken through to the third phase, to revise their original solutions. The contract for the level 2 requirement was awarded in July 2017.
5. The tender in question was conducted under the Defence and Security Public Contracts Regulations 2011<sup>1</sup> (DSPCR). Under the DSPCR the MOD is obliged to provide unsuccessful tenderers with the characteristics and relative strengths of the successful tender once the tender is awarded. However, regulation 33(11) of the DSPCR provides details of the circumstances when information can be withheld, two of which are if:
  - Information would prejudice the legitimate commercial interest of any economic operator;
  - Might prejudice fair competition between economic operators.
6. As will become apparent from the complainant's submissions summarised below, it is relevant to note that the complainant's company submitted a bid for this contract which was not successful.

## Request and response

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7. Following on from a number of previous requests which he submitted to the MOD concerning the procurement of contracts for covert body armour clothing, the complainant submitted the following request to the MOD on 29 September 2016:

*'May I request to be supplied with the full details of 't-shirts' order as previously requested.*

*May I also be supplied with the full details of the soft and hard armour that went into the 't-shirts' as previously requested'.*

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2011/1848/made>

8. The MOD responded on 27 October 2016 and explained that it was refusing to comply with this request on the basis of section 14(1) of FOIA because it considered it to be vexatious.
9. The complainant did ask the MOD to conduct an internal review but this was not completed due to an administrative oversight on the MOD's part.<sup>2</sup>
10. The complainant submitted the following request to the MOD on 18 May 2017:

*'I would be grateful to be informed of the current status of the competition [ie the tender for SSP/00135].*

*May I formally request to be informed of the detailed reasons for our rejection from the competition, including the notes that gave rise to the scoring of points to enable us to effectively review the decision making process in respect of our tender and those two companies selected to go forward.*

*I am informed we are entitled to be informed of this under European legislation and that this should be provided as 'rapidly as possible'. Please also treat this as a formal request under the Freedom of Information Act'.*

11. He then submitted the following request to the MOD on 24 May 2017:

*'Thank you for letter of 24 May but it has failed to give the information requested that I believe our Company was entitled to, once the contract was awarded and in addition even prior to this date when our Company had not been selected to go forward. May I request that you also supply the notes and or other information that determined how the points were allocated to enable our company to have an opportunity to review the decision process.*

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<sup>2</sup> It should be noted that the complainant had previously contacted the Commissioner in December 2016 in order to complain about the MOD's handling of a number of other requests, including the refusal of the request dated 29 September 2016 on the basis of section 14(1) of FOIA. Although a decision notice, FS50657134, was issued in relation to that complaint, the notice only concerned the application of section 43(2) to another request. The aspect of the complaint concerning the application of section 14(1) to the request of 29 September 2016 was informally resolved prior to the decision notice being issued.

*Please accept this as formal notification that this company is dissatisfied and that you implement the process to resolve our complaint.'*

12. The MOD responded on 21 June 2017 and referred to its letter of 27 October 2016 in which it had explained that there was no obligation to issue a further notice stating that the MOD is relying on section 14(1) of FOIA if he submitted further requests on the subject matter of contracts for covert body armour. On this basis, the MOD explained that it was not intending to answer the requests of 18 and 24 May 2017 and any further correspondence on this subject would go unanswered.
13. On 13 July 2017 the MOD contacted the complainant and confirmed that his company was unsuccessful in the Revise & confirm exercise for the Level 2 aspect of the tender plates. The MOD provided the complainant with a 'standstill letter' explaining the outcome of the competition.<sup>3</sup>
14. The complainant contacted the MOD on 19 July 2017 in order highlight a number of concerns that he had with the contents of the standstill letter. The complainant also submitted the following FOI request:

*'Phase 2*

*We had been informed by 2 MOD persons prior to the decision to award the contract that [company name] were to be awarded the Level 2 armoured plate contract that indicates a proper decision process was not followed. This is supported by the fact that [company name] and another company failed the initial shoot tests and contrary to normal tender competition rules, were allowed to resubmit rather than being disqualified.*

