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Dear Piers,

Independent Inquiry relating to Afghanistan: DAS Hearing on 25 September 2026

Introduction

1. I write on behalf of the Ministry of Defence (MOD), in response to the Chair's statement dated 22 September 2026 (the Chair's Statement) and in advance of the public hearing which the Chair has directed will take place on Friday 25 September 2026 at the Royal Courts of Justice.
2. Before turning below to the substance of the issue which has caused the Chair to direct a hearing, I wish, first, on behalf of the MOD, to apologise to the Chair and to all participants in the Inquiry that the MOD's conduct has resulted in Chair's Statement being issued and the direction that a public hearing take place this Friday. The Inquiry's letter of 18 August 2026 required prompt acknowledgement and engagement, which the MOD recognises was lacking in this instance, regardless of the fact that work was being undertaken by the MOD in the background to try to answer the Inquiry's questions.
3. Secondly, I wish again to emphasise generally, on behalf of the MOD the MOD's commitment to support the Inquiry. The former Secretary of State for Defence, the Rt Hon. Sir Ben Wallace, with the support of the Heads of Services, established this wide-ranging Inquiry in late 2022 as one step towards establishing the truth of very serious allegations. Since then, subsequent Governments and Heads of Services have repeatedly made clear their commitment to supporting the Inquiry's work to the fullest extent possible. These are not hollow words. They are reflected in what, on any view, has been and continues to be the MOD's huge commitment of resource to the Inquiry, at a time when an increasingly hostile global landscape and UK budgetary pressures are combining to present significant challenges to UK national security and Defence. There should be no doubt that the MOD and the Chair share a determination to conclude the Inquiry's work as swiftly as possible. To do so is plainly also in the best interests of everyone affected by the Inquiry's work, in particular of course those whose actions have now been under such lengthy investigation and also those who seek to understand the circumstances in which their relatives died.

Elizabeth Mackie - Head of Litigation Division



Inquiry background and context

4. The Inquiry's Terms of Reference, concerning allegations of unlawful killings during deliberate detention operations (DDOs) carried out by UK Special Forces (UKSF) between mid-2010 and mid-2013 as well as allegations of subsequent cover up within the MOD and inadequate investigation by the Royal Military Police, require this Inquiry to consider difficult, complex and sensitive events which took place around 15 years ago in Afghanistan.
5. As the Inquiry knows, the unique challenges posed by the Inquiry's work have caused the MOD to invest very significant financial resources and numbers of personnel to supporting both the Inquiry team and the MOD's work in responding to it. This has included hosting the Inquiry in suitable, secure premises within the MOD's Main Building and providing the funding and support requested by the Inquiry to enable it (a) to recruit and maintain an appropriate, expert team (including solicitors, counsel, expert military, policing and forensic advisors and civil servants) and (b) take what steps the Inquiry considers are necessary to obtain evidence to discharge the Terms of Reference. The MOD's commitment to the Inquiry is reflected in the fact that it has established three new organisations to support its work internally ((i) the Afghanistan Inquiry Response Unit (AIRU), (ii) the Headquarters Director Special Forces AIRU (HQ DSF, AIRU), and (iii) the Army Afghanistan Inquiry Response Unit (AIRU(A)), engaged a team of Government Legal Department (GLD) solicitors, instructed an external law firm and instructed a number of counsel. Across these teams, the MOD now has more than 100 people working full time on the Inquiry – this is a significant increase from when the Inquiry started. Further, thousands of hours have been contributed by other departments across Defence, including Defence Intelligence (DI), Defence Digital, Permanent Joint Headquarters (PJHQ), the Army Legal Services (ALS) and MOD Legal Advisors (MODLA), all working to support the Inquiry.
6. In addition, the MOD has established and funded the Military Witness Legal Team, to provide confidential and privileged legal advice and support to the hundreds of individual witnesses approached by the Inquiry. The Military Witness Legal Team also has its own premises and facilities within the MOD.
7. As well as the substantial investment in personnel, the MOD has developed new and improved ways of working to facilitate and support the Inquiry. This includes, in Spring 2024 onwards, the commissioning, development and implementation of a bespoke e-disclosure platform held on the MOD's appropriately classified computer system, as well as the creation of a specialist data team within HQ DSF AIRU, staffed by both military and external data experts dedicated to searching UKSF systems. AIRU's procurement (working in conjunction with Defence Digital) of this e-disclosure platform was specifically to address Inquiry concerns about disclosure deadlines – the procurement was carried out quickly and the system was in place within 6 months. The use of this e-disclosure platform, whilst costly, has enabled more efficient workflows, stronger auditability and improved oversight. In summary, the MOD estimates its usage has resulted in around a tenfold improvement in document review efficiency.
8. Focusing on the disclosure of material to the Inquiry, which is the subject of the Chair's Statement, the MOD has ingested over 2 million files into its e-disclosure platform, from which over 400,000 documents have required review and over 35,000 documents have been disclosed to the Inquiry. The MOD continues to receive requests for further disclosure from the Inquiry and so these figures are continuing to increase.
9. Notwithstanding the huge amount of work done, the MOD has always recognised that the nature and scale of the Inquiry disclosure exercise have presented significant challenges. One of the principal challenges in this Inquiry, that sets it apart from others experienced by the MOD, has been the breadth of the required search terms which the MOD has been required to run across multiple MOD IT systems, at different classifications. That position is exacerbated, amongst other things, by the time that has elapsed since the events under investigation, the fact the relevant bases in Afghanistan and their associated IT systems are long de-commissioned, the fact that there have been multiple subsequent changes in MOD IT systems and of course the sheer volume of material.
10. When specific difficulties regarding disclosure have arisen, the MOD has endeavoured to communicate those difficulties to the Inquiry in real time and, recognising that the conduct of the Inquiry is ultimately a matter for the Chair, to seek the Inquiry's guidance as to the matters to prioritise, and the strategies and processes to adopt when those difficulties did arise. There are many examples of where prompt and effective communication between the MOD and the Inquiry has enabled such difficulties to be overcome. This is well demonstrated by the process adopted by the MOD in approaching its response to the disclosure exercise

