

DEFENCE, PRESS AND BROADCASTING ADVISORY COMMITTEE

**MINUTES OF A MEETING HELD IN THE MINISTRY OF DEFENCE
AT 6PM ON WEDNESDAY 11 MAY 2005**

The following were present:

Sir Kevin Tebbit, Chairman	Mr R Hutchinson, Vice-Chairman
Mr I Andrews	Mr J Bishop
Mr B Jeffrey	Mr S Bucks
Mr D Richmond	Mr J Grun
Mr J Acton (representing Sir John Gieve)	Mr C Jones
	Mr W Newman
	Ms D Summers
	Mr S Whittle

Air Vice-Marshal A Vallance	- Secretary
Captain N Hodgson	- Deputy Secretary
Air Commodore D Adams	- Deputy Secretary (designate)

1. Apologies: Sir John Gieve, Mr E Curran, Mr R Esser, Mr J Munro, Mr M Douglas-Home and Mr W Wilson.

2. The Chairman welcomed Bill Jeffrey (Permanent Secretary & Security Intelligence Coordinator in the Cabinet Office), William Newman (Ombudsman of The Sun (representing the Newspaper Publisher's Association) and Air Commodore David Adams (Deputy Secretary/DPBAC designate) to their first meeting.

Agenda Item 1 – Minutes of a Meeting held on 27 May 2004.

3. There were no amendments to the minutes of the previous meeting which were approved by the Committee as an accurate record.

Agenda Item 2 – Matters Arising from Previous Meeting

4. Annual Reception. At the Chairman's invitation, the Secretary briefed the Committee that detailed preparations would begin in July for an intended date in late-November. The planned venue was Admiralty House and the Committee agreed that the format and the scale and scope of the invitation should be similar to those of the previous reception. The Secretary would report on the detailed arrangements out-of-committee.

ACTION: SECRETARY

5. Special Forces (SF) Public Information (PI) Policy. During its previous meeting, the Committee noted that the changes in implementation of the SF PI policy were still bedding down and that a progress report would need to be given at the next meeting. A briefing by one of MOD's designated spokesmen had been prepared as a basis for Committee discussion and would be taken under Item 4 of the agenda.

6. Amendment to Defence Advisory (DA) Notice No 4. The revised wording of DA Notice No 4 was agreed unanimously out of committee in March 2005. It had since been posted on the D-Notice Website.

7. Implications of Freedom of Information Act (FOIA) 2000. The Secretary had written to Committee members on 26 April to report on progress with embedding the DA Notice principles into the FOIA casework. He reported that the Information Commissioner's staff believed that more experience with FOIA was needed before firm advice could be offered. It was likely that a review would be held after one year of FOIA operation, after which the way ahead should be clearer. However, given the complexity and scope of the issues raised during the first few months of the Act's operation, it was likely that the embedding of DA Notice principles into the casework would be a lengthy process. The Secretary would continue to deal with the Information Commissioner's staff and report back on progress to the Committee.

ACTION: SECRETARY

Agenda Item 3 – Secretary's Report

8. The Secretary reported that he had conducted an extensive series of initial meetings and office calls with key official and media personalities concerned with defence and security. The programme of calls was continuing, and a further series in Scotland and Northern Ireland were now being arranged. Initial contacts had also been made with journalistic academe.

9. Day-to-day business had continued at normal rates during December, January and February, although there had been a noticeable fall off during March, April and early May; this was probably due to the media focus on the Royal Wedding, the papal death, election and inauguration and the UK General Election. Issues related to Special Forces had been the most prominent during the last 6 months, followed by those related to the Secret Intelligence Services (SIS) and Security Service and current operations. There had been very few enquiries or issues on equipment and facilities, and none on codes and ciphers.

10. The Secretary reported on three unusual Interventions during the last six months. A request had been made to E-Bay to withdraw from sale a copy of the minutes of the Mess Meeting held by the SAS behind enemy lines during the Gulf War of 1991, which contained the names of still-active SF members. The Secretary had written to a newspaper which had published (against his advice) the name and job title of a current SIS Director. He had also arbitrated between the SIS and a newspaper on the publication of details

of certain SIS capabilities; this had emerged from a leaked SIS letter relating to the Identity Card Bill debate. All of these interventions had been concluded satisfactorily. One book had been reviewed during the last six months, and one very minor textual amendment had been recommended and accepted. A further book was expected to be reviewed by the Secretary in the coming weeks.

11. In terms of administrative issues, the Committee's Secretariat was continuing to experience staff turnover, with the current Deputy Secretary (Captain Norman Hodgson) leaving at the end of his contract in June. He would be replaced by Air Commodore David Adams. The Secretary further reported that the current D-Notice website did not comply with the Disabilities Discrimination Act (DDA) of 1998. Also, it could not continue to be supported by the MOD staff, or hosted as a virtual site on the MOD Server, beyond the end of this year. A civilian contractor had been engaged to rebuild and re-host the site. The redesigned site (which would be compliant with DDA 1998 and would retain the same web address) would be operational by mid-June. An additional computer had also been installed in the Secretariat to allow full internet connectivity, which before had been lacking.