*Now a decision has been made, may I formally request on behalf of [name redacted], the following information to enable us to consider making a formal challenge to the decision to award the contract.*

- 1. The evaluation notes of individual evaluators.*
- 2. Notes of evaluation meetings particularly moderation meetings.*
- 3. Reports and records required to be maintained for compliance of European Communities Act 1972 that I believe is contained within The Defence and Security Public Contracts Regulations 2011.*
- 4. Price tendered for the award winning contract by the winner.*

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<sup>3</sup> The purpose of such letters being to inform each of the tenderers who had been identified as the preferred bidder. Standstill letters also provide reasoning to explain why the preferred bidder's tender had been chosen.

- 5. The price tendered for the company taken to phase 3, but unsuccessful to evaluate if [name redacted] should have been allowed to proceed to phase 3.*
- 6. The detailed reasons why in the initial tender those two companies who were taken to Phase 3 previously failed and why instead of being excluded from the competition they were allowed to continue in the subsequent revised tender for the same contract. I understand normal MOD and international tender rules should have meant both companies should have been excluded, so allowing other companies to proceed. I am informed we are entitled to be informed of this under European legislation and that this should be provided as 'rapidly as possible.' Please also treat this as a separate formal request under the Freedom of Information Act.'*
15. The MOD responded on 8 August 2017 and explained that as per its letter of 27 October 2016, it explained that there is no obligation to issue a further notice stating that the MOD is relying on section 14(1) of FOIA if he submitted further requests on the subject matter of contracts for covert body armour. Therefore, the MOD explained that it was not intending to answer the request of 19 July 2017 and any further correspondence from the complainant on this subject would go unanswered. (Although it should be noted that outside of FOIA, the MOD did respond to the complainant on 8 August 2017 in order to address the points he raised about the contents of the standstill letter.)

## Scope of the case

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16. The complainant contacted the Commissioner on 21 June 2017 in order to complain about the MOD's decision to refuse to comply with his requests of 18 and 24 May 2017 on the basis of section 14(1). The complainant subsequently asked the Commissioner to consider the MOD's refusal to answer his request of 19 July 2017 on the same basis. The Commissioner agreed to do so.

## Reasons for decision

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### Section 14 – vexatious requests

17. Section 14(1) of FOIA allows a public authority to refuse to comply with a request if it is considered to be vexatious.
18. In the Commissioner's view, section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

19. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority. Where relevant, this will involve the need to take into account wider factors such as the background and history of the request.

#### The MOD's position

20. The MOD explained that it had taken into account the various relevant indicators set out in the Commissioner's guidance which can be taken into consideration when determining if a request is considered to be vexatious.
21. In the circumstances of these cases, the MOD considered the following factors to be relevant:

#### *Unreasonable persistence*

22. The MOD argued that the matters raised by the complainant in his FOI requests have been comprehensively addressed by the MOD. Both the Defence Equipment and Support (DE&S) project manager and commercial manager have spoken to the complainant at length about the subjects raised via his FOI requests. The MOD explained that as each FOI request was answered, the complainant responded by return asking for an internal review and with new requests for information. The MOD explained that the MOD Defence Commercial Director had also written to the complainant in order to refute his allegations about the failings in the MOD's procurement of this contract. The MOD explained that the complainant has also visited his MP to discuss his allegations and has received two responses through Ministerial Correspondence explaining the situation in detail. The MOD argued that the complainant was unable to accept that the MOD had strictly adhered to the DSPCR which control the tendering and contract award process.

#### *Unfounded accusations*

23. As detailed in the preceding paragraph, the MOD emphasised that the complainant had received numerous responses to his serious allegations that there were irregularities in the tendering process and it had explained that it cannot investigate his allegations if no evidence is forthcoming.