associated with Phase 3A of the Inquiry's DDO investigation strategy. That is set out in detail in a lengthy witness statement from Mr Nick Gurr, Director of AIRU, dated 17 September 2026 (a draft of which was supplied to the Inquiry well before then). Throughout that process, AIRU engaged constructively with the Inquiry on the search terms used (as well as the reasons for them) as well as the challenges and limitations in the exercise. This was achieved on an ongoing basis by repeated meetings and update letters (exhibited to Mr Gurr's statement) in which each aspect of the search and disclosure process was exposed to the Inquiry to ensure transparency. By way of comparison, the MOD accepts that the development which was the subject of the correspondence in August 2026 and which has resulted in the hearing on Friday 25 September 2026 was not communicated to the Inquiry sufficiently clearly and the delay in responding to the Inquiry's letter of 18 August 2026 should not have occurred. Again, on behalf of the MOD, I apologise for that, whilst hopefully making clear that this was an error that does not reflect the MOD's established commitment to the Inquiry.

The MOD Digital Archive System (DAS)

Overview

11. The DAS is the MOD's bespoke single digital repository of searchable electronic operational records at the appropriate classification. It provides the capability to discover records across vast volumes of data, making it searchable, retrievable and exportable while maintaining full auditability. However, that search function can only operate in respect of material which has been uploaded to the DAS. For a number of years now, there has been an ongoing programme of material being uploaded to the DAS, subject to prioritisation. The upload in July 2026 was part of that process.
12. On 12 April 2024, the MOD supplied the Inquiry with a witness statement from James Franklin (Deputy Director (Claims, Inquests and Disclosure) within the Directorate of Judicial Engagement Policy (DJEP)), which explained the DAS, the search methodology it uses, the records of documents being searched and the MOD's ability to search those records. This statement supplemented an earlier witness statement from an MOD official, dated 26 May 2023, which provided an indication of the records held on the DAS. Mr Franklin explained that DAS is primarily used to store Afghan and Iraqi operational information created during a PJHQ-led operation or deployment and also explained, regarding Afghanistan, the steps which had been taken to seek to return and secure records from Operation Herrick IT systems before they were switched off. Mr Franklin noted in his statement that, at that time, the DAS archive held approximately 79 million unique files.
13. Importantly, it should be noted that the material recovered and uploaded onto DAS from Afghanistan did not include UKSF systems. Whilst the recovery process may have captured some UKSF material indirectly, the DAS is not the primary source for recovering UKSF material. Searches of historical and existing UKSF IT systems is a separate area of MOD work which is not affected by the July 2026 DAS upload. HQ DSF AIRU has a specialist data team which has developed a separate and robust search functionality to identify documents across UKSF systems. As the Inquiry is aware, at the material time UKSF operated a SECRET IT system, referred to within the Inquiry as ITS1. It has always been understood that UKSF operational records should be held on ITS1, rather than on the main MOD SECRET document management system. ITS1 was a distinct system and is wholly unaffected by the recent upload to the DAS. As a result, the integrity and completeness of the searches undertaken in relation to ITS1 are unaffected by these developments and it remains the case that the overwhelming majority of potentially relevant UKSF documentation has been located through searches of the UKSF IT system. Further, the Inquiry already holds a copy of the ITS1 server from around the period covered by the Inquiry's Terms of Reference and is able to conduct its own searches independently of the MOD. The MOD does consider this to be one of a number of relevant considerations regarding what further work it is reasonable and proportionate to undertake, as (a) DAS continues to be updated during the course of the Inquiry's work, and (b) the Inquiry's understanding of its work and the focus of its investigation continues to advance. This is addressed further below.
14. In his 2024 statement, Mr Franklin addressed in detail a number of limitations of the DAS, and explained the procedure and protocols associated with transfer of documentation to the DAS, including priorities and timing. Mr Franklin did explain (in paragraph 22) that there was material from Operation Herrick that had not yet been transferred onto the DAS and would not therefore be picked up in the DAS searches conducted in response to Inquiry requests. After the date of Mr Franklin's statement, there were further uploads of Operation Herrick material to the DAS in August and October 2024, which the Inquiry were made aware of

at the time. In October 2024, it was agreed that certain keyword searches would be re-run as a result of a further upload to the DAS of a significant volume of additional records.

15. In paragraph 14 of his statement, Mr Franklin also specifically referenced a Hewlett Packard Records Manager (HPRM) data set produced after 2014, which had not yet been uploaded to the DAS. It is the upload to the DAS of this HPRM data set, completed on 23 July 2026, which has resulted in the very significant increase in the volume of material on the DAS and is the subject of the August 2026 correspondence.

The HPRM data set uploaded in July 2026

16. The HPRM data set uploaded to the DAS in July 2026. As explained in the GLD letter dated 18 September 2026, it was not until 5 August 2026 that AIRU came to understand that – based on file creation metadata – this HPRM data set contained 97 million files dated between 2010-2013. However – and this is important given some erroneous press reporting on this issue which has already occurred – this does not mean that the MOD suddenly has access to 97 million files relevant to the Inquiry's work. The HPRM was an electronic document and records management system used across the MOD. On that basis alone, it is logical to assume that the vast majority of this material will very likely be irrelevant to the Inquiry's work.
17. Since August 2026, AIRU have been actively engaging with those responsible for the DAS, to understand in greater detail the content of this upload and its likely relevance to the Inquiry's work. Whilst that work is ongoing, useful information has been obtained. For example, the HPRM upload comprised two sets of records: one at OFFICIAL SENSITIVE and one at SECRET. The amount of material uploaded from the OFFICIAL SENSITIVE system (approximately 189 million records) was much greater than the amount of material uploaded from the SECRET system (approximately 5 million records). Again, this tends to suggest that the vast majority of this material will not concern UKSF operations. AIRU have recently obtained from the DAS a spreadsheet which details the names of the many hundreds of file share structures which make up this HPRM dataset. Again, those file share names, which can be shared with the Inquiry, may be useful in assuring the Inquiry as to the likely relevance of this material and/or enabling more targeted searching if required.