Agenda Item 4 – Briefing and Discussion on Special Forces Public Information Policy

12. The Chairman invited Mr Ian Andrews to introduce the briefing to the Committee on the implementation of the public information policy for Special Forces (SF). Mr Andrews explained that the Government's first priority was to preserve SF operational capabilities and that the risk of damage to those capabilities was greater than ever. The primary public interest continued to lie in protecting the capabilities and identities in this area. However, the Ministry of Defence (MOD) recognised that not every piece of information on the SF which the media might wish to use was damaging, and so it had agreed to changes in practice in this sensitive area, while retaining the existing policy. As a result, the MOD had been trying to achieve a mature approach that moved away from a flat 'neither confirm nor deny' (NCND) response to all enquiries, to one where background guidance could be provided by nominated press officers when it did not damage capabilities, operations or personnel. The MOD had also tried to explain to the media why certain information could or could not be discussed.

13. Mr Sam Keayes of the MOD Press Office then gave a ten-minute briefing on progress achieved since the last DPBAC meeting. Mr Keayes stated that the MOD Press had gone out of its way to be helpful and that there had been a steady increase in media requests for guidance. In the main, this guidance had been followed, and mutual trust was being consolidated. He said that the main problem remaining was that MOD guidance on SF stories had not been sought sufficiently often. That said, during the last six months there had been only one complaint to the Press Complaints Commission (PCC) and only one complaint to the MOD on the way it handled stories. Prominent examples of better information flow included anti-drug protection efforts in Afghanistan (December), the RAF Hercules crash in Iraq (January)

and the announcement of the Special Reconnaissance Regiment (April). There had been insufficient efforts by the media to seek guidance on allegations about SAS 'gender inclusivity' (December), problems in SF recruitment and retention (March) and alleged transfer of sky diving training to the USA (April). The MOD remained committed to a NCND approach to commenting on current SF operations for obvious reasons. Efforts were continuing to ensure that regional spokesmen understood and practised the new approach.

14. The media side of the Committee expressed satisfaction with the progress made to date. They felt that the new practices had yet to permeate fully throughout the system, but they were encouraged by assurances that further efforts would be made to ease information flow in the future, whenever this was practicable. However, they had very important concerns about what they considered to be an allied issue: the legal action being taken by the MOD in connection with the BBC's 'SAS Survival Secrets' TV series. The MOD's position was that this dispute was centred on matters of contract and confidentiality between an employer and former employees. The media side argued that it had far wider ramifications. After a lengthy discussion, the Chairman concluded the debate by saying that this was not an issue that could be taken forward in the DPBAC. He recognised that the media saw this as an area of major concern, and welcomed the fact that the DPBAC had acted as a forum in which to air this concern. But the DPBAC was not an appropriate forum in which to seek resolution. The Committee remained seized of the issue and would watch with anticipation the outcome of the case.

Agenda Item 5 – DPBAC and the Freedom of Information Act (FOIA) 2000

15. The Chairman stated that, during its previous meeting, the Committee had touched very briefly on whether it should seek to be subject to FOIA 2000. The Secretary had prepared a position paper on the issue which had been circulated to the Committee before the meeting. At the Chairman's invitation he summarised the key arguments as follows:

- The DPBAC was not listed as a 'public authority' and was therefore not at present subject to the provisions of FOIA 2000. Legal advice suggested that the DPBAC would probably not be able to fulfil the necessary compliance criteria set out in the Act to qualify as a 'public authority'.
- Irrespective of the legal position, the DPBAC would wish to decide whether the purposes of the Committee would be best served if its disclosure policy was made consistent with that set out in FOIA 2000.
- There would be public diplomacy benefits in aligning its disclosure policy with the Act. However, such a step would not substantially increase the information the DPBAC could make available to the public unless current confidentiality practices were set aside.
- The drawbacks incurred if the DPBAC was made subject to, or acted in accordance with, FOIA 2000 would be both perceived and real. They would fall into three broad areas: compromise of confidentiality, erosion of independence and (in the case of the DPBAC being made subject to FOIA) a potential weakening of Committee cohesion. They would also lead to

fundamental changes in the way in which the DPBAC (and its Secretariat) did business.

16. In the discussion that followed, the Committee agreed that, while at first sight it might seem anomalous for its public disclosure policy not to be aligned with FOIA 2000, on deeper consideration such a step would be likely to threaten the DPBAC's credibility and effectiveness. Therefore, the Committee decided that it would not seek to be subject to the Act, nor align its disclosure policy with that set out in the Act. Nevertheless, it charged the Secretary to practise a policy of maximum information disclosure, consistent with the effective conduct of its business and the need to honour assurances of confidentiality given to the individuals and organisations with which it dealt. The Committee also charged the Secretary to ensure that a statement of this policy was prominently displayed on the website.

ACTION: SECRETARY

Item 6 – Any Other Business

17. No items or issues were raised by Committee members under Any Other Business. The Chairman concluded the meeting by thanking (in absentia) Warren Wilson, who would be leaving the Committee in August after some ten years of service representing the News Paper Society, for his valued contribution. The Chairman also thanked Captain Norman Hodgson for his 5 years of excellent work as Deputy Secretary, and wished him well after he left the Secretariat in June.

Next Meeting

18. The Chairman tasked the Secretary to arrange the next meeting in November 2005.

ACTION: SECRETARY

24 May 2005

Secretary

Distribution

All Committee Members