

SECTION 16.3

MILITARY FATALITIES AND THE BEREAVED

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Introduction

1. Between 2003 and 2009, 178 British Service Personnel and one Ministry of Defence (MOD) civilian lost their lives serving on Operation TELIC.¹ A breakdown of those fatalities by year is shown in the table below.

2. This Section addresses:

- the preparations made for repatriating the bodies of those who lost their lives on Op TELIC, and for investigating their deaths;
- changes to military investigative processes and to the civilian inquest process;
- the support offered to the next of kin and bereaved families; and
- how the Government honoured those who lost their lives.

3. This Section does not consider other UK citizens who also lost their lives in Iraq, in a variety of different roles and as the result of hostage-taking.

4. The provision of welfare support for Service Personnel is addressed in Section 16.1.

5. The provision of medical care, in particular for seriously injured personnel, and the support provided to their families, is addressed in Section 16.2.

6. The problems caused by deployments consistently exceeding the Defence Planning Assumptions in respect of the provision of military equipment are addressed in Sections 6.3 and 14.

7. The decision to deploy to Helmand province in Afghanistan, and the implications of that decision, are addressed in Section 9.

Table 1: Service Personnel and MOD civilian fatalities serving on Op TELIC, 2003 to 2009

Year	Fatalities
2003	53
2004	22
2005	23
2006	29
2007	47
2008	4
2009	1
Total	179

¹ GOV.UK, 12 December 2012, *British Fatalities: Operations in Iraq*.

Planning and preparing for fatalities

Estimates of UK military fatalities

8. Sections 6.1 and 6.2 describe military planning for operations in Iraq.

9. In early September 2002, the MOD estimated that between 31 and 48 Service Personnel would be killed in action during the initial combat phase of operations of an attack on Iraq (and that between 157 and 241 Service Personnel would be admitted to Role 3 hospitals).^{2,3} Those figures excluded possible casualties from chemical and biological warfare.

10. The MOD regularly updated its casualty estimates as the military plan developed. The estimates did not consider casualties beyond the initial combat phase of operations.

11. Mr Geoff Hoon, the Defence Secretary, wrote to Mr Blair on 16 January 2003, recommending that the UK agree a US request to provide a large scale ground force for operations in southern Iraq.

12. Mr Hoon's advice did not include the estimates of UK military casualties (including fatalities) that had been developed.⁴

13. Mr Blair agreed Mr Hoon's recommendation the following day.⁵

14. On 3 February, the MOD produced a Casualty Estimate paper for the Chiefs of Staff meeting later that week.⁶ The paper stated that:

- There could be between 30 and 50 fatalities in the Land Component.
- There could be between 5 and 9 fatalities in the Air Component.
- No simple estimate could be made of fatalities in the Maritime Component, given the high impact/low probability nature of incidents.
- Fatalities from a "single small-scale but well executed" chemical attack could be between 0 and 96 fatalities, depending on a range of factors including the target, the chemical agent used, and the weather.
- No useful estimate could be made of fatalities from a biological attack in the absence of more specific information about the circumstances of any attack.

15. The Chiefs of Staff concluded on 5 February that the Casualty Estimate paper would need to be shown to Ministers before any decision to commit UK troops was made.⁷

² Role 3 (Echelon 3) medical support is generally provided at field hospitals and on hospital ships.

³ Minute MOD [junior official] to Iraq Inquiry [junior official], 22 June 2010, 'Iraq Inquiry – Request for Evidence'.

⁴ [Letter Hoon to Blair, 16 January 2003, 'Iraq: UK Land Contribution'](#).

⁵ [Letter Manning to Watkins, 17 January 2003, 'Iraq: UK Land Contribution'](#).

⁶ Minute Fry to COSSEC, 3 February 2003, 'Casualty Estimates – Op TELIC' attaching Paper MOD, 3 February 2003, 'Casualty Estimates for Op TELIC Based on Operational Analysis'.

⁷ Minutes, 5 February 2003, Chiefs of Staff meeting.

16. On 20 February, in response to the publication of a paper, *Iraq at the Crossroads: State and Society in the Shadow of the Regime*, by the International Institute of Strategic Studies (IISS),⁸ Mr Blair asked for advice on a number of questions, including: “What is our military’s assessment of the likely consequences of an attack on Iraq; i.e. how many casualties; how quickly the collapse?”⁹

17. On 24 February, Mr Peter Watkins, Mr Hoon’s Principal Private Secretary, wrote to Mr Matthew Rycroft, Mr Blair’s Private Secretary for Foreign Affairs, advising that the MOD estimated that there would be between 30 and 60 British and between 500 and 1,200 Iraqi “land battle” fatalities.¹⁰ Mr Watkins also advised that work to estimate Iraqi civilian casualties continued.

18. Lord Boyce, Chief of the Defence Staff from 2001 to April 2003, told the Inquiry that Ministers would have been informed of the MOD’s casualty estimates, as part of the routine briefing process.¹¹

19. By 1 May, when President Bush declared that major combat operations in Iraq had ended, 33 British Service Personnel had died serving on Op TELIC.¹²

20. Both Lord Boyce and Sir Kevin Tebbit, MOD Permanent Under Secretary from 2001 to 2005, told the Inquiry that the actual number of casualties had been fewer than the MOD had estimated.¹³ Sir Kevin commented:

“... as far as casualties are concerned, the assessment was that they would not be any higher than we faced in the Gulf war 12 years earlier. So the figures were relatively ... modest. In the event, they were even lower than that. The uncertainty was ... the possible use of chemical/biological weapons against us. I think the original assessment was that Saddam was unlikely – but we couldn’t rule it out militarily – unlikely to use them early ... but he might use them, and we expected him to use them, as a matter of last resort, which, of course, informed the nature of military planning.”

Repatriation policy

21. Until the Falklands Conflict in 1982, Service Personnel who died on major operations were normally buried in theatre.¹⁴

22. After the Falklands Conflict, all bereaved families were offered the opportunity to have the bodies of their relatives returned to the UK, largely because of the difficulty

⁸ Oxford University Press for the International Institute of Strategic Studies: *Iraq at the Crossroads: State and Society in the Shadow of the Regime* – Adelphi Paper 354.

⁹ [Minute Rycroft to McDonald, 20 February 2003, ‘Iraq: Political and Military Questions’](#).

¹⁰ [Letter Watkins to Rycroft, 24 February 2003, ‘Iraq: Political and Military Questions’](#).

¹¹ Public hearing, 3 December 2009, page 94.

¹² GOV.UK, 12 December 2012, *British Fatalities: Operations in Iraq*.

¹³ Public hearing, 3 December 2009, pages 94-96.

¹⁴ Paper DCDS(Pers), 14 March 2003, ‘UK Forces: Repatriation of the Dead’.

of travelling to the Falkland Islands to visit their graves. In subsequent operations, it became MOD policy to repatriate bodies to the UK in all but the most exceptional circumstances.

23. The MOD's policy on the repatriation of the dead was set out in a paper produced by Lieutenant General Anthony Palmer, Deputy Chief of the Defence Staff (Personnel) (DCDS(Personnel)), on 14 March 2003:

“Repatriation to UK of the dead is to take place wherever possible and as soon as practicable.”¹⁵

24. If fatalities were suspected to have been caused by Chemical Biological Radiological Nuclear (CBRN) agents, then repatriation should only proceed once the presence of a CBRN agent had been confirmed or ruled out, and then on the basis of a risk assessment. In certain circumstances, repatriation might require mitigating actions (such as decontamination or special isolation of the body), or the body might need to be officially cremated in theatre with the ashes repatriated. In exceptional circumstances, the body might need to be cremated and permanently buried in theatre.

Preparing to hold civilian inquests

The legal frameworks for inquests

Coroners are independent judicial officers. They are appointed and paid for by the relevant local authority and their officers and staff are employed by the local authority and/or the police.

Coroners in England and Wales had a statutory duty, under Section 8 of the 1988 Coroners Act, to investigate deaths which are reported to them when the body is lying in their district and there is reason to believe that the death was violent or unnatural, or was a sudden death of unknown cause, or in some other circumstances.¹⁶ That duty applied “whether the cause of death arose in his district or not”.

Section 14 of the 1988 Coroners Act provided that, if it appeared to the coroner for the district where a body was lying that the inquest ought to be held by another coroner, then he may request that coroner to assume jurisdiction.

The position in Scotland and Northern Ireland was different.

In Scotland, the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 required the appropriate procurator fiscal to investigate (through a Fatal Accident Inquiry) any death which occurred within Scotland in the course of an individual's employment, or in legal custody.¹⁷ The Act also provided for the Lord Advocate to instruct a procurator fiscal to investigate a death if it appeared to him that an investigation would be in the public interest.

¹⁵ Paper DCDS(Pers), 14 March 2003, ‘UK Forces: Repatriation of the Dead’.

¹⁶ Coroners Act 1988. The Act was replaced by the Coroners and Justice Act 2009.

¹⁷ Fatal Accidents and Sudden Deaths (Scotland) Act 1976.

The Coroners Act (Northern Ireland) 1959 provided that coroners in Northern Ireland within whose district a dead body was found, or an unexpected or unexplained death or a death in suspicious and certain other circumstances occurred, “may” hold an inquest.¹⁸ The Act also provided for the Advocate General for Northern Ireland to direct that an inquest should be held in other circumstances.

In the case of military deaths overseas, civilian inquests usually took place after the internal military investigation had concluded, although this was not formally required. The military investigation could provide evidence that would be extremely difficult for a coroner to source elsewhere.

25. An MOD official wrote to Mr Nicholas Gardiner, the Coroner for Oxfordshire, on 17 January 2003 to advise him that the Services were currently considering the administration for “potential mass casualties in the event of war”, and that the majority of fatalities might be repatriated to RAF Brize Norton, which fell within his area of responsibility.¹⁹ The official asked whether “normal peacetime rules” would apply and specifically whether, if there were a large number of fatalities, he would expect to hold an inquest into each case.

26. Mr Gardiner replied on 20 January, confirming that:

- If the cause of death appeared unnatural, then there would be an inquest. This would normally be held in public.
- Normal practice where there was a single death was to transfer responsibility for the inquest to the “home town coroner”. Where there were a number of deaths in the same incident it was “clearly sensible” for the same coroner to hold those inquests; that would commonly be the coroner for the point of entry.²⁰

27. Mr Gardiner and officials in the Home Office (the Department which was then responsible for coronial policy) and the MOD worked together during February and March to refine the arrangements for receiving UK fatalities.

28. Mr Gardiner advised a Home Office official on 20 February that he understood that in “contamination cases”, the bodies of deceased Service Personnel would not be returned to the UK.²¹

¹⁸ Coroners Act (Northern Ireland) 1959, as amended.

¹⁹ Letter MOD [junior official] to Gardiner, 17 January 2003, ‘Handling of Multiple Deaths as a Result of Operations Overseas’.

²⁰ Letter Gardiner to MOD [junior official], 20 January 2003, ‘Foreign Deaths’.

²¹ Letter Gardiner to Home Office [junior official], 20 February 2003, ‘Service Deaths Overseas’. Mr Gardiner’s letter provides no further details on the nature of those “contamination cases”. The Inquiry believes that Mr Gardiner was referring to casualties from chemical and biological weapons.

29. Mr Gardiner wrote to a Home Office official on 18 March, the day before military operations against Iraq began:

“There are a few matters outstanding but, generally, I think we are reasonably well prepared, although there are bound to be things we have not thought of.”²²

30. The Home Office issued guidance to all coroners on handling deaths arising from hostilities in Iraq on 26 March.²³ The guidance stated:

- The MOD had advised that, while hostilities lasted, it would not be possible to provide evidence of the incidents on the battlefield which led to injury. In those circumstances, the Home Office recommended that coroners should adjourn inquests pending the conclusion of hostilities. Coroners “could expect to receive in due course advice on when it might be appropriate to consider the resumption of such inquests”.
- Coroners should notify the Home Office “if the numbers of adjourned cases in their jurisdiction seem likely to cause problems in terms of workload”.

31. A Home Office official wrote to Mr Gardiner on 2 April to advise that, while the Home Office appreciated Mr Gardiner’s “willingness to undertake the handling of all these cases”, the extra costs involved would fall to Oxfordshire County Council and they should be invited to agree the commitment that Mr Gardiner was taking on.²⁴

32. The official went on to suggest that, “wherever appropriate, it would be better for the substantive inquests to be held by coroners local to the family concerned, as with any other deaths overseas”. While that approach had not been adopted for the inquests into the deaths caused by the 9/11 attack and the Bali bombing, in those cases the deaths all arose from a single incident:

“In the case of Iraq, the deaths are occurring in different places, at different times and in different circumstances. It seems to me, that unless there is good reason to the contrary, single deaths, and multiple deaths arising from the same incident and involving personnel from broadly the same place in England and Wales, ought to be subject to local inquests where the family or families involved can attend conveniently. Inquests into multiple deaths involving individuals from different parts of the country might properly be undertaken by you, unless there seems to be a more appropriate local coroner (e.g. if the deceased were all from the same military base).”

33. Mr Gardiner replied on 4 April, agreeing that it was certainly appropriate for some inquests to be transferred to other coroners.²⁵ Those would generally be single deaths,

²² Letter Gardiner to Home Office [junior official], 18 March 2003, [untitled].

²³ Letter Cobley to Coroners, 26 March 2003, ‘Deaths Arising from Hostilities in Iraq’.

²⁴ Letter Home Office [junior official] to Gardiner, 2 April 2003, ‘Section 14 and War Deaths’.

²⁵ Letter Gardiner to Home Office [junior official], 4 April 2003, ‘Section 14 etc’.

and multiple deaths where there was a “significant common factor” indicating that an inquest outside of Oxfordshire would be appropriate.

34. Mr Gardiner also agreed that there were “significant financial implications” for his office, and advised that he was copying the exchange to Oxfordshire County Council.

Support for bereaved families

The Casualty Notification Officer and Visiting Officer

35. Lieutenant General Sir Alistair Irwin, the Adjutant General from 2003 to 2005, described the role of a Casualty Notification Officer (CNO) for the Inquiry:

“It is the hope and expectation that those involved [CNOs] will be from the unit but sometimes, particularly if it was an individual based elsewhere, it had to be done by somebody else ... The general principle was that it should be based on the family entity, the military family entity.

“Once the casualty has been identified beyond peradventure and all the details are correct ... the CNO ... has the unenviable task of knocking on the door and presenting the bad news.”²⁶

36. Vice Admiral (VAdm) Peter Wilkinson, Deputy Chief of Defence Staff (Personnel) (DCDS(Personnel)) from 2007, told the Inquiry:

“... it is the very first official contact that a bereaved family has with the MOD or the Armed Services that determines how the journey will go from there. If that official notification is carried out appropriately from all sides, then there is a chance that we may be able to help the family as they go through the grieving and bereavement process. If, for whatever reasons, that initial official contact doesn’t go well, then it is very hard to recover. Sometimes we never do.”²⁷

37. Lt Gen Irwin described the role of a Visiting Officer (VO) for the Inquiry:

“... that person [the CNO] then stays with the family until the notified casualty Visiting Officer appears. The CNO, the one who has broken the bad news, then departs the scene and the VO then remains with the family...

...

“These people were trained ... to hold the family’s hand through the awful aftermath of this. First of all, the realisation that it has happened, then the business of going to the repatriation ceremonies, then, in many cases, going through the whole of the coroner’s process, then the funerals, and then the gradual trying to piece together

²⁶ Public hearing, 21 July 2010, pages 47-48.

²⁷ Public hearing, 19 July 2010, page 49.

life again. Some families, of course, needed their VOs only briefly; others needed them ... for really quite a long time.”²⁸

38. VOs were not generally specialists, but Service Personnel who were asked to take on the role in addition to their regular duties because they were thought to be suited to it.²⁹

39. In December 2002, following a number of high-profile cases, the Army acknowledged that its procedures for supporting bereaved families “fell short of modern expectations” and introduced a number of changes, including:

- CNOs and VOs were briefed to try to identify any issues that might affect communications with the immediate and wider family (such as divorced or separated parents). If necessary, a second or third CNO could be appointed.
- All Notifying Authorities were instructed to maintain a pool of CNOs and VOs “who must have attended a seminar at Brigade or Divisional level”.
- Notification was to take place at any time of day or night, to avoid families hearing the news from elsewhere.
- The VO would remain in contact with the family as the focus for all communication, as long as the family wished.³⁰

40. The Army refined that approach through 2003 and 2004, in the light of their experience of supporting the families of Service Personnel killed in Iraq.

Immediate remedial action on bereavement procedures

41. The prospect of military operations against Iraq prompted the MOD to bring forward plans to extend some benefits to unmarried partners.

42. Mr Hoon was advised on 26 February 2003 that, with conflict in Iraq looming, the Government should end the uncertainty on whether unmarried partners of Service Personnel were eligible for benefits in the event of their death.³¹

43. Unmarried partners were not entitled to benefits under the Armed Forces Pension Scheme (AFPS) and only certain unmarried partners were entitled to benefits for death attributable to service under the War Pension Scheme (WPS). The MOD advised that the new Armed Forces compensation and pension schemes would extend benefits to unmarried partners (both heterosexual and homosexual) for attributable and non-attributable injury and death, but the new schemes would not be implemented before 2005/06.

²⁸ Public hearing, 21 July 2010, pages 48-49.

²⁹ Public hearing, 21 July 2010, page 50.

³⁰ Paper MOD, [undated], ‘The Army Investigations and Aftercare Support Cell (AIASC)’.

³¹ Iremonger to PS/Secretary of State [MOD], 26 February 2003, ‘Unmarried Partners – Implications for the Gulf’.

- 44.** Ministers had already indicated that, in certain circumstances, the Government would extend benefits to unmarried partners on a “case-by-case” basis.
- 45.** That position now needed to be clarified and formalised, by agreeing that AFPS benefits should be extended to unmarried partners for deaths attributable to service.
- 46.** On 20 March, Dr Lewis Moonie, the Parliamentary Under Secretary of State for Defence, announced that, with immediate effect, where a member of the Armed Forces died as a result of service related to conflict, ex-gratia payments equivalent to the benefits paid to a surviving spouse under the AFPS could be awarded to their unmarried partner, where there was a substantial relationship.³²
- 47.** In late March, the MOD’s Armed Forces Personnel Administration Agency (AFPAA) wrote to the spouse of a Serviceman who had been killed in Iraq advising that an overpayment of her late husband’s salary – relating to the period between his death and formal identification – would be recovered from her benefits.³³
- 48.** The bereaved spouse also felt that the AFPAA was pressuring her to leave her Service Family Accommodation (SFA).
- 49.** The MOD’s policy at that time was to allow spouses of deceased Service Personnel to remain in SFA for up to six months.³⁴ That period could be extended in some circumstances.
- 50.** The case attracted significant press attention.
- 51.** The bereaved spouse wrote to Mr Blair on 26 March, setting out her concerns. Mr Blair replied on 7 April, stating that Mr Hoon would consider the detailed points raised in her letter, but assuring her that she would be given all the time she required to consider her future housing needs.³⁵
- 52.** Mr Hoon told Lt Gen Palmer on 15 April that he was “very uncomfortable” with the MOD’s handling of the case, including both the tone and content of the AFPAA’s letter.³⁶ Lt Gen Palmer confirmed that the letter was “factually incorrect”, as there were no grounds for seeking repayment.
- 53.** The following day, Mr Hoon tasked Lt Gen Palmer to oversee “a comprehensive review of the way in which all three Services handled bereaved families”.³⁷

³² House of Commons, *Official Report*, 20 March 2003, column 54WS.

³³ Minute Palmer to 2SL [MOD], 15 April 2003, ‘Op TELIC – Pay, Pensions and Allowances Issues on Death of Service Personnel’.

³⁴ Record, 12 May 2003, ‘Record of Bereavement Policy Meeting Held in St Giles Court at 1330 on 7 May 2003’.

³⁵ Letter Blair to [name redacted], 7 April 2003, [untitled].

³⁶ Minute Palmer to 2SL [MOD], 15 April 2003, ‘Op TELIC – Pay, Pensions and Allowances Issues on Death of Service Personnel’.

³⁷ Minute Cooper to CE AFPAA, 24 April 2003, ‘Assistance to Bereaved Relatives – Policy Review’.

54. Lt Gen Palmer wrote to Mr Hoon’s Private Office on 17 April, confirming that work was already in hand to conduct that comprehensive review (an initial report would be available by 16 May), and reporting the “immediate remedial action” that had been taken in response to the individual’s experience:

- Lt Gen Palmer had “declared” that all except one of the Op TELIC fatalities to date were attributable to service. That declaration meant that the usual assessment of attributability would not be required, and that families could be notified now that the higher benefits associated with deaths attributable to service would be paid.
- The letters used by the AFPAA were not appropriate. As of 16 April, all letters dealing with Op TELIC had been “personally vetted” by the AFPAA’s Chief Executive and checked by the appropriate Service Casualty Co-ordination Centre.
- Families of Service Personnel were now able to stay in their service accommodation for “as long as they feel they need to in order to assess their longer-term housing requirements”. If pressed, VOs should “talk in terms of nine months although stressing that each case will be examined on its merits”.
- The MOD had asked the deceased insurer’s to accelerate their procedures.³⁸

55. Lt Gen Palmer was advised on the same day that the MOD was facing a new challenge: “Policy ... changing ‘on the hoof’”.³⁹

56. Lt Gen Palmer provided his first report to Mr Hoon on bereavement procedures on 16 May.⁴⁰ It identified six recent, specific lapses in the MOD’s handling of bereaved families (two of which pre-dated Op TELIC), and three broader areas where improvement was necessary:

- the volume, timing and style of correspondence between multiple MOD organisations and bereaved families;
- a lack of clarity over the sources of specialist advice available to bereaved families; and
- the “training/education” of CNOs and VOs.