Other Operation Herrick material not uploaded to DAS

18. For the avoidance of any doubt, it remains the case that there is material from Operation Herrick that had not yet been transferred onto the DAS. This includes a very large quantity of computer hard drives and media items returned from Afghanistan, which have not been prioritised for upload to DAS. To be clear, however, the process of uploading media items is technically complicated and challenging as well as very time consuming (as can be seen in relation to the HPRM dataset, and as the Inquiry has experienced with ITS1). In some cases it may not in fact be technically possible. Further, whilst it is possible to glean some indication of what the media may contain before it is uploaded to the DAS, it is only after the material is uploaded that more detailed information becomes available (c.f. the HPRM file creation metadata issue explained in the GLD letter of 6 August 2026). Whilst the UKSF operations under investigation by the Inquiry represent only a small part (in terms of numbers of personnel and time) of the UK Armed Forces' contribution to the Afghan campaign, it is plainly essential that both the MOD and the Inquiry understand the extent and nature of this material, so that informed assessments and decisions can be made. This is addressed further below.

The Specific Issues raised in the Chair's Statement

19. I will now address the specific points, set out in the Chair's Statement, on which the Chair seeks reassurance:
 - (i) *This discovery will be addressed by the MOD quickly, efficiently and proportionately, so that any material of real relevance is quickly identified and disclosed to the Inquiry, without disruption to the timings of the Inquiry's programme of work*
20. As set out above and explained in the GLD letter to the Inquiry dated 18 September 2026, it was not until 5 August 2026 that AIRU understood – based on file creation data – that the HPRM upload contained 97 million files dated between 2010-2013. AIRU has subsequently taken steps to understand the implications of this in relation to the disclosure work undertaken to date for the Inquiry. The scope of AIRU's planned

initial investigation is set out at the bottom of page 2 of the 18 September 2026 GLD letter. However, upon review and following discussion with the DAS, it became clear that it would be possible to run a more extensive set of test searches prior to Friday's hearing so as to provide a greater level of information to the Inquiry about the potential impact on the DDO investigation strategy and associated Inquiry timeline.

21. For the purposes of phase 3A of the Inquiry's DDO investigation strategy, the MOD and the Inquiry agreed the approach to keyword searches in respect of the relevant DDOs. Those searches were run, and the results processed so as to supply AIRU with a set of potentially relevant phase 3A documents from DAS for review. It has been possible this week essentially to re-run those same keyword searches against the new DAS (post-July 2026 upload) and to identify the difference in the number of returns in respect of each of the DDOs. In short, the difference (or 'delta') between the two exercises in the first instance is 16,890 files. That needs however to be treated as a general indication. The MOD and Inquiry have agreed that certain file types can then be excluded from the review. By way of example, in relation to Objective 4, these reductions resulted in a pool of files for review which was approximately 60% of the initial number of files returned by DAS. There is then a further de-duplication process after the files are uploaded to the e-disclosure platform. However, when it comes to the document review by AIRU's paralegals, the number of documents to be reviewed is then normally increased compared to the number of DAS files to be reviewed because embedded documents and, in particular, attachments to emails need to be separately reviewed. For planning purposes, and as communicated to the Inquiry in 2024, the MOD assumes an 80% increase as a result of those factors. As a very rough indication, however, one can see on that basis that the number of documents to be reviewed by AIRU's paralegals is not assumed to be vastly greater than the original number of DAS file returns. In this instance, those assumptions result in an estimated number of additional documents to be reviewed which is approximately 18,000.
22. The MOD considers that number of documents (even if increased by 20%) to be a manageable number of documents to be reviewed swiftly. There are currently 15 paralegals doing review work (with a small number of additional paralegals now security cleared to join the team shortly). We are urgently investigating surging further resource in case that becomes necessary. On the basis of an assumed document review rate of 150 documents per day (noting that this has been exceeded during peak periods in the past), it should take 2-3 weeks for 10 paralegals to review 20,000 documents for general relevance to the Inquiry's work. Whilst there are then further checks carried out for assurance purposes, this demonstrates why the initial assessment is that the impact of the July 2026 upload on the Inquiry's DDO investigations should be capable of being managed efficiently and without imperilling the Chair's timetable, which envisages the completion of the evidence relating to the conduct of DDOs by the middle of next year. Of course, the MOD will keep the Inquiry apprised of progress as it undertakes this work.
23. There is a further aspect to this which should provide the Inquiry with some comfort around the likely impact of these developments on the Inquiry's work, and that is the relevance rate to date of the phase 3A DAS returns. Analysis carried out this week by reference to a substantial snapshot (approximately 180,000) of phase 3A DAS documents, which were reviewed for relevance by paralegals, shows the relevance rate (i.e. the percentage of those documents reviewed which were subsequently disclosed to the Inquiry) to be only 6.15%. The Inquiry will be able to form its own view of the 'real' relevance, to use the Chair's term, of that DAS material that was disclosed. However, that analysis also suggests that the Inquiry is unlikely to receive vast amounts of further disclosure as a result of these additional searches. If the Inquiry were to receive 6.15% of 20,000 documents, it would receive 1230 documents.
24. Subject to the Inquiry's agreement, the MOD therefore proposes to instruct the DAS to extract and export, in accordance with the usual process, the 16,890 additional files generated by the agreed /keyword searches in respect of the phase 3A DDOs. Whilst it is not clear at this stage exactly how long that extraction process will take, the subsequent process of AIRU receiving a drive containing the files and uploading them so as to enable the review to commence is anticipated to take no more than one week. It will be made clear to the DAS that this is a task to be afforded the utmost priority. Regarding what, if any, other searches of DAS may be required by the Inquiry, the MOD would welcome the opportunity to discuss this with the Inquiry (as the Inquiry proposed in its letter of 18 August 2026).

