

THE BAHAMOUS INQUIRY

Finlaison House
15 - 17 Furnival Street
London
EC4A 1AB

MANAGEMENT STATEMENT

MANAGEMENT STATEMENT

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BAHA MOUSA INQUIRY

MANAGEMENT STATEMENT

INTRODUCTION

1. This Management Statement and its associated Financial Memorandum and Security Memorandum have been drawn up by the Ministry of Defence ('the MOD') in consultation with the Baha Mousa Inquiry, Finlaison House, 15 - 17 Furnival Street, London EC4A 1AB. The purpose of the document is to ensure that clear roles and responsibilities are in place which will facilitate the smooth running of the Inquiry.
2. The Inquiry is an independent, public inquiry established under section 1 of the Inquiries Act 2005 ('the Act'). It is in the public interest for the Inquiry to be conducted at all times in a way that ensures:
 - a. The independence of the Chairman and Panel Members (if any) in determining how to undertake the Inquiry in order to meet the Terms of Reference;
 - b. The thorough examination and consideration of all the evidence and issues that the Inquiry determines to be pertinent to its Terms of Reference in order to ensure that its conclusions are complete and robust;
 - c. The fair treatment of witnesses and all other parties whose interests are affected by the work of the Inquiry; and
 - d. That the Inquiry is conducted as economically and expeditiously as possible.
3. None of the provisions in this document and its annexes shall be read or applied in such a way as to derogate from or compromise these principles.
4. In addition, the MOD will do everything that is reasonable to support the Inquiry financially having due regard to securing value for public money so as to enable it to fulfil its Terms of Reference in an efficient and expeditious manner.
5. The Management Statement sets out the broad framework within which the Inquiry will operate and includes:
 - The Inquiry's Terms of Reference;

- The conditions under which any public funds are paid to the Inquiry;
 - How the Inquiry may account for its expenditure; and
 - Staff management and security issues.
6. Neither the Management Statement nor the Financial Memorandum conveys any legal powers or responsibilities.
 7. The associated Financial Memorandum sets out in greater detail certain aspects of the financial provisions which the Inquiry shall observe.
 8. This document and its annexes have been agreed between the MOD and the Baha Mousa Inquiry. Amendments may be agreed between the MOD and the Inquiry at any time

STATUTORY BASIS AND TERMS OF REFERENCE

9. The Baha Mousa Inquiry has been established as a public inquiry by the Secretary of State for Defence, who informed Parliament by Written Ministerial Statement on 14 May 2008. The Inquiry was set up under the Inquiries Act 2005 with the Terms of Reference that are set out below:

“To investigate and report on the circumstances surrounding the death of Baha Mousa and the treatment of those detained with him, taking account of the investigations which have already taken place, in particular where responsibility lay for approving the practice of conditioning detainees by any member of the 1st battalion The Queen’s Lancashire Regiment in Iraq in 2003, and to make recommendations..”

RESPONSIBILITIES AND ACCOUNTABILITY

10. The **Secretary of State** for Defence is accountable to Parliament for the funding and overall support given to the Inquiry. He may designate another minister to assist him in the discharge of his duties. The Secretary of State’s responsibilities include:
 - Appointing the Chairman and Panel Members (if any);
 - Setting the Terms of Reference;

- Providing financial and other resources to the Inquiry;
- Responding to requests to the MOD from the Inquiry;
- Reporting to Parliament on the Inquiry; and
- Receiving the Inquiry report, and responding to the Inquiry's findings.

11. The **Chairman and the Panel Members (if any)** are appointed by the Secretary of State for Defence. Subject to the principles set out at paragraphs 2 and 4 above, they are responsible and accountable for the proper management of public resources and expenditure on Inquiry business. This accountability will normally be through the Inquiry Secretary to the Permanent Secretary as Principal Accounting Officer for the MOD. The Chairman and the Panel Members'(if any) duties include:

- Conducting the Inquiry;
- Providing strategic leadership to the Inquiry;
- Responsibility for the efficient use of Inquiry resources;
- Ensuring high standards of probity and impartiality; and
- Collating and assessing all the evidence and presenting the Inquiry's findings and recommendations to the Secretary of State in accordance with their statutory obligations.

12. The Permanent Secretary of the MOD, as the department's **Principal Accounting Officer**, is responsible for the standard of financial management in the department as a whole. In this context, the Principal Accounting Officer is accountable to Parliament for spending by the Inquiry.

13. In particular the Principal Accounting Officer of the MOD will want to be assured that:

- The financial and other management controls applied by the MOD to the Inquiry are appropriate and sufficient to safeguard public funds and for ensuring that the Inquiry's compliance with those controls is effectively monitored; and
- The internal controls applied by the Inquiry conform to the requirements of regularity, propriety and good financial management.