#### *Frequent of overlapping requests*

24. The MOD emphasised that as each FOI request was answered, the complainant responded by return, raising a request for an internal review and with new requests for information.



*Disproportionate effort*

25. The MOD explained that a number of its officials have had to expend a great deal of time in dealing with each FOI request and the subsequent reviews.<sup>4</sup> The MOD argued that this had a serious impact upon the normal business functionality of two already hard-pressed areas of the organisation, those being the areas which would hold information in relation to covert body armour contracts.
26. In its submissions to the ICO in February 2017 concerning the Commissioner's investigation of the application of section 14(1) to the request of 29 September 2016, the MOD provided some figures to illustrate this impact. The MOD explained that the Commercial Manager at DE&S estimated that he had spent 10 per cent of his time over the last eight months dealing with the complainant's allegations, questions and requests, five of which had been submitted under FOI and a further sixth request submitted after the complainant had been informed that further requests would go unanswered. The MOD explained that the project manager estimated that he was spending one to two days each week with the complainant contacting him regularly. The MOD emphasised that both of these staff were involved an ongoing procurement exercise and this had diverted them from their normal business.
27. In addition, staff have sought advice from, and liaised with, legal experts, the Defence Commercial Director and other senior commercial and project managers across MOD. The assistant team leader of Joint Forces Command explained that a considerable amount of his time, with on average, 15% of his working week to investigate the complainant's allegations, which included travel to interview individuals and to write emails and reports.
28. The MOD explained that there is only one member of the secretariat team at DE&S who coordinates the FOI responses and other correspondence at DE&S in relation to these contracts. They have attended regular meetings with the project manager and commercial manager as well as holding discussions with other senior managers. They estimate that a minimum of a day a week has been spent dealing purely with the complainant's requests and subsequent internal reviews. The MOD also emphasised that it should be noted that the complainant has used various regimes to attempt to gain information to support his allegations; information that simply is not held by MOD.

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<sup>4</sup> A table summarising the FOI requests submitted by the complainant is included at the end of this notice.

29. The MOD confirmed that standstill letters were issued to the complainant on 2 December 2016 and 12 July 2017 following the awarding of each part of the contract for the tender in question. However, the MOD emphasised that it had gone over and above the normal requirements and provided the complainant with information in excess of that normally given in a formal de-brief given his company's previous contract arrangements and his constant requests to numerous parties.

#### *Futile requests*

30. The MOD noted that the complainant has continued to put in requests during the competitive exercise and has been unwilling to wait for a formal de-brief of the tender exercise. Despite receiving some assurance through other means, including Ministerial Correspondence, telephone conversations with commercial managers and a letter from the Defence Commercial Director, the complainant has refused to accept the veracity of the information he was given.
31. The MOD noted that following feedback from the complainant after the issuing of the standstill letter of 12 July 2017 some inconsistencies in the scoring were found, but the impact of these was not sufficient to affect the outcome of the Revise & Confirm competition and the complainant was informed of this conclusion.
32. The MOD also re-iterated that it takes a zero tolerance approach to fraud or corruption, but without any evidence being produced it was unable to investigate.

#### The complainant's position

33. The complainant explained that he had significant concerns about the manner in which the MOD had conducted this procurement process. These included the decision to re-run the competition for the level 2 aspect of the tender and allow companies to be involved in the process who had already failed an essential ballistic safety test during the first round of procurement process. Furthermore, the complainant emphasised that as a result of his challenge of the outcome of the standstill letter of 12 July 2017 the MOD had changed its scoring of the tenders. The complainant suggested to the Commissioner that the amendments made by the MOD reflected a change in the scoring by



approximately 85% which in his opinion represented a clear lack of competence and reliability.<sup>5</sup>

34. In these circumstances the complainant argued that it was not in the public interest for the MOD to refuse to disclose the information sought by his requests of 18, 24 May and 19 July 2017 for the following reasons:

- There is a clear obligation to make disclosure under European law and in light of the European Court ruling of *Veloss*.<sup>6</sup>
- An organisation that has clearly 'fudged' a tender process to allow a company that failed threshold tests to be allowed to continue in what is effect the same tender, as clearly confirmed in the leading UK court ruling of *Nuclear Decommissioning Authority V Energy Solutions EU Ltd*.<sup>7</sup>
- An organisation that undertook corrupt practices previously in seeking to prevent our company being awarded a contract in the previous covert armour contract, that was only corrected after the intervention of an MP and the Minister. The contract subsequently being awarded to our company, all be it not on the normal favourable terms that contracts of such a nature are expected to be awarded.
- The defence of the realm and proper safeguard of those who serve to protect citizens is of such importance and the rightly expressed public concern over the lack of appropriate body armour for our troops, should outweigh the alleged confidential pricing of armour paid to a company.

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<sup>5</sup> It should be noted that the MOD informed the Commissioner that it did not recognise this figure and rejected the complainant's assertion that the errors he referred to constituted a material error in the evaluation, insofar as they had no material effect on the overall score or ranking of the tender evaluation

<sup>6</sup> This refers to the Court of Justice of the EU (CJEU), *Veloss International SA & Attimedia SA v European Parliament* Case T-667/11, (the 'Veloss case'). The Veloss case concerned an application by an unsuccessful bidder, Veloss, in a tendering exercise run by the European Parliament for Greek translation services. Veloss applied to the CJEU for an annulment of the decision not to award it the contract and for compensation for the loss of opportunity and damage to its reputation. Further details about why the complainant considers the Veloss case relevant to his FOI requests, and details as to why the Commissioner disagrees with this position, can be found in the decision notice FS50657134 at paragraphs 18-19 and 26-27.

<sup>7</sup> Further details of this case and why the complainant considered it relevant to his FOI requests is contained at paragraph 30 of the decision notice FS50657134.

- The funds spent are public funds and the public interest should be such that a transparent process and checking is available to show such funds are properly spent.
- The withholding of information prevents a transparent procurement process that encourages and assists corrupt practice.
- Our company had already been informed by two persons some time before the award of the contract who the preferred bidder was. This supports the allegation that corrupt practice had taken place in the decision to award the contract.
- An organisation that has by their own admission, made errors of 85% in conducting one important section of a tender, has demonstrated an inability to conduct a fair and proper evaluation that demands in the interest of fairness and transparency that appropriate documentation be released to check for other areas of mistakes.<sup>8</sup>

#### The Commissioner's position

35. The Commissioner agrees that there is a strong public interest in public authorities being open and transparent about their spending decisions. More specifically, in the circumstances of this case the Commissioner accepts that this public interest extends to the MOD demonstrating that its procurement processes are conducted in an open and honest way. The Commissioner acknowledges that the complainant obviously has very genuine concerns about the manner in which the procurement process for the tender in question was conducted. It is not the Commissioner's role to adjudicate on the alleged failings in the way in which this procurement process was conducted. However, she acknowledges the strength of the complainant's concerns and moreover accepts that disclosure of the information sought by the three disputed requests could well provide a more detailed insight into the evaluation process in relation to the procurement exercise. The Commissioner therefore accepts that there is a genuine purpose and value to the requests.
36. However, on the basis of the MOD's submissions, the Commissioner also accepts that complying with these requests would place a burden on the MOD. In reaching this finding the Commissioner appreciates that it could be argued that providing the requested information would perhaps not

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<sup>8</sup> See footnote 5.

prove that onerous for the MOD – the information sought does not appear to be extensive and would presumably be relatively easy to provide given its centrality to the procurement process. That is to say, the prices offered by particular tenderers and records of the MOD's evaluation of these tenders.