(ii) That the carrying out of (i) above by the MOD does not impact on its ability to respond to the Inquiry's ongoing workstreams.

25. Whilst any additional work necessarily has an impact on the MOD team's ability to work on other matters, it is the MOD's assessment that the proposed course of action under (i) can be discharged in such a way that the existing Inquiry workstreams will not be impacted. This is essentially for the reasons set out under (i) above – based on recent analytical work it is anticipated that the impact of these further searches is manageable. For the avoidance of doubt, for example, the paralegals who will carry out the review work under (i) above are separate from the paralegals working on gisting and redactions which the MOD fully understands is also a priority workstream for the Inquiry. Obviously, if the Inquiry wishes there to be further searches run against the new DAS dataset, in respect of other or future Rule 9 requests, then the timing of those searches will need to be discussed carefully with the Inquiry.

(iii) That the failure, in this incidence, of the MOD, to respond to obviously important correspondence from the Inquiry as requested (or at all, until the hearing was scheduled) was an isolated episode.

26. As is hopefully made clear in this letter, the MOD very much regrets this episode. The MOD accepts that the relevant DAS development which was the subject of the August 2026 correspondence was not communicated to the Inquiry sufficiently clearly and the delay in responding to the Inquiry's letter of 18 August 2026 should not have occurred. Whilst mistakes are bound to occur in the course of a multi-year project, the MOD is determined that this error of failing to respond promptly to Inquiry correspondence be an isolated episode. AIRU and GLD have reviewed their processes regarding the receipt, tracking and prioritisation of correspondence to ensure that urgent requests for information such as set out in the Inquiry's letter dated 18 August 2026 are handled (and where necessary escalated) appropriately.

27. Whilst there was a failure to respond promptly to the Inquiry, AIRU does wish to emphasise, as set out in GLD's letter dated 18 September 2026, that work on the requests for information set out in the Inquiry's letter dated 18 August 2026 did begin upon receipt of the Inquiry's letter. Unfortunately, some of these issues are complex to resolve and require cross-departmental engagement which takes time. Whilst an update should have been provided sooner, the fact that this work had started promptly enabled the explanation set out in the GLD letter of 18 September 2026 to be provided.

28. As the Chair knows, the MOD continues to be grateful for the collaborative working relationship which the has been fostered with the Inquiry legal team, which the MOD understands to have benefited both the MOD and the Inquiry. The MOD very much hopes that this incident does not imperil that.

