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SECRETARY OF STATE

MSU4/5/2 mw

13 February 2007

Dear Harriet,

**PROPOSALS ARISING FROM MEETING WITH RELATIVES OF SERVICE
PERSONNEL ON THEIR EXPERIENCE OF THE INQUEST SYSTEM**

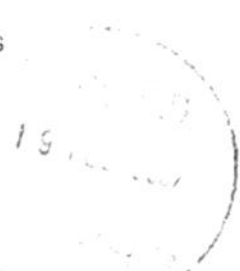
Thank you for your letter of 18 December 2006 letting me know of the issues that arose from your meeting with some relatives of Service personnel who died in Iraq. Perhaps I might comment, in the order in which you raised them.

Regionalisation

As you know, I am keen to support any initiative that would make the inquest process easier for bereaved families. Having inquests closer to home would help, and 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. This is a welcome development provided that flexibility is retained. There will be occasions when the Oxfordshire coroner, with the excellent pathology services available to him, would be able to release a body to the family significantly quicker than some 'home' coroners and this advantage needs to be balanced against that of hastening the inquest process. I know that you believe, as I do, that what is

The Rt Hon Harriet Harman QC MP
Minister of State for Constitutional Affairs

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best for the families must be at the forefront of our minds. We will aim to build this flexibility into our procedures, which we will of course discuss with your officials. I assume that, once all details have been agreed, your Department will inform coroners in England and Wales of this arrangement, as necessary. We also wish to make an announcement to Parliament.

You mentioned the particular issue of Scottish fatalities. As you say, there is a significant difference between the laws of England and Scotland in relation to inquests. I note that your officials are looking at the possibility of a coroner in the north of England taking on inquests into the Scottish soldiers who have died in Iraq and Afghanistan. I think that we would need to be satisfied that this would not create new anomalies: for example, aligning the treatment of Scottish and English soldiers who have died in Iraq but creating a new difference in treatment with Scottish soldiers who die in Scotland, Germany or elsewhere (under training for instance), who would under the Scottish system still not receive an inquest. Unless or until Scottish law changes it may be simpler if we notify the 'home' procurator-fiscal of a body returning to Scotland, as we would notify the 'home' coroner of a body returning to England and Wales, and leave it to the procurator-fiscal to determine whether the circumstances allow or call for a fatal accident inquiry.

Information pack for families

I was disappointed to hear that the families who met you felt that they had not been properly informed or supported through the inquest. Our procedures provide for the families of deceased Service personnel to receive a considerable amount of information through the Visiting Officer. Specific information on the inquest process is also provided by the coroner's officers, who ensure that the families have a letter of introduction from the coroner together with all the relevant DCA leaflets and contact details. In addition, they are currently given a personal briefing by the coroner's officer prior to the repatriation ceremony. (This may change under the new arrangements as it cannot be assumed that a coroner's officer from another district will attend a

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repatriation ceremony.) Nevertheless, it is crucial that the families receive an appropriate briefing as early as possible from the coroner's office and Visiting Officers will be instructed to engage with the appropriate coroner at the earliest opportunity. We are continually reviewing our procedures for supporting bereaved families and have learnt many lessons as a result of operations in Iraq and Afghanistan and the most recent. I would be happy for our respective officials to engage and consider additional measures that can be taken to help families through the inquest process.

Victims' advocate service for Service families

I believe this relates closely to the matter discussed above. As already mentioned work to improve the support of the bereaved Service families is a continual process. All Visiting Officers are given detailed guidance as to the allowances and help that the families can expect to receive. Visiting officers are closely supervised to ensure that they provide the support that is expected of them. They are the primary point of contact between the families and the military for all matters pertaining to the death and act as a conduit for other support such as counselling. The Visiting Officer remains assigned to the families for as long as the next of kin require.

Early advance disclosure of, and paying for, documents

As you rightly say, the Service Board of Inquiry report, redacted for personal and operationally sensitive information, is supplied to the family and is done so in adequate time for the families to consider the findings prior to the inquest. The documents are provided at no charge to the families. Families have the opportunity to submit questions to the individual Service through their Visiting Officer if they wish.

As the inquest process is completely independent we believe that the disclosure of inquest documents should be matter between the coroner and the families. You mentioned that you were looking into the issue of payment for inquest documents and transcripts requested by bereaved families: in the case

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of to which you referred I understand that he was informed in advance of the charge that would be payable if he required a full transcript. Of course, if the coroner felt able to waive the charges this would be welcome, although I appreciate the concern about setting precedents.

Funding

My officials have explored at length with HM Treasury the possibility of making a claim against the Reserve. HM 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 initiative shows, ways in which the burden may be shared with other coroners.

Nevertheless, I am prepared to hold to my earlier offer of £125K for this financial year offer from the Defence Budget towards the costs of the Oxfordshire Coroner, despite the unwelcome additional pressure this will place on the Department's in-year financial position. I note from Alex Allan's letter to Ian Andrews, my 2nd Permanent Secretary, that the costs incurred by the Oxfordshire Coroner and Thames Valley Policy in this financial year are now estimated at £245,000.

MOD does not have the delegated authority to make this payment, due to its novel and contentious nature, but I can confirm that we have received Treasury approval on this occasion. However, in doing so, I must make clear that this is a one-off, ex-gratia payment and cannot be seen as setting a precedent for future inquest backlogs, should they arise.

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I recognise that this offer will be somewhat disappointing but hope it will allow us to move forward and I would be grateful for confirmation of your acceptance of this offer.

I am copying this letter to Lord Falconer and Stephen Timms.


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