Contingent liabilities on key UK projects
• Defence Information Infrastructure redundancies (£26.2m)
• Future Logistics Information Services redundancies (£9.3m)
• Ranges Safety & Aircrew Training redundancies (£900,000)
• Provision of Marine Services redundancy and explosive liability (£7m)
• QE class aircraft carriers Third Party indemnity liability (unquantifiable)

If the MoD undertakes a contingent liability of over £250,000 it must tell Parliament (through an obscure process which while public domain is hidden in plain sight. It's supposed to allow 14 days for Parliament to object before incurring the liability. But all 5 liabilities described here are retrospective, so Parliament is deprived of this control.)

There is a contingent liability arising from a non-standard redundancy indemnity agreed under the DII contract with HP Enterprises Services Defence and Security UK Ltd, acting as prime contractor leading the ATLAS consortium.

The DII is intended to provide a capability to exchange & share electronic information across defence. Delivering the single information infrastructure is the responsibility of the ATLAS consortium. It takes control of existing legacy systems through a series of contractual increments, progressively replacing them with the new infrastructure.

Some of the legacy systems were run and maintained by MoD civil servants and a small number of contractors, who were TUPE transferred to ATLAS. Such staff may be made redundant if ATLAS can't find them suitable alternative employment.
During bidding and contractual amendments, there was a significant degree of uncertainty about the number of staff who'd be in post at vesting day and transfer under TUPE.

The MoD decided to negotiate re-imbursement of redundancy compensation costs during service delivery, rather than the standard terms that refer to termination or expiry of the contract. The total estimated maximum liability is £26.2 million which could be incurred by March 2015.

There is a non-standard redundancy indemnity under the Future Logistics Information Services contract won by Boeing Defence UK (BDUK) in November 2010 and covering the next 11 years. This includes non-standard terms for reimbursing the costs of making ex MoD staff redundant as part of the early phase-in and optimisation stages, as well as ex-contractor redundancies on early termination or exit.

Existing support arrangements for the delivery of logistics information in defence are inefficient and outdated. Under the BDUK contract, 233 civil servants transferred under TUPE on 1st March 2011. As BDUK rationalises estates from 15 to 2 sites, staff may be made redundant if BDUK can't find them suitable alternative jobs.

Although bidders were told to include redundancy costs from their solutions, BDUK was

instructed to remove them because of the degree of uncertainty about numbers, and to insulate MoD from incurring both risk and profit charges on any subsequent redundancy activities. MoD will now only pay for actual redundancy costs, saving an estimated £400,000.

The total estimated maximum liability is £4.575 million. 47 staff from legacy suppliers will also transfer to BDUK. The MoD has indemnified BDUK against redundancy costs associated with these people should it decide to terminate the contract early, or should TUPE not apply at contract expiry (when the service would transfer to a new supplier) The potential liability of this second item is £4.7 million.

A third retrospective non-standard indemnity is for the Ranges Safety and Aircrew Training contract which commenced on 1 April 2002 and expires on 31st March next year. Within the pricing assumptions for this PFI contract, which led to the agreed Unitary Charge, the MoD accepted the risk of redundancy payments to contractor employees which might result from contract expiry or termination. Specific financial value or cost reductions attributable to this particular pricing assumptions are unknown.

The current estimate of liability is £900,000, based on minimum statutory entitlements. A contract extension to March 2017 has just been signed with Smit, leaving existing indemnities in place, and the assumption is that the liabilities will remain constant.

The Provision of Marine Services PFI contract with Serco Denholm Ltd (now SD Marine Services Ltd) started on 17 December 2007. It provides a wide range of waterborne and associated activities (e.g. passenger transfers, tugs and lighters) in and out of port, at Portsmouth, Devonport and on the Clyde, as well as maintenance of UK and overseas moorings and navigational marks, and support to military operations and training worldwide.

The MoD accepted the risk of financing the redundancies for contractor and ex-MoD employees resulting from contract expiry or termination, along with any liabilities from unintended detonation of explosives while performing this contract. The current estimate of the redundancy liability up to the expiry date of 16 December 2022 is £7 million. The nature of the risk of the explosive liability is such that it cannot sensible be estimated.

And finally....a third party liability (including claims for product liability by third parties) was agreed under the QE class manufacturing contract concluded with BVT Surface Fleet (now BAE Systems Surface Ships) on 3rd July 2008.

Under this, the MoD provided the standard maritime shipbuilders risk indemnity and a third party indemnity., which covers all the industrial participants and their Indemnified Sub-Contractors against claims by third parties, and from any loss arising from any act, error or omission that the insured party is required by a court or arbitrator, or as a result of an MoD approved settlement to pay to a third party.

The risk is considered to be low, and its value unquantifiable, but to insure against it would have cost £335 million. The indemnity expires at the end of the life of the vessels, currently planned for 2070.