37. However, in assessing the burden that would be placed on the MOD the Commissioner believes that it is necessary to consider the wider background and history to the three disputed requests. The complainant had made a number of previous FOI requests to the MOD. Whilst they are not numerous in nature and have been made over the period of a number of months the Commissioner accepts that the cumulative effect of dealing with each request has had an impact on this particular business area of the MOD.
38. Arguably more significant though than the effect of the various FOI requests in the Commissioner's view is the level of wider engagement between the complainant and the MOD in respect of the tender in question. On this point the Commissioner accepts the MOD's position that it has provided a level of feedback, and discussion of related issues, to the complainant that goes beyond the regulatory requirements. The copies of the correspondence between the MOD and the complainant which the Commissioner has seen provide testament to this. Furthermore, the Commissioner recognises that the issues raised by the complainant have been dealt with by both Ministers and MOD Directors, and not simply staff within the relevant procurement team. Taken together the Commissioner accepts that the complainant's previous dealings with the MOD about this matter, both in terms of his FOI requests and wider correspondence, have undoubtedly resulted in a significant amount of work for the MOD. Some of this work, both in terms of dealing with FOI requests and the requirements of DPSCR the MOD must of course accept as part of its legislative duties and underlying commitment to transparency and openness. Nevertheless, the Commissioner believes that the impact on the MOD of complying with the three disputed requests must be seen in this context and that answering the requests would add to the significant demands already made on the MOD in dealing with the complainant's enquiries. Given the pattern of the complainant making further follow up requests to the MOD once a previous requests has been answered also indicates to the Commissioner that further requests may well be submitted thus adding further to the demand on the MOD's resources in the relevant business area.
39. On balance the Commissioner has therefore concluded that the purpose and value of the requests does not outweigh the potential detrimental impact on the MOD of complying with the requests. The Commissioner has therefore concluded that the MOD is entitled to rely on section 14(1)

as basis to refuse to answers the complainant's requests of 18, 24 May and 19 July 2017.

## **Section 17 – refusal notices**

40. Section 17(5) of FOIA states that:

*'A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.'*

41. Section 17(6) of FOIA states that:

*'Subsection (5) does not apply where—*

*(a) the public authority is relying on a claim that section 14 applies,*

*(b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and*

*(c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.'*

42. The Commissioner would usually only accept that it would be unreasonable to issue a further refusal notice if the public authority has already warned the complainant that further requests on the same or similar topics will not receive any response.

43. In the circumstances of this case the first time the MOD refused a request submitted by the complainant on the basis of section 14(1) was on 27 October 2016. In doing to it explained that any further requests on the subject of contracts for covert body armour would be considered to be vexatious and would go unanswered. The Commissioner therefore accepts that MOD did not have to issue a formal refusal notice citing section 14(1) in response to the complainant's three requests which are the subject of this complaint.

## Right of appeal

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44. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

45. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
46. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Jonathan Slee**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

**Details of FOI requests submitted by the complainant to the MOD**

MOD reference	Date	Text of request
FOI2016/07044	7 July 2016	May I request to be supplied with the marking for the down selection of all competitors together with the costing as we wish to review the information to consider requesting a formal review of the down selection process? May I also be supplied with the thickness of each competitors' plate for each level.
FOI2016/07706  (Following a request for clarification, this request was closed and FOI2016/08146 raised and an internal review raised for FOI2016/07044)	9 August 2016	<p>I do not consider the exemption applies and any company that competes in a public tender is aware their prices and other information is likely to be disclosed to ensure fair and proper competition, especially if a review is being considered of an award of a contract, the down selection of companies that will entail those companies receiving payment for samples to be shot tested amounts clearly to an award of a contract although this will no doubt lead to a subsequent and much larger contract.</p> <p>Furthermore the information requested is essential to meet the requirements of the Defence and Security Public Contracts Regulations 2011.</p> <p>In particular full information is required to be supplied to enable an unsuccessful tender to enable a challenge.</p> <p>As the overall priority is to give the most economic tender the contract I consider such information that has been requested is essential to meet this objective.</p> <p>The refusal to release such information also frustrates the intention to obtain enhanced products and services at a lower cost that has been openly stated at Ministerial level.</p> <p>I look forward to hearing from you and in the absence of agreement to release the information please treat this communication as a request for an independent internal review.</p> <p>May I also request I be supplied with all</p>



