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SECRETARY OF STATE

MSU 4/3/10/1

18<sup>th</sup> November 2010

*Dear Andrew,*

Thank you for your letter dated 6 October 2010 requesting information under the Freedom of Information Act 2000.

Please find attached a response from the relevant officials in my department. I am sorry for its rather formal tone but I hope you can appreciate the need for the Department to handle your request in strict accordance with meeting its statutory obligations under the Freedom of Information Act.

I understand that, separately, lawyers representing the All Party Group you chair on this issue have been offered a meeting with the relevant MOD officials on a without prejudice basis to discuss a number of issues relating to the appeals associated with your earlier requests. I hope you find that meeting useful.

*Yours ever,*

**The Rt Hon Dr Liam Fox MP**

## Substantive FOI Response

Your letter dated 6 October 2010, has been treated as a single request for information under the Freedom of Information Act 2000 (the Act). Although the request is substantially similar to previous requests made by you for identical or substantially similar information which are currently the subject of Appeals to the Information Rights Tribunal, sufficient time has elapsed since the making of your previous requests for us to treat this request under the terms of section 14(2) of the Act as a new request for information.

As you are aware from the Department's response to the requests for information you submitted in 2008, the MOD does hold information of the description specified in your request. However, it has been assessed that the effort involved in identifying all the information of the description specified in your request that may be held by the Department will exceed the appropriate limit. This appropriate limit is specified in regulations and for central government is set at £600. This represents the estimated cost of one person spending three and a half working days in determining whether the Department holds the information, and locating, retrieving and extracting it. Under the terms of section 12 of the FOI Act, this means that we are not obliged to comply with your request.

MOD recognises that if you reduce or refine your request, it has a duty, under section 16 of the Act, to consider again whether the cost of compliance falls within the appropriate limit and whether information can be provided, subject to consideration of whether other exemptions in the Act may then apply. We note that in your request you provided a prioritisation of the information you seek in the event that the section 12 exemption became engaged. MOD has therefore regarded this as the basis for an agreed refinement of your request and considered whether it could provide all of the information in scope of that part of your request as described at Paragraph 1 of your letter, indicated as your highest priority. MOD does hold information in scope of this "refined" request but because of the broad scope of the search required it is not able to locate, retrieve and extract all of it within the appropriate limit. The Department is therefore not obliged under s12 of the Act to comply either with your whole request or the refined request resulting from your suggestion of a way to bring it within the appropriate limit. We should also explain that were the Department not to rely on s12 as grounds for non-compliance, the information that to date has been identified as falling within the scope of some parts of your request is likely to be exempt by virtue of other exemptions in the Act including those at sections 23 (information supplied by, or relating to bodies with security matters); 26(Defence); 27 (International Relations), 40(2) (personal information of third parties) and 42 (Legal professional privilege).

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. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Head of Corporate Information, 2nd 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.gov.uk>.