



Ref: FOI2021-016

██████████ via [request-791105-2a244455@whatdotheyknow.com](mailto:request-791105-2a244455@whatdotheyknow.com)

18th October 2021

Dear ██████████,

Further to our email of 5<sup>th</sup> October 2021 regarding your request for the following information:

*Of the 151 you have currently engaged outside IR35, how many are over the 2 year rule and why are AWE continuing to break the rule set in place by HMRC?*

Your request has been handled as a request for information under the Freedom of Information Act 2000 (the Act).

A search for the requested information within the Atomic Weapons Establishment (AWE) has now been completed, and we can confirm that information in scope of your request is held.

We can confirm that of the 151 contingent workers, 88 have tenure of over 2 years. Regarding the second part of your question, while your request can be in the form of questions, rather than a request for specific information, the authority does not have to answer your questions if this would mean creating new information or giving an opinion or judgement that is not already recorded.

Under section 16 advice and assistance, it may be helpful to note that tenure is an indicator of IR35 and not a determining factor as there is not a 2-year rule when it comes to IR35. You may find it useful to seek further information from the Gov.uk website [Understanding off-payroll working \(IR35\) - GOV.UK](https://www.gov.uk/guidance/understanding-off-payroll-working-ir35) ([www.gov.uk](http://www.gov.uk)).

Please remember to quote the reference number above in any future communications. If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you are unhappy with the way your request has been handled you have a right to request an internal review within 40 days of receiving this letter, by writing to [information.requests@awe.co.uk](mailto:information.requests@awe.co.uk) or our postal address: Information Requests Team, AWE Aldermaston, Reading, RG7 4PR. If you are still unhappy after an internal review has been completed, under the provisions of Section 50 of the Freedom of Information Act 2000 you have the right to take your complaint to the Information Commissioner's Office. Please note the Commissioner will generally not consider a complaint until you have exhausted AWE's internal complaints process.

Yours sincerely,

AWE Information Requests Team