(iv) That steps will be taken to ensure there will be no further similar revelations during the remaining course of the Inquiry, and that the Chair will receive – in short order – written assurance from a senior official, that the MOD is discharging its disclosure obligations to the Inquiry in accordance with the level of candour so clearly required.

29. As the Inquiry knows and is detailed in Mr Gurr's witness statement, the scale, breadth and nature of this disclosure exercise is unprecedented within the MOD and has presented significant challenges. In particular, these challenges arise from the need to carry out wide-ranging searches across multiple MOD IT systems (including in some instances data taken from decommissioned systems) at different security classifications. As summarised above, and addressed in more detail in Mr Gurr's recent witness statement, an enormous amount of work has been done by the MOD at enormous expense to try to overcome those challenges. As a result, a very large quantity of material has been made available to the Inquiry in response to the hundreds of requests received by the MOD from the Inquiry.

30. It is though important to acknowledge, as the Inquiry is aware and as is set out in Mr Gurr's statement, that not all the disclosure challenges have been capable of being overcome and work is ongoing in respect of some issues. Examples of ongoing workstreams in this context, of which the Inquiry is aware, relate to (a) further work being done in relation to whether any relevant Full Motion Video (FMV) footage is capable of being located, and (b) ongoing work to improve and/or facilitate search capability in respect of higher classification IT systems.

31. What is essential, as the episode giving rise to the hearing on 25 September so clearly demonstrates, is that there is prompt and clear engagement with the Inquiry when difficult issues arise. The MOD respectfully suggests that the best way to avoid any further 'surprising revelations' is to ensure that at all times the Inquiry is fully sighted on, and fully understands, the complete extent of the known limitations to, and challenges

inherent in, the MOD's disclosure work. Much of this information is contained in Mr Gurr's recent witness statement but, for the avoidance of doubt, this exercise must include making sure that both the MOD and the Inquiry understand, to the fullest extent possible, what material relating to the conflict in Afghanistan has, and has not, been uploaded to the DAS. Recent engagement with the DAS has highlighted the need better to understand what this material is and what it likely comprises. I respectfully suggest that the MOD needs to develop that understanding in lockstep with the Inquiry.

32. The Inquiry's present timetable is concerned with ensuring timely publication of the Chair's first report, which will address the issue of whether there is credible information that any individual(s) were unlawfully killed during a DDO in the period 2010-2013. The MOD fully recognises that understanding, to the fullest extent possible, the 'known unknowns' regarding disclosure is essential to enable the Chair to make an informed and evidence-based decision as to what constitutes a reasonable and proportionate way to proceed, having regard to the matters under investigation (particularly the matters to be addressed in the Chair's first report) and the likely benefit (if any) of continuing to pursue further searches for further documents across decommissioned, non-UKSF computer systems and media.

Conclusion

33. On behalf of the MOD, I wish to reiterate the apology set out at the outset of this letter. The identification, review and disclosure of relevant material for the purposes of this Inquiry involves an unprecedented disclosure exercise drawing on a range of differently classified IT systems and physical storage facilities. Inevitably, the MOD has faced, and continues to face, many challenges in relation to disclosure. A reasonable and proportionate search for relevant material may well not overcome all of them. What is essential though, and what this episode serves to highlight, is that the Inquiry must be made aware of all those challenges, promptly and clearly, when they arise so that the Chair can make prompt, informed decisions as to how he wishes to proceed. The MOD fully recognises that.
34. Finally, the MOD is grateful for the Inquiry's agreement that Mr Gurr may attend the hearing on Friday instead of the Permanent Under-Secretary (PUS). The MOD considers that Mr Gurr, given his role as Director of AIRU and his recent provision to the Inquiry of a very detailed disclosure statement (the CLOSED version of which extends to 79 pages with 44 exhibits), is better placed to assist the Inquiry on these matters. However, I can confirm that the PUS has been personally briefed on this matter and is fully sighted on the reasons for the hearing on Friday and willing to engage with the Inquiry as required. The MOD is committed to finding a solution to these problems and continuing to support the Inquiry's work, and will continue to seek to work collaboratively with the Inquiry to do so.

Yours sincerely,

Elizabeth Mackie
For the Treasury Solicitor