



Home Office

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Jermaine Baker Inquiry

Management Statement

April 2020

1. INTRODUCTION

- 1.1. This Management Statement has been drawn up by the Home Office in consultation with the Jermaine Baker Inquiry (the Inquiry). The purpose of the document is to ensure that clear roles and responsibilities are in place which will facilitate the smooth running of the Inquiry's work, in accordance with the provisions of the Inquiries Act 2005 and the Inquiry Rules 2006. This document relates specifically to sponsorship of the Inquiry by the Home Office. It does not seek to detail how the operational activity of the Inquiry will be conducted.
- 1.2. The Inquiry has been set up under section 1 of the Inquiries Act 2005 by the Home Secretary to discharge the 'Terms of Reference' set out in Annex A.
- 1.3. It is in the public interest for the Inquiry's work to be conducted at all times in a way that ensures;
- 1.3.1. the independence of the Chair in determining how to undertake the Inquiry in order to meet the 'Terms of Reference',
 - 1.3.2. the thorough examination and consideration of all the evidence and issues that the Inquiry determines to be pertinent to its 'Terms of Reference' in order to ensure that its reports are complete and robust,
 - 1.3.3. the fair and equitable treatment of witnesses and all other parties whose interests are affected by the work of the Inquiry; and
 - 1.3.4. that the Inquiry's work is conducted in line with section 17(3) of the Inquiries Act 2005 to have regard to the need to avoid unnecessary cost and to act with fairness, and as economically and expeditiously as possible.
- 1.4. None of the provisions in this document shall be read or applied in such a way as to derogate from or compromise these principles.
- 1.5. In addition, the Home Office will take all reasonable steps to provide the Inquiry with an appropriate budget in line with section 39 of the Inquiries Act, having due regard to securing value for public money, to enable the Inquiry to fulfil its 'Terms of Reference' in an efficient and expeditious manner.
- 1.6. The Management Statement sets out the broad framework within which the Inquiry will operate and includes:
- 1.6.1. The Inquiry's 'Terms of Reference'
 - 1.6.2. The conditions under which any public funds are paid to the Inquiry

1.6.3. How the Inquiry must account for its expenditure

1.6.4. Staff management and security issues; and

1.6.5. Other administrative issues

1.7. This document has been agreed between the Home Office Sponsorship Team and the Jermaine Baker Inquiry. Amendments may be agreed between the Home Office and the Inquiry at any time. The Management Statement conveys no legal powers or responsibilities.

1.8. The Home Office has processes in place to ensure there is a clear separation between the management of sponsorship matters and matters related to the Home Office's role as a core participant in Inquiries. Where this is the case, a Memorandum of Understanding will be signed by the Director of National Security Unit (as the lead core participant) and the Head of the Home Office Sponsorship Unit, which will set out how the separation will be ensured.

1.9. Where the Home Office does have a role as a core participant, the Home Office Sponsorship Unit will not engage with the Inquiry on any matters relating to the Home Office role as a core participant. DN – happy to remove these paras if HO isn't a CP

1.10. Processes are in place within the Home Office and the Inquiry to ensure that no conflicts of interest arise when staff transfer between organisations.

2. STATUTORY BASIS

2.1. The Jermaine Baker Inquiry was established by the Home Secretary under the Inquiries Act 2005 on 12 February 2020. On this date the Home Secretary informed Parliament by way of a Written Ministerial Statement¹. A copy of the 'Terms of Reference' were placed in the Libraries of both Houses.

3. INDEPENDENCE

3.1. The Inquiry is independent of Government, and the independence of its investigations is crucial to its effectiveness.

3.2. The Home Office shall not have access to any of the Inquiry's evidence, findings or reports before publication.

3.3. The Home Office will provide appropriate corporate support to the Inquiry to ensure it has the resources it needs to fulfil its 'Terms of Reference'.

4. RESPONSIBILITIES AND ACCOUNTABILITY

¹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-02-12/HCWS111/>

4.1. **The Home Secretary** is accountable to Parliament for the funding and overall support given to the Inquiry. They may designate another Minister to assist them in the discharge of their duties. The Home Secretary's responsibilities include;

- 4.1.1. appointing the Inquiry Chair
- 4.1.2. setting the Terms of Reference in consultation with the Inquiry Chair
- 4.1.3. providing appropriate financial and other resources to the Inquiry
- 4.1.4. reporting to Parliament on Home Office sponsorship responsibilities in relation to the Inquiry
- 4.1.5. receiving the Inquiry's Report and laying it before Parliament; and
- 4.1.6. responding to Inquiry's findings relevant to the Department.