57. Lt Gen Palmer reported the actions that had already been taken to prevent a recurrence of those specific lapses, and restated the decisions of the previous month

³⁸ Minute DCDS(Pers) to APS/Secretary of State [MOD], 17 April 2003, ‘[name redacted] – Follow-up Action’.

³⁹ Minute Cheadle to Palmer, 17 April 2003, ‘Op TELIC – Pay, Pensions and Allowances Issues on Death of Service Personnel’.

⁴⁰ Minute DCDS(Pers) to PS/USoS [MOD], 16 May 2003, ‘Bereavement – Review of Procedures’.

to relax the MOD's policy on the retention of SFA and to improve the quality of AFPAA correspondence. Lt Gen Palmer also advised that:

- He had directed that all MOD correspondence should be routed through the deceased's unit and the VO, and all MOD visits to bereaved families should be co-ordinated by the VO.
- Further work would be done to develop "simple and readable" guidance, to improve the tone of correspondence, and to develop a comprehensive guide to the sources of advice and support available.
- Further work would be done to assess the selection, training and education of CNOs and VOs.

58. In March 2004, the MOD concluded a study to identify improvements to their investigative and Board of Inquiry (BOI) processes.⁴¹ While the study focused on the investigative and BOI processes themselves, it recommended that:

- Commands should establish a senior focal point with responsibility for pro-actively monitoring all investigations and BOIs;
- all communication with families should be routed through a "single established and known contact", who could explain the context of any correspondence and "head-off any infelicitous or insensitive drafting"; and
- a "knowledgeable and consistent" officer should regularly brief families on the detail and progress of the entire investigation and BOI process.

59. On 24 June, Lt Gen Palmer reported to Air Chief Marshal (ACM) Sir Anthony Bagnall, Vice Chief of Defence Staff (VCDS), that each Service had now appointed a "Senior Co-ordinator" to act as a focal point for monitoring investigations and Inquiries.⁴² Lt Gen Palmer also gave ACM Bagnall the "specific reassurance" that he had requested that each Service had undertaken to provide regular briefings to next of kin on process and progress. All communication with the next of kin would be routed through a single contact (normally the VO) who would "act as a sift" to filter out any insensitive or inconsistent drafting.

60. Lt Gen Palmer advised ACM Bagnall that a study into Services' bereavement support procedures, including the training provided to CNOs and VOs, had now reported. The study had concluded that:

- While it might seem logical to adopt a tri-Service approach to bereavement support procedures, it was reasonable for each Service to continue to use their

⁴¹ [Paper MOD \[junior official\], 25 March 2004 \[incorrectly dated on original as 24 February 2004\], 'Inquiries/Investigations into Death or Serious Injury on Operations: Scope for Improvement and Tri-Service Harmonisation – a Short Study for VCDS/DCDS\(Pers\)'](#).

⁴² Minute DCDS(Pers) to VCDS, 24 June 2004, 'Inquiries into Unnatural Death and Serious Injury: Improvements in Process and Briefing'.

“slightly different” approaches given their differing geographical spread, unit organisations and ethos.

- With the exception of the Royal Navy, which generally used qualified welfare workers, “bereavement support personnel” were appointed on an ad hoc basis from the junior officer cadre. While bespoke training for the entire cadre was neither cost-effective nor deliverable, it should be possible to provide “awareness briefings” during general staff training, supplemented by “thorough briefings” by specialist personnel when an individual was appointed to be a VO.⁴³

61. Lt Gen Palmer advised ACM Bagnall that he supported those findings, but commented that ACM Bagnall might wish to “revisit” the conclusion that it would not be financially or practically viable to develop a bespoke training course for individuals involved in bereavement support.⁴⁴

62. ACM Bagnall accepted the findings, but commented that existing single-Service or tri-Service courses could include some coverage of bereavement support procedures.⁴⁵

63. On 30 June, Lt Gen Palmer provided Mr Hoon with an update on work to improve the BOI process.⁴⁶ The update also covered progress on improving communications with families.

64. Lt Gen Palmer advised Mr Hoon that it was “clear that we are failing to meet some families’ expectations in respect of the quality and quantity of information we are providing to them”. A key step in improving communications between families and the MOD would be the appointment of a Senior Co-ordinator in each of the Services to ensure that families were briefed, through their VOs, on the progress of investigations and BOIs; the role of the Senior Co-ordinator, and progress in improving the BOI process, is described later in this Section.

65. Lt Gen Palmer recalled the steps that had been taken to improve the tone and accuracy of the MOD’s correspondence with bereaved families and advised that, as far as practicable, all routine correspondence now followed standard templates. The production of a joint casualty procedures manual⁴⁷ and the formation of a Joint Casualty Co-ordination Cell (JCCC) by January 2005 would further improve communication with families. As a “final filter”, all communication with families was now routed through a single point of contact, usually the VO.

⁴³ Paper MOD, [undated], ‘Bereavement Support Training (Scoping Study) – Summary of Findings and Recommendations’.

⁴⁴ Minute Palmer to VCDS, 24 June 2004, ‘Inquiries into Unnatural Death and Serious Injury: Improvements in Process and Briefing’.

⁴⁵ Minute VCDS to Palmer, 1 July 2004, ‘Inquiries into Unnatural Death and Serious Injury: Improvements in Process and Briefing’.

⁴⁶ [Minute DCDS\(Pers\) to APS/SofS \[MOD\], 30 June 2004, ‘Boards of Inquiry – Improvements in Process’.](#)

⁴⁷ The first Joint Casualty and Compassionate Policy and Procedures (JSP 751) manual was published in March 2005.

66. Lt Gen Palmer reported that the review of training for personnel involved in bereavement support had concluded that a bespoke training course would be neither “financially nor practically viable”, but had identified a number of ways in which they would be better supported. The “problems of picking VOs from a necessarily ad hoc pool” could be overcome by including VO duties in general staff training, ensuring that specialist advice was available when needed, and ensuring that the “often junior” VO was properly briefed and supervised. Lt Gen Palmer expected that senior commanders would take a close and personal interest in ensuring that this was done properly.

67. In April 2005, Lt Gen Palmer recommended that the MOD’s policy on the occupation of Service Family Accommodation by bereaved spouses should be changed to be “less prescriptive”:

“... while bereaved spouses should be offered retention of SFA for two years we should acknowledge that there might be some ... who seek to retain their SFA for an indefinite period thereafter.”⁴⁸

68. Mr Hoon agreed that recommendation, subject to a number of amendments, including that Ministers should be consulted before any decision was taken to withdraw housing entitlement beyond the two-year period.⁴⁹

69. Mr Adam Ingram, Minister of State for the Armed Forces from 2001 to 2007, recalled the exchange in his evidence to the Inquiry:

“... the view [in the MOD] was, ‘Well, this is going to dislocate all the other arrangements, if you let this widow stay in the house’, and Geoff Hoon just said ‘So what? Fix it’, and it was fixed. I think, to the best of my recollection, we didn’t have a deluge of demand in that area. It may have been beneath the surface, but it never became a reality and, if it had been: yes, they can stay there, yes, we have to be sympathetic.”⁵⁰

Joint procedures and a Joint Casualty Co-ordination Cell

70. The Joint Casualty Co-ordination Cell (JCCC) was established in early 2005 to provide a focal point for casualty administration and notification and requests for compassionate travel.⁵¹

⁴⁸ Minute Palmer to APS/SofS [MOD], 11 April 2005, ‘Draft Revised Policy for the Occupation of SFA by Bereaved Spouses Following the Death in Service of the Service Licensee’.

⁴⁹ Minute APS/SoS [MOD] to Palmer, 13 April 2005, ‘Revised Policy for the Occupation of SFA by Bereaved Spouses’.

⁵⁰ Public hearing, 16 July 2010, pages 39-40.

⁵¹ Ministry of Defence website, *Casualty Procedures*.

71. Air Marshal David Pocock, the Deputy Chief of Defence Staff (Personnel) from 2005 to 2007, told the Inquiry that in 2004:

“... there was clear dissatisfaction with the notification procedures because ... it was a single-service responsibility and we were required very quickly to set up a Joint Casualty and Compassionate Cell ... and that took over getting the information from theatre, identifying a [Casualty] Notification Officer and setting the whole notification procedure in place ... on a joint basis.”⁵²

72. Lt Gen Irwin told the Inquiry that during his time as Adjutant General (from 2003 to 2005):

“... I think [there were] 57 Army casualties ... and I would think, looking back on it, that I may have heard about issues in the notification process, and by ‘issues’ I mean either delays in doing it or calling on the wrong person, or the wrong sort of words being said at the wrong sort of time, I think maybe I had cases of that kind maybe between six and ten, so something of that order.”

“... as an individual, that family, there was nothing in the world was more significant. So we had to keep asking ourselves, ‘Are we doing this right?’

...

“So as each issue developed, we tried to close it off, but even after all this time and even with the establishment of the new joint system, with the new central training, even then, I am afraid I can guarantee that, in the future, there will be people who have a bad experience with this for one reason or another, and it is because we are all human beings.”⁵³

73. The first version of the Joint Casualty and Compassionate Policy and Procedures (JSP 751) was produced in March 2005 (policy and procedures had previously been set and managed by the individual Services).

74. Lt Gen Palmer described the JSP as drawing together into one publication the best practices and procedures currently in place across the three Services.⁵⁴

⁵² Public hearing, 19 July 2010, page 50.

⁵³ Public hearing, 21 July 2010, pages 52-53.

⁵⁴ Minute DCDS(Pers) to VCDS, 30 July 2004, ‘Inquiries into Unnatural Death and Serious Injury: Improvements in Process and Briefing’.

75. Shortly after the JCCC was established, the Army established the Army Investigations and Aftercare Support Cell (AIASC) to improve and extend the Army's support for families.⁵⁵ The AIASC had two main roles:

- to maintain close contact with bereaved families on a regular basis for as long as they wanted, including estranged family members. This included regular letters on the progress of Service Police investigations and BOIs; and
- on behalf of the Army's Senior Co-ordinator, to oversee the BOI process and ensure that delays were kept to a minimum.

76. The AIASC had a number of secondary roles, including developing and maintaining a formal, standardised training package for CNOs and VOs. The AIASC aimed to implement that package by the end of 2005.

TRAINING AND SUPPORT FOR CASUALTY NOTIFICATION OFFICERS AND VISITING OFFICERS

77. JSP 751 stated that CNOs should "if possible ... have received some training or instruction such as in dealing with bereavement" and that VOs should "if possible ... have received some relevant training or instruction".⁵⁶

78. Lieutenant General Mark Mans, the Deputy Adjutant General, wrote to senior Army commanders on 25 November 2005, to remind them of the importance of selecting appropriate and experienced individuals to be VOs:

"Although the majority do an excellent job, from time to time the wrong person is nominated and invariably significant difficulties follow. This happened again recently ...

"The training of both Casualty Notification Officers (CNOs) and VOs is also most important and although JSP [751] says 'if possible ... should have received some training', it should be exceptional for them not to have attended some sort of instruction."⁵⁷

79. Lt Gen Mans advised that a centralised training package based on an interactive CD and accompanying material should issue in early 2006 and would form the basis of all future training (divisions and brigades currently ran their own training). Training would become mandatory when this package issued.

80. Lt Gen Mans told the Inquiry that VOs had:

"... a fairly comprehensive training programme in order to deal with a number of issues ... and, indeed, as individuals, they need to be looked after as well because,

⁵⁵ Paper MOD, [undated], 'The Army Investigations and Aftercare Support Cell (AIASC)'.

⁵⁶ Paper MOD, 11 July 2005, 'JSP 751: Joint Casualty and Compassionate Policy'.

⁵⁷ Minute Mans to Comd BFC, 25 November 2005, 'Selection of Visiting Officers'.

if you are a Visiting Officer, you can have a pretty traumatic time. Throughout a period of a tour of duty, you might be looking after one or two or three families one after the next, and they need to be monitored for stress ... and we have a process in place to do just that.”⁵⁸

81. Lt Gen Irwin told the Inquiry that “there is no doubt about it that the training is better now, the preparation is better now”.⁵⁹

82. MOD Ministers returned to the issue of the training and support provided to Visiting Officers in 2008.

83. In February 2008, Sir Bill Jeffrey, the MOD’s Permanent Under Secretary, provided detailed advice to Mr Bob Ainsworth, Minister of State for the Armed Forces, on how the BOI process could be improved and how the existing process could be accelerated.⁶⁰ Sir Bill’s advice did not consider the role of the VO.

84. Mr Ainsworth held a meeting on 11 April to discuss that advice.⁶¹ The record of the meeting reported:

“The Minister raised the issue of interface with families. He recognised that the Visiting Officer role was very difficult ... He also recognised the clear single Service lead in this area ... He, nevertheless, felt that more could be done in terms of the resourcing and training of Visiting Officers. He felt that the cell [the Defence Inquests Unit] should play a role in this area, focusing on ensuring the right training and guidance is provided, sharing best practice between the Services and monitoring performance.”

The experience of bereaved families

85. The experiences that family members have shared with the Inquiry suggest that there was considerable variation in the quality of the notification process. Some family members spoke positively about the sensitive and prompt way in which the news was delivered. A smaller number reported negative experiences, including:

- insensitive delivery;
- an impression that details were being withheld (particularly in ‘friendly fire’ incidents or where there was a possibility of equipment failure);
- release of names to the media before official notification;
- circulation of names amongst the families of others deployed in Iraq before official notification; and

⁵⁸ Public hearing, 19 July 2010, page 45.

⁵⁹ Public hearing, 21 July 2010, page 48.

⁶⁰ [Minute Jeffrey to Minister\(AF\) \[MOD\], 29 February 2008, ‘Boards of Inquiry and Inquests’.](#)

⁶¹ Minute PS/Min(AF) to APS/Secretary of State [MOD], 11 April 2008, ‘Boards of Inquiry and Inquests’.

- use of archive footage by the media which featured the deceased as though they were still alive, causing confusion about what was the truth.

86. The experiences shared with the Inquiry suggest that the creation of the JCCC led to an improvement in the quality of the notification process.

87. There was also considerable variation in families' experience of the support provided by Visiting Officers (VOs). In some cases, an enduring and positive relationship resulted. In others:

- The VO was changed without warning, in some instances more than once.
- The VO was badly briefed and lacked knowledge of procedures.
- Insensitive language and behaviour caused distress.
- Contact was sporadic.

88. The Inquiry also heard about a number of distressing incidents which, although they do not form part of a wider pattern, are illustrative of how a lack of care can have a significant impact. They were:

- Following an air crash in which several Service Personnel died, a number of body parts remained unidentified. Families of those who had died were not told about the existence of those unidentified body parts, and many had already held funerals by the time identification was complete, making a second ceremony necessary.
- One family discovered that photographs of their son's body had been used, without permission being sought, in a training seminar.
- One family member accepted military advice not to view their son's body based on the impact of the injuries suffered. But facial reconstruction had taken place and there had already been a viewing for another family member.

89. Anyone serving in the Armed Forces is asked to designate one person as their official next of kin. When a fatality occurs, the CNO contacts the next of kin, and they are the ongoing point of contact for a VO.

90. Parents who lost children in Op TELIC told the Inquiry that one consequence of this arrangement was a disparity between the information and support provided to the partner of the deceased, usually the person named as next of kin, and to parents. As one father told the Inquiry, being a bereaved parent can be a very lonely business.

91. The need for greater support to a wider family than just the next of kin was recognised by the Government in July 2008:

“We recognise that the loss of a Service person affects the whole of the bereaved family, not just the next of kin or nominated emergency contacts, on whom we

traditionally tend to focus our contact and support. We will review our procedures to ensure that in future sufficient account is taken of the needs of the wider family.”⁶²

Early concerns about military investigations

92. The MOD had a wide range of internal investigations that could be carried out following a fatality or other serious incident occurring on operations.⁶³ They included:

- Land Accident Investigation Team (LAIT) investigations. The LAIT could respond to incidents at very short notice and would normally report within 30 days. It sought to determine the cause of an accident and make timely recommendations to prevent reoccurrence. It did not apportion blame. A LAIT report could inform a Board of Inquiry/Service Inquiry, or substitute for it where the facts of the case were sufficiently clear.
- Service Police investigations. Each Service has its own Service Police force; for the Army, that is the Royal Military Police (RMP). The Special Investigation Branch (SIB) of each Service Police force investigates the most serious cases. The MOD told the Inquiry: “While the need for a prompt investigation is important, and may be vital, there are no specific deadlines for the completion of Service Police investigations.”
- Boards of Inquiry (BOIs). The purpose of a BOI was to establish the facts about an event, to make recommendations to prevent a reoccurrence, and to inform any decision on whether other action, such as administrative or disciplinary action, should be initiated.⁶⁴ BOIs would not generally attribute blame.

Impact of a study on military inquiries and investigations, March 2004

93. On 26 June 2003, Mr Hoon received an update on the SIB investigation into the death of a member of the Armed Forces.⁶⁵

94. Mr Hoon’s Private Office responded on 30 June, expressing Mr Hoon’s concern that the individual’s next of kin had not yet been informed of the result of the post-mortem, in particular as the media might release that information.

95. Mr Hoon’s Office also asked for an update on all the BOIs and other investigations that had been launched into the deaths of Service Personnel killed in Iraq, including details of the “timescales and inter-dependencies on the investigations reaching their conclusions”.

⁶² Ministry of Defence, *The Nation’s Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans*, July 2008, Cm 7424, para 2.34.

⁶³ Paper MOD, [undated], ‘Service Inquiries and Investigations’.

⁶⁴ Paper [SPEG], 19 July 2004, ‘Proposals for a Tri-Service Inquiry System’.

⁶⁵ Minute APS/Secretary of State [MOD] to PJHQ Civ Sec, 30 June 2003, ‘Completion of Main Stage of SIB Investigation into the Death of [name redacted] and Other Action’.

96. On 4 July, Mr Ian Gibson, MOD Deputy Director Service Personnel, sent an update on progress on BOIs and investigations to Mr Hoon's Office.⁶⁶ The update detailed 43 fatalities resulting from 21 incidents. Only one BOI, into the loss of a Sea King helicopter with six UK Service Personnel on board on 22 March, had so far reported. A date for the inquest had not yet been set.

97. Later that month, Mr Gibson sent Mr Hoon's Office a paper describing military investigative and BOI processes, which highlighted the different approaches taken by the Services.⁶⁷ The Royal Navy and RAF would generally launch a BOI as soon as an incident occurred, at the same time as they deployed a criminal investigative team (if they thought that one was required). In contrast, the Army would only launch a BOI after an investigative team had reported. The MOD was considering the scope for harmonising the Services' approaches to BOIs as part of the Tri-Service Armed Forces Act.

98. Mr Ingram's Private Secretary wrote to ACM Bagnall on 15 September:

“Minister (AF) [Mr Ingram] is concerned about the increasing perception amongst next of kin (and as a consequence Parliamentarians) that investigations into the deaths of personnel in Iraq lack focus and are taking too long. Families also have the impression that they are not kept informed of progress, however modest. These are admittedly perceptions, but most investigations seem slow.”⁶⁸

99. While Mr Ingram understood the complications arising from the roulement of formations and the operational situation:

“Nonetheless, he feels that we need to strengthen our ‘grip’ on these sensitive issues, to ensure that corporate memory is preserved, that investigations are prosecuted as vigorously as possible, and that the flow of information to NOK [next of kin] is actively managed. This may best be done through the DCMO [Defence Crisis Management Organisation].”

100. Mr Ingram's Private Secretary asked for advice on how that “central management” of the process might be achieved.

101. ACM Bagnall received advice in September and October on how the MOD's investigative processes might be improved.

102. Major General Richard Shirreff, Chief of Staff LAND, advised ACM Bagnall on 24 September that the key to accelerating RMP/SIB investigations in Iraq was more

⁶⁶ Minute Gibson to APS/Secretary of State [MOD], 4 July 2003, ‘Investigations into Op TELIC UK Service Personnel and UK Civilian Deaths’.

⁶⁷ Minute Gibson to APS/Secretary of State [MOD], 17 July 2003, ‘Investigations into Op TELIC UK Service Personnel and UK Civilian Deaths: Procedures for Service Deaths’.

⁶⁸ Minute PS/Min(AF) [MOD] to MA/VCDs, 15 September 2003, ‘TELIC Incidents: Investigations’.

resources, and asked that mobilised Reservists and military police from other Services should be deployed to assist with Op TELIC investigations.⁶⁹

103. Lt Gen Palmer advised ACM Bagnall on 17 October that the Army's policy of investigating all deaths, while "cautious and prudent", placed a heavy burden on RMP/SIB resources.⁷⁰ There was scope for the Services to consider a common policy on when it was necessary for Service Police to investigate an incident, and when a BOI or LAIT investigation would suffice.

104. Lt Gen Palmer also advised that, notwithstanding the Army's policy, the main reason for delays to investigations on Op TELIC was the difficult working environment in Iraq (including the need for force protection for Service Police and a potentially hostile population). The MOD was now deploying "SIB qualified" Reservists to Iraq, but the RMP "remain swamped with the volume of investigative work".

105. In early 2004, ACM Bagnall and Lt Gen Palmer commissioned an internal study to identify improvements that could be made to the MOD's investigative processes, and in particular the scope for harmonising procedures across the three Services.⁷¹

106. The study reported in late March 2004. It concluded that the core BOI process ran "reasonably well" once triggered. The more significant problems related to how and when BOIs were convened, how they linked to other investigations, and how their findings were processed.

107. The study highlighted the "considerable delay" to Army BOIs that could be caused by a LAIT investigation and by the Army's practice of undertaking a full RMP/SIB investigation into all sudden deaths:

"LAIT TOR [Terms of Reference] define four weeks for issue of report after return from investigation, and HQLAND BOI Standing Orders define another 14 weeks after issue of final LAIT and SIB Reports before the BOI first sits. In other words, the target for the BOI to start is some five months after the incident, if everything goes to plan ... five months seems too long for a routine target."

