

The following two statements were released by the MoD yesterday concerning the High Court's decision to dismiss the MoD's appeal and ruled that the Human Rights Act can apply to British troops, even on the battlefield.

Armed Forces Minister Bob Ainsworth said:

"We are surprised and disappointed by this judgement. While it does not affect the position concerning Private Smith, it potentially has very serious implications for the ability of our forces – and those of our allies - to conduct military operations overseas. We are studying the judgement's implications for our forces and considering whether to appeal to the House of Lords. In the meantime, we await a date for a fresh inquest into the death of Private Smith and will as usual offer the Coroner our full cooperation."

A MOD Spokesperson said:

"This has never been about seeking to deny rights to our service personnel. The protection and safety of our personnel remains our priority at all stages of training, equipping, planning and operating. The MOD accepts that there are limited circumstances when Armed Forces personnel come within the UK's jurisdiction for the purposes of the ECHR when they are deployed overseas. This includes the sad circumstances of Private Jason Smith's death, where Private Smith was at all times under the UK's authority and control when receiving medical attention on a UK-controlled Army base in Iraq.

"But in the heat of battle during dynamic and fast-moving military operations on foreign territory, the UK could not secure the rights and freedoms which the Human Rights Act seeks to guarantee. We are very concerned by the attempt to insert lawyers into the chain of command in the middle of a battle, which would only create uncertainty, hesitation and potentially greater risk to our people."