4.2. **The Inquiry Chair** is responsible to the Home Secretary for leading the Inquiry in fulfilling its 'Terms of Reference' and reporting the Inquiry's findings. Subject to the principles set out at paragraph 1.2, the Chair is responsible and accountable for the proper management of public resources and expenditure on Inquiry business. This accountability will normally be through the 'Inquiry Secretary' to the Permanent Secretary as Principal Accounting Officer for the Home Office. The Chair's duties include;

- 4.2.1. conducting the work necessary to discharge the Inquiry's 'Terms of Reference'
- 4.2.2. providing leadership to the Inquiry
- 4.2.3. ensuring high standards of probity and impartiality;
- 4.2.4. collating and assessing evidence relevant and necessary to the terms of reference; and
- 4.2.5. presenting the Inquiry's findings and recommendations to the Home Secretary.

4.3. **The Permanent Secretary of the Home Office**, as the Department's Principal Accounting Officer, is responsible for the standard of financial management in the Department as a whole. In this context, the Principal Accounting Officer is accountable to Parliament for spending by the Inquiry. In particular, the Principal Accounting Officer of the Home Office expects to be assured that;

- 4.3.1. the financial and other management controls applied by the Home Office to the Inquiry are appropriate and sufficient to safeguard public funds and that the Inquiry's compliance with those controls is effectively monitored; and

4.3.2. the internal controls applied by the Inquiry conform to the requirements of regularity, propriety, value for money and good financial management

4.3.3. the Inquiry has detailed project planning and is making sufficient progress to fulfil its 'Terms of Reference'; and

4.3.4. the Inquiry has in place appropriate governance structures and process to manage and mitigate risks to the Inquiry and to the Department.

4.4. **The Senior Sponsor of the Inquiry** is a Director in the Home Office. The Senior Sponsor, in consultation with others as necessary, is the primary source of advice to the Home Secretary on the discharge of their sponsorship responsibilities in respect of the Inquiry. For example; their responsibilities to keep Parliament informed. The Senior Sponsor, via the Home Office Sponsorship Unit, is the primary point of contact for the Inquiry in dealing with the Home Office on matters concerning funding, the Inquiry's progress in fulfilling the 'Terms of Reference', the management of public resources and administration issues. The Senior Sponsor shall advise the Home Secretary of;

4.4.1. the agreed budget/forecast for the Inquiry and any material changes

4.4.2. progress being made by the Inquiry; and

4.4.3. sponsorship issues that the Inquiry would wish brought to the attention of the Home Secretary.

4.5. In support of the Principal Accounting Officer the Senior Sponsor will;

4.5.1. manage the delegation of budget to the Inquiry in accordance with the conditions of delegation

4.5.2. monitor the Inquiry's expenditure on a monthly basis and progress in fulfilling the 'Terms of Reference' on a continuing basis through regular meetings with the Inquiry Secretary

4.5.3. address in a timely manner any significant problems raised by the Inquiry concerning its finances or other resources; and

4.5.4. inform the Inquiry of relevant Government policy and procedures relating to financial management in a timely manner, advise as appropriate on the interpretation of that policy and issue specific guidance to the Inquiry as necessary.

4.6. **The Inquiry Secretary** is the Senior Accountable Officer for the Inquiry and shall ensure that the Inquiry's affairs are conducted with due probity in line with the requirements of Managing Public Money² and any subsidiary rules and/or

²<https://www.gov.uk/government/publications/managing-public-money>

regulations governing expenditure within HM Government. Under the direction of the Inquiry Chair, the Secretary has a leadership responsibility for;