108. The study also reported that, while existing guidance emphasised that investigations and inquiries should be opened and concluded as quickly as possible, "the words and figures do not match, and it has to be said that the Army's target timescale of some 10 to 11 months after incident [to the conclusion of the BOI] looks somewhat excessive, particularly when only two months of that is the BOI itself sitting". The majority of that 10-11 month period was allocated to "waiting for any successive comments" from advisers and senior officers to complete the BOI report.

⁶⁹ Minute Shirreff to VCDS, 24 September 2003, 'Op TELIC Incidents – Investigations'.

⁷⁰ Minute Palmer to VCDS, 17 October 2003, 'TELIC Incidents: Investigations'.

⁷¹ [Paper MOD, 25 March 2004 \[incorrectly dated on original as 24 February 2004\], 'Inquiries/Investigations into Death or Serious Injury on Operations: Scope for Improvement and Tri-Service Harmonisation – a Short Study for VCDS/DCDS\(Pers\)'](#).

109. The study made 15 recommendations, including:

- Commands should establish a senior focal point with responsibility for pro-actively monitoring all investigations and BOIs.
- There should be a presumption across all three Services that a BOI President should be appointed promptly.
- A BOI President should be required to exercise grip and co-ordination over all Service investigative bodies, and liaise with non-Service bodies. Presidents should be released from other duties.
- There should be a “renewed emphasis ... upon early commencement and conclusion of all phases and maximum concurrent activity”. The standard target timescales for all phases of the investigative and inquiry processes should be reviewed and tightened. The time allowed for advisers and senior officers to comment should be limited to six weeks.
- All communication with families should be routed through a “single established and known contact”, who could explain the context of any correspondence and “head-off any infelicitous or insensitive drafting”.
- A “knowledgeable and consistent” officer should regularly brief families on the detail and progress of the entire investigation and BOI process.

110. The study also reported that there was a significant increase in public expectations that there should be a BOI into every incident, and that its conclusions should be disclosed. That imposed a “heavy workload” on all three Services but especially the Army.

111. Lt Gen Palmer wrote to Mr Ingram on 6 April, advising that all the recommendations in the study had been agreed by the Services; the “main recommendations” would be implemented immediately.⁷² The “main advance” from the existing process was that the presumption that a BOI should be convened promptly, with a BOI President appointed within 48 hours of the incident, would now be extended to the Army (it was already standard practice in the Royal Navy and RAF). The President would normally be released from other duties and would “play a wider role in determining and co-ordinating the activities of any other necessary investigations, notwithstanding that he might decide not to convene his own Board immediately”.

112. Lt Gen Palmer set out how communication with the next of kin would be improved. All communications would be routed through a single “personal contact point”. The next of kin would be “briefed clearly, comprehensively and regularly” on the investigation and BOI process. Information that would not compromise the BOI could be released to the next of kin before the final report issued; a clear disclosure policy consistent with

⁷² [Minute Palmer to Ingram, 6 April 2004, ‘Inquiries into Unnatural Death and Serious Injury on Operations: Improvements in Process and Briefing’.](#)

the Data Protection Act (DPA), Freedom of Information Act (FOI Act) and other relevant legislation would be developed.

113. Lt Gen Palmer also advised that a report on the progress of all Inquiries and investigations would be sent to Ministers every two months.

114. Mr Hoon met some of the families bereaved during Op TELIC on 28 April.⁷³ They expressed concern about the Services' investigative processes in general and in particular the quality and frequency of communication from the MOD, and said that they lacked confidence in the BOI and investigative processes. Their concerns triggered a review of Service Police investigations, which is described later in this Section.

115. Mr Hoon received the first progress report on investigations and BOIs on 14 June.⁷⁴

116. Mr Hoon's Assistant Private Secretary responded to the progress report on 18 June, stating that the MOD now had, for the first time, visibility of the extent and progress of all current investigations.⁷⁵ The Assistant Private Secretary reported that Mr Hoon had:

"... noted that the submission has confirmed a number of weaknesses, in particular the length of time it has taken to complete many of the investigations and the apparent lack of communication with some of the families on the more protracted investigations. The Secretary of State [Mr Hoon] will expect to see improvement in these and the other areas as the Board of Inquiry study recommendations are implemented. He will also wish to see early results in the work commissioned by VCDS into the procedural aspects of SIB investigations. It is important that these workstrands are linked: how many BOIs are delayed because of SIB work? He will also wish to see progress in the next report on bringing the more protracted investigations to a speedy close."

117. Mr Hoon's Assistant Private Secretary concluded that Mr Hoon would "wish to be assured that making progress on the various investigations and the Boards of Inquiry continues to receive appropriate senior management attention".

118. Lt Gen Palmer told the Inquiry:

"... the Secretary of State [Mr Hoon] himself was personally briefed every two months by me as to exactly which Board of Inquiry was delayed, or rather the findings were delayed, why they were delayed, what the reasons for the delay was. Could we do anything to speed up the process, and how are the families reacting to this?"⁷⁶

⁷³ Minute DCDS(Pers) to APS/SofS [MOD], 30 June 2004, 'Boards of Inquiry – Improvements in Process'.

⁷⁴ Minute DCDS(Pers) to APS/SofS [MOD], 30 June 2004, 'Boards of Inquiry – Improvements in Process'.

⁷⁵ Minute APS/Hoon to DCDS(Pers), 18 June 2004, 'Inquiries into Unnatural Death and Serious Injury on Operations: First Routine Report'.

⁷⁶ Public hearing, 21 July 2010, page 56.

119. On 24 June, Lt Gen Palmer reported to ACM Bagnall that the “initial tranche” of improvements identified by the BOI study (comprising 13 of the 15 recommendations) was now in place.⁷⁷ Each Service had appointed a “Senior Co-ordinator”, to act as a focal point for monitoring investigations and BOIs. Lt Gen Palmer gave ACM Bagnall the “specific reassurance” that he had requested, that:

- Each Service had agreed to appoint a BOI President within 48 hours, unless judged unnecessary by a higher authority.
- Each Service had undertaken to provide regular briefings to next of kin on process and progress. All communication with the next of kin would be routed through a single contact (normally the Visiting Officer) who would “act as a sift” to filter out any insensitive or inconsistent drafting.

120. Lt Gen Palmer also reported that he had carefully considered a suggestion from Mr Hoon that the BOI process should include “an individual who is independent of both MOD and the bereaved family ... who would give a view of whether or not the BOI had completed its job successfully, before the report was published”, but had concluded that:

“... the purpose for which BOIs are established and the perceived presentational need to prove to external parties that they carry out their work successfully cannot sensibly be reconciled.”

121. Lt Gen Palmer advised that including an independent element would delay the BOI process, “yet bring no guarantee of adding value, credibility or acceptability of a Board’s findings”. Families’ concerns could largely be met by the “administrative arrangements – including better communications – already put in place”.

122. Ministers returned to the question of whether there should be an independent member on a BOI in 2007.

123. On 30 June, Lt Gen Palmer sent Mr Hoon a progress report on work to improve the BOI process.⁷⁸ Lt Gen Palmer wrote that it was “clear that we are failing to meet some families’ expectations in respect of the quality and quantity of information we are providing to them”. The key to improving the flow of information to families would be the new Senior Co-ordinators, who would ensure that BOIs proceeded quickly and that families were briefed on progress.

124. Lt Gen Palmer reflected on the role and impact of the Senior Co-ordinator in his evidence to the Inquiry:

“... he was responsible for the progress of Boards of Inquiry. If there were delays, why there were delays and what should be done about it, and keeping, importantly, the families informed through the visiting officers as to what was going on.

⁷⁷ Minute DCDS(Pers) to VCDS, 24 June 2004, ‘Inquiries into Unnatural Death and Serious Injury: Improvements in Process and Briefing’.

⁷⁸ [Minute DCDS\(Pers\) to APS/SoS \[MOD\], 30 June 2004, ‘Boards of Inquiry – Improvements in Process’.](#)

“We put that in place relatively quickly.

“Now that did not immediately speed up the Boards of Inquiry, because some of them were quite complicated.

“We have already alluded to a shortage of military police investigators ... but the emphasis – because I think this is what the grievance was – was lack of information. The families felt they were excluded from the process.

“I personally believe, once we put ... in place ... a regular briefing for families about where their particular Board of Inquiry had got to, they were less exercised ...”⁷⁹

125. Lt Gen Palmer also advised that all the “quick wins” identified in the BOI study were now in place; work continued to establish a robust disclosure policy and devise a mechanism to allow local commanders to initiate an immediate investigation in urgent and exceptional cases.

126. The target timeline for a BOI was tightened in June 2004, to allow 14 weeks from the incident to the formal release of the completed BOI report to the next of kin.⁸⁰ That timeline comprised eight weeks for the production of the BOI report and six weeks for advisers and senior officers to comment and complete it.

127. The BOI process was also amended at that time to include the production of additional progress reports for the next of kin.

128. The steps taken by the MOD to improve communication with and support for next of kin and bereaved families, including the review of bereavement procedures and the review of training for personnel involved in bereavement support, are described later in this Section.

Review of Service Police investigations, October 2004

129. During a meeting with Mr Hoon on 28 April 2004, a number of bereaved families expressed a lack of confidence in the Services’ investigative processes.⁸¹

130. In response to those concerns, ACM Bagnall commissioned a review of the timeliness and effectiveness of Service Police investigations.⁸²

131. The review, which reported in October, concluded that:

- There were no major issues that were not already being considered.
- There was no evidence that the quality of Service Police investigations was inadequate.

⁷⁹ Public hearing, 21 July 2010, pages 55-56.

⁸⁰ Minute DCDS(Pers) to PS/SoS [MOD], 17 July 2006, ‘BOI Timelines – a Proposal for Extension’.

⁸¹ [Minute DCDS\(Pers\) to APS/SofS \[MOD\], 30 June 2004, ‘Boards of Inquiry – Improvements in Process’.](#)

⁸² [Report Loudon, 12 October 2004, ‘Review of Service Police Investigations on Operations’.](#)

- Service Police in Basra were “operating at full stretch and had a considerable backlog”. A key constraint was that relatively few Service Police investigators were qualified to Level 3 (able to carry out the investigations into the most serious offences). More investigative personnel should be trained to the Level 3 standard, and deployed.
- Service Police in Basra needed more equipment and administrative support.⁸³

132. On the timeliness of investigations, the review stated:

“There can be both avoidable and unavoidable delays, but complex investigations and the post-investigative processes do take time and speed must not be at the expense of quality. That said, some trimming may be possible in respect of the timescales for some steps in the process.”

133. The review recommended that the timescales for the individual steps of the post-investigative process should be revalidated.

134. The review also identified the practical difficulties in undertaking investigations in a non-permissive environment such as Iraq, including:

- A number of Service Police personnel had been tasked to train the Iraqi Police Service.
- Service Police needed force protection, which was not always available.
- Access to the crime scene and to witnesses could be difficult, and could cause further tension.

135. Lt Gen Irwin told the Inquiry:

“... as the operation [in Iraq] developed, it began to be something that came to my attention and, therefore, could be regarded as a possible problem, that the Royal Military Police were not there in sufficient numbers to do everything that was required of them in a completely timely fashion.

“Now, of course, when you are trying to investigate incidents when there is shooting going on, there is always going to be a delay that would not occur in the normal circumstance, but nevertheless I began to get a feeling that maybe there were not enough military police in Iraq and maybe also that, extrapolating from that, there were not enough military policemen ... in the British Army.

“So I spent – I would not say every day, but quite regularly I used to speak to the Provost Marshal (Army) and ask him the direct question, looking at him in the eye, ‘Have we got an issue here? Are your people bearing up to the strain? Are they going over too often with too short tour intervals? Do you want me to try to find some other way of reinforcing you, like doing something which the bureaucracy sometimes

⁸³ [Report Loudon, 12 October 2004, ‘Review of Service Police Investigations on Operations’.](#)

calls ‘novel and contentious’, which was to get civilian police to sort of come along and help?’

“The answer was always, ‘We are a bit stretched, but we are fine’. My people and I just took that at, not exactly face value, but kept our eyes on it and at no stage did we ever have to do anything that was ‘novel and contentious’.”⁸⁴

The deaths of six RMP Personnel at Majarr al Kabir

On 24 June 2003, six RMP Personnel – Sergeant Simon Hamilton-Jewell, Corporal Russell Aston, Corporal Paul Long, Corporal Simon Miller, Lance Corporal Benjamin Hyde, and Lance Corporal Thomas Keys – were killed at Majarr al Kabir in Iraq.

Mr Hoon informed the House of Commons on 17 November 2004 that a BOI into that incident had now completed its work.⁸⁵ Because of the “wider parliamentary and public interest”, the MOD had taken the unusual step of providing a summary of the BOI’s findings to Parliament and to the media. The families of those who died would be briefed by the President of the BOI, and would subsequently meet Mr Hoon to discuss the BOI’s findings and any concerns they might have.

Continued criminal investigation prevented the BOI from considering the events that were the direct cause of the six deaths, but Mr Hoon informed the House:

“The Board found that the incident at Al Majarr Al Kabir was a surprise attack, which could not reasonably have been predicted. The Board also found that a number of factors may potentially have had a bearing on the deaths of the six soldiers, including issues relating to ammunition, communications and command relationships within the battle group to which the Royal Military Police platoon was attached. The Board was not, however, able to state that any of these factors, either in isolation or in combination directly determined the six soldiers’ fate.”

Mr Hoon went on to acknowledge:

“I am aware that some of the families have been critical of the Army’s response to the deaths of the six soldiers. I hope they recognise the Board’s work for the thorough and detailed review that it is. I hope, too, that they now have a much better understanding of the events leading up to the death of their loved ones and the wider context in which the events occurred, and can take some comfort from this.”

The RMP suffered 12 fatalities during the course of Op TELIC, including the six fatalities at Majarr al Kabir.⁸⁶

136. An April 2005 review of the MOD’s future requirements for Service Policing recorded that “The recommendations of the [2004] review have largely been implemented”.⁸⁷

⁸⁴ Public hearing, 21 July 2010, pages 19-20.

⁸⁵ House of Commons, *Official Report*, 17 November 2004, columns 90-91WS.

⁸⁶ *GOV.UK*, 12 December 2012, *British Fatalities: Operations in Iraq*.

⁸⁷ Minute Rooks to VCDS, 29 April 2005, ‘Review of the Department’s Requirements for Service Policing’.

137. The 2005 review stated that, in relation to investigations on operations, “delay is still an issue”. Delays were generally due to “overstretch and practical inhibitors”, such as the need for force protection, rather than any specific failings on the part of the Service Police.

138. The review also stated that the “primary RMP output” in Iraq was now providing support for the reform of Iraq’s security forces.

139. The review recorded that work on the future structure of the Army had resulted in an uplift of nearly 10 percent in the baseline figure for RMP manpower.

Changes to MOD processes

140. AM Pocock wrote to Mr Des Browne, the Defence Secretary, on 17 August 2006 proposing that the timeline for conducting BOIs should be increased from 14 to 27 weeks.⁸⁸ The MOD was operating at “maximum efficiency, within resources” but, for the Army in particular, experience since the current timeline was introduced in June 2004 had shown that it was “not achievable”. No Army BOI had met the current 14-week timeline. The Royal Navy and RAF did not have a problem with the current timeline but “saw merit” in extending it.

141. AM Pocock summarised the problems in meeting the current timelines:

- It was not possible to produce a Convening Order and Terms of Reference (TORs) for a BOI within 48 hours (as the current timeline required). TORs were often dependent on Service Police or LAIT reports, which could take “several months” to produce.
- It was not possible to “staff” a BOI report (secure comments from advisers and senior officers) within six weeks.

142. AM Pocock advised that underlying those problems was a resource issue. The Army was currently required to convene up to 20 BOIs a month (compared with one or two for the Royal Navy and RAF). It took time to identify and nominate suitable experienced and available Presidents, to confirm the Terms of Reference, and for officers to consider a BOI report.

143. AM Pocock closed his advice:

“Delays in completing BOIs have been linked in the media to delays in Coroners’ inquests. Some families ... have also been critical of the time it takes to complete BOIs. It is, however, unlikely that extending the BOI timeline will attract significant media coverage.”

144. In an annex to his minute, AM Pocock analysed the reasons for delays in completing BOIs. It concluded that progress had been made since 2004 but that,

⁸⁸ [Minute DCDS\(Pers\) to PS/SofS \[MOD\], 17 August 2006, ‘BOI Timelines – A Proposal for Extension’.](#)

against a background of an increasing number of incidents, “the rate of closure has now remained more or less constant since January 2005”.

Creation of the Army Inquest Cell

145. In February 2007, in response to Ministerial concerns over the MOD’s support for the inquests into the deaths of Sergeant Steven Roberts and Lance Corporal of Horse Matthew “Matty” Hull, the Army established a small Army Inquest Cell with a remit to, “through more effective handling of documents and stakeholders ... provide a better co-ordinated service to the Department [MOD], the coroner, and to the bereaved families”.⁸⁹ Mr Ingram was advised that the Army’s existing arrangements had been unable to manage the volume of work associated with inquests.

146. An MOD official advised Mr Ingram in March that good progress was being made in clearing the “backlog” of Army BOIs.⁹⁰ The Army Inquest Cell had “now assumed the role of managing of the Inquest process”, allowing the Army Inquiries and Aftercare Support Cell (AIASC) to revert to its primary role of supporting bereaved families.

147. In June, Mr Ingram informed the House of Commons that the Army was planning to appoint permanent Presidents for BOIs, in order to deliver a more consistent approach and avoid delays.⁹¹

148. In January 2008, Mr Giles Ahern, MOD Deputy Director Personnel with responsibility for the Army Inquest Cell, advised General Sir Richard Dannatt, Chief of the General Staff, that the team had made “significant progress” in reducing the time taken to hold an inquest.⁹²

149. Mr Ahern advised that, despite this progress, Ministers remained “very concerned” about the MOD’s performance. The Army Inquest Cell was focusing on:

- The provision of information to families. In the past, families had received little formal information before the inquest about how their relative had died. AIASC now provided a “Record of Events” based on SIB findings, but that might only reach the family just before the inquest. The Cell was developing an “Initial Account” containing “some basic information”, which could be passed to families about one month after a death.
- Timely completion of SIB and BOI reports. In a number of cases, completion of SIB and BOI reports was “judged to have taken longer than necessary”. The Cell was trying to “expedite” completion and sign-off of reports by the chain of command.

⁸⁹ Minute Pitt-Brooke to PS/Minister(AF) [MOD], 26 February 2007, ‘Support to Inquests – Project AJAX’; Minute Ahern to MA1/CGS, 15 January 2008, ‘Project AJAX – An Update on the Army Inquest Cell’.

⁹⁰ Minute Pitt-Brooke to PS/Minister(AF) [MOD], 30 March 2007, ‘Support to Inquests – Project AJAX’.

⁹¹ House of Commons, *Official Report*, 7 June 2007, column 28WS.

⁹² Minute Ahern to MA1/CGS, 15 January 2008, ‘Project AJAX – An Update on the Army Inquest Cell’.

- Ensuring that witnesses were properly prepared for inquests, by briefing them on their purpose and format.
- Handling of classified material. Recent lapses had resulted in the unauthorised release of classified US material; this had undermined Ministers' confidence in the MOD's management of inquests. A review was under way on whether the Services' support for inquests should be centralised, possibly using the model provided by the Cell.

Reducing the number of redactions in BOI reports released to families

150. The MOD released redacted versions of BOI reports to the next of kin and coroners. The version released to the next of kin was redacted to remove personal information relating to third parties, and security and operationally sensitive information. The version released to the coroner was redacted to remove certain security and operationally sensitive information only, with a request that the report was not introduced into court.⁹³

151. The inclusion of the names of third parties in the version of the BOI released to the coroner allowed the coroner to identify potential witnesses for the inquest.

152. In November 2006, Ms Selena Lynch, Deputy Assistant Coroner for Oxfordshire, directed the MOD to provide a "full set of papers" to a bereaved family's legal team and indicated that she might consider a legal challenge if the MOD did not comply.⁹⁴

153. Mr Chris Baker, MOD Director General Service Personnel, advised Mr Ingram on 22 January 2007:

"It is evident that the manner in which some of the BOI reports have been redacted, by blocking out the names and text ... renders them unintelligible. Families and their respective Counsel claim that because they are unable to follow the narrative of the BOI it is difficult to consider whether to request the coroner to invite additional witnesses."

154. Mr Baker stated that the MOD's position was that the redaction of the names of third parties was necessary "to comply with both our responsibilities in accordance with the Data Protection Act 1998, and in common law, as an employer to protect the identity of current and former employees".

155. Mr Baker concluded that to meet the concerns of families and the coroner, the MOD would replace the names of third parties with unique identifiers (such as Person AA and Officer BB), which would enable families to follow the narrative of the BOI report more easily while still protecting individual identities.

⁹³ Paper [MOD], 17 December 2004, 'BOI Reports – Disclosure Policy'.

⁹⁴ Minute Baker to PS/Minister(AF) [MOD], 22 January 2007, 'Board of Inquiry Reports – Disclosure for the Purposes of an Inquest'.

156. The MOD issued revised instructions for the disclosure of BOI reports in May.⁹⁵ The instructions advised that following the full implementation of the FOI Act on 1 January 2005, the current policy (of limited release of BOI reports outside the MOD) was no longer sustainable; the underlying principle of the FOI Act was that information should be available to members of the public on request unless it had an absolute exemption or there was an overriding public interest in withholding it.

157. The way in which BOIs were conducted would not change, but the reports should now be prepared in two parts:

- Part 1, which would be generally known as the “BOI Report”, should include the convening order, terms of reference, findings, recommendations, and comments from senior officers. It should be carefully structured to ensure that it contained no exempt material or, if that was not possible, suitably redacted.
- Part 2 would include all other supporting documentation including witness statements and police and investigative reports.

158. There would also be a separate master “Schedule of Proceedings”, listing everything that constituted the full BOI Report.

