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D/DCDS(Pers)/35/4

17 Aug 06

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## BOI TIMELINES – A PROPOSAL FOR EXTENSION

### ISSUE

1. A proposal to extend the current BOI timelines from 14 weeks to 27 weeks.

### RECOMMENDATION

2. SofS is invited to note that maximum efficiency, within resources, has been achieved and noting that for the Army in particular current timelines are not achievable, agree that:
  - a. The time given to a commander to decide to convene a BOI is extended from 48 hours to a maximum of 6 days.
  - b. The time taken to convene a BOI is extended from 48 hrs to a maximum of 5 weeks to allow for receipt of police, post mortem and technical reports.
  - c. There should be no significant change to the time taken to publish an Initial Report/Learning Account<sup>1</sup> and task specialist investigation teams.
  - d. The time taken for a BOI to sit is extended from 8 weeks to a maximum of 12 weeks.
  - e. The time taken for a completed report to be staffed to the MOD is extended from 6 weeks to a maximum of 10 weeks.

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<sup>1</sup> An Initial Report (RN/RAF) and Learning Account (Army) is a means by which **immediate** and obvious lessons are learned allowing procedures to be implemented to prevent an immediate reoccurrence of the incident. It usually informs the BOI. This will be achieved within **5 days** of the incident.

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- f. There is an improvement to the process for keeping Next of Kin informed.
- g. That electronic copies of the report will be sent to D S&C, DGLS and Corporate Memory.

### TIMING

- 3. Routine.

### BACKGROUND

4. The current timelines were introduced in June 2004 as part of an initiative to be more proactive in ensuring that the NOK of those who have died whilst serving in HM Forces are briefed on developments in an accurate and timely manner. The problems associated with convening a BOI are particularly apparent in the Army. Since the introduction of the new policy, and despite continuous refinement, no Army BOI has met the timeline. This situation does not allow for accurate identification of those that are habitually failing to meet timelines for no good reason. Extension of timelines will allow the Army to focus on those areas where change can be made. The RN and RAF are content with the current timelines but see merit in affording the President more time in the inquiry stage. I originally submitted on this subject on 29 March, but the submission was withdrawn pending MOD consideration of the Blake report which touched on BOI processes (at recommendation 32). In the event our response to the Blake report does not have any impact on this submission.

### THE PROBLEM

- 5. Detailed explanations of the problems behind the current timelines can also be found at Annex A. In summary they are:
  - a. Convening. It is not possible to produce a meaningful Learning Account and Convening Order within 48 hours. TORs are often dependent on police or LAIT reports which can take several months to produce. Where required, dispensation requests take longer to justify than the actual BOI process, resulting in much nugatory work.
  - b. Higher Level Staffing. It is not possible, even with the least complicated cases, to meet the current limit of 6 weeks to staff a report from its production to its delivery at the MOD.
- 6. Underlying this is a resource issue. The Army is currently required to convene BOIs into up to 20 cases of unnatural death or serious injury per month. As a comparison the RN and RAF generally have to contend with one or two. It takes time to identify and nominate suitably experienced and available presidents and board members. Confirmation of TORs<sup>2</sup> and the later findings of a BOI have to be staffed through legal staffs of whom there are correspondingly limited resources (6 at Regional Division level).

<sup>2</sup> TORs are often dependent on police or LAIT reports which can take several months to produce.

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7. There are no staffs permanently involved in BOI activity. All staffs conduct this activity as a small proportion of their overall workload to the extent that it is at the direct expense of other business including direct delivery of operational capability. This argument is particularly true for the Senior officers who must staff the report to MOD. Taking lawyers as an example of a pinch point within the Army's BOI process, it is estimated that an additional 15, allowing a lawyer to be allocated to each BOI, would improve the process. However, there is no headroom for additional posts in AG's area. Even with a specified requirement and sufficient resources the Army is unlikely to be able to recruit the additional staff. The illustrative table at Annex A demonstrates that even if this area were to be properly addressed, most reasons for delay lie outside of the direct influence of the Services.

