

The Baha Mousa Public Inquiry

Inquiry Chairman: The Right Honourable Sir William Gage

Issues list

The list is intended as a guide to the issues on which the Inquiry's investigations will focus. It is not a pleading or statement of case. The Inquiry's investigations may uncover the need to address further issues which are within its terms of reference but which are not contained in this list. Accordingly, the issues in this list may be subject to revision during the course of the Inquiry.

Module 1: The history of what has been labelled 'conditioning techniques'

This will entail consideration of the Government, Ministry of Defence and Army approaches to such techniques from the time of internment in Northern Ireland in the early 1970s up to and including March 2003 – the date of the invasion of Iraq.

1. To examine the Government, MoD and Army reaction to the use of the five techniques following the introduction of internment (including the Compton reports, and Parker report, the Government's statements that followed, and the approach to the decision in *Ireland v UK*). To consider the nature and extent of the Government statements on 'conditioning techniques', and what considerations about the five techniques led to those statements being made.
2. To consider whether and to what extent the Government's statements about the use of 'conditioning techniques' were subsequently incorporated into (a) orders for the Armed Forces and (b) other MoD publications.
3. To examine what was contained in written and other training materials (up to and including pre-deployment training for Iraq) concerning the appropriate handling of detainees and internees, and the use of 'conditioning techniques'.

[Note: the extent (if any) to which actual training may have differed from written training materials will be addressed in module 3.]

Module 2: Baha Mousa and the other detainees

To examine the circumstances of their arrest and subsequent detention and seek to ascertain what happened to them and who was involved on 14 – 16 September 2003

4. What types of 'conditioning techniques' were used on the detainees, for how long, and by whom were such 'conditioning techniques' applied and to whom?
5. What injuries were suffered by the detainees, and when and where were the injuries sustained?

6. Who inflicted those injuries and in what circumstances?
7. Was other ill-treatment or abuse suffered by the detainees, apart from physical injury and the application of 'conditioning techniques'? This will include consideration of the arrests.
8. If so, who was responsible for such ill-treatment or abuse?
9. Of those who were in or entered the detention facility at the Battle Group Main Headquarters ('BG Main') of 1st Battalion, The Queen's Lancashire Regiment ('1QLR') on 14 – 16 September 2003, or were in its general vicinity:
 - a. what treatment did they see or hear?
 - b. what was their reaction to the treatment they saw or heard?
 - c. to the extent that the treatment they witnessed was suggestive of ill-treatment did they report it and, if not, why not?
 - d. If they did report it, to whom did they report it?
10. Medical examinations of the detainees:
 - a. what medical examinations were carried out?
 - b. when did they occur?
 - c. what injuries had the detainees suffered at the time of those medical examinations?
 - d. what did those medical examinations record?
 - e. to whom, when and how were the results of the examinations communicated?
 - f. was the response of those involved in the medical care of the detainees at the BG Main appropriate?
 - g. did those who received reports of the medical examinations carried out at BG Main, and those who were made aware of those examinations, respond appropriately?
11. What other checks, if any, were carried out on the condition and welfare of the detainees and by whom were they carried out? What did such checks record, and to whom were they communicated.
12. Why were the detainees:
 - a. not taken to the Theatre Internment Facility ('TIF') within 14 hours of their detention?
 - b. not taken to the TIF until Tuesday 16 September 2003?

In particular in relation to Baha Mousa's death:

13. What were the immediate circumstances of his death?
14. What was the medical cause of his death?
15. Who was responsible for the cause or causes of his death?

Module 3: Training and the chain of command

To examine what training and guidance was given and what orders were issued to those in 1 QLR involved in the detention, and to follow the chain of command upwards in relation to these matters.

16. What training had in fact been provided to those who were responsible for holding and questioning these detainees, and those in the chain of command, in relation to the humane and proper treatment of detainees?
17. To what extent were training, orders and guidance concerning detention supplemented in the pre-deployment phase and, if to any extent, why?
18. To what extent were such orders and guidance supplemented or amended during OP Telic prior to the arrest of the detainees, including during changes in the system for the filtering and handling of detainees, and if to any extent, why and how were they disseminated?
19. Specifically, what, if any, instruction was given as to the use or otherwise of 'conditioning techniques'?
20. Apart from the treatment of these detainees, how extensive had been the use of 'conditioning techniques' by 1 QLR and when had it begun?
21. How had a practice of the use of 'conditioning techniques' come to start in 1 QLR?
22. Who, within the chain of command of 1 QLR, knew that 'conditioning techniques' were being used?
23. Within the wider and higher Army chain of command and MoD, who knew that 'conditioning techniques' were being used by 1 QLR?
24. Of those who knew that such 'conditioning techniques' were being used, what, if any action did they take in relation to it and was such action appropriate? What advice, if any, (including legal advice) was sought and/or obtained about the use of 'conditioning techniques'.
25. Should others in the Army chain of command or MoD have appreciated that 'conditioning techniques' were being used by 1 QLR, and if so, who?
26. What assurances were given by the Government, MoD and Army about the use of 'conditioning techniques'? When, by whom, and on what basis were any such assurances given?
27. To the extent, if any, that the training and/or orders and/or communication of those orders was inadequate, where does the responsibility for such failures lie within the Army chain of command and MoD?
28. Was sufficient emphasis given to the maintenance and supervision of discipline within 1 QLR and, if not, who was responsible for the failures (if any) in this regard?

[Note: within this Module the Inquiry will not consider allegations regarding any specific incidents other than the arrest and detention of Baha Mousa and the other detainees. However, strictly limited to the extent necessary properly to examine issues 23 and 24, the Inquiry will obtain evidence from 1 Black Watch (the predecessor Battalion to 1 QLR) and from those at the TIF concerning the use (if any) of the five techniques prior to 14 September 2003.]

Module 4: The future

To consider what has happened since 2003 in relation to ‘conditioning techniques’ and to examine any appropriate recommendations for the future.

29. What changes have been introduced by the Armed Forces in particular in relation to training, orders, and supervision of the detention of civilians to ensure that detainees are treated humanely?
30. Specifically, what, if any, instruction is now given in relation to the use or otherwise of ‘conditioning techniques’?
31. Are any changes made adequate to minimise the risks of future mistreatment of civilian detainees by the Armed Forces, with particular reference to
 - a. the training of all servicemen;
 - b. additional training for those directly involved in, and those responsible for the detention and/or questioning of civilians;
 - c. orders and guidance (and the communication of those orders and guidance) to all appropriate ranks regarding the humane treatment of civilian detainees;
 - d. the supervision of civilian detainees;
 - e. the allocation of resources and personnel to ensure so far as is practicable the humane treatment of civilian detainees;
 - f. the separation and allocation of responsibilities for those involved in questioning and detaining civilians.

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