14. The Central Top Level Budget - Finance (CTLB-Fin) within the MOD is the **Sponsoring Unit** for the Inquiry The Unit, in consultation with others as necessary, is the primary source of advice to the Secretary of State on the discharge of his responsibilities in respect of the Inquiry, and the primary point of contact for the Inquiry in dealing with the MOD on matters concerning funding, the management of public resources and administration issues. The Sponsoring Unit shall advise the Secretary of State on:

- The agreed budget/forecast for the Inquiry;
- Progress being made by the Inquiry; and
- Issues that the inquiry would like brought to the attention of the Secretary of State, other than those concerning the MOD as a Full Participant in the Inquiry (see below).

15. In support of the Principal Accounting Officer CTLB-Fin will:

- Monitor the Inquiry's expenditure and keep abreast of its management plans on a continuing basis through regular meetings between the Head of the Sponsoring Unit and the Inquiry Secretary;
- Address in a timely manner any significant problems raised by the Inquiry concerning its finances or other resources; and
- Inform the Inquiry of relevant Government policy and procedures relating to financial management in a timely manner; advise as appropriate on the interpretation of that policy; and issue specific guidance to the Inquiry as necessary.

16. The **Inquiry Secretary** shall ensure that the Inquiry's affairs are conducted with due probity in line with the requirements of Managing Public Money and any subsidiary rules and or regulations governing expenditure in the MOD. Under the direction of the Chairman and the Panel Members(if any), the Secretary has a particular leadership responsibility for:

- Promoting and advising the Panel on the efficient and effective use of staff and other resources;
- Ensuring that adequate internal management and financial controls are maintained by the Inquiry, including effective measures against fraud and theft, and ensuring that any statutory or administrative requirements for the use of public funds are complied with;

- Ensuring that all public funds made available to the Inquiry are used for the purpose intended by Parliament, and that such monies, together with the Inquiry's assets, equipment and staff, are used economically, efficiently and effectively;
- Ensuring that the Inquiry operates within the limits of its remit and any delegated authority agreed with CTLB-Fin, and in accordance with any other conditions relating to the use of public funds, and taking corrective or appropriate action as necessary in response to likely overspends or other adverse financial risks;
- Preparing the Inquiry's business plan and forecast expenditure and liaising as appropriate with CTLB-Fin;
- Keeping CTLB-Fin informed of the Inquiry's progress in achieving its policy objectives and how resources are being used to achieve those objectives;
- Providing CTLB-Fin with timely forecasts and monitoring information on performance and finance, and notifying it promptly if overspends or underspends are likely or any other significant management or financial problems;
- Implementing risk management and other relevant financial or management guidance promulgated by the Treasury and/or the Cabinet Office;
- Ensuring that Government information given to the Inquiry is handled in accordance with MOD security regulations; and
- Ensuring that effective personnel management policies are maintained.

17. The Inquiry Secretary shall consult with CTLB-Fin and other relevant divisions within the MOD, and other sources of financial, procurement or other expertise within central Government as necessary to assist in the efficient, effective and expeditious pursuit of the Inquiry's Terms of Reference.

18. The **Inquiry staff and those engaged to support them** shall act in accordance with their wider responsibility to:

- Comply at all times with the rules relating to the use of public funds and to conflicts of interest;
- Have heed to any relevant paragraphs on impartiality and conflicts of interest in their terms and conditions;

- Ensure that information gained in the course of their public service is not misused for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- Comply with Government guidance on the acceptance of gifts and hospitality, and of business appointments;
- Ensure that Government information given to the Inquiry is handled in accordance with MOD security regulations; and
- Act in good faith and in the best interests of the Inquiry.

PLANNING, BUDGETING AND AUDIT

19. The Inquiry shall produce an outline business plan and indicative budget. The business plan shall include key targets and milestones for the establishment and running of the Inquiry and shall be linked to budgeting information so that resources are allocated to achieve specific objectives.

Reporting financial performance to the MOD

20. The Inquiry shall operate management information and accounting systems which enable it to review in a timely and effective manner its performance against the budgets and targets set out in its business plan.
21. As noted above, the Inquiry Secretary is responsible for notifying CTLB-Fin if there are any external conditions which could affect the smooth running of the Inquiry – particularly if this could result in a need to re-examine the budget allocated to the Inquiry.