### THE SOLUTION

8. Detailed proposals based on 2 years experience are at Annex B but in outline the solution is:

- a. Convening. Extend the convening process (including initial investigations and dispensation requests) from 2 days to a maximum of 5 weeks. However, for the majority of cases a decision to commence with a BOI can be taken after 5 days. In all cases NOK are briefed at the 6 day point and monthly thereafter.
- b. BOI. Extend the length of time for a BOI from 8 weeks to a maximum of 12 weeks.
- c. Higher Level Staffing. Extend the period for higher level staffing from 6 weeks to a maximum of 10 weeks.
- d. Submission to the MOD. Electronic copies of the BOI will be sent to D (S&C), DGLS and Corporate Memory instead of reproduced hard copies.

This proposal for an extension applies to the maximum time allowed. In the majority of uncomplicated cases BOIs should be resolved much more quickly, **and the objective remains to discharge every step as rapidly as possible.**

### PRESENTATIONAL ISSUES

9. Delays in completing BOIs have been linked in the media to delays in Coroners' Inquests. Some families, such as in the case of the RMP 6, 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. A newsbrief, cleared by DGMC, is at Annex C.

Seen by DCDS(Pers) and approved in his absence on leave

DCDS(Pers)

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Annexes:

- A. Explanation of Delay and Problems Encountered.
- B. Detailed Proposal for a Change in BOI Timelines.
- C. Newsbrief.

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ANNEX A TO  
D/DCDS(Pers)/35/4  
DATED 17 AUG 06

## EXPLANATION OF DELAY AND PROBLEMS ENCOUNTERED

### DELAY

1. The table below illustrates reasons for delay within the Army reported in November 2005:

Serial	Pre 1 Jun 04 (27)	Post 1 Jun 04 (22)	Reason for Delay
1	8	6	Waiting for police or post mortem reports
2	8	5	Returned for further staffing
3	7	5	Legal arguments, disciplinary action or APA
4	4	4	Availability of witnesses
5	0	1	Waiting for medical documents
6	0	1	Psychological Profile

### PROBLEMS ENCOUNTERED

2. Problems encountered are:

a. **Learning Account.** Learning Accounts do not meet the current timelines. Those that are close to it are usually returned for more detailed consideration. Invariably it is the same person drafting the Learning Account who is also liaising with the police, and organising the unit's casualty administration. It is recommended that the timeframe from the incident to delivery to PS4(A) is increased from 2 to a maximum of 5 working days. This is not considered to be a significant increase. Additionally, a more detailed and comprehensive LA, notably for in-Theatre operational fatalities and serious injuries, will usually contain sufficient substantive evidence to negate the need for a BOI.

b. **Terms of Reference (TORs) and Convening the BOI.** It is not possible to produce a meaningful Convening Order within 48 hours. Despite the recent introduction of standardised TORs, every case will remain different, will largely depend on the proven cause of death, and will have aspects which are dependent on the police investigation or other bodies such as specialist investigation teams that are mandated to report within one month. Convening and immediately adjourning is a poor option since this is, in effect, a paper exercise that belies the real situation of having to draft accurate TOR and finding available suitably qualified Presidents and Members. A solution that reflects both urgency and accuracy would be for a staff officer to be made responsible for co-ordinating all aspects of the investigations and inquiry, with the TOR required and BOI convened after a maximum time of 5 weeks.

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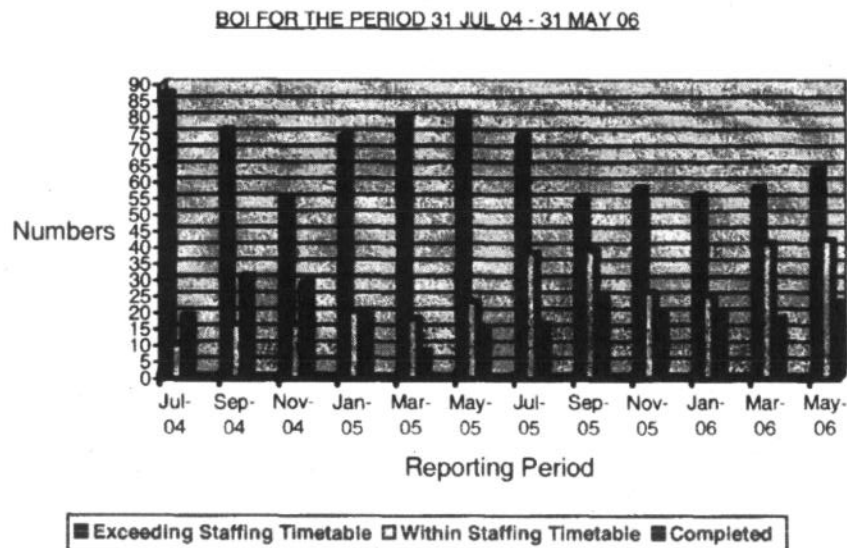
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c. **Dispensation.** There is seldom sufficient evidence available to justify a dispensation request within the mandated 6 days, except for operational incidents, where procedures will immediately be assessed by commanders. All other requests must be accompanied by an unequivocal statement that there is no military interest or hidden factors. As confirmation of this normally requires access to police or post mortem reports, it is recommended that the dispensation deadline is increased to 3 weeks.