159. Part 1 of the full BOI Report would be proactively published by the MOD under their Publication Scheme. Requests for further information would be considered under the FOI Act in the normal way. Applicants could be provided with the Schedule of Proceedings to help them refine their request.

160. Next of kin should, in the first instance, be given only Part 1 of a BOI Report. Requests for information from Part 2 would be treated in the same way as other FOI requests (although it would normally be inappropriate to redact non-sensitive personal information about the family member). The instructions stated:

“Although this may be seen as restricting what is given to next of kin, it should be borne in mind that Part 1 ... will be a synthesis of all the relevant information presented to the Board. Although the next of kin should always be treated in a sympathetic and helpful manner, the provisions of the FOI Act and DPA98 and other relevant legislation and common law must be observed.”

161. Coroners would “continue to be provided with the full unredacted copy of the report (Parts 1 and 2)”, on the understanding that the report contained only information owned by the UK and was not quoted from or admitted into evidence without further reference to the MOD.

162. The instructions directed that where names were redacted, they should be replaced by a unique identifier.

⁹⁵ Defence Instructions and Notices, May 2007, ‘Disclosure of Board of Inquiry Reports, 2007DIN02-15’.

163. In early November, Ms Lynch issued her ruling on the death of Fusilier Gordon Gentle.⁹⁶ She concluded that it was probable that the roadside bomb that killed him would not have detonated if a disabling device had been fitted to the vehicle in which he was travelling.

164. The press reported that Ms Lynch had described the MOD's policies for the disclosure of evidence to the inquest as "illogical and based on errors of law",⁹⁷ and that she had stated that the inquest had been delayed by the MOD's failure to provide documents and their policy of redacting names from the documents that were provided.⁹⁸

165. Sir Bill Jeffrey advised Mr Ainsworth in February 2008, in the context of a paper on how to improve the BOI system, that while the MOD continued to face criticism over the redaction of BOI reports, "we have gone as far as practicable within the law".⁹⁹

166. An MOD/Ministry of Justice (MOJ) information booklet for bereaved families on the BOI and inquest processes, which was issued in 2008, stated that "where names are removed, each will be replaced with a term like Person A, Person B to help you follow the sequence of events in the report".¹⁰⁰

167. A number of the BOI reports seen by the Inquiry have followed this practice.

Creation of the Defence Inquests Unit

168. In early February 2007, the MOD sought and received an adjournment to the inquest into the death of Lance Corporal of Horse Matthew "Matty" Hull, who had been killed in a friendly-fire incident with US forces in 2003, to allow them more time to secure US agreement to the use in court of a US cockpit recording of the incident.¹⁰¹

169. The adjournment came as the UK was negotiating with the US Government on US participation in inquests into the deaths of UK Service Personnel. Those negotiations are described later in this Section.

170. Mr Baker wrote to MOD officials on 19 February advising that, in the light of the inquest into the death of L Cpl Hull, MOD Ministers might wish to have a "further urgent examination" of the BOI process, possibly including "a fundamental review as to whether [BOIs] can be considered fit for purpose given the wider uses to which they are increasingly put".¹⁰² Mr Baker asked recipients to provide "positive points ... in support of the BOI system as it currently stands" and information on planned improvements.

⁹⁶ *BBC News*, 7 November 2007, *Army supply 'chaos' proved fatal*.

⁹⁷ *BBC News*, 7 November 2007, *Army supply 'chaos' proved fatal*.

⁹⁸ *Daily Telegraph*, 7 November 2007, *Army failings led to death of Gordon Gentle*.

⁹⁹ [Minute Jeffrey to Minister\(AF\) \[MOD\], 29 February 2008, 'Boards of Inquiry and Inquests'](#).

¹⁰⁰ Ministry of Defence & Ministry of Justice, *Boards of Inquiry and Coroners' Inquests: information for bereaved families*, 2008.

¹⁰¹ Minute Ferguson to APS/Min(AF) [MOD], 2 February 2007, 'Oxfordshire Inquests: Release of US Classified Information'.

¹⁰² Minute Baker to DG Sec LF, 19 February 2007, 'Boards of Inquiry'.

171. Mr Ingram subsequently met Mr Baker and other MOD officials to discuss work already in hand to improve the BOI process.¹⁰³ Mr Ingram's Private Secretary recorded that Mr Ingram:

“... postulated that there might be a need to consider a more radical approach; that rather than working to make the current system work better, we might need to consider adopting a different system.”

172. Mr Baker said that he had already discussed the possibility of a more radical approach with the Services, and concluded that “there was no realistic alternative to the BOI process”. The MOD needed a thorough process of examination in order to learn lessons, and needed to be able to ensure that it could be undertaken quickly and address all the relevant issues. Mr Baker advised that the arguments for continuing with the BOI process would be set out in a submission.

173. An MOD official working in Mr Baker's Directorate sent Mr Ingram's Private Office advice on the “rationale for continuing with the BOI process” on 2 March.¹⁰⁴

174. The official identified three alternative mechanisms for establishing the facts surrounding an incident – Learning Accounts, Service Police investigations, and inquests – and concluded that none of them met the MOD's requirements.

175. The official concluded that the current BOI system played a “valuable role” in “establishing the full details of the circumstances surrounding an incident and in learning the lessons to prevent a recurrence”. Particular advantages were:

- BOIs enabled the MOD to fulfil its duty of care and health and safety obligations towards its employees.
- Investigations into sensitive matters could be carried out “within the Service environment and by the relevant subject matter experts”.
- As BOIs did not seek to apportion blame, and evidence given to a BOI could not be used in a Service court, witnesses might be more candid than in another type of investigation.
- BOIs were “tried and tested and worked well”.

The official also described the work under way to improve the BOI process.

176. The BOI report into the loss of Nimrod XV230 in September 2006 (in Afghanistan) was published on 4 December 2007. Mr Browne told the House of Commons on the same day:

“By its nature, the Board was not in a position to go into the history of those arrangements [for assessing the airworthiness of Nimrod aircraft] or to assess where responsibility lies for failures ... Flying will never be risk-free. But I do believe

¹⁰³ Minute Johnson to DG SP Pol, 22 February 2007, ‘Boards of Inquiry’.

¹⁰⁴ MOD [junior official] to PS/Minister(AF) [MOD], 2 March 2007, ‘Boards of Inquiry (BOIs)’.

that the families of those who died are due more of an explanation of the history than the Board of Inquiry could be expected to provide. I have therefore decided to put in place a review of the arrangements for assuring the airworthiness and safe operation of the Nimrod aircraft over its service life; to assess where responsibility lies for any failures; to assess more broadly the process for compiling safety cases, taking account of best practice in the civilian and military world; and to make recommendations.”¹⁰⁵

177. Mr Browne discussed the BOI into the loss of Nimrod XV230 with MOD Ministerial colleagues the following day.¹⁰⁶ He said that the MOD would shortly announce the name of the Queen’s Counsel who would lead the independent review. It would be important for the families to be able to feed their questions into that process.

178. During the meeting, MOD Ministers concluded that the Nimrod BOI was “a further example of the [BOI] process not necessarily being suited to the requirements of the MOD, the individuals and families involved and, crucially, public expectation”. Mr Browne suggested that there might be merit in a new process comprising:

“... a short, focused Learning Account style review ... conducted in a matter of a few months followed, as required, by a further review to look beyond the immediate circumstances and which was empowered to engage with individuals and the families affected by the incident, had an independent element and could draw from the advice of those who were well-practiced in preparing for evidence-based reviews”.

179. Mr Browne’s Private Secretary asked Mr Bill Jeffrey, the MOD’s Permanent Under Secretary,¹⁰⁷ to provide “advice on the scope and options for improving the BOI process” by the end of January.

180. Mr Browne’s Private Office wrote to Mr Ainsworth’s Private Office later that week, reporting Mr Browne’s concern that recent good progress in clearing the backlog of inquests would not be sustained as the military investigation/BOI process was moving too slowly.¹⁰⁸ Particular concerns included:

- The significant number of cases (13) over six months that were still awaiting completion of a BOI or RMP investigation, or even a decision on whether a BOI was required. In one case, a decision on whether to hold a BOI was still awaited nearly one year after the incident.
- The number of cases where the Swindon and Wiltshire Coroner was awaiting SIB reports.

¹⁰⁵ House of Commons, *Official Report*, 4 December 2007, column 687.

¹⁰⁶ Minute Forber to PS/Minister(AF) [MOD], 5 December 2007, ‘Defence Ministerial Meetings’.

¹⁰⁷ Mr Jeffrey was knighted in the 2008 New Year’s Honours.

¹⁰⁸ Minute APS/Secretary of State [MOD] to PS/Minister(AF) [MOD], 7 December 2007, ‘BOI and Inquest Backlog’.

181. Mr Browne asked Mr Ainsworth to look into the backlog of incomplete BOIs and “investigate what further action should be taken to speed up this process, including whether additional staff resource is needed in theatre”.

182. On 28 February, Mr Ainsworth and Ms Bridget Prentice (Parliamentary Under-Secretary of State for the Ministry of Justice), met Mr Andrew Walker (Assistant Deputy Coroner for Oxfordshire) and Mr David Masters (Coroner for Wiltshire & Swindon), at Mr Ainsworth’s request, to discuss what could be done to accelerate the inquest process.¹⁰⁹

183. Ms Prentice’s Assistant Private Secretary recorded that Mr Walker had welcomed the new Army Inquest Cell, which had had “a profound effect” on the conduct of inquests into the deaths of Army Personnel. Working with the Cell, he had trialed a number of proposals to improve and streamline the inquest process.

184. Mr Walker described how that new partnership had worked in a recent inquest:

“Despite the fact that there was extremely sensitive intelligence involved, the inquest was completed within 12 months from the date of the incident. The key difference was that he [Mr Walker] had been in contact with the Board of Inquiry (BOI) team from the beginning of their investigation and was kept informed throughout, enabling him sufficient time to build up the technical knowledge required to adequately conduct the inquest. Crucially, this early involvement avoided the complicated ‘cold’ handover from the BOI to the inquest.”

185. Both coroners felt that the new arrangement enabled them to update families more effectively on progress and to respond to their needs.

186. Both coroners contrasted that positive experience, with their experiences with the Royal Navy and RAF. In one case, they said that they had had to wait four months “for a signature on a piece of paper”. In four cases, it was alleged to have taken over a year to reach a decision on whether or not to hold a BOI. The coroners felt that the establishment of a tri-Service Inquest Cell based on the Army model would be a “very positive step”.

187. The MOD team confirmed that the idea of a tri-Service Inquest Cell was being considered, and highlighted the greater complexity often associated with Royal Navy and RAF BOIs.

188. Mr Ainsworth told the Inquiry that he had considered the end-to-end process of investigating fatalities and had taken the unusual step of meeting both Mr Walker and Mr Masters to discuss ways in which the MOD could help.¹¹⁰ He recalled some anxiety that a meeting might be seen as interfering with the coroners’ independence, but he

¹⁰⁹ Minute Spence to Rothapel, 28 February 2008, ‘Bridget Prentice MP Meeting with Bob Ainsworth MP and the Coroners for Oxford and Swindon & Wiltshire on 21 February’.

¹¹⁰ Public hearing, 6 July 2010, page 30.

believed that it was possible both to respect that independence and to seek to understand “how the system is working for them from their point of view”.

189. Sir Bill Jeffrey responded to the requests for advice on how the BOI process could be improved and how the existing process could be accelerated in a minute to Mr Ainsworth at the end of February 2008.¹¹¹

190. Sir Bill advised that, in response to Mr Browne’s question, it would be possible to hold a relatively short fact-finding exercise followed by a “fuller inquiry into the whole course of events”. While the Nimrod XV230 BOI included a careful investigation of the incident itself, its remit did not extend into the history and safety record of the Nimrod; that question was now being examined by Mr Charles Haddon-Cave. Where there was “a need to capture the broader departmental perspective, and where there is high public interest in the case”, the remit of the BOI could be broadened or a “further reaching independent inquiry”, running concurrently with the BOI, could be held.

191. Sir Bill also advised that:

- A new direction should be issued to the chain of command, that families should always be briefed as soon as practicable after an incident and kept regularly informed thereafter.
- A new joint Secretariat should be established, building on the Army’s Inquest Cell, to co-ordinate all three Services’ management of inquests, the relationship with coroners and joint reports to Ministers.

192. The Army had appointed Permanent Presidents to lead high-profile Army BOIs; the Royal Navy and Royal Air Force were taking steps to establish “pools of expertise” from which Presidents could be selected.

193. There were currently 100 open inquests. That was “below last summer’s peak of 132, but still well above the backlog of 80 inquests that was judged to be unacceptable in Spring 2006”. The use of pre-inquest hearings, while a valuable contribution to the inquest process, could introduce delays into the process. Coroners often waited for access to the MOD’s reports, including BOI reports, before undertaking an inquest. Sir Bill commented: “We must show coroners that we treat our investigations as matters of urgency so that we might expect them to do the same.”

194. On 9 April, Mr Ainsworth met senior officials and military officers to discuss Sir Bill’s advice.¹¹² Mr Ainsworth stated that he and Mr Browne remained of the view that there needed to be a “step change in the way in which the BOI and inquest process was handled, end-to-end”. He had already discussed the advice with Sir Bill, and agreed that

¹¹¹ [Minute Jeffrey to Minister\(AF\) \[MOD\], 29 February 2008, ‘Boards of Inquiry and Inquests’.](#)

¹¹² Minute PS/Min(AF) [MOD] to APS/Secretary of State [MOD], 11 April 2008, ‘Boards of inquiry and Inquests’.

it formed “a good basis for further discussion”. The key proposal was the establishment of a “single inquest cell”.

195. The meeting agreed that a single inquest cell should be established as a matter of urgency. Key responsibilities would be to:

- professionally manage the MOD’s relationship with coroners;
- chase progress on BOIs in order to “drive down” the time between incident and inquest; it would need sufficient “authority and clout” to do that;
- identify weaknesses in policy and ensure they were addressed, and ensure that existing policy and best practice was adhered to; the lead for developing policy would often sit outside the cell; and
- ensure the right training and guidance was provided to VOs.

196. The cell would not carry out BOIs (which would continue to be the responsibility for the Services).

197. Mr Ainsworth’s Private Secretary recorded that, although the other proposals made by Sir Bill had not been discussed in any detail at the meeting, Mr Ainsworth would like them “taken forward in the context of the establishment of the new cell”.

198. The Defence Inquests Unit (DIU) was created in May 2008 to act as the focal point for all coroners’ inquests into the deaths of Service and MOD civilian personnel.¹¹³

199. The Army Inquest Cell was disbanded on the creation of the DIU, and its posts moved into the DIU.¹¹⁴

200. Mr Ainsworth told the Inquiry that the role of the DIU was not just to ensure that the MOD was providing the support that coroners required:

“... my motives were more than just helping the bereaved, they were about the MOD getting better at learning some of the lessons that flowed from inquests ... some of our systems were, from time to time, exposed pretty badly by coroners’ inquests and, you know, they were a mine of information ... if you were prepared to really embrace the findings ...”¹¹⁵

201. Mr Mike Venables, Head of the DIU from 2009 to 2012, described the DIU’s role as supporting bereaved families by making sure that coroners had everything they needed.¹¹⁶ This included:

- providing all relevant reports and information, and explaining that material where necessary;

¹¹³ Defence Instructions and Notices 2008DIN05-052, December 2008, ‘The Defence Inquests Unit’.

¹¹⁴ Minute D/VCDS to Min(AF) [MOD], 24 April 2008, ‘Inquests Cell: Terms of Reference’.

¹¹⁵ Public hearing, 6 July 2010, pages 30-31.

¹¹⁶ GOV.UK, 23 February 2012, *Defence Inquests Unit: helping to find the answers*.

- helping to identify and locate military witnesses;
- organising familiarisation events on military equipment for coroners; and
- providing support to witnesses.

202. Mr Venables also indicated that the creation of the DIU served to change the MOD's policy on legal representation at inquests. The MOD had tended to be legally represented at inquests:

“But we took the view that some families see that as intimidating. It looked as though the big bad Ministry had turned up, so now, even if the families choose to have a barrister, we tend not to, we ... send a case officer.”

Introduction of Service Inquiries

203. Section 343 of the Armed Forces Act 2006 (AFA 2006), which came into force on 1 October 2008, provided for the establishment of a single form of statutory inquiry – the Service Inquiry (SI) – for all the Services.¹¹⁷

204. The Royal Navy, Army and RAF had previously held inquiries under the Prerogative, Army Act 1955 and Air Force Act 1955 respectively.

205. The MOD told the Inquiry that the AFA 2006 represented the first complete overhaul of the Service justice system in 50 years, harmonising practices and procedures across the Services to provide a single system of Service law.

206. The MOD also told the Inquiry that SIs had the same purpose as BOIs (subject to its terms of reference, to establish the facts of a particular matter and make recommendations to prevent recurrence).

Efforts to reduce the backlog of inquests, 2005 to 2007

Support for the Oxfordshire Coroner

207. From March 2003 to 1 April 2007, military fatalities on Op TELIC were repatriated to RAF Brize Norton in Oxfordshire.

208. In early 2005, Mr Gardiner applied to the Oxfordshire County Council, then to the Home Office, and finally to the MOD for additional funding to enable him to carry out his duties.¹¹⁸

209. In May 2005, the MOD convened a series of meetings with officials from the Home Office and the Department for Constitutional Affairs (DCA)¹¹⁹ to consider how to resolve

¹¹⁷ Paper MOD, 2011, 'Service Inquiries and Investigations'.

¹¹⁸ Paper MOD, May 2006, 'Coronial Issues'.

¹¹⁹ The DCA took over responsibility for coronial policy from the Home Office in May 2005.

the immediate problem and “explore alternative arrangements to ensure that the issue does not reoccur”.

210. On 24 May, the Home Office provided £80,000 to allow Mr Gardiner’s office to recruit an additional Coroner’s Officer to help manage inquests into the deaths of Service Personnel in Iraq.¹²⁰

211. Mr Don Touhig, Parliamentary Under Secretary of State for Defence, told the House of Commons in early June 2005 that the decision to provide support to Mr Gardiner’s office predated recent press reports on delays in holding inquests into the deaths of Service Personnel.¹²¹

212. A June 2007 DCA briefing assessed that that support had “little effect” on the backlog.¹²² The main constraint was the time that Mr Gardiner himself was able to devote to considering case papers in preparation for inquests.

213. On 6 February 2006, Ms Harriet Harman, Minister of State for the DCA, informed the House of Commons that she intended to bring forward legislation to reform the coroner service:

“Under the current coroner service, families frequently get overlooked during the inquest process ... The system is fragmented, with no national leadership, and it is not accountable ... Standards are not uniformly good; everything rests too much on the personal qualities and abilities of individuals within the system. The legal framework is downright archaic. For most coroners, this is not even their principal occupation; it is a secondary one, added on to their main work as solicitors in private practice ...

“The coroner service must serve the public interest and meet bereaved families’ concerns in a way that, frankly, it currently does not ...”¹²³

214. In May 2006, in response to renewed Parliamentary concern over delays in holding inquests into the deaths of Service Personnel, Ms Harman was charged with “dealing with the problem”.¹²⁴

215. On 22 May, Ms Harman wrote to Mr Browne suggesting that they meet to discuss how to clear the backlog of inquests in Oxfordshire.¹²⁵ It was important that all coroners conducted inquests in good time; she was particularly concerned that the families of Service Personnel should not face a long wait before an inquest was concluded.

¹²⁰ Paper MOD, May 2006, ‘Coronial Issues’.

¹²¹ House of Commons, *Official Report*, 6 June 2005, column 982.

¹²² DCA [junior official] to Harman, 12 June 2007, ‘Request from Wiltshire and Swindon Coroner for Additional Resources to Deal with Military Fatalities Repatriated via RAF Lyneham’.

¹²³ House of Commons, *Official Report*, 6 February 2006, column 607.

¹²⁴ DCA [junior official] to Harman, 17 May 2006, ‘Oxfordshire Coroner and Inquests into Iraq Fatalities’.

¹²⁵ [Letter Harman to Browne, 22 May 2006, ‘Oxfordshire Coroner and Iraq Deaths Inquests’](#).

216. Ms Harman wrote:

- The DCA had been endeavouring to get a full picture of the extent of the delays, working with MOD officials and Mr Gardiner’s Office, and had compiled a grid showing the number of inquests yet to be undertaken. That analysis indicated that there were 39 military deaths and 5 civilian deaths relating to Iraq in the “inquest queue”, excluding cases where Mr Gardiner was waiting for evidential material from the MOD.
- The first military deaths in that queue related to the loss of a Sea King helicopter on 22 March 2003.¹²⁶ The first deaths on which Mr Gardiner had not yet received material from the MOD related to the loss of a CH46 helicopter on 21 March 2003.
- Mr Gardiner estimated that to clear the backlog, he would need an additional Assistant Deputy Coroner and continued funding for the additional Coroner’s Officer, at a cost of £125,000 a year for two years. DCA officials had not yet assessed whether that estimate was realistic. The DCA was “poorly placed” to provide that funding. If those resources could not be found, the current position that most inquests were held in Oxfordshire (rather than in the home area of the deceased) would need to be reconsidered.

217. Ms Harman, Mr Browne and Mr Ingram met on 24 May.¹²⁷ Ms Harman advised that further work by DCA officials suggested that £250,000 would be required over six months in order to list or complete all cases by the end of the year.

218. A record of the meeting by Mr Browne’s Assistant Private Secretary, which was circulated only within the MOD, reported that Mr Browne had agreed that if there was a “practical plan” to reduce the backlog and there was no possibility of securing funding from the Reserve, then he was “prepared in principle to put in £125,000 for the first year”.

