

DEFENCE, PRESS AND BROADCASTING ADVISORY COMMITTEE

RECORD OF MEETING HELD 15 MAY 2003

1. The following were present:

Sir Kevin Tebbit, Chairman		Mr R Hutchinson, Vice-Chairman
Mr I Andrews		Mr S Anderson
Sir David Omand		Mr G Brock
		Mr S Bucks
		Mr R Esser
		Mr J Grun
		Mr S Purvis
		Mr S Whittle
Rear Admiral N Wilkinson	-	Secretary
Captain N Hodgson	-	Deputy Secretary

2. Apologies: Mr J Bishop, Mr W Ehrman, Mr J Gieve, Mr A Goode, Mr J McLellan, Mr C Roycroft-Davis, Mr W Wilson.

3. The Chairman welcomed Sir David Omand (Permanent Secretary & Security Intelligence Co-ordinator, Cabinet Office) back to the Committee.

Agenda Item 1 – Minutes of Meeting held 12 November 2002

4. There were no amendments.

Agenda Item 2 – Matters Arising from Previous Meeting

5. SF Confidentiality Agreement/NZ Case. The Secretary reported that the Privy Council's written majority judgement on the 'Soldier Five' appeal had been delivered in March. It had confirmed that the confidentiality contract remained valid and enforceable. The Privy Council also made clear its view that no contractual provision was to be implied into the contract that MOD consent to publication would not be unreasonably withheld, that the contract was intended to prevent disclosures that would not necessarily be damaging to the public interest (special damage) and which might even be in the public domain, and that the contract had the broader object of preventing public controversy which might be damaging to the efficiency of the armed forces (general damage – the 'morale' and 'suspicion' effects). The dissenting judgement concerned the lack of availability to initial contract-signers of independent legal advice, but the other four members of the Privy Council disagreed and held that this lack would not have made a difference to the validity or enforceability of the contract. The Secretary reminded the Committee that the author would still be able if he wished to publish his manuscript in due course, but that the MOD would be entitled to his consequent profits.

6. Reporting on SF. Discussed later in the meeting.
7. DPBAC Annual Reception. The intention was confirmed to hold an evening reception in 2003, with similar attendance, venue and funding to last year's. The current planning date is Wednesday 15 October
8. Threat Advice. It was agreed that follow-up action taken beyond the DPBAC auspices after the last meeting had been generally satisfactory, and that the current arrangements (exemplified by the 15 May warning on East Africa) did not require further DPBAC discussion.
9. Award Announcements. The Secretary confirmed that the MOD Press Office and secretariats had indeed generally kept him informed as necessary of events since the last meeting.

Agenda Item 3 – Secretary's Report

10. Advice Given. The Secretary reported examples of advice on publication given to the media and to officials, and accepted. These included technical details of new weapons systems (general story published but not some technical performance limitations), the private home address of a Minister on the High Threat List (burglary story published but not address details), FCO documents leaked on internet (story published, but without details of intelligence officers' names or web address), GCHQ leak of alleged US request for assistance (story published but without certain details of employee's department). The Secretary also gave an example of post-hoc action concerning a published report of pre-conflict SBS operations in Iraq, fortunately untrue.
11. Parliamentary Questions/DPA. The Secretary reported PQs covering DA-Notice involvement in reporting on Operation ORE (untrue), and on website visits (visits to www.dnotice.org.uk average about 1000 a month, almost double in February/March 2003, 60% from USA, 35% from UK, recently more visits from journalists and schools of journalism). There had been one request for DPA information (nil). The Secretary had given written evidence to the current Review of Government Communications.
12. Visits/Seminars. The Secretary reported on his discussions with undergraduates and post-graduates at Schools of Journalism (Goldsmiths, Sheffield, London School of Printing, Cardiff). All wished him to return for next year's courses, and meanwhile he had three planned visits to other Schools. These sessions were productive, both in spreading the word about the role of the DPBAC, and in discussing the reporting of National Security matters generally. The Secretary had also given an interview about the DPBAC to the Manchester Evening News, lectured to the media studies group of the US Industrial College of the Armed Forces, been a panellist in debates on security at the Soho Festival and with the Index on Censorship, and participated in a legal training group discussing National Security.

13. Official Representation in Seminars, etc. The Secretary reported that he was invited to participate in discussions on security because he came from a quasi-official background, and because there were very few or usually no speakers available with secret intelligence and security backgrounds to take part in such public discussions; this led to a lack of balance which was undesirable for the organisers, for the media, for officials and for the public. The Chairman suggested that official members of the Committee should consider if there were ways of filling this lacuna.

