

REDRESS REPORT: UK ARMY IN IRAQ

The Secretary of State's response to the recommendations of the Redress report entitled "*UK Army in Iraq: Time to Come Clean on Civilian Torture*" is set out below.

1. Release to the public in a timely fashion all documents relating to detainee abuse in Iraq:

a. Release the preliminary findings and evidence which led to such findings, of Brigadier Aitken, the Director of Army Personnel Strategy. Ensure that the report that Brig. Aitken has been compiling is released to the public once finalised; if the Report is not scheduled for release in the near future, ensure that an interim report is promptly made available to the public;

The Aitken report was released in its entirety on 25 January, and a copy was sent to you. The report may also be found here:

<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/DoctrineOperationsandDiplomacyPublications/OperationsInIraq/TheAitkenReport.htm>

b. Release the 'Fenton Report' entitled: "Death in detention," dated 18th September 2003. Major Fenton was Chief of Staff for 19 Mechanised Brigade and following the death of Baha Mousa he compiled a report of the events for his commanding officer;

The Fenton report will be released shortly. It is necessary to ensure that no sensitive material is made public, and therefore we are currently considering what, if any, material might need to be redacted.

c. Release documents produced in courts martial (In the court martial relating to Baha Mousa, apart from the transcript, none of the approximately 50 A4 Archlever folders that were tendered into evidence by the Prosecution and Defence have been disclosed to the public or to the family members of the victims, despite ongoing Freedom of Information Act requests and litigation);

A large proportion of the documents produced in the Courts Martial were released to Public Interest Lawyers (PIL), who represent Baha Mousa's family, on 31 October 2007. This was to allow PIL make representations to the Secretary of State regarding any future inquiry. In line with the terms of a High Court Order, the material was disclosed to PIL subject to redactions on grounds of legal professional privilege and by reference to defence and security sensitive information and information liable materially to prejudice relations between the UK and any other State. These are considerations that always apply when we consider requests for disclosure under the Freedom of Information Act, or in any other context.

d. Release documents relating to interrogation techniques (including policy documents, doctrine documents and standing orders drawn up by various levels of the military as well as NATO documents that relate to detainee handling).

A number of appropriately redacted documents relating to the apprehension, handling and processing of detainees and internees have been released to you. We are currently considering the release of further information subject to any redactions which may be necessary.

2. Following the decision of the Appellate Committee of the House of Lords in *Al Skeini v. SSD*, in which the extraterritorial applicability of the ECHR and HRA was recognised at least in respect of UK-controlled places of detention, specifically incorporate the ECHR and HRA standards into relevant policy documents, doctrine and standing orders. The UK Government should also formally recognise that in addition to the ECHR and HRA, other human rights obligations, including those arising under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also have extraterritorial effect.

Any relevant changes to the law, or to UK policy, are reflected in doctrine. This ordinarily takes place at the appropriate doctrine publication's next routine revision, but in exceptional cases, a change in law or policy will prompt a specific revision or amendment. As a matter of best practice, the ECHR was considered in our policy and doctrine prior to the conclusion of the *Al-Skeini*

case. For instance, JDN 3/06 (“Human Intelligence”) was published in April 2006, and makes specific reference to the ECHR. Where revisions were required to address the Al-Skeini judgement, these have been completed for some documentation and are in progress for the remainder.

The standards of conduct and physical treatment of prisoners required of UK forces are, and have always been, in accordance with the relevant international law, and the domestic criminal law that applies to UK forces at all times, wherever in the world they are serving. Service personnel can, and will, be prosecuted if there is evidence that they have tortured, assaulted or committed any other offence against a person. Those standards are not affected in any way by the question of the application of the ECHR or UN Convention against Torture.

3. Ensure that all UK troops are properly trained in human rights and humanitarian law. An independent review should be conducted of all existing training materials, curricula and guides in circulation throughout the military to assess whether they comply with international standards, and to prompt amendments as appropriate. In addition, in addition to new recruits, all members of the military should receive regular training on international standards at frequent intervals.

The MoD has detailed policy on training the Armed Forces in the Law of Armed Conflict (LOAC). All officers and soldiers receive education during basic training, once annually and during pre-deployment training, as well as at key stages in their careers. This policy was updated in June 2007, and clearly states that the MoD’s training regime for the Armed Forces must comprehensively cover the UK’s human rights obligations.