219. An informal record of the meeting by a DCA official reported that Mr Browne had agreed to provide £125,000, and to hold a further £125,000 “in reserve” which could be made available depending on progress.¹²⁸

220. In a Written Ministerial Statement to the House of Commons on 5 June, Ms Harman and Mr Browne set out the support that the Government would provide to the Oxfordshire Coroner’s office to enable it to deal with “outstanding inquests”:

- three Assistant Deputy Coroners (Sir Richard Curtis, Ms Selena Lynch and Mr Andrew Walker);

¹²⁶ The (Royal Navy) BOI into the loss of a Sea King helicopter on 22 March 2003 had reported on 1 May 2003 (it was the first BOI relating to Op TELIC to report); the BOI report had been made available to families on 9 June 2003.

¹²⁷ Minute APS/SoS [MOD] to SPPol SC-D, 24 May 2006, ‘Iraq Inquest Backlog – Oxford Coroner – Meeting with Harriet Harman MP’.

¹²⁸ Email Woolfenden to Sadler, 24 May 2006, ‘Iraq Deaths’.

- two additional Coroner's Officers;
- an additional member of support staff; and
- recording equipment which would enable two extra courts to operate simultaneously.¹²⁹

221. There were currently 59 inquests into the deaths of Service Personnel killed in Iraq and 11 inquests into the deaths of civilians to be concluded. Mr Gardiner expected, with this additional support, to be able to conclude inquests into the deaths of 30 Service Personnel where the MOD had completed their own inquiries and case papers had been prepared, and conclude inquests into the deaths of three civilians where he had been provided with reports and other information, by the end of the year.

222. Ms Harman and Mr Browne undertook to report quarterly to Parliament on progress in clearing the backlog of outstanding inquests.

223. As the Statement was being drafted, Ms Harman expressed her strong view that it should be sent to the families of deceased Service Personnel before it was laid in Parliament.¹³⁰

224. DCA officials advised that they were "not convinced" by that proposal, and that it was in any case impractical as the MOD was "not prepared" to supply family contact details.¹³¹

225. Ms Harman and Mr Browne agreed on 1 June that the Statement should be sent to families before it was laid in Parliament.¹³²

226. Two of the three Assistant Deputy Coroners were appointed in early June, the third in early August.¹³³

227. The effectiveness of the additional support provided to the Oxfordshire Coroner's office in clearing the outstanding inquests is considered below.

228. In July, as the capacity of the Oxfordshire Coroner's office was being increased, the MOD extended the target timelines for the completion of BOIs; that decision is described earlier in this Section.

229. By the end of July, it had become clear that the MOD and DCA did not have a shared understanding of how much, and at what point, the MOD would contribute to the cost of the additional support provided to the Oxfordshire Coroner's office.

¹²⁹ House of Commons, *Official Report*, 5 June 2006, column 4WS.

¹³⁰ Email Tierney to Woolfenden, Patterson & Bainbridge, 1 June 2006, 'Writing to the Families'.

¹³¹ Minute Bainbridge to Harman, 31 May 2006, 'Oxon Coroner'.

¹³² Email Tierney to Anderson, 1 June 2006, 'Note of Telephone Call between Harriet Harman and Des Browne – Iraq/Coroner'.

¹³³ Minute DCA [junior official] to Harman, 6 October 2006, 'Oxfordshire Coroner: Written Ministerial Statement on Progress with Iraq Related Inquest Backlog'.

The discussions between the DCA, the MOD, and the Treasury from July 2006 to February 2007 on that issue are described below.

230. The DCA bore the costs that were being incurred by the Oxfordshire Coroner's office while those discussions continued.¹³⁴

DISCUSSIONS ON FUNDING

231. On 22 May 2006, Mr Alex Allan, Permanent Secretary at the DCA, and Mr Ian Andrews, 2nd Permanent Under Secretary at the MOD, discussed how the additional funding required by the Oxfordshire Coroner might be found.¹³⁵ Mr Allan's Assistant Private Secretary reported that Mr Allan had stated that neither the local authority nor the DCA could provide that additional funding. Mr Andrews said that the Treasury met the MOD's "operational costs", and indicated that the funding for the Oxfordshire Coroner should be included within that arrangement.¹³⁶ That would be for the MOD to explore with the Treasury.

232. On 20 July, Ms Harman sent Mr Browne an update on progress on clearing the backlog of inquests, and concluded that she "hoped that we can clarify the amount of money you will pay".¹³⁷

233. On the same day, Ms Harman wrote to Lord Falconer of Thoroton, the Secretary of State for Constitutional Affairs and Lord Chancellor, asking if he would speak to Mr Browne to ensure that Mr Browne's decision to provide £250,000 would be communicated to MOD finance officials.¹³⁸

234. Mr Browne replied to Ms Harman on 14 August stating that, as he had previously indicated, given that the inquests were a result of operational commitments, his preference would be for the additional funding to be sought through a call against the Reserve.¹³⁹ He stood ready to support a request to the Treasury. If funding could not be secured from the Reserve, he was "in principle willing to provide a contribution of £125,000 for the first year towards the financial costs of the additional resources, subject to Accounting Officer and Treasury approval".

235. Lord Falconer wrote to Mr Browne later that month, stating that £125,000 was insufficient to cover the costs involved and that, while DCA officials would look at the suggestion of making a bid on the Reserve, "given that the backlog is driven by the

¹³⁴ Letter Harman to Browne, 28 December 2006, 'Proposals Arising from Meeting with Relatives of Service Personnel on their Experience of the Inquest System'.

¹³⁵ Email DCA [junior official] to DCA [junior official], 22 May 2006, 'Coroners – Inquest Delays/MOD'.

¹³⁶ The established arrangements whereby the MOD claimed the Net Additional Costs of Military Operations (NACMO) from the Treasury are described in Section 13.

¹³⁷ [Letter Harman to Browne, 20 July 2006, 'Iraq Inquests Backlog'](#).

¹³⁸ Minute Harman to Falconer, 20 July 2006, 'Funding for Extra Resources for the Oxfordshire Coroner'.

¹³⁹ [Letter Browne to Harman, 14 August 2006, 'Iraq Inquest Backlog'](#).

MOD's policy to repatriate Iraq fatalities to RAF Brize Norton in Oxfordshire" it would not be appropriate for the DCA to make that bid.¹⁴⁰

236. Mr Browne replied on 10 September, stating that while there was a strong case for funding the additional costs from the Reserve, the Treasury would expect the bid to come from the Department responsible for coronial policy.¹⁴¹

237. Lord Falconer replied on 6 October, advising that while the DCA held policy responsibility for coroners, operational responsibility rested with the relevant local authority.¹⁴² In this case, it would normally be for Oxfordshire County Council to meet the costs of the inquests. He continued:

"The Cabinet Office Ministerial Code of Conduct (paragraph 6.10) clearly sets out the principle that Departments responsible for initiating policy are required to take into account the effect their proposals have on other departments. It is MOD policy to repatriate bodies to RAF Brize Norton rather than Lyneham, Fairford or elsewhere and it is a direct result of this decision that the backlog of cases has occurred. If fatalities were shared amongst a number of coroners this problem would have been avoided.

"It is for this reason that I consider that it is your Department's responsibility to shoulder the costs arising from the Iraq inquest backlog ... If you are unable to fund the additional resources from your existing budget then it is for your Department, not mine, to approach the Treasury for a Reserve claim."

238. Officials from the MOD, the DCA and the Department for Communities and Local Government (DCLG) met on 8 November to discuss funding options.¹⁴³

239. A DCA official reported to DCA colleagues only that all three departments had difficulties in providing funding from within their existing budgets. The MOD had argued, for the first time, that it would be inappropriate for the MOD to be seen to be funding the inquest process when it had a clear interest in the cases involved. The meeting had agreed that DCA officials should approach the Treasury informally to see whether funding from the Reserve could be made available and, if not, whether they could suggest an alternative solution.

240. A DCA official advised Ms Harman on 13 December that the Treasury had "not replied positively" to that approach.¹⁴⁴ The DCA had subsequently written to the MOD, asking it to confirm that it would provide the necessary funding.

¹⁴⁰ [Letter Falconer to Browne, 31 August 2006, 'Funding for Additional Resources for the Oxfordshire Coroner'](#).

¹⁴¹ [Letter Browne to Falconer, 10 September 2006, \[untitled\]](#).

¹⁴² [Letter Falconer to Browne, 6 October 2006, 'Funding for Additional Resources for the Oxfordshire Coroner'](#).

¹⁴³ Email DCA [junior official] to Tierney, 10 November 2006, 'Oxfordshire Coroners: Progress Report'.

¹⁴⁴ Minute DCA [junior official] to Harman, 13 December 2006, 'Oxfordshire Coroner: Written Ministerial Statement on Progress with Iraq Related Inquest Backlog'.

241. On 7 January 2007, Mr Lee McCauley, MOD Assistant Director of Defence Resources and Plans, wrote to a Treasury official to advise him that the MOD had “reluctantly concluded” that all additional costs related to the Oxfordshire Coroner should be “funded this year through Defence”.¹⁴⁵ There were several arguments against doing so, but Ministers wanted the issue to be resolved. Treasury approval would be required, as the MOD did not have authority to meet costs that fell to other parts of Government.

242. Mr McCauley proposed that the MOD treat the costs as part of the Net Additional Cost of Military Operations (NACMO), and claim them from the Treasury in the normal way. If that was not possible, the MOD would need to find the funds within its core settlement.

243. On 13 February 2007, Mr Browne wrote to Ms Harman:

“My officials have explored at length with the Treasury the possibility of making a claim against the Reserve. The Treasury have refused on the principle that such costs should lie where they fall and this is not a legitimate charge to Defence for the additional costs of operations. In light of this, I cannot accept an argument that the backlog stems solely from MOD policy: there are sound practical reasons for repatriation of bodies to RAF Brize Norton but there are also, as the current initiative¹⁴⁶ shows, ways in which the burden may be shared with other coroners.”¹⁴⁷

244. Mr Browne concluded by confirming that he held to his earlier offer to contribute £125,000 towards the additional costs of the Oxfordshire Coroner during 2006/07. That contribution should not be seen as setting a precedent for MOD funding to address “future inquest backlogs, should they arise”.

245. Ms Harman replied on 27 March, expressing her disappointment with that contribution but confirming that she would accept it.¹⁴⁸ She would expect the MOD to contribute if further backlogs emerged.

PROGRESS IN CLEARING THE BACKLOG OF INQUESTS

246. Ministers provided quarterly reports to the House of Commons on progress in clearing the backlog of inquests in Oxfordshire. The table below summarises these reports.

247. The first report, in June 2006, covered only outstanding inquests into deaths relating to Iraq.¹⁴⁹ Subsequent reports included outstanding inquests relating to previous conflicts and military exercises overseas, for which the Oxfordshire Coroner was responsible.

¹⁴⁵ Letter McCauley to Treasury [junior official], 11 January 2007, ‘Oxfordshire Coroner: Funding’.

¹⁴⁶ To allocate inquests directly to ‘home-town’ coroners, bypassing the Oxfordshire Coroner.

¹⁴⁷ [Letter Browne to Harman, 13 February 2007, ‘Proposals Arising from Meeting with Relatives of Service Personnel on their Experience of the Inquest System’.](#)

¹⁴⁸ [Letter Harman to Browne, 27 March 2007, ‘Proposals Arising from Meeting with Relatives of Service Personnel on their Experience of the Inquest System’.](#)

¹⁴⁹ House of Commons, *Official Report*, 5 June 2006, column 4WS.

248. Ms Harman informed the House of Commons on 12 October that Mr Gardiner would not be able to meet the target set in her June 2006 update for the completion of pre-June 2006 inquests (the end of 2006).¹⁵⁰

Table 2: Progress in clearing the backlog of inquests in Oxfordshire

	Outstanding inquests	Of which Service Personnel	Of which civilian	Outstanding inquests held since June 2006
5 June 2006 ¹⁵¹	70	59	11	0
12 October 2006 ¹⁵²	70	59	11	9
18 December 2006 ¹⁵³	57	48	9	28
29 March 2007 ¹⁵⁴	29	25	4	56
20 June 2007 ¹⁵⁵	15	11	4	72
30 October 2007 ¹⁵⁶	2	2	0	104

249. The June 2007 report stated that of the 72 inquests which had been completed by the Oxfordshire Coroner's Office since June 2006, Mr Gardiner had conducted five, Sir Richard Curtis six, Ms Selena Lynch 28, Mr Andrew Walker 32, and Ms Jennifer Leeming, the Greater Manchester West Coroner, one.¹⁵⁷

250. The additional resources provided by the Government in June 2006 enabled the Oxfordshire Coroner's office to clear the backlog of outstanding inquests (into deaths occurring before June 2006) by October 2007.

251. The two outstanding inquests reported in the October 2007 report related to the deaths of Fusilier Gordon Gentle on 28 June 2004 and Lieutenant Richard Palmer on 15 April 2006. The inquest into Fusilier Gentle's death was due to open on 29 October 2007. The coroner had decided to await the completion of the BOI into Lt Palmer's death before opening an inquest; that inquest would therefore not be held until 2008.

¹⁵⁰ House of Commons, *Official Report*, 12 October 2006, column 28WS.

¹⁵¹ House of Commons, *Official Report*, 5 June 2006, column 4WS.

¹⁵² House of Commons, *Official Report*, 12 October 2006, column 26WS. Nine inquests had been completed since the June 2006 WMS, but Mr Gardiner had advised the Government of nine additional outstanding cases relating to deaths from previous conflicts and overseas military exercises.

¹⁵³ House of Commons, *Official Report*, 18 December 2006, column 112WS.

¹⁵⁴ House of Commons, *Official Report*, 29 March 2007, column 120WS. The Statement corrected the number given in the 18 December 2006 Statement for Inquests held since October 2006, from 18 to 19.

¹⁵⁵ House of Commons, *Official Report*, 20 June 2007, column 97WS.

¹⁵⁶ House of Commons, *Official Report*, 30 October 2007, column 35WS.

¹⁵⁷ House of Commons, *Official Report*, 20 June 2007, column 97WS.

Efforts to transfer more inquests to local coroners

252. In early September 2006, after discussions with DCA officials, Mr Gardiner alerted coroners that the additional resources he had received from the Government were not intended to be “long term” and were only to reduce the current backlog of cases.¹⁵⁸ He was, therefore, likely to “increasingly be making transfer requests under Section 14(i) of the Coroners Act 1988”.

253. A DCA official advised Ms Harman on 6 October that Mr Gardiner’s office was now receiving a significant number of fatalities from Afghanistan, as well as from Iraq.¹⁵⁹ The additional resources announced on 5 June only covered inquests that were outstanding at that date. The DCA had “serious doubts” that Mr Gardiner’s office could handle the new (post-June 2006) cases, once the pre-June backlog was cleared and staffing levels returned to normal.

254. The official commented that it was not helpful that the MOD continued to repatriate bodies to RAF Brize Norton: DCA and MOD officials were meeting shortly to discuss that issue.

255. MOD and DCA officials met on 18 October to reconsider the policy of repatriating the bodies of deceased Service Personnel via RAF Brize Norton.¹⁶⁰ Points made in the discussion included:

- Mr Gardiner was “considering transferring cases to other jurisdictions, but in limited circumstances”. That was in line with established policy. Mr Gardiner would not be transferring cases where there were multiple deaths in a single incident, and all transfers required the agreement of the receiving coroner.
- Arrangements for inquests relating to incidents in 2003 and 2004 were “well in hand”, but there were still “serious delays” to later inquests and the number of bodies repatriated to RAF Brize Norton was increasing.
- One unavoidable factor behind those delays was the need to wait for a BOI to conclude before beginning an inquest.
- It was crucial to keep families informed of progress.
- MOD officials felt that Mr Gardiner and his officers provided effective support to families through the inquest process.
- DCA officials considered that Mr Gardiner’s office would be unable to cope with the workload once the additional resources provided by the Government were removed.

¹⁵⁸ Letter Gardiner to Harman, 21 November 2006, ‘Foreign Service Fatalities’.

¹⁵⁹ Minute DCA [junior official] to Harman, 6 October 2006, ‘Oxfordshire Coroner: Written Ministerial Statement on Progress with Iraq Related Inquest Backlog’.

¹⁶⁰ [Record, 18 October 2006, ‘Oxfordshire Coroner: Note of a meeting at 10am on 18 October 2006 in room 8.04 Steel House’](#).

256. The meeting considered a number of options, and agreed that:

- The MOD should continue to use RAF Brize Norton.
- MOD policy should be amended, so that when a death occurred (and before the body was repatriated), the appropriate local coroner would be alerted that the body of the deceased would be coming into their district.
- The body would be taken to the local coroner immediately after the repatriation ceremony. Such a policy “would avoid the need to involve the Oxfordshire Coroner at all”.

257. Ms Harman wrote to Mr Gardiner on 17 November, following up on discussions between Mr Gardiner and DCA officials, to seek his views on that approach.¹⁶¹

258. Mr Gardiner replied on 21 November, recalling that the Coroner’s Act required him to hold an inquest if he was informed that a body was within his jurisdiction and the death appeared violent or unnatural, and advised:

“In practice it is inevitable that I will be informed, either directly or through my Officers, of any bodies in my jurisdiction. Indeed ... I would be failing in my duties if I had not over the years established appropriate lines of communication.”¹⁶²

259. Mr Gardiner also advised that he had had informal discussions with a number of coroners, and most of them had indicated that they would accept transfers from him under Section 14 of the Coroners Act. Since he had alerted coroners to the likelihood that he would be transferring more cases (in early September), he had transferred three cases.

260. On 4 December, Ms Harman met relatives of Service Personnel killed in Iraq to discuss their experience of the investigation and inquest process and the coroners’ service.¹⁶³ The meeting, which was facilitated by an external organisation called Opinion Leader, was attended by 17 relatives from 12 families.

261. A record of the meeting by a DCA official highlighted relatives’ concern over the distance they had to travel to inquests (there was a “particular difficulty” with Scottish fatalities as there was no discretion to hold a Fatal Accident Inquiry in Scotland where the death occurred overseas), and the perceived failure of the MOD to provide them with all documentation before the inquest.¹⁶⁴ The official commented that the Oxfordshire Coroner had been encouraged to transfer cases to other coroners. The DCA was also exploring ways to transfer a body directly to a local coroner.

¹⁶¹ Letter Harman to Gardiner, 17 November 2006, ‘Iraq and Afghanistan Fatalities: Handling Future Inquests’.

¹⁶² Letter Gardiner to Harman, 21 November 2006, ‘Foreign Service Fatalities’.

¹⁶³ [Report Opinion Leader, January 2007, ‘DCA Meeting with Families of Military Personnel who Lost their Lives in Iraq’](#).

¹⁶⁴ Email DCA [junior official] to Burden, 8 December 2006, ‘Short Paper on Actions from Iraq Inquest Meeting with Families’ attaching Paper, [undated], ‘Actions from Iraq Inquest Meeting with Families’.

262. Discussions on whether a Fatal Accident Inquiry could be held for all Scottish fatalities are addressed later in this Section.

263. On 13 December, a DCA official advised Ms Harman that the Oxfordshire Coroner’s office continued to receive a significant number of fatalities from Iraq and Afghanistan (15 and 33 respectively, since June).¹⁶⁵ The DCA continued to have serious doubts about whether it could cope with that workload. The Coroner’s office had “raised the possibility” of extending the additional staff until all inquests (pre- and post-June 2006) had been cleared, but the DCA had advised them that that would be a matter for Oxfordshire County Council.

264. Ms Harman told the House of Commons on 18 December that, following the 4 December meeting, the DCA was “working on providing families with better information about the inquest system, how we can help families to have access to all material relevant to the inquest, and holding inquests closer to where the relatives live”.¹⁶⁶

265. Ms Harman wrote to Mr Browne on the same day, highlighting five areas identified at the 4 December meeting where changes might improve a family’s experience:

- Holding the inquest closer to the family’s home, rather than in Oxford. The DCA was encouraging Mr Gardiner to transfer cases to other coroners as a way of reducing his backlog. Another possibility would be to repatriate the bodies of deceased Service Personnel directly to the family’s local coroner without any involvement by the Oxfordshire Coroner.¹⁶⁷
- Creating an information pack for families of deceased Service Personnel which described what to expect from an inquest and where to go for further support. Ms Harman suggested that DCA and MOD officials should discuss the contents of the pack.¹⁶⁸
- Establishing a “victims’ advocate service” for families, similar to the Coroner’s Court Support Service but tailored to address the particular problems of families of those killed abroad and in conflict. The service could build on the support already provided by Visiting Officers.
- Ensuring earlier and more complete advance disclosure of documents and key facts to families.
- Ending the practice of charging families for access to documents, including inquest transcripts.

¹⁶⁵ Minute DCA [junior official] to Harman, 13 December 2006, ‘Oxfordshire Coroner: Written Ministerial Statement on Progress with Iraq Related Inquest Backlog’.

¹⁶⁶ House of Commons, *Official Report*, 18 December 2006, column 116WS.

¹⁶⁷ [Letter Harman to Browne, 18 December 2006, ‘Proposals Arising from Meeting with Relatives of Service Personnel on their Experience of the Inquest System’](#).

¹⁶⁸ The resulting booklet, *MOD & MOJ Boards of Inquiry and Coroners’ Inquests: Information for Bereaved Families (2008)*, was published in early 2008.

266. The Opinion Leader record of the 4 December meeting, which issued in January 2007, reported that the Coroner's service had not sufficiently met the needs of most families.¹⁶⁹ It identified six main issues:

- the time between incident and inquest (more than three years in some cases);
- insufficient notification of an inquest, leaving little opportunity to prepare;
- not having access to key information;
- specific problems with the running of the inquest (including key witnesses not being present, factual errors, and not having the opportunity to ask questions);
- a lack of sensitivity in the treatment of families; and
- cost and logistical issues (including being asked to pay for documents and the difficulty faced by some families in paying for legal representation).

267. The report advised that families had also raised concerns relating to their treatment by the media and the Army's investigative processes.