d. **Higher Level Staffing.** Six weeks are currently allowed from the BOI end date to the completion of staffing by the Convening, Higher and Superior Authorities to the MOD. This timeframe has not been achieved even for the most simple of reports. Delays are caused by the non availability of staff and commanders, lack of thoroughness in the analysis of the evidence, and procedural errors, which require the return of the report to the President. The most realistic timeframe is assessed as at least three weeks for each level of staffing with a further three weeks for PPO staffs to prepare the report for briefing and release to the family and D S&C. Interactive staffing of drafts and resultant concurrent activity will make this process more efficient.

## Progress Since 2004

3. Notwithstanding the delay described, progress has been made. The graph below shows numbers of BOI open, exceeding timelines and the numbers that are closed. It can be seen that an improvement has occurred, but that **the rate of closure has now remained more or less consistent since January 2005**. This against a background of increasing numbers of new cases (in yellow).



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ANNEX B TO  
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## DETAILED PROPOSAL FOR A CHANGE IN BOI TIMELINES

Serial	Action	Current Timelines	Proposed Timelines
1	Inquiry process commences on the day of the incident.	1 Day	
2	Learning Account produced.	1 + 2	1 + 5
3	Progress report submitted, <b>NOK receive initial briefing<sup>3</sup></b> . Decision taken whether or not to proceed with BOI/apply for dispensation (Army) <sup>4</sup> .	1 + 2	1 + 6
4	Convening Order and TORs confirmed and published <sup>5</sup> <b>Progress report to NOK.</b>	1 + 2	1 + 5 weeks
5	<b>BOI Convened</b> and urgent actions identified Availability of SIB/specialist investigation reports are a key driver.	1 + 2	1 + 5 weeks
6	<b>Progress reports submitted to NOK.</b>	1 + 6 weeks	1 + 8 weeks 1 + 12 weeks 1 + 16 weeks
7	<b>BOI end date</b> with report sent to Convening Authority.	1 + 8 weeks	1 + 17 weeks
8	Convening Authority comments complete. <b>Progress report submitted to NOK.</b> Higher Authority comments complete.	1 + 9 weeks	1 + 19 weeks
9			1 + 20 weeks
10		1 + 10 weeks	1 + 23 weeks
11	Superior Authority comments complete. <b>Progress report submitted to NOK.</b>	1 + 12 weeks	1 + 25 weeks

<sup>3</sup> Briefings to NOK will then take place once a month even if there are no new developments to report.

<sup>4</sup> This process can take up to 3 weeks, particularly when external reports are required – an example might be a toxicology report.

<sup>5</sup> Whilst this can be substantially faster in simple cases, very often it is the lack of suitably qualified Board Presidents and Members combined with scarce legal advisors (6 at Regional HQ level in the Army) that add to delay.

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Serial	Action	Current Timelines	Proposed Timelines
12	Report passed to PPO staffs and MOD. Formal release to family.	I +14 weeks	I + 27 weeks

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ANNEX C TO  
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## NEWSBRIEF

**Q. Why is the time taken for a BOI to convene and report being extended?**

R. The current timelines were introduced in June 2004 as a result of a study into the BOI process. Information gathered at time was not sufficiently resilient to produce a truly objective assessment of how long BOIs into unnatural death and serious injuries may take. Since then, increasingly, police and technical investigations have also played their part in delaying the inquiry process. The extension of the timelines reflects the experience gained after 2 years collating BOI statistics.