Two reviews covering training have been undertaken. The first of these is the independent report by Brigadier Aitken. This report found that the practical training now provided for the Army deploying on operations provides significantly better preparation in dealing with the detention of civilians than ever before, and that the LOAC training provided to the Armed Forces is demonstrably effective.

An additional internal report by the Directorate of Operational Capability (DOC) studied the Armed Forces' overall approach to training in both prisoner detention and questioning. This included commentary on 'Values and Standards' and 'Operational Law'. DOC is tasked with reviewing and analysing capability, exposing risk, identifying strategic lessons and presenting recommendations to maximise effectiveness and provide assurance. DOC is independent of the chain of command, internally transparent and impartial, allowing an open and candid appreciation of the subject matter.

The DOC report found that there were no major flaws in any current documentation or training, and that there had been significant improvements since 2003/4. The report recommended some further improvements to address the complex nature of modern operations, all of which have been accepted and are being taken forward.

4. Safeguards and procedures must be specifically put in place to ensure that all victims of UK military abuse and/or their families are treated with respect for their dignity, safety and privacy. Those that have filed complaints with the military must at a minimum be provided with regular updates on the progress of their complaints and given the opportunity to participate in proceedings, including by expressing their views and concerns. Effective measures of reparation should be instituted including restitution, compensation and rehabilitation as well as satisfaction and guarantees of non-repetition.

The rule of law is paramount in everything the Armed Forces do, and the MoD takes very seriously any allegations of wrong-doing by our troops. Matters such as these are thoroughly investigated.

We take care at all times to keep individuals informed of the progress of any complaints they have made, and our staffs are trained to always treat those making allegations with respect and dignity. All claims from individuals are considered and dealt with on an individual basis.

There is no basis in international law for compensation to be paid where soldiers have acted lawfully. If a soldier has acted unlawfully, then the MOD will consider whether there is a legal basis for a claim for damages. That may

include an entitlement to damages under the ECHR and Human Rights Act where the victim has been held in a UK-run detention facility and where UK forces have acted unlawfully. Where there is a legal liability to pay compensation we would do so.

5. A full independent, public inquiry should be held into detainee abuse in Iraq and other locations as appropriate, including instances in which the UK military can be said to have participated in, acquiesced or otherwise facilitated or condoned detainee abuse carried out by non-UK military or civil personnel.

I have agreed to receive representations as to what form any further investigation should take from the legal representatives for Mr Mousa's family (Public Interest Lawyers, PIL). PIL are currently reviewing the documents from the Courts Martial which we disclosed to them, and will make representations to me upon completion of this work. I will be considering those representations before making a decision, and will make an announcement when I have done so. The issues which you raise here will be used to inform my decision.

6. Publicly identify and hold accountable those responsible for all the strategic failures which led to the abuse and institute appropriate safeguards to ensure that the abuse is not repeated.

Brigadier Aitken has examined these events in his report. Since this time of the incidents, the Army has already done a great deal to improve its procedures. I am satisfied that the Army is doing everything possible to ensure that its personnel do not repeat the appalling acts that were perpetrated in these cases. I believe that Brigadier Aitken has demonstrated this in his report, but of course there is no room for complacency.

The Army has a criminal justice system which applies in whatever circumstances British troops find themselves. The Aitken report has a section on the Military Criminal Justice System, starting at page 16 (paragraph 27), which details the disciplinary and administrative action processes which may be used to regulate the behaviour of Military personnel. The report mentions that administrative action was considered against some individuals but ruled out, and in one case an officer was initially sanctioned after an administrative

investigation, but that sanction was overturned on appeal. The future inquiry into the circumstances surrounding the death of Baha Mousa will also consider any strategic failures.

All theatre detention facilities are regularly inspected by Provost Marshall (Army) to ensure that all detainees arrested and held by UK Forces are treated humanely and with respect at all times, in accordance with UK law, the Law of Armed Conflict, and other relevant international obligations.

The Ministry of Defence has no intention of publicly identifying individuals who may be considered accountable for the strategic failures which led to ill-treatment of Iraqi civilians. The names of those individuals who have been brought to trial are already in the public domain, but it would be wrong to name individuals who have not been convicted of a criminal offence, or contravention of military discipline. In his Report, Brigadier Aitken describes what he believes were the failures which led to a situation in which Iraqi civilians were abused. My concern is to ensure that we continue to strive to take the necessary measures to ensure such a situation will not arise again, and of course, if individuals are considered blameworthy, appropriate action will be taken.