



Ministry
of Defence

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Our ref: D/Min(AF)/PM MC2016/01652e

22 February 2016

Dear Ms. Ferstman,

Thank you for your letter of 27 January, to which I have been asked to respond. I reject utterly the suggestion that, by speaking out against the unprecedented number of claims brought in UK Courts following military operations in Iraq, Ministers are seeking improperly to influence either the criminal investigation of these allegations or the Solicitors Regulation Authority's investigation of two firms that specialise in these claims.

It is entirely proper that the Government should take the action it has – both in communicating its concerns to the Solicitors Regulation Authority and in developing proposals to limit the impact of litigation on the Armed Forces.

We have consistently paid tribute to the vast majority of Service Personnel deployed on operations overseas, who acted in accordance with the law and their training. Your point that the Ministry of Defence (MOD) has already paid out millions of pounds in claims does not prove that large numbers of serious crimes were committed. They reflect, for the most part, a judgment by Strasbourg that the detention of the people in question was incompatible with the European Convention on Human Rights – a judgment on which a subsequent Strasbourg decision has cast doubt. Nevertheless, we recognise that, while the Al-Sweady Inquiry demonstrates that some allegations will be exaggerated or even false, the case of Baha Mousa serves as a reminder that a small number of serious offences were undoubtedly committed. Where appropriate, compensation has been and will continue to be paid. However, MOD is continuing to expend considerable resources in defending vigorously very large numbers of unmeritorious claims.

As you note, there is a statutory duty under UK law to investigate credible allegations of criminal offences and to prosecute where appropriate. The task of assessing the credibility of the allegations falls to the Iraq Historic Allegations Team (IHAT). This unit supports the Service Police, and works under the supervision of the Provost Marshal (Navy). The Divisional Court ruled in 2013 that it is able to conduct independent investigations free from interference by the Executive.

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The IHAT have already filtered out nearly one thousand allegations which do not disclose a potential offence and some which have been downright false. To give just two examples: in one case the complainant subsequently admitted that he had fabricated the allegation that UK Armed Forces had shot dead a child; in the other the complainant alleged that UK Armed Forces had shot a passenger in a vehicle, despite the Danish Armed Forces accepting liability and paying compensation in 2003.

I do not see any impropriety – perceived or actual – in Ministers drawing attention to the fact that a significant proportion of the claims are false and to the impact that these investigations are having on Service Personnel and Veterans, particularly on those who have developed mental health problems as a result of their military service. Indeed, we would be failing in our duty to our Service Personnel and Veterans if we allowed the practice of bringing false or otherwise unmeritorious legal claims to continue unchallenged.

Like you, the Government is mindful of the Preliminary Examination that has been re-opened by the Prosecutor at the International Criminal Court and is co-operating fully with this process. The Prosecutor has visited the IHAT and we are confident that she will conclude that the UK is meeting its obligations to conduct genuine investigations into credible allegations.

PENNY MORDAUNT MP