

DEFENCE, PRESS AND BROADCASTING ADVISORY COMMITTEE

**MINUTES OF A MEETING HELD IN THE MINISTRY OF DEFENCE
AT 6PM ON WEDNESDAY 17 NOVEMBER 2004**

1. The following were present:

Sir Kevin Tebbit, Chairman	Mr R Hutchinson, Vice-Chairman
Mr I Andrews	Mr J Bishop
Sir David Omand	Mr E Curran
Mr D Richmond	Mr R Esser
	Ms D Fitzsimons
	Mr J Grun
	Ms D Summers
	Mr S Whittle

Rear Admiral N Wilkinson	- Secretary
Air Vice-Marshal A Vallance	- Secretary (designate)
Captain N Hodgson	- Deputy Secretary

2. Apologies: Mr S Bucks, Mr M Douglas-Home, Mr J Gieve, Mr C Jones, Mr C Roycroft-Davis, Mr W Wilson.

3. The Chairman welcomed Diane Summers (Managing Editor, Financial Times, representing the Newspaper Publishers Association), David Richmond (Director General, Defence and Intelligence, FCO), and Andrew Vallance (Secretary/DPBAC designate) to their first meeting.

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

4. There were no amendments.

Agenda Item 2 – Matters Arising from Previous Meeting

5. Annual Reception . The Secretary reported that about 70 had attended. There had been a greater number of younger journalists than at previous receptions, which was one of the main aims in holding these events, and favourable comments had been received from all sides about the opportunity to have informal off-the-record discussions about the background to current national security matters. Future events should revert to being held in Admiralty House, for reasons of greater ease of access and lower costs. The Committee agreed that a further reception should be held in Autumn 2005.

ACTION: SECRETARY

6. Legal Liability. The Secretary said that he had circulated a summary of the Treasury Solicitor's advice about the potential legal liability of members of the Committee and of the Secretary (a fuller version is available from the Secretary on demand). In summary, the advice was that, while it was possible to conceive of situations in which the Committee and/or the Secretary could be liable in civil proceedings, these situations would be relatively unusual. In almost all cases, Committee members or the Secretary would have had to have acted negligently or otherwise been at fault in some way. The risk of legal proceedings being successfully brought against the Committee or Secretary would therefore seem relatively low. The Committee considered the advice to be clear and firm, and was grateful for the reassurance.

7. SF PI Policy. Referring to the statement about a change in SF PI policy implementation, made by MOD at the previous meeting, the media side said that they had generally been disappointed, after several years of discussions by the Committee at the small amount of change in practice during the previous six months. They gave as examples a 'never comment' response to a Press Gazette enquiry and the way in which SF awards had initially been omitted from the July operational list. In response, the MOD said that the latter had been a genuine mistake, and went on to give examples of where its designated spokeswomen had indeed responded to media requests for information; these included denial that UKSF had been deployed to guard embassy staff in Saudi Arabia, explanation that a TA exercise in Ukraine involved reservists rather than UKSF, clarification that the number of those currently leaving UKSF was normal, and explanation that Russia had asked for police not UKSF advice after Beslan. All those in MOD authorised to speak about SF matters were now in post, and clear about the change in implementation, and they had received no media representations about dissatisfaction in general about this area. The media side acknowledged that there had not been many SF stories during the previous six months, but said that although denials such as those quoted were a step in the right direction, it was hoped that more in the way of dialogue and of confirmation after completed activities would be forthcoming. The media side remained concerned that SF disclosure would sometimes still be impeded by judgements based on considerations of policy rather than security. There was also some concern that the Secretary's future involvement in SF matters would normally be confined to the policy aspects and advice rather than in specific media requests for information. Summing up, the Chairman said the implementation changes were still bedding down and trust would have to be built up. He noted that 2nd PUS/MOD would personally monitor progress, in the new arrangements. It was probably inevitable, given the type of media interest, that denials would probably be more common than confirmations. He was minded to invite one of MOD's designated spokesmen to talk to the Committee direct at the next meeting when the subject would be returned to.

ACTION: SECRETARY

8. SF Programmes. MOD had no specific concerns to discuss at present, but would raise the matter again if necessary.

Agenda Item 3 – Secretary's Report

9. The Secretary reported a normal frequency of advice being sought in the preceding period, and the continuation of activities such as discussions with schools of journalism. There had been no book manuscripts, but two Parliamentary Questions about the number of occasions where the DA-Notice system had been used to suppress stories about Iraq (none, but advice had occasionally been given to omit certain details of technology or future operations). The Secretary said that there had been a number of cases involving the potential identification of serving SIS officers, in particular in the Balkans, but editors had accepted his advice that those not already widely in the public domain should not receive further publicity beyond the Serb-Croat press.

10. The Secretary reported that he had sent two letters of advice to all editors, the first in September concerning UK countermeasures to roadside bombs, and the second in November about minimising advance publicity of the eventual return to southern Iraq of the Black Watch battlegroup. The media side commented that the latter had had a mixed reception in media circles, because, while the security rationale was acknowledged, the credibility of the Committee was undermined by simultaneous political and in-theatre speculative briefing about the timing of the move. The Chairman said that such speculative comment was unhelpful, but that the aim of the Committee and of the Secretary's letter of advice was to do everything possible to safeguard the security of our personnel.