14. Books. The Secretary reported that he had been asked for comment on six books in the past six months. One concerned potential official use of satellite receiving stations, three were Special Forces books, one was a crime novel by an ex-SF author, and one was the DPBAC Vice-Chairman's book about Weapons of Mass Destruction. There were no changes advised to any of the books.

15. 'Stakeknife'. The Secretary explained his role in the recent media reporting on the alleged agent known in the media as 'Stakeknife'. In addition to his normal role in advising the media in order to protect the life of alleged agents and agent-handlers, and of members of the public, he had on occasions been used, because of his public accessibility, as the conduit of information from alleged agents and from journalists about matters about to be put in the public domain. When asked to do so, and in particular when a life appeared to be potentially at risk, he passed such information on to the authorities. His letter to editors the previous day, although partly overtaken by events, had been sent out to remind that certain identities and other details needed to be protected, where the individuals concerned had not themselves authorised disclosure, at least until any legal or administrative measures had removed this need.

16. The Iraq Campaign. The Secretary reported that, in the run-up to the military operations, he had briefed many journalists collectively and individually about the kind of matters that might endanger operational and personal security. During the high intensity operations, journalists in UK had continued to consult him, and despite the hundreds of embedded journalists and unilaterals in theatre, there had not been a single serious breach of security by any part of the UK media. The system and the advice in the five standing DA-Notices had proved entirely adequate, and as able to fulfil their role in such operations as in other conflicts and in peace.

17. SF Matters Pre/During Campaign. The Secretary reported that there had been far fewer SF/media problems than during the Afghanistan campaign. The Chairman commented that he suspected this was only because in Iraq SF had been operating in less visible roles. The Secretary added that there had also been one innovation, in that, both before and during the Iraq campaign, MOD had on several occasions agreed to his telling the media when he knew that a report on which he was consulted was fundamentally untrue; the newspapers concerned had been grateful for this clarification, and had with one exception spiked that story.

18. Initial Thoughts on Iraq Operations. In discussion, the media side enquired whether the MOD's Green Book on media matters during operations would now be amended to include the concept of embedding journalists. MOD replied that the analysis of the Iraq campaign was still under way, and that any changes to the Green Book would flow from that. The Chairman said that it was probable that, as after previous major operations, an Open Forum would be held in due course with media, academics and others, to discuss the lessons of the campaign. On the whole the embedding system seemed to have worked satisfactorily, despite some frustrations. He had been struck by how those in the media directing media coverage had often to make very rapid decisions about what to publish. The media had evidently had problems, particularly initially, of giving the public too narrow and tactical a view, and efforts had been made by the official side to give the wider and more strategic view. This was the first 7/24 live coverage war, and there were many lessons to be learned, including how MOD could better balance rapid reaction to media questions with the need to be sure of being accurate in its responses.

19. Initial Media Thoughts. The media side commented that in particular there was a mismatch between what the embedded journalists were reporting on the rolling news and what the authorities were able to provide on the fuller picture at that moment. Media analysis and reactions were also at an early stage of collation. It would be helpful for MOD and media to complete their studies, and to consider the current and future possibilities provided by new technologies, before MOD's intended Open Forum.

SF PI Policy

20. The Media Side commented that, while it was welcomed that MOD had enabled the DPBAC Secretary occasionally to exceed his role and give the media additional information in response to SF enquiries, the media side was nevertheless much concerned that after 18 months MOD's SF PI Policy Study had still not made progress. It was explained by the Official Side that, although the Privy Council had now ruled on the NZ case, the principles were still to be tested under English law in early July (the Cameron case), and the legal advice to MOD was that the outcome could be prejudiced by MOD conducting a prior review of its PI Policy on SF, and also that it might be harder in future to persuade courts to uphold contract cases. Furthermore, those in MOD who would need to look more closely at alternative systems, had all until recently been deeply involved in the campaign in Iraq.

21. The media side commented that the Iraq campaign had already highlighted once again the difficulties of the current policy, in that US and Australian SF were now prepared to discuss openly many aspects of even analogous SF operations there. The media had no intention of endangering SF operations or personnel, but almost all the disagreements which the Committee had addressed in recent years had concerned policy on SF, and this was still the situation. It appeared to be above all a MOD concern about perceptions.

22. After discussion, the Chairman summed up that there were good legal and organisational reasons for the differing views about any changes in the current policy. Nevertheless, he acknowledged the rationale behind the media concerns, and believed that some ground work could be undertaken in advance of the next court case. Accordingly, he would take action with a view to the MOD preparing a paper for discussion with the media side of the Committee.

23. Meanwhile the media side, assisted by the Secretary, should highlight to MOD any areas in which they already foresaw problems with specific SF stories, for example post-Iraq awards.

Agenda Item 4 – Any Other Business

24. There was none.

Next Meeting

25. The Chairman asked the Secretary to arrange the next meeting in November.