

## **THE BAHAMOUSA PUBLIC INQUIRY**

### **CLOSING SUBMISSIONS (MODULES 1-3)**

#### **ON BEHALF OF DR DEREK KEILLOH**

##### **Executive summary**

1. Dr Keilloh was an honest witness who did his best to help the Inquiry. Whether or not the Inquiry disagrees with any judgments made by Dr Keilloh in Iraq in 2003, it should accept his integrity. In passing comment on any matters of judgment, it should of course note the beneficial effects of hindsight.
2. Dr Keilloh described his experience of being sent, through no fault of his own, into an extremely difficult situation in Op Telic 2 without adequate training, handover or support. Having been given no preparation for dealing with detainees, he inherited medical procedures which were somewhat unsatisfactory, notably in respect of record keeping. He improved the procedures on his own initiative after the death of Baha Mousa.
3. Dr Keilloh and his team did everything that could have been done in their attempt to save Baha Mousa's life.
4. During and after the resuscitation attempt, Dr Keilloh did not observe any injuries of a kind which should have made him suspicious of foul play. Nor can it be concluded that he should have observed such injuries. The clear balance of the evidence of eye-witnesses is that only minor injuries were visible in any event.
5. Following Baha Mousa's death, Dr Keilloh acted correctly by placing the matter in the hands of the RMP and the O Group and seeing that the body was safeguarded. It would not have been proper for him to examine the body.

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6. After Baha Mousa's death, Dr Keilloh examined detainees D004 and Ahmed AlMatairi. His examination was appropriate and found no injury. Indeed, the two detainees had not suffered any serious injury. In relation to Mr Al-Matairi, who has been found to have had a suspected DVT and a hernia, Dr Hill accepted that these injuries could have been missed on examination.
7. Following these events, Dr Keilloh was not remiss in not examining the remainder of the detainees before their departure the next day.

##### **General training, deployments before Iraq, pre-Iraq deployment training and arrival in Iraq**

8. Dr Keilloh's account of his training is contained in paragraphs 6, 7 and 20 of his first witness statement<sup>1</sup>

. This did not include anything about detainees or detention. The same is true of Dr Bartels<sup>2</sup>

, the medical officer seen by Lt General Lillywhite in December 2004<sup>3</sup>

. and (apparently) of Dr Willman<sup>4</sup>

. In any event,

the point is not controversial, it having been accepted by Lt General Lillywhite (first in 2005) that there had been no teaching or training of doctors about detainee medical issues since the early 1980s<sup>5</sup>

9. In these circumstances Brigadier Carmichael's evidence about what the entry officers' course involved can and should be ignored, particularly since it was in any event (by his own admission) nothing more than his assumption based upon the version of the course he did in 1982.

<sup>1</sup> BMI00484

<sup>2</sup> See his witness statement (BMI04 717) at paragraphs 9-18.

<sup>3</sup> See his witness statement (BMI05709) at paragraph 47 and his oral evidence BMI95/163/1.

<sup>4</sup> See his witness statement (BMI05287) at paragraphs 5 and 6, which make no mention of any such training.

<sup>5</sup> See his SIB statement (MOD005087) page 2, Rule 9 statement (BMI05709) para 46, oral evidence BMI 95/136/7, BMI 951144115,.

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10. Dr Keilloh's account of his deployments following his training is contained in paragraphs 8-10 of his first witness statements<sup>6</sup>

. It did not involve any contact

with or experience of civilian detainees. Paragraph 130 of Brigadier Carmichael's

witness statement appears to cast some doubt on Dr Keilloh's evidence in this regard, but this is an unfair aspersion which was never put to Dr Keilloh for his comment and for the avoidance of any doubt is rejected. It should be noted that Dr Bartels' evidence on this point is exactly the same

11. Dr Keilloh's account of his preparation and training for deployment to Iraq is at paragraphs 17-27 of his first witness statement. This preparation and training can be summarised as being uncertain, disorganised, and almost completely lacking in any instruction or guidance. The final decision about Dr Keilloh's posting was not made until about five days before he was due to end his existing posting (SHO at Friarage Hospital, Northallerton with very little military contact) and he was not given any training or preparation, in spite of requesting this. That Brigadier Carmichael chose to suggest to the Inquiry<sup>10</sup> that Dr Keilloh could have gone back to his CO in Northallerton "*to persist in ensuring that he received the necessary training*" is at best regrettable.

