

GUIDANCE ON CONTACTS WITH PRIVATE MILITARY AND SECURITY COMPANIES

1. This document gives revised **guidance on contacts** with and official support for the operations of Private Military and Security Companies (PMSCs). See definition at paragraphs 6 to 9. The guidance applies in the UK and overseas to all HMG officials, including Armed Forces personnel, and is intended to assist in dealings with PMSCs and their personnel, and to help officials avoid becoming involved in events that would be embarrassing to HMG or themselves.
2. Officials should immediately inform their Head of Post/Department if there is any **suspicion of illegal or unethical activity** by any company registered or based in the UK. This would include the supply of military equipment or other controlled goods and services contrary to UK legislation or international obligations, or violations of international humanitarian law. Officials should be particularly alert to any **sanctions regime** in force in their host country. Further advice can be sought from departmental points of contact listed below.

EXEMPTIONS TO THIS GUIDANCE

3. Officials may have **free contact** with a PMSC, and are not required to report such contacts, **only if**:
 - i. The PMSC is working directly under **contract to HMG** (e.g. providing security to Embassy personnel or official training to MOD), and only when the contact is in the context of that contract.
 - ii. The PMSC is working directly under contract **to other diplomatic missions or international organisations** providing security/guarding services and only when the contact is in the context of that contract. (International organisations here refers to institutions such as the United Nations, European Union or ICRC and does not include commercial companies or non-governmental organisations (NGO's)) For off duty, social contact, see the provisions under paragraphs 23 and 24.
 - iii. Armed Forces personnel on operations, and within the local area, have contact on issues bearing directly on the security of HMG or PMSC personnel. Officials should be aware that operationally sensitive information should not be disclosed unless the security benefit outweighs the risk of compromise, and the action has been cleared by the Head of Department / Post (see paragraph 25)
 - iv. An FCO official with **consular responsibilities** needs to supply a consular service to a UK national (or other foreign national for whom we have consular responsibility) employed by any PMSC.

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GUIDANCE KEY POINTS

4. The proposed **employment or use** by HMG of a PMSC for any purpose should be discussed at the earliest opportunity with departmental points of contact who may advise that Ministerial approval should be sought. See paragraphs 21 and 22.
5. Comprehensive guidance covering **all other contacts** with PMSCs is given below. Further guidance can be sought from departmental points of contact. In summary:
 - i. All officials should be alert to the considerations in paragraph 13 below, including the potential for HMG's contact with PMSCs to be scrutinised by **Parliament, the media and in legal proceedings**
 - ii. All such contacts must be **recorded in writing**. See paragraphs 17 and 18
 - iii. Agreement should be sought from the head of department/post for a meeting with a representative of a PMSC with whom you have had **no prior contact**. **Subsequent contacts** will not require permission unless circumstances change and you are advised otherwise. Paragraphs 10 to 15
 - iv. Any **unplanned contact** should be discussed with the Head of Post/Department as soon as possible after it took place. See paragraphs 10 to 15
 - v. **Hospitality** should only be accepted or given with prior approval. See paragraphs 23 and 24
 - vi. UK based or registered PMSCs are entitled to **commercial support** on the same basis as other companies. See paragraphs 19 and 20.
 - vii. No privileged access should be given to **former Armed Forces or Diplomatic Service or other HMG** staff working for PMSCs. See paragraph 16

DETAIL

DEFINITION OF PRIVATE MILITARY AND SECURITY COMPANIES

6. There is no accepted definition of private military and private security companies, and no clear line of divide between the two categories (hence our referring to them as PMSCs). Companies often avoid using either term preferring to refer to themselves as risk or security consultants/advisors/managers. This guidance is therefore intended to apply to the full range of companies involved in the supply of all types of security and military activities overseas, including the provision of support and training, to commercial or governmental interests.
7. The guidance applies to all PMSCs wherever they are registered or based and to their local subcontractors. However, it does not apply to defence industry contractors, if a) their activity is regulated through existing export controls, b) an export licence has been issued and c) the commercial proposals are wholly within the terms of that licence, or to unarmed contractors providing logistic support on operations to the MOD and covered by the MOD's CONDO Instruction (JSP 567). Nor does it apply to

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those private security companies that operate solely in the domestic UK market where their activity is regulated by the Security Industry Authority.

8. If in doubt as to whether the company with which you are dealing falls into the category of a PMSC, you should assume that they are a PMSC, act in accordance with this guidance and seek further advice from your departmental point of contact.
9. The guidance also covers contacts with individuals or companies known to be connected with, associated with, or acting on behalf of such companies, including their solicitors or legal advisers.