**Q. Doesn't this change leave relatives in a position of not knowing what happened to their loved ones?**

R. The BOI is an internal inquiry designed to learn the truth behind an incident and prevent further repetition, it is important that we do this accurately and with due consideration. Relatives will be briefed after 6 days on initial findings and monthly until the BOI process has finished – this is an improvement to the current process. The BOI will often, but not always, inform a Coroner's Court and it is here, at a legally recognised hearing, that a verdict regarding the death of the victim will be passed.

**Q. What are the current and proposed timelines of BOIs?**

A. The current and proposed timelines for BOIs are best summarised in the table below:

Serial	Action	Current Timelines	Proposed Timelines
1	Inquiry process commences on the day of the incident.	1 Day	
2	Learning Account produced.	1 + 2	1 + 5
3	Progress report submitted, <b>NOK receive initial briefing<sup>6</sup></b> . Decision taken whether or not to proceed with BOI)/apply for dispensation (Army) <sup>7</sup> .	1 + 2	1 + 6
4	Convening Order and TORs confirmed and published <sup>8</sup> <b>Progress report to NOK.</b>	1 + 2	1 + 5 weeks

<sup>6</sup> Briefings to NOK will then take place once a month even if there are no new developments to report.

<sup>7</sup> This process can take up to 3 weeks, particularly when external reports are required – an example might be a toxicology report.

<sup>8</sup> Whilst this can be substantially faster in simple cases, very often it is the lack of suitably qualified Board Presidents and Members combined with scarce legal advisors (6 at Regional HQ level in the Army) that add to delay.

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Serial	Action	Current Timelines	Proposed Timelines
5	<b>BOI Convened</b> and urgent actions identified. Availability of SIB/specialist investigation reports are a key driver.	I + 2	I + 5 weeks
6	<b>Progress reports submitted to NOK.</b>	I + 6 weeks	I + 8 weeks I + 12 weeks I + 16 weeks
7	<b>BOI end date</b> with report sent to Convening Authority.	I + 8 weeks	I + 17 weeks
8	Convening Authority comments complete.	I + 9 weeks	I + 19 weeks
9			I + 20 weeks
10		I + 10 weeks	I + 23 weeks
11	<b>Progress report submitted to NOK.</b> Higher Authority comments complete. Superior Authority comments complete. <b>Progress report submitted to NOK.</b>	I + 12 weeks	I + 25 weeks
12	Report passed to PPO staffs and MOD. Formal release to family.	I + 14 weeks	I + 27 weeks

Interactive staffing and concurrent activity.

**Q. How many BOIs are not meeting the current BOI timelines?**

A. On 31 May 64 out of 106 BOIs into unnatural death or serious injury had not met the current BOI timelines.

**Q. How many Iraq BOIs are outstanding?**

A. There are currently 5 Iraq BOIs that are not yet completed, in addition there are 5 cases that are awaiting a decision as to whether or not a BOI should be convened.

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Tawn, Maria Mrs

**From:** SGT  
**Sent:** 17 August 2006 09:06  
**To:** SofS-Private Office  
**Cc:** MIN(AF)-Private Office; MIN(DP)-Private Office; USofS-Private Office; CDS-PSO; PUS-Private Office; VCDS-2ND PUS MA; 2nd PUS-Private Office; CNS-1SL EA; CGS-MA1; CAS-PSO; FLEET-CINCNA; FLEET-2SLCNH EA; AG-HQ AG MA; Land-Pers-ACOS; STC-CINC PSO; PTC-CinC-PSO; PJHQ-CJO-MA; DCDS(C)-MA1; Personnel Director-PA; Smith, AJ Maj; DGMC-DG-SPS; DG Op Pol-SPS; DGLS-DG; Andrews, Stephen Brig; Fuller, Martin Mr; PJHQ-ACOS J1 J4 PS; Mitchell, Jef Mr; SofS-SA-SPS  
**Subject:** BOI TIMELEINES - A PROPOSAL FOR EXTENSION - RE-SUBMISSION  
**Attachments:** 20060817 BOI Timelines - A Proposal for Extension Final.doc

Please see the attached from DCDS(Pers).



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17/08/2006