268. On 22 January 2007, Mr David Cameron, the MP for Witney, in whose constituency RAF Brize Norton was located, wrote to Lord Falconer stating that it was "patently unfair" that Oxfordshire County Council should have to provide funding to clear post-June 2006 inquests.¹⁷⁰ The Council estimated that the Coroner's office would require an additional £100,000.

269. On 13 February, Mr Browne replied to Ms Harman's letter of 18 December:

"... I understand that your officials have confirmed with the Oxfordshire Coroner that provided the body is not formally reported to him he would be content for the repatriated body to be transferred directly from Brize Norton after the ceremonial to the area of the 'home' coroner."¹⁷¹

270. Mr Browne commented that this was a welcome development, provided that flexibility was retained; there would be occasions when the Oxfordshire Coroner, with the pathology services available to him, would be able to release a body to the family more quickly than a local coroner.

271. On 27 March, a DCA official advised Ms Harman that the DCA's line that Oxfordshire County Council should provide funding was "becoming harder to maintain".¹⁷² It was important that Mr Walker was retained to deal with the post-June 2006 backlog. The DCA would look to the MOD to provide funding, but it was certain to resist.

¹⁶⁹ [Report Opinion Leader, January 2007, 'DCA Meeting with Families of Military Personnel who Lost their Lives in Iraq'](#).

¹⁷⁰ Letter Cameron to Falconer, 22 January 2007, 'Coroner Service in Oxfordshire'.

¹⁷¹ [Letter Browne to Harman, 13 February 2007, 'Proposals Arising from Meeting with Relatives of Service Personnel on their Experience of the Inquest System'](#).

¹⁷² Minute DCA [junior official] to Harman, 27 March 2007, 'Oxfordshire Coroner: Written Ministerial Statement on Progress with Iraq Related Inquest Backlog'.

272. Ms Harman informed the House of Commons on 29 March that the Government had made further resources available to the Oxfordshire Coroner office's to enable Mr Walker to remain as Assistant Deputy Coroner and to enable one Coroner's Officer to be retained, to handle the new (post-June 2006) backlog of inquests.¹⁷³

273. Ms Harman advised Mr Browne at the end of March that, since the Oxfordshire Coroner was now routinely transferring inquests to the appropriate local coroner, there had been no need to repatriate bodies directly to a local coroner without any involvement by the Oxfordshire Coroner.¹⁷⁴ Ms Harman understood that the practice of transferring single death inquests would be followed by the Swindon and Wiltshire Coroner (when fatalities began to be repatriated through RAF Lyneham from 1 April).

Support for the Swindon and Wiltshire Coroner

274. From 1 April 2007, due to essential repair work at RAF Brize Norton, ceremonial repatriations took place through RAF Lyneham in Wiltshire.

275. In May, the DCA took on certain responsibilities from the Home Office and was renamed the Ministry of Justice (MOJ). Ms Harman retained Ministerial responsibility for coronial policy.

276. Mr David Masters, the Coroner for Wiltshire & Swindon, wrote to the Ministry of Justice on 21 May, requesting additional resources for his office to enable it to deal with the bodies of Service Personnel killed in Iraq and Afghanistan.¹⁷⁵

277. An MOJ official advised Ms Harman that she should resist providing additional funding, but offer Mr Masters a meeting with MOJ and MOD officials to discuss his workload and possible options. There was a risk that without additional funding a backlog could develop (as it had in Oxfordshire), but there was also a case for challenging the argument that Mr Masters could not cope without it.

278. Ms Harman replied to Mr Masters on those lines.¹⁷⁶

279. Subsequently, against a background of Parliamentary concern over the possibility that the backlog of inquests was increasing, she agreed with Mr Jack Straw, Secretary of State for Justice and Lord Chancellor, that he should meet Mr Masters.

280. Mr Straw and Ms Prentice met Mr Masters on 23 July.¹⁷⁷ Mr Masters said that he had transferred 17 cases relating to single deaths to other coroners, but retained

¹⁷³ House of Commons, *Official Report*, 29 March 2007, column 124WS.

¹⁷⁴ [Letter Harman to Browne, 27 March 2007, 'Proposals Arising from Meeting with Relatives of Service Personnel on their Experience of the Inquest System'](#).

¹⁷⁵ Minute MOJ [junior official] to Harman, 12 June 2007, 'Request from Wiltshire and Swindon Coroner for Additional Resources to Deal with Military Fatalities Repatriated via RAF Lyneham'.

¹⁷⁶ House of Commons, *Official Report*, 12 July 2007, column 1623.

¹⁷⁷ Minute PS/Prentice [MOJ] to MOJ [junior official], 23 July 2007, 'Meeting with Wiltshire Coroner – 23 July 2007'.

jurisdiction in 16 cases relating to multiple deaths or where the deceased was from Scotland. He needed additional staffing and resources to deal with the additional workload. Mr Straw and Ms Prentice both said that they were “sympathetic” to that request.

281. Mr Straw and Mr Browne agreed later that month that the MOJ and the MOD should share the cost of supporting Mr Masters’ office,¹⁷⁸ and in October that their Departments should share the cost equally.¹⁷⁹ The cost for 2007/08 was likely to be £230,000, and £350,000 a year thereafter.

282. In October, an MOJ official advised Ms Prentice that there was no backlog of military inquests in Wiltshire and Swindon.¹⁸⁰

283. The Coroners and Justice Bill, which was introduced into Parliament in January 2009, included a number of measures to ensure that any future backlogs of inquests could be addressed more easily. The Bill is described later in this Section.

Efforts to improve the inquest process, 2006 to 2009

US participation in inquests

284. Ms Harman wrote to Mr David Johnson, the Deputy Chief of Mission at the US Embassy in London, on 20 July 2006 about “the need for US co-operation which was contributing to delays in inquests” into the deaths of British Service Personnel in Iraq.¹⁸¹

285. The inquest into the death of Mr Terry Lloyd, an Independent Television News (ITN) journalist who died in a friendly fire incident with US forces on 22 March 2003, was conducted by Mr Andrew Walker, the Assistant Deputy Coroner for Oxfordshire, in October 2006. Mr Walker found that Mr Lloyd had been unlawfully killed.

286. In early August, as part of the preparations for that inquest, MOD and FCO officials met US Embassy staff on behalf of Mr Walker, to try to secure US authority to use a US Marine Corps report into one part of the incident and additional material covering the precise circumstances of Mr Lloyd’s death.¹⁸²

287. The Pentagon advised MOD officials in late September that a redacted version of the Marine Corps report could be used and that no additional material was available.

288. Mr Walker then asked for US Service Personnel to attend the inquest. When that request was refused, he ruled that the information provided by the US was

¹⁷⁸ Letter Straw to Browne, 26 July 2007, ‘Wiltshire and Swindon Coroner: Additional Funding’.

¹⁷⁹ Minute MOJ [junior official] to Prentice, 18 October 2007, ‘Overseas Military Inquests: October Written Ministerial Statement’.

¹⁸⁰ Minute MOJ [junior official] to Prentice, 18 October 2007, ‘Overseas Military Inquests: October Written Ministerial Statement’.

¹⁸¹ Letter Harman to Johnson, 6 November 2006, ‘Oxfordshire Iraq related Inquests’.

¹⁸² Briefing MOD, [undated], ‘Meeting with David Johnson, Deputy Chief of Mission US Embassy London (16 November 2006)’.

“inadmissible”, as he would not have the opportunity to question those who had provided witness statements.

289. Ms Harman wrote to Mr Johnson again on 6 November, to advise him that difficulties in securing US co-operation remained.¹⁸³ It appeared that US Service Personnel did not regard themselves as being required to attend inquests, despite being requested to do so. Mr Walker had told her that the inquest into the death of Mr Lloyd would have benefited considerably from the presence of US witnesses who could be questioned by him and the next of kin. Reading out the witnesses’ statements (with the names of the witnesses redacted) “was no substitute”.

290. Ms Harman reassured Mr Johnson that an inquest was not a criminal trial, and there was no reason for US Service Personnel not to attend. She suggested that they should meet to discuss the issue.

291. Ms Harman met Mr Johnson on 20 November.¹⁸⁴

292. In advance of the meeting, Ms Harman asked for advice on a number of issues including how the UK would respond to a request for UK Service Personnel to attend a US inquest (or equivalent).¹⁸⁵

293. The MOD advised that there was:

“... no formal process ... to facilitate such attendance. Attendance would have to be assessed on a case-by-case basis and the MOD would have to carefully consider the rights of the individual under different legal/constitutional systems”.¹⁸⁶

294. At the meeting, Mr Johnson said that the US had provided redacted copies of US reports into incidents for a number of inquests; he was disappointed that Mr Walker had “rejected” that material.¹⁸⁷ Ms Harman suggested that the key issue was the ability of the coroner and families to question the material. Mr Johnson asked whether individuals who had been closely involved with the investigation of an incident could attend the inquest, instead of individuals who had been involved in it. Ms Harman agreed that that option should be explored, but said that it was for the coroner to decide who should give evidence.

295. Mr Johnson asked if UK Service Personnel were obliged to attend US or other inquests and inquiries; Ms Harman said that she had discussed that point with Mr Hoon,

¹⁸³ Letter Harman to Johnson, 6 November 2006, ‘Oxfordshire Iraq related Inquests’.

¹⁸⁴ Email Tierney to English, 21 November 2006, ‘Note of Meeting between Harriet Harman and David Johnson’.

¹⁸⁵ Email Tierney to English, 14 November 2006, ‘Meeting with US Embassy Deputy Chief of Mission’.

¹⁸⁶ Briefing MOD, [undated], ‘Meeting with David Johnson, Deputy Chief of Mission US Embassy London (16 November 2006)’.

¹⁸⁷ Email Tierney to English, 21 November 2006, ‘Note of Meeting between Harriet Harman and David Johnson’.

who thought that “they should”. Mr Johnson also raised concerns about creating a precedent for similar processes in other countries.

296. An FCO official who attended the meeting reported that the US appeared to have two concerns:

- the material that they might be required to provide; and
- the risk that attendance at inquests by US Service Personnel might expose those individuals to civil action in the UK.¹⁸⁸

297. In the following weeks, DCA and FCO officials provided advice to the US Embassy on the inquest process¹⁸⁹ and the extent of extra-territorial jurisdiction under English law.¹⁹⁰

298. The FCO’s advice on extra-territorial jurisdiction was that:

- English criminal law was essentially territorial. There was no jurisdiction in English law to prosecute a foreign national for homicide committed overseas.
- If there was no extra-territorial jurisdiction, there was no question of any charges being issued against US Service Personnel.
- There were a group of “international” offences for which the UK had taken universal jurisdiction, including most relevantly “grave breaches” of the Geneva Conventions committed anywhere by persons of any nationality. It was, however, “hard to imagine circumstances in which a ‘friendly fire’ incident would amount to a grave breach” of the Convention.

299. Ms Harman met Mr Johnson again on 6 December.¹⁹¹ Ms Harman suggested that the meeting should focus on the inquest into the death of L Cpl Hull.

300. Ms Harman said that she had spoken to Mr Walker, the coroner responsible for that inquest. He would like US witnesses to the incident to attend the inquest; however, he could accept “as a minimum”:

- an unredacted copy of the US report on the incident: the US and UK reports differed, and the US report had “large sections, even whole pages” redacted; and
- a US representative to speak to and explain the contents of the report.

301. An MOD official added that “in a reverse situation the UK would consider what we could offer in terms of best evidence”.

¹⁸⁸ Email FCO [junior official] to MOD [junior official], 20 November 2006, ‘Iraq Coroners Inquests’.

¹⁸⁹ Email DCA [junior official] to US Embassy [junior official], 30 November 2006, ‘Questions from the US Embassy about Inquests’.

¹⁹⁰ Email Adams to US Embassy [junior official], 1 December 2006, ‘Questions from US Embassy about inquests’.

¹⁹¹ Minute Burden to Harman, 11 December 2006, ‘Update Meeting between Harriet Harman and David Johnson on US Attendance at UK Inquests into Deaths in Iraq’.

302. Mr Johnson advised that the US Government had concluded that it would not be possible for US witnesses to an incident to participate in the inquest. It was now considering whether it could provide someone who could speak authoritatively to a US report.

303. On 1 February 2007, Mr Walker stated that he wished to play in open court a video-recording taken by one of the A-10 aircraft showing the attack on L Cpl Hull's convoy.¹⁹² That recording had been provided to the MOD by the US for use in the BOI into the incident, and had subsequently been shown to the coroner by the MOD on the mistaken premise that it was UK-owned material.

304. The following day, the MOD sought and received an adjournment to the inquest to allow time to consult the US on disclosure of the recording.

305. These events attracted a great deal of media attention, focusing on:

- claims that the family of L Cpl Hull had previously been informed by the MOD that no video-recording of the incident existed;
- the MOD's decision to seek an adjournment, thus delaying the inquest; and
- the US Government's position that US witnesses to an incident should not participate in any subsequent UK inquest.

306. On 4 February, *The Observer* newspaper quoted Ms Harman's view:

"My letters haven't proved successful, phone calls haven't proved successful, requests from the coroners haven't. It's just not fair on the relatives to sit in on an inquest and to know that they can't ask questions. They're entitled to know the truth from our allies."¹⁹³

307. The recording was leaked to the press on 6 February.¹⁹⁴

308. Later that day, the US told the Government that the recording could be viewed by the coroner, an MOD representative and L Cpl Hull's family only.¹⁹⁵

309. On 19 February, prompted by concerns arising from the MOD's support for the inquest into L Cpl Hull's death, Mr Ingram sought advice on whether the MOD should adopt a fundamentally different BOI process. This is described earlier in this Section.

¹⁹² Minute Ferguson to APS/Min(AF), 2 February 2007, 'Oxfordshire Inquests: Release of US Classified Information'.

¹⁹³ *The Observer*, 4 February 2007, *Why won't the US tell us how Matty died?*

¹⁹⁴ *The Guardian*, 6 February 2007, *US allows 'friendly fire' tape in court.*

¹⁹⁵ Minute DCA [junior official] to Tierney, 21 February 2007, 'Note of meeting with David Johnson (Deputy Chief of Mission, US Embassy)'.

310. Ms Harman met Mr Johnson for a third time on 21 February.¹⁹⁶ A DCA official recalled Mr Walker's requests for an unredacted copy of the US report on the attack on L Cpl Hull's convoy and for a US representative to speak to the report. Ms Harman said:

“... although it is difficult for the US to do what the coroner is asking, it is worse for the US not to ... providing no document and no representative at the inquest would be unacceptable.”

311. Mr Johnson advised that the US Government was still considering these requests; discussions between the US and UK military would take place later that week.

312. Mr Bill Jeffrey and Mr Gordon England, the US Deputy Defense Secretary, discussed the issue two days later.¹⁹⁷ Mr England advised that, while the US aimed to be as co-operative as possible:

- They could not provide an unredacted version of the US report to Mr Walker, could not agree that he should contact the A-10 pilots directly, and could not provide an official to answer questions on the training of A-10 pilots.
- They could not agree to the in principle release of classified US information to coroners in future cases.
- They could not agree to provide “third-party US officials” to attend inquests.

313. Mr Jeffrey asked Mr England to reconsider the provision of third-party US officials; Mr England agreed that he would.

314. On 16 March, Mr Walker ruled that L Cpl Hull was unlawfully killed.¹⁹⁸ The press reported that Mr Walker was critical of the failure of the US authorities to co-operate with the inquest.

Legal representation at inquests

315. The Government's position at the beginning of Op TELIC was that legal aid was not normally necessary at inquests as the inquest procedure was designed to be inquisitorial and non-adversarial.¹⁹⁹ Legal aid could be provided in exceptional circumstances by the Lord Chancellor, provided that the Legal Services Commission (LSC) recommended it. Such exceptional circumstances might relate to a wider public interest in the applicant being legally represented, or to a need for the applicant to be legally represented to enable the coroner to carry out an effective investigation.

¹⁹⁶ Minute DCA [junior official] to Tierney, 21 February 2007, 'Note of meeting with David Johnson (Deputy Chief of Mission, US Embassy)'.

¹⁹⁷ Minute PS/PUS [MOD] to Policy Director, 23 February 2007, 'Coroners' Inquests – PUS Phonecall with Gordon England: 23 February 2007'.

¹⁹⁸ *Daily Telegraph*, 17 March 2007, *Killing of British soldier by US pilot criminal*.

¹⁹⁹ Standard Note, 28 January 2010, *Legal aid for representation at Inquests*.

316. Legal Help might be available (subject to a means test) to provide legal advice and assistance before an inquest.

317. The Deepcut Review into the circumstances surrounding the deaths of four soldiers at the Princess Royal Barracks, Deepcut between 1995 and 2002, led by Mr Nicholas Blake, reported in March 2006.²⁰⁰ He concluded that the participation of the family of the deceased in an inquest was desirable, and that their participation was assisted by “having experienced legal professionals to advise them whether there are reasons for concern, and how they can be properly addressed”. He also concluded that, in some circumstances, it was “invidious for the Army to be legally represented at such an inquest at public expense whilst the family is not”.

318. Mr Blake recommended:

“As part of the military covenant with the soldier, the MOD should ensure that the family of a deceased soldier have access to legal advice and, where appropriate, legal representation prior to, and during, the inquest or FAI [Fatal Accidents Inquiry].”

319. The Government’s formal response to the Deepcut Review was issued in June, and stated:

“An inquest is an inquisitorial, non-adversarial fact finding process of limited scope which does not make findings of civil or criminal liability. It is the general presumption that legal representation is not necessary, and it is quite appropriate for those deemed interested persons by the Coroner to ask questions of witnesses at an inquest without legal assistance. Government provision of legal aid ... is not therefore normally available ... However, under the Access to Justice Act 1999 allocation may be made to the Legal Services Commission for exceptional funding.”²⁰¹

320. Ms Harman met relatives of Service Personnel killed in Iraq on 4 December, to discuss their experience of the investigation and inquest process.²⁰² The formal record of the meeting reported that families “would like to be informed of their right to have legal representation [at an inquest], and that the Government should provide funding for legal representation where families could not afford it”.

321. Ms Harman wrote to Mr Browne later that month summarising the conclusions of the meeting; her letter did not address the issue of legal representation.²⁰³

²⁰⁰ Nicholas Blake QC, *A Review of the circumstances surrounding the deaths of four soldiers at Princess Royal Barracks, Deepcut, between 1995 and 2002*, HC795, 29 March 2006, paragraph 12.110 and recommendation 31.

²⁰¹ Ministry of Defence, *The Government’s Response to the Deepcut Review*, Cm 6851, June 2006.

²⁰² [Report Opinion Leader, January 2007, ‘DCA meeting with families of military personnel who lost their lives in Iraq’](#).

²⁰³ [Letter Harman to Browne, 18 December 2006, ‘Proposals arising from meeting with relatives of service personnel on their experience of the inquest system’](#).

322. On 13 December, during Prime Minister's Questions, Mr Roger Gale asked Mr Blair:

"When inquests are held into the deaths of Service Personnel whose bodies are returned to the UK, the Government are represented by the Treasury Solicitor, who has access to effectively unlimited taxpayers' funds for QCs, witnesses and support investigations. In contrast, families of the bereaved attending the same inquest have to pay out of their own pockets. Is it right that the dice should be loaded against the bereaved?"²⁰⁴

323. Mr Blair replied that Ms Harman was looking at the arrangements for inquests, adding that "it is of course important to make sure that bereaved families are given every possible facility".²⁰⁵

324. Mr Gale continued to press the Government to provide funding routinely for legal representation for bereaved families at inquests into the deaths of Service Personnel.

325. On 17 January 2007, a DCA official advised Ms Vera Baird, Parliamentary Under Secretary of State for the DCA, that Ms Harman had received representations on the issue during a consultation meeting on the draft Coroners Bill and at her 4 December meeting with the families of Service Personnel who had died in Iraq.²⁰⁶ Ms Harman was concerned that there was a "real or perceived inequality" when a public authority was legally represented at an inquest but the family of the deceased was not. She had therefore asked officials to explore options for providing (non-legal aid) funding for families at inquests where public authorities had legal representatives. That work was still at a very early stage.

326. A DCA official detailed Ms Harman's position and that work on 22 February:

"Harriet [Ms Harman] was clear that it is of fundamental importance that there should be equality of arms between the families and MOD and something needs to be done to achieve this urgently ... Her view is that if it is not possible for families to be given legal support over and above the legal aid provisions then she would propose that equality of arms is met by there being no MOD lawyers present at the inquests in which they have an interest."²⁰⁷

327. Work was under way to:

- develop a consultation paper to seek views on how representation for families could be paid for outside of the legal aid system, in cases when a public

²⁰⁴ House of Commons, *Official Report*, 13 December 2006, column 872.

²⁰⁵ House of Commons, *Official Report*, 13 December 2006, column 872.

²⁰⁶ Minute DCA [junior official] to Baird, 17 January 2007, 'Advice and draft reply to Roger Gale MO – funding for representation at Inquests'.

²⁰⁷ Minute DCA [junior official] to Falconer, 22 February 2007, 'Legal Funding of Military Inquests: Correspondence from Roger Gale MP'.

authority was represented; the favoured option was a surcharge on those authorities; and

- conduct a study to establish fair and effective ways of ensuring that families routinely had official material disclosed to them before an inquest; that should improve the opportunity for families to participate in inquests on equal terms.

328. On 27 February, the All Party Parliamentary Group on Army Deaths held a seminar focusing on the issue of legal representation for families, which Ms Harman attended.²⁰⁸

329. On 9 March, a DCA official advised Ms Harman that:

- the MOD had had legal representation at eight of the 45 inquests (into 63 deaths in Iraq and Afghanistan) that had been completed;
- at five of those eight inquests, the family had also had legal representation; and
- at three other inquests the family had had legal representation and the MOD had not.²⁰⁹

330. The official advised that the DCA had been able to confirm only two cases where families had received legal aid for an inquest relating to Iraq (at a total cost of some £38,000).