- 4.6.1. advising the Inquiry on the efficient and effective use of staff and other resources
- 4.6.2. ensuring that adequate internal management and financial controls are in place, including effective measures against fraud and theft, and ensuring that any statutory or administrative requirements for the use of public funds are complied with;
- 4.6.3. managing the Inquiry budget in accordance with the letter of budget delegation from the Senior Sponsor
- 4.6.4. ensuring that all public funds made available to the Inquiry are used for the purpose intended by Parliament, and that such monies, together with the Inquiry's assets, equipment and staff, are used economically, efficiently and effectively and with due regard to value for money principles;
- 4.6.5. ensuring that the Inquiry operates within the limits of its remit and any delegated authority agreed with the Senior Sponsor, and in accordance with any other conditions relating to the use of public funds, including Managing Public Money and HM Treasury approval via the Senior Sponsor for novel and contentious spend, and taking corrective or appropriate action as necessary in response to likely overspends or other adverse financial risks
- 4.6.6. preparing the Inquiry's programme plan to support the regular the liaison between the Inquiry and Senior Sponsor about the expenditure of the allocated budget and progress against the timescales within which the Inquiry expects to fulfil its 'Terms of Reference'
- 4.6.7. liaising as appropriate with the Home Office Sponsorship Unit including providing appropriate information to the Senior Sponsor to support the establishment and management of cross-government cost-sharing arrangements
- 4.6.8. providing the Senior Sponsor with monthly forecasts and monitoring information on finance (with follow-up meetings if required), and notifying the Senior Sponsor promptly if overspends or underspends are likely or if there are any other significant management or financial or resource problems;
- 4.6.9. providing the Senior Sponsor with a quarterly update (at a meeting convened by the Senior Sponsor or by any other means agreed) on sponsorship matters

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- 4.6.10. implementing risk management and other relevant financial or management guidance promulgated by HM Treasury and/or the Cabinet Office
 - 4.6.11. ensuring effective personnel management policies are in place and maintained. In doing so, the Inquiry must ensure that its policies are in line with the standard guidance appropriate to the Home Office and wider Civil Service. As regards those staff on Home Office terms and conditions, if the Inquiry wishes to deviate from the agreed Home Office policy, the Inquiry must secure the agreement of the Senior Sponsor;
 - 4.6.12. ensuring that suitable whistle-blowing policies and procedures are in place, recognising the Inquiry's independence from the Home Office; and
 - 4.6.13. providing public facing communications and responding to media enquiries in matters which relate to the day to day running of the Inquiry.
- 4.7. The Chair, and all those engaged to support them shall act in accordance with their wider responsibility to;
- 4.7.1. comply at all times with the Inquiry Rules and other rules relating to the use of public funds and to conflicts of interest
 - 4.7.2. act with impartiality and confidentiality, ensuring conflicts of interests are avoided
 - 4.7.3. ensure that information gained in the course of their public service on the Inquiry is not disclosed or misused for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
 - 4.7.4. comply with Government guidance on the acceptance of gifts and hospitality, and of business appointments
 - 4.7.5. ensure that Government information given to the Inquiry is handled in accordance with Government security regulations; and
 - 4.7.6. act in good faith and in the best interests of the Inquiry.
- 4.8. The Home Office is responsible for replying to Parliamentary Questions about the Inquiry and to any Freedom of Information Act 2000 requests it receives in relation to information which it holds on the Inquiry. The Inquiry itself is not a public authority for the purposes of the Freedom of Information Act 2000 but, in the spirit of openness and transparency, will publish as much information in relation to its work as possible. In particular, the Inquiry will publish information on expenses of the Chair and senior staff (SCS PB1 and above) quarterly.

4.9. The Inquiry Sponsor and the Inquiry Secretary will fulfil their respective functions in relation to financial and risk management in accordance with the procedures set out in the agreed Ways of Working document.

5. PLANNING, FINANCIAL MATTERS AND AUDIT

Planning

5.1. The Inquiry shall produce a project plan and indicative budget. The project plan shall include key targets and milestones for the establishment and running of the Inquiry's work and shall be linked to budgeting information so that resources are allocated to achieve specific objectives.

Financial Matters

5.2. The Inquiry shall operate management information and accounting systems, which enable it to review in a timely and effective manner its performance against the budgets and targets set out in its plan and identify the need for corrective or appropriate action as necessary in response to likely underspends, overspends or other adverse financial risks.

5.3. The Inquiry shall present its budget to the Home Office as part of its annual business planning round in December. This will include a detailed assessment of the budget required to allow the Inquiry to deliver its remit successfully for the following year. Once the budget has been approved by the Home Office, the Inquiry will be issued with the following documents;

5.3.1. a sub-delegation letter; and

5.3.2. a statement of any planned change in policies affecting the Inquiry, for example any changes to central cost controls from HM Treasury or the Cabinet Office.

5.4. As noted above, the Inquiry Secretary is responsible for notifying the Senior Sponsor if there are any external conditions that could affect the smooth running of the Inquiry's work, particularly if this could result in a need to re-examine the budget allocated to the Inquiry.