12. Such preparation as there was consisted of a brief, informal and unstructured meeting with Dr Bartels (who had at that time only been in Iraq one month) and notification of a date upon which he should present himself to 1 QLR. He received the necessary immunisations only as a result of his own initiative and was not even given a kit or packing list.

13. In this context, to point out the absence of any particular training or preparation in respect of detainees is unnecessary, but the point is that this was not merely a consequence of a rushed deployment but a wider, institutional failing: the army

<sup>6</sup> BMI00484

<sup>7</sup> BMI07412

<sup>8</sup> Witness Bartels BMI 521191124

<sup>9</sup> BMI00484

<sup>10</sup> BMI07 412 at paragraph 131.

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*"had not predicted that we would be dealing with detainees in this conflict"*<sup>11</sup>

Neither Dr Bartels<sup>12</sup> nor the medical officer seen by Lt General Lillywhite in December 2004<sup>13</sup> had any pre-deployment training about detainees either. Dr Willman, on the other hand, does appear to have had some training on the applications on the laptop he was to use in the Medical Centre at Basra, which at least made clear that medical records were to be kept as they would in the UK<sup>14</sup>

14. The Inquiry is reminded of Dr Keilloh's evidence that he had never come across gunshot wounds before and that this was the first time that he had ever had to undertake treatment of battle injuries<sup>15</sup>

This evidence has not been given any prominence, probably because it does not relate to the key issue of treatment of detainees, but it is a revealing indication of the low level of preparation for medical officers and the consequence this had for the medical care available to soldiers, let alone detainees.

15. On any view this is not something for which Dr Keilloh could conceivably be criticised, but exactly the same applies to the absence of any training in respect of detainee handling. This is plainly a matter in respect of which corporate criticism of the MoD and/or individual criticism is appropriate, although what is of more direct concern and relevance to Dr Keilloh is that this background and context is kept at the front of the Inquiry's mind when considering what happened in Iraq.

#### **Arrival in Iraq and day-to-day life**

16. The Inquiry has heard considerable evidence about the conditions in Iraq. The need for a period of acclimatisation is demonstrated by the two-week period in Kuwait given to 1 QLR, but Dr Keilloh had none. The chronology is stark: Dr Keilloh finished his job in Northallerton on Wednesday, flew to Basra on Sunday

<sup>11</sup> Witness statement of Lt Gen Lillywhite (BMI05709) para 28.

<sup>12</sup> See his witness statement (BMI04 717) at paragraphs 9-18.

<sup>13</sup> See his witness statement (BMI05709) at paragraph 47 and his oral evidence BMI 95/163/1.

<sup>14</sup> See his witness statement (BMI05287) at paragraph 8.

<sup>15</sup> First witness statement (BMI00484) paragraph 38.

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#### **SUB000547**

and spent Monday meeting various people at various locations, Dr Bartels left on

Tuesday and Dr Keilloh was on duty on his own as RMO on Wednesday<sup>16</sup>

17. Dr Keilloh received no written orders or files, the only indication of what he was to do coming from Dr Bartels on the Monday, the day before Dr Bartels left. Dr Bartels said that there was a lever-arch file of orders but does not recall mentioning this to Dr Keilloh or pointing it out to him, and does not say that it was there when Dr Keilloh arrived<sup>17</sup>

. There is no basis at all for suggesting that

Dr Keilloh is being untruthful in this regard and it is inconceivable that Dr Keilloh, feeling as unguided and alone as he did, would have ignored or overlooked such a file.

18. Life was busy for all personnel in Iraq and Dr Keilloh was no exception, working around 14 hours a day and with a demanding, varied and intense workload and little "down-time", although he did ensure he spent a lot of time with his medical team in order to help them, including organising training for them<sup>18</sup>

. Dr Keilloh

did not receive comparable- or indeed any- support from those above him<sup>19</sup>

19. Dr Keilloh has made quite clear the sense of isolation that he felt during his time in Iraq<sup>20</sup>

. both formally in terms of professional support and the chain of command<sup>21</sup> and socially<sup>22</sup>

. The Inquiry is also reminded in this regard of the

following exchange between the Chairman and Dr Bartels:

*THE CHAIRMAN: One other thing I wanted to ask you about. I got the impression from Dr Keilloh that he felt a little isolated in his work. He*

<sup>16</sup> First witness statement of Dr Keilloh (BMI00484) paragraphs 27 and 35.