		<p>information concerning the Ministry of Defence procurement of covert armour covers and covert armour supplied by a company other than ourselves in respect of defence contract PCE/00021.</p> <p>In respect to the above mentioned contract we were award the contract to supply covert armour covers and armour in respect a light solution but have subsequently been informed that a company unsuccessful in the tender were given part of a contract that had been initially awarded to our company. Please treat this as a formal request under the Freedom of Information Act.</p>
FOI2016/08146	30 August 2016	We do require all contracts and documents awarding contracts covert vests and armour to any company apart from ourselves since the award of the contract to our company, including shoot test validation for the armour.
FOI2016/08266	5 September 2016	I know another company was awarded part of our contract, so may I suggest I be informed to whom you made request for this information.
FOI2016/09102	29 September 2016	<p>May I request to be supplied with the full details of 't-shirts' order as previously requested.</p> <p>May I also be supplied with the full details of the soft and hard armour that went into the 't-shirts' as previously requested.</p>
FOI2017/05471	17 March 2017	May I know be formally notified of the price of the winning contract for levels 1 and level 3 given the contract has been formally awarded.
FOI2017/05502	18 May 2017	<p>I would be grateful to be informed of the current status of the competition.</p> <p>May I formally request to be informed of the detailed reasons for our rejection from the competition, including the notes that gave rise to the scoring of points to enable us to effectively review the decision making process in respect of our tender and those two companies selected to go</p>

		forward. I am informed we are entitled to be informed of this under European legislation and that this should be provided as 'rapidly as possible'. Please also treat this as a formal request under the Freedom of Information Act'
FOI2017/05595	24 May 2017	<p>Thank you for letter of 24 May but it has failed to give the information requested that I believe our Company was entitled to, once the contract was awarded and in addition even prior to this date when our Company had not been selected to go forward. May I request that you also supply the notes and or other information that determined how the points were allocated to enable our company to have an opportunity to review the decision process.</p> <p>Please accept this as formal notification that this company is dissatisfied and that you implement the process to resolve our complaint.'</p>
FOI2017/07773	19 July 2017	<p>Phase 2</p> <p>We had been informed by 2 MOD persons prior to the decision to award the contract that [company name] were to be awarded the Level 2 armoured plate contract that indicates a proper decision process was not followed. This is supported by the fact that [company name] and another company failed the initial shoot tests and contrary to normal tender competition rules, were allowed to resubmit rather than being disqualified.</p> <p>Now a decision has been made, may I formally request on behalf of [name redacted], the following information to enable us to consider making a formal challenge to the decision to award the contract.</p> <ol style="list-style-type: none"> <li>1. The evaluation notes of individual evaluators.</li> <li>2. Notes of evaluation meetings particularly moderation meetings.</li> <li>3. Reports and records required to be maintained for compliance of European Communities Act 1972 that I believe is</li> </ol>

		<p>contained within The Defence and Security Public Contracts Regulations 2011.</p> <p>4. Price tendered for the award winning contract by the winner.</p> <p>5. The price tendered for the company taken to phase 3, but unsuccessful to evaluate if [name redacted] should have been allowed to proceed to phase 3.</p> <p>6. The detailed reasons why in the initial tender those two companies who were taken to Phase 3 previously failed and why instead of being excluded from the competition they were allowed to continue in the subsequent revised tender for the same contract. I understand normal MOD and international tender rules should have meant both companies should have been excluded, so allowing other companies to proceed.</p> <p>I am informed we are entitled to be informed of this under European legislation and that this should be provided as 'rapidly as possible.'</p> <p>Please also treat this as a separate formal request under the Freedom of Information Act.'</p>
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