Procurement

5.5. The Inquiry is responsible for its own procurement through the provision of a delegated authority, with an agreed suitable financial limit. The Inquiry must be able to demonstrate that value for money has been secured in relation to each procurement exercise. As required by legislation or policy, consideration will be given to the requirement for competitive tenders to be undertaken as part of the procurement procedures. Any procurement exercise will be conducted in accordance with the Public Contracts Regulations 2015 and Home Office procurement policies. Any contracts that the Inquiry wishes to enter as a result of

a procurement exercise that fall outside of the scope and value of the delegated authority, will revert to the Home Office to authorise as Contracting Authority and will be subject to all relevant Home Office governance and approval processes as may be appropriate.

5.6. Where Cabinet Office approval is required for specific areas of the Inquiry's spend, as set out in the guidance from the Cabinet Office on Gov.uk,³ the Inquiry will work with the Home Office, as the sponsoring Department. The Home Office will, in turn, submit any expenditure proposals to the Cabinet Office on the Inquiry's behalf, copying in HM Treasury, for Cabinet Office approval. The Home Office will inform the Inquiry of the outcome of submitted proposals.

5.7. All assets procured by the Inquiry contractually rest with the Home Office.

5.8. The Inquiry will be responsible for managing all contracts to ensure performance delivery and compliance with contract terms and conditions.

Internal Audit

5.9. All the Inquiry's procedures and processes should comply with HM Government audit requirements. Auditors should be given access to the Inquiry's management records as necessary, but not to records concerning the evidence obtained by the Inquiry, the analysis or interpretation of that evidence, the decisions of the Inquiry, the Inquiry's dealings with witnesses and other parties to the Inquiry's work or any other records where this would conflict with the overriding principles outlined at paragraph 1.2.

Additional Department access to the Inquiry

5.10. In addition to the right of access referred to in paragraph 4.5, the Home Office shall be given access to all the Inquiry's relevant financial management and HR records only to the extent that this is necessary to support the Inquiry Secretary in providing the appropriate level of financial assurance to the Home Office, and in supporting the duty of care owed to the Inquiry's staff.

5.11. The Home Office shall not have access to records that relate to the information obtained by the Inquiry, the analysis or interpretation of that information, the decisions of the Inquiry, or the Inquiry's dealings with witnesses and other parties to the Inquiry's work, or any other records where this would conflict with the principles outlined at paragraph 1.2.

Register of Interests

5.12. The Inquiry shall maintain a written register of interests of the Chair and provide a copy of that document, and any changes to it, to the Senior Sponsor.

³ <https://www.gov.uk/government/publications/cabinet-office-controls>

- 5.13. All those working on the Inquiry and others engaged on the Inquiry's business (including contractors or consultants) should declare any interests they have in respect of the nature of the Inquiry's work. Similarly, records should be kept of any financial interest by Inquiry members or staff in any company/consultant engaged in the Inquiry's work. A record should also be kept if any Inquiry member or member of staff knows any of the information providers, representatives, interested parties or core participants.

6. GOVERNANCE AND ASSURANCE

6.1. The Inquiry Secretary shall ensure that:

- 6.1.1. Management structures are in place to discuss projects, finance, risk, workforce planning, and performance
- 6.1.2. Effective processes are in place to escalate issues and opportunities to the correct level for consideration
- 6.1.3. Decisions made are in line with the Inquiry's 'Terms of Reference' and relevant policies and legislation
- 6.1.4. Controls and processes for making decisions are in place, understood, documented, reviewed regularly and tested.

7. INQUIRY TEAM MANAGEMENT

7.1. The Inquiry Secretary shall ensure that:

- 7.1.1. Team members are treated fairly based on merit
- 7.1.2. that there is no discrimination or harassment on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age
- 7.1.3. that Home Office performance management procedures are in place to ensure that the performance of its civil service staff at all levels is satisfactorily appraised in order to deliver the Inquiry's 'Terms of Reference'
- 7.1.4. that its team members are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Inquiry's 'Terms of Reference'
- 7.1.5. that proper consultation with team members takes place on key issues affecting them
- 7.1.6. that Home Office grievance and disciplinary procedures are in place; and
- 7.1.7. team members are aware of whistleblowing procedures.

7.2. The Inquiry Secretary will also work closely with the Home Office Human Resources team on any personnel matters affecting civil servants employed by, or on loan to, the Inquiry.

7.3. Workforce planning should be undertaken and reviewed regularly to ensure the resources are most efficiently deployed to meet the needs of the Inquiry and focused on delivering the 'Terms of Reference'. Where resourcing creates additional liabilities for the Home Office, the Inquiry should consult the Home Office Senior Sponsor in advance of any decisions.

