

UNDER  
IN THE MATTER

the Inquiries Act 2013  
of a Government Inquiry into Operation  
Burnham and related matters

---

STATUTORY DECLARATION OF TOBY RICHARD FISHER  
CONCERNING MFAT PERSONNEL ENGAGED IN SPECIFIED  
OPERATIONS

26 April 2019

---

CROWN LAW  
TE TARI TURE O TE KARAUNA  
PO Box 2858  
WELLINGTON 6140  
Tel: 04 472 1719  
Fax: 04 473 3482

Contact Person:  
Aaron Martin / Ian Auld  
[Aaron.Martin@crownlaw.govt.nz](mailto:Aaron.Martin@crownlaw.govt.nz) / [Ian.Auld@crownlaw.govt.nz](mailto:Ian.Auld@crownlaw.govt.nz)

I, Toby Richard Fisher, of Wellington, Legal Adviser, solemnly and sincerely declare:

1. I am the Manager of the General International Law Unit in the Legal Division of the Ministry of Foreign Affairs and Trade (MFAT). I lead MFAT's core team responsible for the Ministry's engagement in the Government Inquiry. I commenced that role in February 2019.
2. I produce this statutory declaration in response to the Inquiry's Order for Disclosure of Information dated 3 April 2019 by which the Inquiry required MFAT to provide a list of the names and details of all employees and associated personnel who participated in, provided advice on, contributed to or otherwise had involvement in specified operations led by NZDF.
3. In November and December 2018, MFAT staff carried out a search of its files to identify documents falling within the Inquiry's terms of reference. All relevant documents identified in that search were provided to the Inquiry. To the best of my knowledge, none of the documents provided to the Inquiry by MFAT indicate that any MFAT employee or associated personnel had involvement in the specified operations.
4. In response to the Order, I arranged for further inquiries to be undertaken within MFAT to identify and consult all those employees who were known to have been present in Afghanistan or engaged in policy discussions relevant to Afghanistan during the period of the operations identified by the Inquiry. I attach at **Confidential Annex A** a list of those identified and consulted. The Inquiry will note that relevant locally engaged staff were not consulted on the basis that they are highly unlikely to have been privy to classified information. The Inquiry will also note that three people identified as present in Afghanistan during the relevant period, but who have since left the employment of MFAT, were either not contactable or have not responded.
5. MFAT employees appearing in Confidential Annex A were provided with a list of the relevant operations set out in para 3 of the Inquiry's Order and were asked:
  - (a) whether they were involved – in any capacity - in any of the operations listed above;

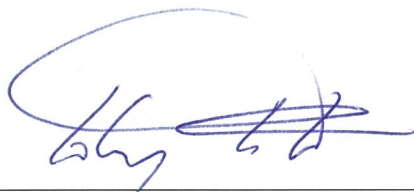
S.L.  
TRF

- (b) whether they were involved – in any capacity – in any offensive military operations in Afghanistan during the period August 2010 – December 2012; and
- (c) whether they were aware of any other MFAT personnel who may have been involved in any such operations?

- 6. All but one of the responses were negative. One person within MFAT explained that he was briefed on the circumstances of the named operation in paragraph 3(e) of the Inquiry’s Order. Although it does not appear that he was strictly “involved” in the operation, his details are provided in **Confidential Annex B**.
- 7. To the best of my knowledge and belief, this declaration is correct in all respects and carries out my obligations under the Inquiry’s Order.
- 8. And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

**SWORN**

at Wellington this *29<sup>th</sup>* day of *April* 2019  
 before me:

)  
 )  
 )  
 ) 

Toby Richard Fisher

**Salome Kelia Lennon**  
 Solicitor  
 Wellington

*Salome Kelia Lennon*

A Solicitor of the High Court of New Zealand

*RF*