331. The official recalled the Government's response to the Deepcut Review and commented:

“If the MOD maintain the line that inquests are not adversarial ... so that families do not need to be represented, this begs the question as to why MOD needs to be represented.”

332. Ms Harman wrote to Mr Browne on 14 March:

“I am becoming increasingly concerned about the lack of legal representation for families at inquests where the military are represented.²¹⁰

...

“One solution to the problem might be for neither the military nor the family to be legally represented. Alternatively, funding should be provided to families for representation in those cases where the MOD is represented. I would look to your Department to fund this ...

“I would welcome an early meeting to discuss this.”

333. Ms Harman concluded with the handwritten comment: “I know you share my concern on this.”

²⁰⁸ Email Robins to Burton, 27 February 2007, ‘Seminar on Army deaths’.

²⁰⁹ [Minute DCA \[junior official\] to Falconer, 9 March 2007, ‘Legal Representation in Military Inquests’.](#)

²¹⁰ [Letter Harman to Browne, 14 March 2007, ‘Legal Representation at Inquests’.](#)

334. Ms Harman and Mr Ingram met on 18 April to discuss legal representation at military inquests.²¹¹ Ms Harman said that there were two distinct areas to consider:

- “logistical and moral” support and advice for families; and
- legal advice and representation.

335. Mr Ingram and Ms Harman both stated that their departments did not have the resources to fund legal representation. They agreed that:

“... the increased support for families from the MOD and the increased support for coroners as well as the work on greater disclosure of information would go a long way to providing families with the support they want at inquests.”

336. They also agreed to set out that increased support in a Written Ministerial Statement.

337. Mr Ingram undertook to ensure that families had an MOD representative with them at the inquest “to provide explanations and support”.

338. Mr Ingram made a Written Ministerial Statement on 7 June on improved support to bereaved families.²¹² The Statement did not cover legal representation for bereaved families at inquests.

339. The Royal British Legion’s “Honour the Covenant” campaign, which was launched in September 2007, highlighted the distress caused to families by delays to and the lack of legal representation during inquests, and called for legal advice, representation and advocacy to be provided to all families at public expense.²¹³

340. Ms Joan Humble, chair of the All Party Parliamentary Group on Army Deaths, wrote to Ms Prentice on 14 December seeking advice on how the Group could best engage with Government discussions on the reform of the inquest system and in particular the issue of legal representation for the families of deceased Service Personnel.²¹⁴ Ms Humble stated:

“To grieving families it seems a travesty of justice that MOD and Service Personnel should appear in court represented at public expense while they may have been advised they don’t require representation or [are] forced to put their life savings on the line.”

341. Ms Prentice replied on 19 February 2008, recalling the position that legal aid was not usually available for representation at an inquest because it was a “fact-finding

²¹¹ [Minute Tierney to DCA \[junior official\], 19 April 2007, ‘Note of meeting between Harriet Harman and Adam Ingram on legal representation at military Inquests’.](#)

²¹² House of Commons, *Official Report*, 7 June 2007, column 26WS.

²¹³ The Royal British Legion, September 2007, *Honour the Covenant*.

²¹⁴ Letter Humble to Prentice, 14 December 2007, [untitled].

process” and not a trial.²¹⁵ Legal representation could be provided in exceptional circumstances, and the MOJ had not refused any exceptional funding applications (from the Legal Services Commission) concerning deaths in Iraq or Afghanistan.

342. Ms Prentice continued:

“I would also say that when I met representatives of the War Widows Association recently, they did not feel that legal representation at inquests was necessary, if the families were taken through the inquest process slowly and gently by the coroner.”

343. On 13 March 2008, in response to a further question from Mr Gale, Ms Harman (Leader of the House of Commons) said:

“I agree with the hon. Gentleman that if bereaved relatives with no legal representation turn up on the steps of a coroner’s court and find that the Ministry of Defence and the Army have a great battery of solicitors and QCs, they cannot help but feel that the position is unfair. The MOD is very concerned about the issue, which will be considered during debate on the Coroners Bill. We need to give bereaved relatives at inquests a real sense of fairness and support.”²¹⁶

The Coroners and Justice Act, 2009

344. A January 2009 briefing on the Coroners and Justice Bill advised that it would contain a number of measures to ensure that any future backlogs of inquests could be addressed more easily:

- It would create a new national head of the coronial system, the Chief Coroner, who would be able to reallocate work between coroners and request the Lord Chief Justice to appoint judges to act as coroners in complex cases. The wishes of the bereaved family would be taken into account in determining the location of the inquest.
- Coroners would have new powers to obtain information to help their investigations. “Rigid restrictions” on where inquests and post-mortems could be held would be relaxed and the power to transfer cases to prevent delays would be enhanced.²¹⁷

345. The Bill would also give the Lord Chancellor powers to issue statutory guidance on how the coroners’ system should operate, in particular with respect to bereaved families.

346. The Coroners and Justice Bill was introduced to Parliament on 14 January 2009.²¹⁸ It did not contain any reference to public funding for legal representation at inquests.

²¹⁵ Letter Prentice to Humble, 19 February 2008, ‘All Party Group on Army Deaths’.

²¹⁶ House of Commons, *Official Report*, 13 March 2008, column 421.

²¹⁷ Briefing, 28 January 2009, ‘Coroners and Justice Bill: Military inquests briefing 28 January 2009’.

²¹⁸ Coroners and Justice Act 2009 c.25 Explanatory Notes, paragraph 820.

347. On 21 October 2009, during a debate on the Bill in the House of Lords, Lord Thomas of Gresford moved an amendment which would have the effect of bringing inquests into deaths in State custody or while on active military service within the scope of legal aid.²¹⁹

348. Lord Bach, Parliamentary Under Secretary of State for the MOJ, agreed to consider that amendment, adding:

“Obviously I cannot give any guarantees that I will be able to bring forward a suitable amendment ... but I shall certainly do my best.”²²⁰

349. An MOJ official provided advice to Lord Bach on 23 October on the form and cost of such an amendment.²²¹ The official identified a number of risks, including:

- The MOD was trying to reduce how often it chose to be legally represented at inquests “to tackle the perception that they have the advantage over families”. If bringing military inquests into the scope of the legal aid scheme meant that most families had legal representation, then the MOD would also want representation. The MOD had chosen to be represented at “only” 45 percent of inquests in 2008.
- Bringing military inquests into the scope of the legal aid scheme meant that decisions on whether to provide legal aid would be made by the Legal Services Commission (LSC) without reference to Ministers. That might lead to military inquests being refused legal aid, particularly where the LSC did not waive the financial eligibility limits. The official recalled that all 17 of the applications for exceptional funding in relation to military inquests which had so far been made by the LSC had been granted by the MOJ.

350. When the Bill reached its Third Reading in the House of Lords on 5 November, the Government tabled an amendment which made specific provision for legal representation at an inquest into the death of British Service Personnel on active service to be publicly funded.²²² A means test applied.

351. The Bill became the Coroners and Justice Act in November 2009, with the amendment included as Section 51. That Section was not brought into force immediately.

352. Section 51 was repealed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012.²²³ The MOJ’s consultation paper for that Act, which was published

²¹⁹ House of Lords, *Official Report*, 21 October 2009, column 746.

²²⁰ House of Lords, *Official Report*, 21 October 2009, column 749.

²²¹ Minute MOJ [junior official] to Bach, 23 October 2009, ‘Legal Aid – Coroners and Justice Bill – Extending Legal Aid to Death in Custody and Military Personnel Inquests’.

²²² Coroners and Justice Act 2009 c.25 Section 51 and Explanatory Notes, paragraphs 326 and 820.

²²³ Standard Note, 10 March 2014, ‘Legal aid for representation at Inquests’.

in November 2010, proposed that as inquests were non-adversarial in nature, legal aid could not be justified.

353. Following the 2010 UK general election, the incoming Government first announced that the Office of the Chief Coroner would be abolished, because of the costs involved, and then proposed to leave the Office on the statute book but to transfer some (but not all) of the functions to other posts and institutions.²²⁴

354. In November 2011, following criticism in Parliament and from concerned organisations, the Government announced that it would establish the Office of the Chief Coroner.

355. The first post-holder, His Honour Judge Peter Thornton, took up the post in September 2012.²²⁵

Fatal Accident Inquiries in Scotland

356. The Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 provided for the Lord Advocate to instruct a procurator fiscal to investigate a death if it appeared to the Lord Advocate that an investigation would be in the public interest. This contrasted with the position in England and Wales, where coroners had a statutory duty, under the 1988 Coroners Act, to investigate deaths which were reported to them when the body was lying in their district and there was reason to believe that the death was violent or unnatural, or was a sudden death of unknown cause, or in some other circumstances.²²⁶ That duty applied “whether the cause of death arose in his district or not”.

357. On 2 April 2003, two weeks after the start of military operations against Iraq, a Home Office official wrote to Mr Nicholas Gardiner, the Oxfordshire Coroner, proposing guidelines for transferring cases to other coroners:

“An aspect of this we had not yet addressed is the handling of fatalities where they are to be transferred to Scotland or Northern Ireland. I have had a brief word with my Northern Ireland and Scottish counterparts. In neither territory would there normally be inquests or other inquiries into deaths abroad. It would therefore seem inevitable for you to accept jurisdiction for inquests in such cases ...”²²⁷

358. Mr Gardiner agreed with that assessment.²²⁸

359. There are no indications that the issue was considered again until 2006.

²²⁴ House of Commons Library Standard Note, 24 November 2011, ‘The Office of the Chief Coroner’.

²²⁵ Report of the Chief Coroner to the Lord Chancellor, 2014, *First Annual Report: 2013-2014*.

²²⁶ Coroners Act 1988. The Act was replaced by the Coroners and Justice Act 2009.

²²⁷ Letter Home Office [junior official] to Gardiner, 2 April 2003, ‘Section 14 and War Deaths’.

²²⁸ Letter Gardiner to Home Office [junior official], 4 April 2003, ‘Section 14 etc’.

360. The Deepcut Review into the circumstances surrounding the deaths of four soldiers at the Princess Royal Barracks, Deepcut reported in March 2006.²²⁹ The Review recommended: “There should always be an inquest, or, in Scotland, a Fatal Accidents Inquiry, into a sudden death of a soldier, wherever the death has occurred.”

361. The Government’s formal response to the Review, which issued in June, stated that discussions were continuing between the MOD and the DCA, with a view to responding to the recommendation in the context of the Coroners Bill.²³⁰ Responsibility for legislation on inquiries into deaths in Scotland was delegated to the Scottish administration; any proposals would therefore need to be discussed with the Scottish Executive.

362. On 4 December, Ms Harman met relatives of Service Personnel killed in Iraq, to discuss their experience of the investigation and inquest process.²³¹ The record of the meeting reported that there was consensus that inquests should be held “more locally, including in Scotland”.

363. Ms Harman wrote to Mr Browne later that month summarising the conclusions of the meeting, including:

“There is a particular issue about Scottish fatalities which are repatriated to England and Wales ... unless there is an inquest in England there will be no inquiry at all in Scotland. It was suggested [at the meeting] that until such time as the Scottish Executive’s position changes, a coroner in the north of England might be able to take on inquests for Scottish families, and my officials are looking into this possibility. I am also going to discuss with the Scottish Executive the issue of extending the scope of the Fatal Accident Inquiry to cover Service deaths abroad.”²³²

364. In April 2007, Ms Harman met Mr Ingram to discuss legal representation for families at inquests.²³³ Mr Ingram asked whether there was scope to transfer the inquest into the loss of Nimrod XV230 to Scotland. Ms Harman said that she had discussed the issue with the Scottish Lord Advocate and relevant Scottish Executive Minister, who had both confirmed that there was no scope in Scotland for an inquest or Fatal Accident Inquiry (FAI) into the incident.

365. Nimrod XV230 had crashed in Afghanistan on 2 September 2006, with the loss of 14 crew.²³⁴ The aircraft was based at RAF Kinloss in Scotland.

²²⁹ Nicholas Blake QC, *A Review of the circumstances surrounding the deaths of four soldiers at Princess Royal Barracks, Deepcut, between 1995 and 2002*, HC795, 29 March 2006.

²³⁰ Ministry of Defence, *The Government’s Response to the Deepcut Review*, Cm 6851, June 2006.

²³¹ [Report Opinion Leader, January 2007, ‘DCA meeting with families of military personnel who lost their lives in Iraq’](#).

²³² [Letter Harman to Browne, 18 December 2006, ‘Proposals arising from meeting with relatives of service personnel on their experience of the inquest system’](#).

²³³ [Minute Tierney to DCA \[junior official\], 19 April 2007, ‘Note of meeting between Harriet Harman and Adam Ingram on legal representation at military inquests’](#).

²³⁴ GOV.UK, 3 September 2006, *Fourteen personnel in Afghanistan Nimrod crash named*.

366. During Defence Questions in the House of Commons on 14 May 2007, Mr Angus Robertson asked:

“Will the Ministry of Defence work with the incoming Scottish Executive to ensure that inquiries [into the deaths of Service Personnel] can take place under Scots law? After all, that would help to reduce the backlog and to ease the inconvenience to the families.”²³⁵

367. Mr Ingram replied:

“The answer to that is yes ... My understanding is that there would need to be a change to primary legislation. We need to look into that, but if there is a will to change in Scotland, let us hear the propositions.”²³⁶

368. Mr Ingram subsequently discussed with MOD officials how he could respond to Mr Robertson’s call.²³⁷

369. On 2 June, Mr Ingram wrote to Mr Kenny MacAskill, Cabinet Secretary for Justice at the Scottish Executive, to open a discussion on the issue:

“Ensuring that they [inquests] are conducted in a family-friendly manner remains a priority for us and, where practical, we are allocating them to ‘home’ coroners in England and Wales. We share your concern that it has not been possible to hold them in Scotland.

“The fact that we have, so far, repatriated the bodies of Scottish Service Personnel to England ensures that there can be an inquest, albeit under the Coroner’s Court arrangements for England and Wales.

“We would favour moving towards a position where, if appropriate, Inquiries into the deaths of Service Personnel can take place in Scotland. We would be happy to work with you to achieve this. However, we believe it will require a change of law in Scotland ...”²³⁸

370. Ms Prentice wrote to Mr MacAskill on 25 October, asking if there had been any developments since Mr Ingram’s letter.²³⁹ In the absence of an appropriate process in Scotland, the bodies of Scottish Service Personnel were repatriated to England “to ensure that there can be an inquest”. This meant that families had to travel considerable distances from their homes in Scotland to attend inquests.

²³⁵ House of Commons, *Official Report*, 14 May 2007, column 382.

²³⁶ House of Commons, *Official Report*, 14 May 2007, column 382.

²³⁷ Minute Baker to PS/Minister(AF) [MOD], 22 May 2007, ‘Fatal Accident Inquiries for Service Deaths Overseas’.

²³⁸ Letter Ingram to MacAskill, 2 June 2007, [untitled].

²³⁹ Letter Prentice to MacAskill, 25 October 2007, ‘Inquests of Scottish Service Personnel’.

371. Officials from the MOD, MOJ and Scottish Executive met on 14 December to consider the possibility of transferring responsibility for inquiries into the deaths of “Scottish-based” Service Personnel who were killed overseas from the coroners’ service to the Crown Office and Procurator Fiscal Service (COPFS),²⁴⁰ “with a view to FAIs being held rather than coroners’ inquests”.²⁴¹ The meeting concluded that:

- The way forward might be an order under Section 30 of the Scotland Act 1998.²⁴² That possibility would be explored by the Scottish Government Legal Directorate and the Office of the Solicitor to the Advocate General (OSAG).
- There did not appear to be any “fundamental obstacles” to the proposed transfer.
- The discretionary nature of the FAI system would need to be addressed.

372. On 27 March 2008, in response to a letter from Mr MacAskill, Mr Browne wrote:

“Addressing these issues is ... a matter for Scottish Ministers. The answer is for you to make a commitment to amend Scots law in a way that can guarantee that Scottish-based Service families can be assured of mandatory inquiries into overseas operational deaths. If that were to happen then it would be entirely appropriate to repatriate deceased Service Personnel to Scottish bases once the law has been changed. You will understand, however, that I cannot contemplate changes without your commitment to mandatory investigations.”²⁴³

373. Mr Browne’s letter was copied to all Members of the Scottish Parliament, in order to inform the debate on the planned review of FAIs which would be held in the Scottish Parliament later that day.

374. The issue of enabling inquiries to be held in Scotland into the deaths of Service Personnel normally domiciled in Scotland featured heavily in the debate.²⁴⁴

375. Closing the debate, Mr MacAskill stated that an amendment to the Scotland Act 1998 would be necessary before Scotland could act:

“If Des Browne agrees to the making of a section 30 order, we can begin to make progress; without a section 30 order, it would be ultra vires for us to proceed – the Parliament simply could not take such action.”

²⁴⁰ The Crown Office and Procurator Fiscal Service is Scotland’s prosecution service.

²⁴¹ Report, [undated], ‘Note of meeting to discuss possibility of Fatal Accident Inquiries into deaths of Scottish-based Service personnel in St Andrews House, 14 December 2007’.

²⁴² Orders made under Section 30(2) of the Scotland Act 1998 allow for modifications to be made to Schedule 5 to the Scotland Act, which lists those matters that are reserved to the UK Parliament, and as such defines the competence of the Scottish Parliament. The order-making power allows the Scottish Parliament’s legislative competence to be altered by removing or updating existing reservations, or by adding new ones.

²⁴³ Letter Browne to MacAskill, 27 March 2008, [untitled].

²⁴⁴ Scottish Parliament, *Official Report*, 27 March 2008.

376. The following day, an MOJ official advised Ms Prentice that the 14 December 2007 meeting of officials, and subsequent exchanges, had identified “no simple solution”.²⁴⁵ There were plans for officials to meet again.

377. On 4 November, Mr Bob Ainsworth, successor to Mr Ingram as Minister of State for the Armed Forces, informed the House of Commons that: “No reply [to Mr Browne’s letter of 27 March] has yet been received from the Scottish Executive.”²⁴⁶

378. That exchange prompted Mr Ainsworth to ask MOD officials how momentum could be regained on the FAI issue.²⁴⁷

379. An official advised Mr Ainsworth on 11 November that the Scottish Executive had given “considerable thought” to how inquiries could be held in Scotland without changing the devolution settlement, but Scottish Ministers did not appear to have come to a conclusion. The official was not sure that work was now being actively pursued. It was not satisfactory to let the issue drift.

380. Mr Ainsworth wrote to Ms Prentice the following day, proposing that Ministers and officials should meet to consider the way forward.²⁴⁸ A copy of the letter was sent to Ms Ann McKechin, Parliamentary Under Secretary of State at the Scotland Office.

381. Mr MacAskill replied to Mr Browne’s letter of 27 March on 19 November.²⁴⁹

382. After a further exchange in January 2009, Mr Ainsworth wrote to Mr MacAskill on 29 January stating that “we do indeed have the basis for a way ahead”.²⁵⁰ That was to use the Coroners and Justice Bill to amend the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, so that the Chief Coroner (a new post that would be created by the Coroners and Justice Bill) could request the Lord Advocate to hold an FAI into a particular death.²⁵¹

383. Section 12 of the Coroners and Justice Act provided for the Secretary of State or the Chief Coroner to notify the Lord Advocate that a death should be investigated under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.²⁵²

²⁴⁵ Minute MOJ [junior official] to Prentice, 28 March 2008, ‘Coroners Service in Oxfordshire’.

²⁴⁶ House of Commons, *Official Report*, 4 November 2008, column 294W.

²⁴⁷ Minute MOD [junior official] to PS/Minister(AF) [MOD], 11 November 2008, ‘Fatal Accident Inquiries in Scotland’.

²⁴⁸ Letter Ainsworth to Prentice, 12 November 2008, ‘Inquiries into the Deaths of Scottish-based Service Personnel’.

²⁴⁹ House of Commons, *Official Report*, 3 February 2009, column 1111W.

²⁵⁰ Letter Ainsworth to MacAskill, 29 January 2009, [untitled].

²⁵¹ Minute Scotland Office [junior official] to Parliamentary Under Secretary of State [Scotland Office], 28 January 2009, ‘Fatal Accident Inquiries and overseas Service deaths’.

²⁵² Coroners and Justice Act 2009, Section 12(4) and (5).

384. The Act also amended the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, to provide for the Lord Advocate to investigate when such a notification had been received.²⁵³

Honouring the dead

Repatriation ceremonies

385. The MOD's policy on the repatriation of the dead was set out in a paper produced by Lt Gen Palmer on 14 March 2003:

“Repatriation to UK of the dead is to take place wherever possible and as soon as practicable.”²⁵⁴

386. Before Op TELIC, repatriations were conducted with very little or no formal ceremony.²⁵⁵

387. The MOD put in place a unique arrangement for the repatriation of Service Personnel who died during Op TELIC, known as Operation KEIR. The repatriation ceremony under Op KEIR was designed to “demonstrate the highest level of respect”, and included attendance by members of the Royal Family (or their representatives) and Ministers, military pall-bearers and a military band.

388. In his autobiography, General Sir Mike Jackson described attending a repatriation ceremony in his capacity as Chief of the General Staff:

“We gathered before the aircraft landed, and were seated on the edge of the apron outside the terminal building to watch the C-17 aircraft land and taxi into position, coming to a rest with the nose of the aircraft facing diagonally away from the mourners. Then the ramp was lowered. A bearer party of six soldiers in parade dress advanced and marched up the ramp to take the first coffin. As they came into view down the ramp carrying the coffin, a band began playing and everyone stood. We all saluted as the bearers marched past in slow time, carrying the coffin to the waiting hearse. This simple, but profoundly moving, ceremony was repeated for each coffin on board the aircraft.”²⁵⁶

389. Lt Gen Mans told the Inquiry that a repatriation ceremony could “help the bereaved family to start closure on the whole process of losing a loved one”.²⁵⁷

²⁵³ Coroners and Justice Act 2009, Section 50.