8. FRAUD AND THEFT

8.1. The Inquiry shall adopt and implement policies and practices to safeguard itself against fraud and theft in line with Government guidance.

8.2. All cases of attempted, suspected or proven fraud shall be reported to the Home Office immediately, irrespective of the amount involved. The Home Office may report such matters onward as required by internal procedures.

9. PROTECTIVE SECURITY

9.1. The Inquiry must ensure that personnel and physical security processes are in place, and those who work there are aware of their responsibilities.

10. INFORMATION MANAGEMENT AND DATA PROTECTION

10.1. The Inquiry must comply with the requirement under the Public Records Act 1958, to make arrangements for the preservation of inquiry records and should adhere to The National Archive guidance on storage and retention. Where sensitive material cannot be transferred to The National Archives, the inquiry will make necessary arrangements with the Home Office for the transfer on information in a timely manner.

10.2. The Inquiry will ensure that data security policies are in place and that the Chair, and all those engaged to support them, will receive necessary training. The Inquiry will ensure that it adheres to the relevant provisions of the data protection legislation as defined in section 3(9) of the Data Protection Act 2018⁴. It should also ensure that it is registered with the Information Commissioner. The Inquiry Secretary is the Senior Information Risk Officer (SIRO) for the Inquiry.

⁴ <https://www.gov.uk/data-protection>

Signatories

Kenny Bowie
Director, Senior Sponsor

James Esses
Inquiry Secretary

Signed on behalf of the Home Office

Signed on behalf of the Inquiry

April 2020

DRAFT

Annex A:

Jermaine Baker Inquiry – Terms of Reference

Purpose

To investigate:

- a) who the deceased was;
- b) how, when, where and in what circumstances he came by his death; and
- c) the particulars (if any) required by the Births and Deaths Registration Act 1953 to be registered concerning the death; and
- d) To make any such recommendations as may be appropriate.

Scope

The inquiry's investigations will include:

1. Planning

- 1.1. What plans were made for the conduct of the Operation by the MPS, between 13 October 2015 and 11 December 2015;
- 1.2. What was the strategic plan;
- 1.3. What was the tactical plan;
- 1.4. Was the above planning reasonable, in particular having regard to the need to minimise to the greatest possible extent the risk to life;
- 1.5. In particular, was it reasonable to plan to permit the conspiracy to proceed to the point of arrest;
- 1.6. Were those responsible for the implementation of the Operation appropriately briefed.

2. Information

- 2.1. The information available to those who planned the operation and the accuracy, reliability, interpretation, evaluation, transmission and dissemination of such information;
- 2.2. In particular, what information, relevant to the pre-planned firearms operation on 11 December 2015, was known by those within the Metropolitan Police Service by 11 December 2015;
- 2.3. When was that information received and by whom;
- 2.4. How was the information evaluated;
- 2.5. When, to whom and in what form was that information transmitted and disseminated;
- 2.6. Was the above handling of information reasonable, in particular having regard to the need to minimise to the greatest possible extent the risk to life.

3. Implementation

- 3.1. What occurred on the 11 December 2015;
 - 3.2. What was done in respect of command and control, including tactical decisions made;
 - 3.3. What was done on the ground. In particular the actions of officers during the arrest phase;
 - 3.4. The shooting, namely the circumstances in which the officer who fired the fatal shot came to discharge his weapon;
 - 3.5. Was the command and control of the Operation conducted reasonably, in particular having regard to the need to minimise to the greatest possible extent the risk to life?;
 - 3.6. Was the Operation conducted reasonably on the ground, in particular having regard to the need to minimise to the greatest possible extent the risk to life?;
 - 3.7. In particular, could the shooting (and hence the death) of Jermaine Baker have been avoided.
 - 3.8. In particular, was it reasonable to permit the conspiracy to proceed to the point of arrest.
4. After the shooting
- 4.1. What occurred after the shooting, including assistance and medical treatment given to Jermaine Baker;
 - 4.2. Were the post incident procedures conducted appropriately?
5. Practice, Policies and Procedures
- 5.1. Were the relevant firearms policies and procedures appropriate and were they appropriately applied?
 - 5.2. Training and competency of the deployed firearms officers and commanders.

Method

The inquiry will examine and review all documents as the inquiry Chair shall judge appropriate.

The inquiry will receive such oral and written evidence as the inquiry Chair shall judge appropriate.

Reporting

The inquiry will report to the Home Secretary as soon as practicable. The report will make such recommendations as the Chair deems necessary to prevent future deaths.