11. The Secretary reported four unusual interventions he had made:

- his first involvement with the Department of Transport, concerning a BBC Whistleblower programme on security at Manchester airport; his role enabled a three-cornered discussion, which resulted in the programme being broadcast free of concerns that anti-terrorist measures would be compromised.
- he was able to persuade a newspaper to omit sensitive SIS telephone numbers from a briefcase story.
- he had asked a UK internet company not to advertise the sale of back numbers of classified magazines and to seek his or departmental advice.
- after consultation, he had cleared a story originating in Pakistan about the use of secret codes in mobile text messages by terrorists there, which had a direct connection with UK security interests.

12. The Secretary concluded his remarks by commenting on his role over the preceding five years. The initial need had been to alter the inaccurate but widely held perception of the DPBAC's work as an extension of governmental censorship. His arrival had coincided with the revision and liberalisation of the

standing DA-Notices, and this had provided the springboard for emphasising the independence of the Committee and of himself in his day-to-day advice, to both media and to officials. Openness had been advanced by setting up a new and much visited website, which included even the records of DPBAC meetings, and by engaging in public debate with individuals and organisations previously suspicious of the DA-Notice system. Much effort had been put into 'educational' activity, not only in the very supportive Schools of Journalism and universities, but also in explaining the rationales of national security to the media, and in explaining the pressures and perspectives of the media to officials. The result had been a greater and more willing use of the system by both sides, and a better understanding of its advantages of swiftness, precision, economy and negotiation. The Committee could be assured that in a period of difficult governmental/media relationships, the DA-Notice system had at the least maintained its value; and that the advice in its standing Notices had robustly stood the test through every level of national security activity, from historical Northern Ireland matters, through anti-terrorism post 9/11, to Afghanistan and Iraq.

Agenda Item 4 – Amendment to DA Notice No 4

13. The Secretary said that, following agreement at the previous meeting that it might be desirable to have specific mention in the standing Notices of the terrorist threat to infrastructure, he had attempted to achieve an agreed amendment to DA Notice No 4 (Sensitive Installations). However, although the wording amending the preamble to include reference to terrorism was agreed, the additional subparagraph referring to infrastructure was currently unacceptable to the media side. The media side explained that this was because the proposed wording moved beyond the carefully constrained security considerations in the Notice, to a much more all-embracing concept, including loosely defined political considerations. The official side said they were grateful for media acceptance that something additional was needed, to remind editors of what was now a live problem, particularly concerning the threat to a few remaining vulnerable parts of the national infrastructure which, if seriously damaged, would be a major problem to repair. After discussion of different wording, and of the pros and cons of including too much or too little, the Secretary was tasked to circulate a revised sub-para (d), which should be brief, should refer specifically to Critical National Infrastructure, and should be footnoted to the website about the security of the CNI.

ACTION: SECRETARY

Agenda Item 5 – Implications of Freedom of Information Act

14. The Secretary reported that he had continued discussions with the Information Commissioner's staff, with the aim of ensuring that the concept of national security used by them in implementing the FOIA was consistent with that in the DA Notices, which was now well understood by the media. He had recently seen and commented on the draft national casework guidance, which was to be discussed by the Information Commissioner with OGDs on 18 November. He had suggested some amendments to include reference to the

DPBAC's concept, and to address the grey areas which were either more political than security, or which were wholly exempt in the Act for national security reasons, but where in practice much was already widely in the public domain or might well become so. The Information Commissioner's staff was warm to the cross-reference to the role of the DPBAC and to its concept of national security, but there was still further work to be done on the casework guidance (which would be published on the internet).

15. In discussion, the official side agreed that this was an important area. It would take time, and need close DPBAC/Information Commissioner liaison, to establish the right relationships. The Secretary undertook to report, out of committee, on his further discussions on the casework guidance, in advance of the next meeting.

ACTION: SECRETARY

Item 6 – Any Other Business

16. The Chairman thanked Derval Fitzsimons for her work on the Committee, and wished her well on her departure from ITN.

17. The Vice Chairman and the Chairman thanked Nick Wilkinson for his five years' work as Secretary to the Committee, for his efforts in improving the wider understanding of its work, and for the able and independent way in which he had provided advice to media and to officials. The Committee endorsed these remarks, and wished him future success, including his authorship of the Official History of the D-Notice system.

Next Meeting

18. The Chairman asked the Secretary to arrange the next meeting in May 2005.

ACTION: SECRETARY

31 January 2005

Secretary

Distribution

All Committee Members

DA NOTICE NO 4 – REVISED DRAFT OF PARA 1

1. It is requested that disclosure or publication of security details of, or other sensitive information not widely in the public domain which might be useful in particular to terrorist planning about, the following facilities should not be made without first seeking advice:
 - (a) defence and related sites associated with the nuclear weapons programme;
 - (b) high security MOD and military sites associated with intelligence and other sensitive activities;
 - (c) sites of headquarters or communications facilities for use by government or NATO in time of crisis;
 - (d) possible serious weaknesses identified in the Critical National Infrastructure (CNI)*.

* Further information on CNI is available under 'Security Advice' on www.mi5.gov.uk.