Budgeting procedures

22. The Inquiry's budgeting procedures are set out in the Financial Memorandum at Annex A.

Internal audit

23. All the Inquiry's procedures and processes should comply with audit requirements. Auditors should be given access to the Inquiry's management records, but not to records concerning the evidence obtained by the Inquiry, the analysis or interpretation of that evidence, the decisions of the Panel, the Inquiry's dealings with

witnesses and other parties to the Inquiry or any other records where this would conflict with the overriding principle outlined at paragraph 3 above.

Additional departmental access to the Inquiry

24. In addition to the right of access referred to in paragraph 23 above, the MOD shall be given access to all the Inquiry's relevant management and personnel records only to the extent that this is necessary to support the Inquiry Secretary in providing the appropriate level of financial assurance to the MOD, and in supporting the duty of care owed to the Inquiry staff.
25. The MOD shall not have access to records which relate to the evidence obtained by the Inquiry, the analysis or interpretation of that evidence, the decisions of the Panel, or the Inquiry's dealings with witnesses and other parties to the Inquiry, or any other records where this would conflict with the principles outlined at paragraph 2 above.

Register of interests

26. The Inquiry shall maintain a written register of interests and provide a copy of that document, and any changes to it, to the Sponsoring Unit. Panel members (if any), Inquiry staff and others engaged on Inquiry business (including contractors or consultants) should declare any interest they have in respect of the nature of the inquiry. Similarly, records should be kept of any financial interest by panel members or Inquiry staff in any company/consultant engaged by the Inquiry. A record should also be kept if any panel member or Inquiry staff knows any of the parties or witnesses.

STAFF MANAGEMENT

27. The Inquiry Secretary shall ensure that:
 - Staff are treated fairly on the basis of merit;
 - There is no discrimination or harassment on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
 - Staff receive appropriate training;
 - Procedures are in place to ensure that the performance of its staff at all levels is satisfactorily appraised in order to deliver the Inquiry's objectives;

- Its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Inquiry's objectives;
- Proper consultation with staff takes place on key issues affecting them;
- Adequate grievance and disciplinary procedures are in place¹; and
- Staffs are aware of whistleblowing procedures.

Signed on behalf of the MOD

Signed on behalf of the Inquiry

NOVEMBER 2008

¹ Staff on loan from Government Departments will be dealt with under their own Departmental procedures whilst all other staff engaged on the Inquiry should use Ministry of Defence procedures unless others are specified in their contracts. The Sponsoring Unit should be contacted if any formal grievance procedure is initiated and is available for advice and guidance if required.

BAHA MOUSA PUBLIC INQUIRY

FINANCIAL MEMORANDUM

INTRODUCTION

1. This Financial Memorandum, which forms part of the Management Statement for the Inquiry, sets out in greater detail certain aspects of the financial framework within which the Inquiry should operate.
2. For financial accounting purposes the Inquiry will not run separate accounts, draw down grants or grant-in-aid, nor will it need to lay its finances before Parliament separately from the MOD. Expenditure by the Inquiry will be included in central MOD figures
3. The Inquiry is accountable for expenditure to the Secretary of State and will therefore take appropriate account of general Government financial guidance seeking advice from the CTLB-Fin as desired. The Inquiry should follow resource accounting principles
4. Nothing in this Memorandum shall derogate from the independence of the Chairman and the Panel Members (if any) and their responsibility for determining how to pursue the Inquiry in keeping with the above principles, and that none of the provisions in this document and its annexes shall be read or applied in such a way as to require or permit any such derogation.

INCOME AND EXPENDITURE - GENERAL

The Departmental Expenditure Limit (DEL)

5. The Inquiry's current and capital expenditure form part of the MOD's Resource DEL and Capital DEL respectively.
6. The Inquiry Secretary shall be responsible for ensuring that:
 - The financial forecast is maintained;
 - All financial commitments made by the Inquiry can be met within the forecast;

- Forecast spending profiles are revised as necessary;
- Significant deviations from the profiles are explained to CTLB-Fin;
- All spending is recorded; and
- Resource accounting and budgeting rules are followed.

Procurement

7. The Inquiry will consult as necessary with the MOD's Commercial division or other sources of particular procurement expertise within the Government (e.g. the Treasury Solicitor's Department or the Office of Government Commerce) on the practical application of the procurement guidance and control limits. So far as is practical and proportionate, all contracts shall be placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall (including quality, fitness for purpose, and delivery against price). Any derogation from Government procurement practice shall require the prior approval of CTLB-Fin
8. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken. Where contracts awarded may need to exceed one year in duration, they should normally be for a year with the option for extending beyond a year if needed, except where the business needs of the Inquiry or the duration of the business requirement clearly require otherwise. Contracts should not be awarded for any period beyond the reasonable life of the Inquiry, except where this is necessary given the nature of the particular market and with the prior approval of the MOD CTLB-Fin.