<sup>17</sup> Witness Bartels BMI 52119411

<sup>18</sup> First witness statement (BMI00484) paragraphs 36-37, 40-41, 67-73 and oral evidence Witness Keilloh BMI 36/175/24. See also the comment by the Inquiry Chairman that Dr Keilloh was "obviously very, very busy, along with practically everybody out there at that time" (BMI 95/186/21 ).

<sup>19</sup> See paragraphs 51-57 of Dr Keilloh's first witness statement (BMI00484). Dr Willman, his SMO, accepts this so far as this evidence refers to him, it not being his understanding that he should provide any sort of support or training: see paragraphs 28, 47 and 48 of his witness statement (BMI05287).

<sup>20</sup> See for example Dr Keilloh's first witness statement (BMI00484) at paragraph 37.

<sup>21</sup> Ibid at paragraphs 49-57

<sup>22</sup> Ibid at paragraph 73 and in replies to the Inquiry Chairman at BMI 36/176/6.

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## **SUB000548**

*referred to the two doctors who you have mentioned, the senior ones, but did not seem to have much contact with them. When you went into theatre, did you get onto them yourselves or were you rung up or did they get in touch with you?*

*A. I was sent instruction to report for the conferences and briefings by the commander medical. I believe to help you one of the differences was Captain Dai Jones was blown up on the day I left theatre and that very significantly changed the travelling around Basra. So whereas before I would have travelled around Basra in a single vehicle with my driver and my driver would park up outside of a location and I would go inside, after that incident vehicles travelled in multiple convoys and travel was much less frequent.*

*So while Dr Keilloh was there, he would have experienced more isolation than I had because of the travel restrictions that occurred on the day after I left.*

*THE CHAIRMAN: !follow. I didn't understand that before.*

### **Detainee handling**

20. As accepted by Dr Bartels, detainees were a "small, if not insignificant part of day-to-day life in Iraq"<sup>23</sup>

. Dr Keilloh was not even aware there were detainees

held in BG Main until some time within the first month after his arrival<sup>24</sup>

. and by

the time Dr Bartels gave evidence to the Inquiry, he no longer had any recollection of having seen detainees in Iraq<sup>25</sup>

. This mirrored the lack of

significance attached to them at the institutional level noted above.

**21.** However, so far as 1 QLR and Dr Keilloh are concerned, this has to be seen in the right context. The purpose of the TDF at BG Main was to hold detainees for no more than 14 hours before transporting them on to the TIF at Umm Qasr. This is very temporary detention indeed - shorter than the police in the UK are allowed to hold a person without charge (and such persons are not medically examined unless they request it or there is reason to consider they need medical

<sup>23</sup> Witness Bartels BMI 56/192/4.

<sup>24</sup> Witness Keilloh BMI 36/94/4.

<sup>25</sup> Witness Bartels BMI 56/192118, where the witness makes clear that his evidence on this was based on his 2005 SIB statements (MOD000374 and MOD005018).

For the whole submission go to the link above

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### **Conclusion**

**101.** The Inquiry can be confident, having seen and heard Dr Keilloh, that he was an open and truthful witness. Unlike a number of witnesses, he was trying to help and what he says can be relied upon and believed. Further, the Inquiry can have no doubt he was conscientious and hard working, dedicated to the job he had in Iraq, to his medical team and to his vocation as a doctor.

**102.** The Inquiry should note in this regard the capacity demonstrated by Dr Keilloh to reflect and question himself: see for example paragraphs 51, 56 and 153 of his first witness statement and his oral evidence at BM136/148/8 and BM136/150/1.

**103.** The Inquiry is invited to acknowledge not only the efforts made by Dr Keilloh to save Baha Mousa's life but the appropriate action he undoubtedly did take, notifying the RMP immediately and the O Group the very next day, encouraging his medical team to cooperate fully with the RMP, asking for the detainees he saw to be re-presented the next day and for any other detainees who needed treatment to be brought to him, changing the procedure from one that was inadequate to one

<sup>190</sup> See paragraph 34 of the witness statement of Lt Gen Lillywhite (BMI05709).

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### **SUB000581**

that was adequate, and ensuring his successor had a better handover and came into a better situation than was the case for him.

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**CHARLESBOURNE**  
**PAUL GREATORIX**

**25 June 2010**

### **SUB000582**

*Re: the GMC hearing* - Mr **Charles Bourne**, counsel for the Halliwell Core Participants, submitted that conduct of a quasi criminal kind should be subject to the criminal standard of proof.