²⁵⁴ Paper Palmer, 14 March 2003, ‘UK Forces: Repatriation of the Dead’.

²⁵⁵ Minute DDSP Pol O&M to PSO/CDS, 17 March 2004, ‘Policy for Repatriation of Deceased Personnel from Overseas’.

²⁵⁶ Jackson M. *Soldier: The autobiography of General Sir Mike Jackson*, Bantam Press, 2007.

²⁵⁷ Public hearing, 19 July 2010, page 63.

390. In February 2004, Mr Ingram agreed that, following the end of major combat operations in Iraq, the MOD should “rationalise” the repatriation process.²⁵⁸ The MOD would adopt three levels of repatriation:

- for non-battle deaths, where repatriation would mirror the pre-Op TELIC model;
- for Service Personnel killed in action or who had died of their wounds, where repatriation would include a “degree of ceremony” including military pall-bearers; and
- for exceptional circumstances where it was appropriate to demonstrate the highest level of respect, where Op KEIR would be used. It would be for Mr Hoon to determine whether to invoke Op KEIR, taking into account factors including the circumstances surrounding the incident.

391. Lt Gen Palmer told the Inquiry that the issue of who should attend a repatriation ceremony quickly became “a big issue”:

“Everybody wanted to be there, to show support.

“I think what we realised early on was that this was going to be ongoing. Unfortunately, casualties were going to keep coming. We could not have everybody rushing to [RAF] Brize Norton, as it was then, [RAF] Lyneham, as it is now, every time there was a casualty. So we developed, I think, an extremely good policy, which I think has worked very well, about how repatriations are done.”²⁵⁹

392. Lt Gen Palmer added that, in planning and conducting repatriation ceremonies:

“... with Ministers and everybody in the MOD the absolute key thing was to try to be as responsive and sensitive to the families as we possibly could at this enormously difficult moment for them.”

393. In September 2007, a fourth level of repatriation was added, covering repatriations in the event of a mass fatality incident (defined as between 15 and 35 fatalities).²⁶⁰

394. In April 2009, the MOD amended its policy so that all deaths on operations (including non-battle deaths) received a formal repatriation ceremony, in the light of the difficulty in drawing a distinction between an individual killed by direct enemy fire and one killed in an accident in direct support of operations, and given public and familial expectations that individuals who died on operations should be honoured.²⁶¹

²⁵⁸ Minute DDSP Pol O&M to PSO/CDS, 17 March 2004, ‘Policy for Repatriation of Deceased Personnel from Overseas’.

²⁵⁹ Public hearing, 21 July 2010, page 40.

²⁶⁰ Minute Fancourt to various, 17 September 2007, ‘Policy for Repatriation of Deceased Personnel from Overseas’.

²⁶¹ Minute DCDS(Pers) to APS/SoS [MOD], 22 April 2009, ‘Policy for Repatriation from Operations’.

ROYAL WOOTTON BASSETT

395. From April 2007, due to essential repair work at RAF Brize Norton, ceremonial repatriations took place through RAF Lyneham in Wiltshire.

396. Corteges departing RAF Lyneham passed through Wootton Bassett. The Royal British Legion reported in June 2011 how the town had responded:

“The first [repatriation] was acknowledged by a few members of the public which included members of the Royal British Legion ...

“Over the past four years the number of people has increased and where we were once paying tribute on a more personal basis we have now come to represent the country.

“The repatriation tributes were never and are still not organised – things just happen, such as the Church Bell which started when a bell-ringing practise was taking place just before the repatriation was due, and as a mark of respect the one bell was tolled on that occasion.

...

“When the cortege is about to leave Lyneham, the police alert us here in Wootton Bassett. The Standard Bearers form an orderly line, spacing themselves at equal distances down the opposite side of the road to the War memorial ... When the cortege reaches the edge of town the bell-ringer is notified and the Church Bell starts to toll and the town falls silent. Shopkeepers close their premises and join the crowds and there is not a sound to be heard.”²⁶²

397. A military parade was held in Wootton Bassett in October 2008 to thank the town.²⁶³

398. In March 2011, Prime Minister David Cameron announced that The Queen had agreed “to confer the title ‘Royal’ upon the town, as an enduring symbol of the nation’s admiration and gratitude”.²⁶⁴

Letters of condolence

399. In July 2002, following a meeting with the parents of a deceased Serviceman, Mr Hoon asked the MOD to consider whether he or the Prime Minister should routinely write to the next of kin of Service Personnel killed on operations.²⁶⁵

²⁶² The Royal British Legion website, June 2011.

²⁶³ *Daily Express*, 13 October 2008, *Military pays tribute to respectful residents of Wootton Bassett*.

²⁶⁴ GOV.UK, 16 March 2011, *Prime Minister announces ‘Royal’ Wootton Bassett*.

²⁶⁵ Minute McLoughlin to APS/SofS [MOD], 17 September 2002, ‘Letters to next of kin (NOK)’.

400. Ms Elizabeth McLoughlin, the Director General of Service Personnel Policy, responded in September, having consulted the Chiefs of Staff.²⁶⁶ Existing practice was that, apart from letters written by those serving with the individual who had been killed, a senior officer would write one letter of condolence “on behalf of both the Sovereign and the Service”. While the Services appreciated the wish to provide additional comfort to the families of personnel killed on operations, they were concerned that:

- It would be very difficult for any letter, unless written locally by the unit commander, to be other than “bland and impersonal”. Experience had shown that it was not helpful for families to receive a large number of official condolence letters based on generic information.
- The Services (and the Chief of Defence Staff in particular) did not want to distinguish, for this purpose, between individuals killed on operations and those who died “as a result of the normal rigours of Service life”. They did not believe that the circumstances of a death made the next of kin any more or less deserving of sympathy.
- There was also a question of whether the next of kin of Reservists and MOD civilians should be included.
- In the event of mass casualties, writing to the next of kin might be difficult.

401. Ms McLoughlin concluded that the existing practice should continue, although the Prime Minister or the Secretary of State might in addition send a personal note in “exceptional cases where it is felt that families would benefit”. That would need to be assessed on a case-by-case basis.

402. In late March 2003, No.10 asked the MOD for advice on how Mr Blair should honour UK Service Personnel killed on Op TELIC, and especially whether he should write letters of condolence to the families of Service Personnel killed on operations and whether there should be a ceremony or function to commemorate deceased Service Personnel.²⁶⁷

403. Mr Hoon’s Private Office responded to Mr Blair’s Assistant Private Secretary on 27 March, advising that:

- the current policy (whereby a senior officer wrote a single letter of condolence) remained sound; and
- it would be appropriate for a ceremony to be held after the conflict had concluded.²⁶⁸

²⁶⁶ Minute McLoughlin to APS/SofS [MOD], 17 September 2002, ‘Letters to next of kin (NOK)’.

²⁶⁷ Minute Gibson to APS/Secretary of State, 27 March 2003, ‘Request from No.10: Letters for the Families of the Bereaved and Memorial Ceremony’.

²⁶⁸ Letter Williams to Cannon, 27 March 2003, ‘Recognition of Armed Forces Personnel who died on Operations’.

404. On 7 April, Mr Blair wrote to a bereaved spouse who had lost her husband on Op TELIC, to respond to her concerns about the way she was being treated by the MOD.²⁶⁹

405. On 9 May, in response to a further request for advice from No.10 on whether Mr Blair should write letters of condolence to the families of Service Personnel killed on operations, Mr Hoon's Private Office repeated the advice that the current policy (whereby a senior officer wrote a single letter of condolence) remained sound.²⁷⁰ Mr Hoon's Private Office added that the MOD was reviewing its policy on writing letters of condolence "in the light of the specific circumstances of the operation in Iraq", but was unlikely to change it.

406. Mr Hoon's Private Office advised No.10 on 16 May that the review had concluded that the MOD's policy should not change:

"... you [No.10] asked if our experience during operations in Iraq had caused us to alter our position ... It has not ... The Prime Minister wrote in exceptional circumstances and in response to correspondence."²⁷¹

407. The MOD looked again at the policy at the end of June, following a meeting between Mr Blair and General Sir Michael Walker, Chief of the Defence Staff, during which Mr Blair expressed a personal desire to write.²⁷²

408. Lt Gen Palmer advised Mr Hoon on 30 June that, while the Chiefs of Staff considered that the policy remained sound, given Mr Blair's desire to write and the fact that he was already corresponding with some families, their preferred option was that Mr Blair should write only to the next of kin of "those who die on Op TELIC".

409. Mr Hoon's Private Office wrote to No.10 later that day, to confirm that it "could be appropriate" for Mr Blair to write to the next of kin of those killed on Op TELIC (including civilians and those killed in circumstances other than in direct action with the enemy).²⁷³

410. On 1 August, Mr Matthew Rycroft, Mr Blair's Private Secretary for Foreign Affairs, advised Mr Blair that the MOD had, again, reviewed its policy and that Mr Hoon would now write to the next of kin of individuals who had died "while in an operational area".²⁷⁴ Mr Rycroft recommended that Mr Blair should now write only to the next of kin of individuals who had been killed in action.

²⁶⁹ Letter Blair to [name redacted], 7 April 2003, [untitled].

²⁷⁰ Letter Williams to Cannon, 9 May 2003, 'Recognition of Armed Forces Personnel who Died on Operations'.

²⁷¹ Letter Williams to Cannon, 16 May 2003, 'Recognition of Armed Forces Personnel who Died on Operations'.

²⁷² Minute DCDS(Pers) to PS/SoS [MOD], 30 June 2003, 'Letters of condolence from Prime Minister to Bereaved Families of Service Personnel'.

²⁷³ Letter Williams to Cannon, 30 June 2003, 'Letters of Condolence from the Prime Minister to Bereaved Families of Service Personnel'.

²⁷⁴ Minute Rycroft to Blair, 1 August 2003, 'Letters of Condolence to Bereaved Families of Service Personnel'.

411. The policy was reflected in the first Joint Casualty and Compassionate Policy and Procedures (JSP 751), which was published in March 2005.²⁷⁵

Commemoration in Parliament

412. It has become established practice for the Prime Minister and Leader of the Opposition to pay tribute to fallen Service Personnel at the start of Prime Minister's Questions (PMQs). The Inquiry has considered the origins and evolution of this public commemoration.

413. The first time a Prime Minister offered condolences for the deaths of Service Personnel in Iraq at PMQs was 2 April 2003. On that day, Mr Blair said he was "sure that the whole House will want to pass on its sympathies to the families of British Servicemen who have tragically been killed in the service of their country in the past week. Again, we pay tribute to their courage and dignity and we pass on our condolences and sympathy to their families and their friends."²⁷⁶

414. The practice was repeated a week later, when Mr Blair offered condolences to the families of all those who had lost their lives in the intervening seven days.²⁷⁷

415. On 25 June, he paid tribute to (but did not name) the Royal Military Police (RMP) officers who had lost their lives and been injured at Majarr al Kabir the previous day.²⁷⁸

416. On 10 September, as Parliament returned from the summer recess, Mr Blair paid tribute to the British Servicemen who had lost their lives during the recess.²⁷⁹

417. On 5 November, Mr Blair paid tribute to Corporal Ian Plank of the Royal Marines who had lost his life the previous week.²⁸⁰ That was the first time a Service person had been mentioned by name. It is not clear why the decision was taken to name Corporal Plank.

418. Over the next two years, Mr Blair regularly paid tribute at the beginning of PMQs to British Servicemen who had lost their lives, but only from April 2006 did the practice of naming individuals and their regiments become usual.

419. In June 2007, during his last PMQs, Mr Blair described those tributes as "the saddest of duties".²⁸¹

420. The practice was continued by Mr Gordon Brown from July 2007.

²⁷⁵ Paper MOD, 11 July 2005, 'JSP 751: Joint Casualty and Compassionate Policy'.

²⁷⁶ House of Commons, *Official Report*, 2 April 2003, column 908.

²⁷⁷ House of Commons, *Official Report*, 9 April 2003, column 260.

²⁷⁸ House of Commons, *Official Report*, 25 June 2003, column 1039.

²⁷⁹ House of Commons, *Official Report*, 10 September 2003, column 319.

²⁸⁰ House of Commons, *Official Report*, 5 November 2003, column 788.

²⁸¹ House of Commons, *Official Report*, 27 June 2007, column 323.

Memorial services

421. In late March 2003, No.10 asked the MOD for advice on how Mr Blair should honour UK Service Personnel killed on Op TELIC, including whether there should be a ceremony or function to commemorate deceased Service Personnel.²⁸²

422. The MOD responded to No.10 on 27 March, advising that it would be appropriate for a ceremony to be held after the conflict concluded.²⁸³ The MOD intended that the ceremony “would give the Prime Minister and the Government the opportunity to honour the efforts of the Services, and their dead”.²⁸⁴

423. Mr Hoon informed Parliament on 17 July that there would be a “national service of remembrance and thanksgiving for the campaign in Iraq”.²⁸⁵

424. The service took place on 10 October 2003 at St Paul’s Cathedral.²⁸⁶ The service was attended by the families of the 51 British Service Personnel who had, at that time, lost their lives in the campaign. They were joined by members of the Royal Family including Her Majesty The Queen and His Royal Highness The Duke of Edinburgh, Government Ministers including Mr Blair, and senior military officers.

425. Baroness Symons, joint FCO/Department of Trade and Industry Minister of State for International Trade and Investment, wrote to Mr Hoon shortly after the service.²⁸⁷ She had spent her time speaking to bereaved families, and reported from those conversations that:

- There was a generally positive reaction to how they had been informed of their loss (although two families had heard through the media), and to the subsequent support from the VO.
- A number of families felt that they had been “ignored” in the design and conduct of the service.
- All families appreciated the presence of The Queen and the Royal Family at the service.

426. Mr Hoon’s Private Office wrote to Mr Rycroft on 14 November advising that feedback from families had been “overwhelmingly positive”.²⁸⁸ There had been a great

²⁸² Minute Gibson to APS/Secretary of State [MOD], 27 March 2003, ‘Request from No.10: letters for the families of the bereaved and memorial ceremony’.

²⁸³ Letter Williams to Cannon, 27 March 2003, ‘Recognition of Armed Forces personnel who died on operations’.

²⁸⁴ Minute MOD [junior official] to APS/Secretary of State [MOD], 27 March 2003, ‘Request from No.10: Letters for the families of the bereaved and memorial’.

²⁸⁵ House of Commons, *Official Report*, 17 July 2003, column 72WS.

²⁸⁶ *BBC News*, 10 October 2003, *Service honours Iraq war dead*.

²⁸⁷ Letter Symons to Hoon, 13 October 2003, ‘Service for Iraq: Friday October 10, 2003’.

²⁸⁸ Letter Davies to Rycroft, 14 November 2003, ‘Iraq: service of remembrance and reception 10 October – feedback’.

deal of praise for the “obvious effort made by the Royal Family and senior members of the Government and Armed Forces to speak with as many families as possible”.

Armed Forces Memorial

427. Mr Hoon advised the House of Commons in November 2000:

“I have given careful consideration to a number of ways in which the recognition of members of the Armed Forces who give their lives in the service of their country might be enhanced. In the light of discussion, I have concluded that the most appropriate would be the erection in central London of a memorial bearing the names of all those killed on duty and by terrorist attack since the end of the Second World War. In accordance with the long established custom for the erection of memorials, I would expect funds to be raised by public subscription. Further consultation will now take place with ex-Service organisations and other interested bodies.”²⁸⁹

428. Mr Hoon advised the House of Commons in March 2002 that, following that consultation and research into suitable sites, the Armed Forces Memorial (AFM) would be sited at the National Memorial Arboretum in Staffordshire.²⁹⁰

429. On 30 June 2006, following an assessment by officials that there was a significant risk that fundraising for the Memorial would not reach the total required, Mr Des Browne, the Defence Secretary, directed Mr Jeffrey that the MOD should underwrite the Memorial project “in the sum of £3.3m which represents the balance the AFM Trustees require to fully fund the project”.²⁹¹

430. In October 2007, the Armed Forces Memorial was formally dedicated in the presence of Her Majesty The Queen at the National Memorial Arboretum in Staffordshire.²⁹²

431. Ministers were advised in early 2008 that the total cost of the Memorial was expected to be £7.3m.²⁹³ The AFM Trustees had raised £6.7m, including £1.5m from the sale of Trafalgar Coins (announced by Mr Gordon Brown, the Chancellor of the Exchequer, in February 2006), £2.417m from the Millennium Commission (agreed in November 2006), with the balance from public subscriptions. There was no realistic prospect of significant further public contributions. Trustees had therefore asked the MOD to provide £500,000 to complete the project.

²⁸⁹ House of Commons, *Official Report*, 10 November 2000, column 413W.

²⁹⁰ House of Commons, *Official Report*, 20 March 2002, column 311W.

²⁹¹ Minute Jeffrey to Secretary of State [MOD], 29 June 2006, ‘Armed Forces Memorial’; Minute Secretary of State [MOD] to PUS [MOD], 30 June 2006, ‘Armed Forces Memorial’.

²⁹² Armed Forces Memorial website.

²⁹³ Email MOD [junior official] to Hardern, 15 May 2008, ‘SPB interest in AFM’.

432. AM Pocock told the Inquiry that the process of securing funding for the Memorial illustrated the difficulty of translating intent into action:

“Although the political intent was perfectly clear, we were also told there was going to be no public money for it. We were hoping to get some money from the Lottery. We did eventually, after some strong support from newspapers caused the Lottery to change the rules.

...

“We had the designs, it was in The Queen’s diary to come and open it. We actually had to let the contract but we didn’t have the money, and it wasn’t from lack of effort ... I remember going round embassies with a begging bowl and all sorts of things, but the money just wasn’t forthcoming.

“The difficulty we had in getting the guarantee from the department [the MOD] was immense. We eventually did. We were able to build it.”²⁹⁴

433. Both AM Pocock and VAdm Wilkinson felt that the Memorial provided a strong focus for remembrance. VAdm Wilkinson told the Inquiry:

“The focus for recognition and remembrance that it [the Memorial] has provided and the source of comfort to a number of bereaved families, it really is quite remarkable, perhaps, that, as a nation, we didn’t have one before 2007.”²⁹⁵

434. The Memorial also provides a home for the Basra Memorial Wall. The wall was originally built in 2006 outside the headquarters of Multi-National Division (South East) in Basra by members of 37 Armoured Engineer Squadron to commemorate those who died in or as a result of action in Iraq.²⁹⁶

435. PJHQ advised Mr Browne’s Office in June 2007 that its “current intent” was to move the Basra Memorial Wall (which comprised a collection of memorial plaques from the various bases that UK forces had occupied) to the National Memorial Arboretum when UK forces left Basra.²⁹⁷

436. The Memorial Wall was brought to the UK in April 2009, and was re-dedicated in March 2010.²⁹⁸

²⁹⁴ Public hearing, 19 July 2010, pages 59-60.

²⁹⁵ Public hearing, 19 July 2010, page 61.

²⁹⁶ British Army website, 11 March 2010, *Basra Memorial Wall rededicated in moving service at its new home*.

²⁹⁷ Minute Green to APS/Secretary of State [MOD], 29 June 2007, ‘Request from Families of Dead Service Personnel to Visit Basra’.

²⁹⁸ *BBC News*, 11 March 2010, *Service to rededicate Basra Memorial Wall*.

The Elizabeth Cross

437. On 10 June 2008, Mr Browne announced the inauguration of a new award.²⁹⁹

438. The award itself had been proposed by the Chiefs of Staff, who concluded that the time was right to recognise the “families of those personnel who die on operations, or as a result of terrorist action whilst on duty”. Mr Browne confirmed that the recommendation had been welcomed by Ministers and approved by Her Majesty The Queen. Paying tribute to the bravery and courage shown by the families of all serving personnel, he hoped that the new award would “provide a more visible form of recognition from the nation for those who pay the ultimate sacrifice in the name of their country”.

439. VAdm Wilkinson told the Inquiry that there was “unanimity” among the Chiefs of Staff “that it was appropriate to recognise the sacrifice that bereaved families had made”.³⁰⁰ The proposal reflected consultation with serving personnel and with bereaved families, as well as consideration of what other nations do to recognise the sacrifice that Service families make.

440. Mr Ainsworth, Mr Browne’s successor as Defence Secretary, set out further detail about the award and the circumstances in which it would be given in July 2009.³⁰¹ He confirmed that The Queen had agreed that the award should be known as the Elizabeth Cross, the first new honour to take the name of a serving monarch since the creation of the George Cross in 1940.

441. It would commemorate the lives of those who had died on operations or as a result of terrorism from 1948 onwards (or from 1945 in the case of service in Palestine), in order to fit with the end of the period in which deaths are officially attributed to service in World War II. He reminded Parliament that “this is not a posthumous medal for the fallen but national recognition for the family for their loss”. The award would consist of the Elizabeth Cross itself – awarded to the named next of kin – and a Memorial Scroll, copies of which could be presented to certain additional members of the deceased’s close family. Both the Cross and the Scroll would be awarded on application, as contact details for the several thousand eligible families were unlikely to be up to date.

442. The first presentation of the Elizabeth Cross, made by The Queen, took place in Catterick Garrison, North Yorkshire, on 12 September 2009.³⁰² Those receiving the awards included five families of soldiers killed in Iraq.

443. The Inquiry’s conclusions and lessons on the preparations made for repatriating the bodies of those who lost their lives serving on Operation TELIC, how their deaths were investigated, and the support provided for bereaved families are set out in Section 16.4.

²⁹⁹ House of Commons, *Official Report*, 10 June 2008, column 10WS.

³⁰⁰ Public hearing, 19 July 2010, pages 58-59.

³⁰¹ House of Commons, *Official Report*, 1 July 2009, columns 18-21WS.

³⁰² *BBC News*, 12 September 2009, *Queen honours regiment’s fallen*.