Timeliness in paying bills

9. The Inquiry shall prepare and authorise invoices for payment and forward to CTLB-Fin for processing in time for them to be paid within 30 days (or in accordance with the terms of contracts).

Novel, contentious or repercussive proposals

10. The Inquiry shall obtain the approval of CTLB-Fin before:

- Incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits; or
- Making any significant change in the scale of operation or funding of any particular operation or scheme for which previous approval by the ~~MOD~~ was required; or MOD
- Making any change of policy or practice which has wider financial implications for public sector bodies, or which might significantly affect the future level of resources required.

End of Year Flexibility

11. End of year flexibility in financial resources will be negotiable with CTLB-Fin

Virement

12. The Inquiry has no delegated authority to reclassify expenditure between any of the three main classifications of expenditure, i.e. Administration, Programme and Capital.

Write-offs / Ex-gratia payments

13. The Inquiry must obtain approval from CTLB-Fin for any write-offs or ex-gratia payments.

Staff costs

14. Subject to its delegated levels of authority, the Inquiry shall ensure that the creation of posts within the Inquiry does not incur forward commitments which will exceed its ability to pay for them or conflict with limitations of departmental staff complements.

Pay and conditions of service

15. Civil servants working for the Inquiry shall be employed by, or be on loan to, the MOD. Remuneration and terms and conditions of service will therefore be in line with the policy of the MOD or their home department as indicated in their letter of appointment. The Inquiry has no power to vary these policies.
16. Travelling expenses and other allowances for civil servants in the Inquiry will be paid at MOD rates. These will not necessarily apply to contractors engaged by the Inquiry.

17. Pension arrangements for civil servants employed by the Inquiry will be standard arrangements for the Principal Civil Service Pension Scheme.
18. The Chairman, Panel Members (if any) and Counsel have been provided with separate terms and conditions which specify their remuneration and allowances.
19. Other contractors may be engaged by the Inquiry as required, subject to ensuring that terms of any such appointments represent value for money.

Lending, guarantees, indemnities; contingent liabilities; letters of comfort

20. The Inquiry shall not, without CTLB-Fin's prior written consent, lend money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in chapter 5 of *Managing Public Money*), whether or not in a legally binding form.

Leasing

21. Prior approval from CTLB-Fin must be secured for all property and finance leases. No lease shall be entered into which extends beyond the reasonable remaining life of the Inquiry.

Commercial insurance

22. The Inquiry shall not take out any insurance without the prior approval of the MOD, other than third party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation or which is permitted in Chapter 4 of *Managing Public Money*.

MANAGEMENT AND DISPOSAL OF FIXED ASSETS

Register of assets

23. The Inquiry should keep an accurate and up-to-date register of its fixed assets, as well as a register of all movable assets (like mobile phones and laptop computers) and who has them.

Disposal of assets

24. The Inquiry shall dispose of assets which are surplus to its requirements. Assets shall be sold for best price, taking into account any costs of sale, or returned to the MOD or another Government department as appropriate. High value assets shall

be sold by auction or competitive tender (unless otherwise agreed by CTLB-Fin, and in accordance with *Managing Public Money*, Chapter 4.

25. CTLB-Fin shall be notified of any sales and must give approval for the retention of receipts from assets.

Setting the annual resource requirement

26. The Inquiry's approved annual business plan will take account both of its approved funding provision and of any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure.
27. This profile should be updated throughout the year and any significant deviations should be explained to CTLB-Fin.
28. Monthly returns shall be made to CTLB-Fin to provide information on the Inquiry's financial position.

COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE

Relevant documents

29. The Inquiry shall comply with the following general guidance documents:
- The Management Statement and the Financial Memorandum;
 - *Managing Public Money guidance*
 - *Government Internal Audit Standards*, issued by the Treasury;
 - *Managing the Risk of Fraud*, issued by the Treasury;
 - *The Fees and Charges Guide*, issued by the Treasury;
 - Relevant *Dear Accounting Officer* letters;
 - *Regularity and Propriety*, issued by the Treasury;
 - Other relevant instructions and guidance issued by the central departments;
 - Specific instructions and guidance issued by CTLB-Fin- in accordance with the Management Statement or the Financial Memorandum; and
 - Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, which have been accepted by the Government and which are relevant to the Inquiry.

REVIEW OF FINANCIAL MEMORANDUM

30. This Financial Memorandum will be reviewed in 2010 if the Inquiry is still underway, or earlier if required.

HELP AND SUPPORT

31. CTLB-Fin will provide appropriate advice, support and training to members of the Inquiry on financial control and management.