GUIDANCE ON CONTACTS WITH PMSCS

10. PMSCs are entitled to conduct their business within the law. They should be given access to the support that Government Departments provide to British citizens and companies on the same basis as other companies. However, PMSCs are also in a business that can in certain conditions have a direct and sensitive impact on Government policy, on international relations, and on Parliamentary and public opinion.
11. Throughout this document, reference is made to consulting the Head of Department/Post. For MOD/Armed Forces purposes this official should not be below the grade of OF4, or where not practical OF3. If the official concerned is a Head of Post/Department, they must consult with their line manager.
12. Officials can have contacts with PMSCs where necessary or appropriate for their work, but prior to an initial meeting with a PMSC, officials should consult with their Head of Post/Department on the advisability of the contact. (Officials will ordinarily not/not have to request permission for subsequent contacts with the PMSC in question, unless circumstances change or unless the Head of Post/Department or departmental point of contact advise otherwise.)
13. In deciding whether to give permission for contacts, Heads of Post/Departments should be alert to the issues listed below, taking advice from the departmental point of contact as needed.
 - i. the legal framework in which the companies are operating, including UK national legislation (e.g. on export controls), local laws and applicable international law (e.g. UN arms embargoes) and International Humanitarian Law;
 - ii. how the activities in which the companies intend to engage will impact on conditions in the country where they will be operating, bearing in mind particularly

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the likelihood of armed conflict, and the wider context (e.g. respect for human rights);

- iii. the potential for HMG's contact with and support for such companies to be scrutinised by Parliament, the media, and in legal proceedings;
 - iv. the impact of such companies' activities on HMG's relations with foreign governments;
 - v. any available information about the propriety of activity undertaken by the company elsewhere, including any record of misuse or misrepresentation of contacts with HMG (or indeed any other government).
14. They should be aware that the process that has been followed in deciding whether a contact should take place or what assistance is granted may be questioned (through parliamentary questions etc) or the subject of legal challenge, and obtain legal advice if required before a final decision is made .
15. Heads of Post/Department should contact their departmental point of contact should they require advice. Where there is a clear potential for the actual or proposed activities of a company to have a detrimental effect on HMG's policy goals or on international relations, your departmental point of contact may advise that approval is not given for contacts, in consultation with Ministers if necessary.

PMSC PERSONNEL PREVIOUSLY EMPLOYED BY HMG

16. Many companies in this sector employ personnel that were formerly employed by HMG (including members of the Armed Forces and the Diplomatic Service). You should ensure that this does not give these companies or individuals privileged access beyond that available to other companies. They should not be given access or information outside the terms of this guidance.

REPORTING CONTACTS

17. It is important that officials keep a reliable record of any contact with a PMSC not covered by paragraph 3. A brief summary will usually suffice stating what was discussed and any advice given and/or follow up actions agreed. The report should be factual and therefore in normal circumstances be unclassified. The written record should be sent to the Head of Post/Department and registered locally. For FCO staff in the UK and all staff at Embassies overseas, a copy should be forwarded to the departmental point of contact, and for MOD to the relevant commanding HQ.

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18. Where there is any possibility that the meeting could be misconstrued by a PMSC, you should:
- (a) consider the need to have a colleague present during the meeting.
 - (b) write to the company after the meeting setting out your understanding of the discussion, clearing the letter with your Head of Post/Department and Legal Advisors.

COMMERCIAL SUPPORT TO PMSCS

(Note: this section of the guidance will not be applicable to DFID and other departments who do not provide any commercial support)

19. Companies operating in the private military and security sector are entitled to the same support as other UK companies, in so far as their activities are legitimate and do not conflict with HMG's foreign policy goals. Any applications by companies for support (e.g. market research, introductions to contacts) should be considered against the same criteria as those from all other companies and on their own merits. However, where a company is seeking commercial advice or assistance in bidding for new work, officials should be particularly alert to paragraphs 12 and 13 above. Ministers should be consulted without delay, if there are concerns that support for a particular company runs the risk of embarrassment to HMG or could run counter to wider policy interests.
20. In taking decisions on whether to give support to companies, Heads of Department/Post should bear in mind that the process that has been followed in deciding what assistance is granted may be questioned (through parliamentary questions etc) or the subject of legal challenge, and obtain legal advice if required before a final decision is made.

USE OF PMSCS

21. In certain circumstances, PMSCs can and do make a valuable contribution to the work of HMG. These services can include providing security services for buildings and personnel, support for implementing HMG funded projects and missions, or acting as consular wardens. The proposed employment or use by HMG of a PMSC or of an individual employed by a PMSC for any purpose, including under a security contract, should be discussed at the earliest opportunity with the departmental point of contact before an initial approach is made to the PMSC. It may be necessary for the proposal to be submitted to Ministers and the departmental point of contact will advise accordingly. Officials should be careful to make clear in discussions with PMSCs that a verbal contract has not been entered into. Paragraph 18 offers advice on clarifying discussions.

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22. Once approval has been given by the departmental point of contact, officials responsible for negotiating contracts may have free contact with the authorised PMSCs without a need to report such contacts. Once contracts have been awarded, all officials may have free contact with the PMSC concerned in the context of that contract.

HOSPITALITY

23. If your departmental guidance permits accepting hospitality, you should only accept such hospitality from representatives or employees of PMSCs with the prior approval of your Head of Post/Department and in accordance with individual departmental guidelines. Any formal hospitality accepted should be recorded as set out in Departmental policy.

24. It may be appropriate in certain circumstances to invite PMSC representatives to functions. All invitations should be cleared with the Head of Post/Department in accordance with Departmental policy.

SECURITY

25. You are reminded of the need to ensure that no classified information is disclosed to companies covered by this guidance. If it is necessary for operational reasons to release classified information to PMSCs employed by HMG, prior approval must be sought and agreed in accordance with Departmental policy.

**Conflict Issues Group
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