

The Defence and Security Media Advisory Committee

Minutes of a Meeting Held in the Ministry of Defence

At 6pm on Wednesday 12 May 2010

D/DPBAC/3/2/1

The following were present:

Ursula Brennan, Acting Chairman	Mr S Bucks, Vice-Chairman
Mr G Zebedee (representing Sir David Normington)	Mr H Carnegie
Ms L Proudlove (representing the Cabinet Office)	Mr E Curran
Mr T Dowse	Mr R Esser
	Mr J Green
	Mr J Grun
	Mr M Jermey
	Mr D Jordan
	Mr J MacManus
	Mr R Satchwell

Air Vice-Marshal A Vallance	Secretary
Air Commodore D Adams	Deputy Secretary

1. Apologies: Sir Bill Jeffrey; Sir David Normington; Mr P Barron; Mr J Battle; Mr P Horrocks; Mr S Juden; Mr J McLellan; Mr B McIlheney

2. The Chairman opened the meeting by welcoming to the Committee Mr Barry McIlheney, the new Chief Executive of the Periodical Publishers Association and Mr Tim Dowse, the new Director of Intelligence and Security at the FCO.

Agenda Item 1 – Minutes of the Meeting held on 18 November 2009

3. There were no amendments to the minutes of the meeting held on 18 November 2009, which were approved by the Committee as an accurate record.

Agenda Item 2 – Matters Arising from the Previous Meeting

4. Para 10b: Disclosure Control Systems of Other Nations. This was to be covered under Item 4 of the Agenda
5. Para 11. Public Domain Information Availability. This was to be covered under Item 5 of the Agenda.
6. Para 12: Special Forces Public Information Policy Update. This was to be covered under Item 6 of the Agenda.
7. Para 13: The Posting of DPBAC Minutes on the DA-Notice Website. This was to be covered under Item 7 of the Agenda.

Agenda Item 3 – Secretary's Report

8. Day-to-Day Business. The Secretary reported that he had received 125 enquiries or requests for DA Notice advice since the last DPBAC Meeting, a marked reversal of the trend of increasing enquiries during recent years. The reasons for this could be several-fold. The scale and openness of the official publicity given to Operation MOSHTARACK in Afghanistan, together with the transparency of the legal proceedings dealing with alleged Security Service complicity with torture, almost certainly reduced the need for investigative journalism of the kind that usually calls for DA Notice advice. Similarly, the media focus on the General Election was no doubt the main cause of the decline in enquiries during the last 3 months, to a level a little above that immediately before the previous General Election. During the period the Secretary had sent out 2 general letters of advice to editors, both relating to DA Notice 5. In addition, he had sent 2 letters to the editors of individual leading newspapers, as follow-ups to undesirable disclosures made in specific articles. As always, the object here was to encourage the editors concerned to seek DA Notice advice in future before publication of issues which might fall within the DA Notice code. There had also been an approach from officials at St James's Palace who raised the question of issuing a DA Notice letter to editors to avoid disclosing the location of HRH Prince William's new home during his tour with 22 Sqn at RAF Valley. As the Prince is a serving RAF officer, this was a possibility under the terms of DA Notice 4 (Sensitive Installations and Home Addresses). However, it had soon become clear that the concern was with privacy rather than security, and so the matter was not progressed. Nevertheless, St James's Palace had made a reference to seeking advice from the DA Notice Secretary in a letter sent to editors. During the period the Secretary also provided advice on 9 books. He had

continued the programme of lectures and workshops within the media, the Armed Forces and at University schools of journalism.

9. Other Enquiries. During the period the Secretary continued to receive enquiries on a number of diverse subjects many related to personal grievances. Most of these complainants alleged that DA Notices had been used as part of an official cover-up to prevent or restrict publicity of the cause in question. It was clear that the complainants were either ignorant of the nature of the DA Notice system or rejected that reality, preferring instead to believe fringe mythology about it. There is some evidence of a growing tendency to blame the 'D-Notices' whenever a cause does not receive the publicity its adherents think it merits. The Secretary said that with such enquiries he always took the opportunity to explain the aims and limits of the System to those making them.

10. Committee Discussion. The Chairman and Vice-Chairman thanked the Secretary for his comprehensive report. In commenting on the report, the Vice Chairman said that it did seem that the increased openness referred to by the Secretary had paid dividends. In relation to the approach by St James's Palace about HRH Prince William, he said that it was essential to understand the difference between privacy and security. He was slightly disturbed that even though it had been agreed that the case in point was about privacy, St James's Palace had written to editors and made a reference to seeking advice from the DA Notice Secretary. It was agreed that the Secretary should re-emphasise to St James's Palace staff that the DA Notice System did not extend to matters of privacy.

ACTION: The Secretary

Agenda Item 4 – Disclosure Control Systems of other Nations

11. The Secretary had been tasked at the last meeting to seek advice from relevant overseas missions. He had produced a questionnaire which had been approved by the Committee in mid-February and shortly afterwards sent by the FCO to respective Heads of UK Missions requesting responses by the end of March. The 15 countries included in this survey were:

- Australia
- Belgium
- Canada
- Denmark
- Finland
- France
- Germany

- Italy
- The Netherlands
- New Zealand
- Norway
- Poland
- Spain
- Sweden
- USA

12. Responses had been received from 8 countries: Australia, Belgium, Canada, Denmark, Poland, New Zealand, Spain and Sweden. Media-side members had also contributed to the process by supplying views on the approaches used in the United States and Australia. It was apparent that most of the countries concerned relied either on their equivalent of the Official Secrets Act (OSA) and/or on a professional journalists' code of conduct to avoid the publication or broadcast of information that would damage national security. However, none of the countries – not even Australia, which had the nearest thing to a DA Notice System - provided any overarching in-place guidance to their national media on the areas which might be highly sensitive in national security terms. The evidence so far suggested that most if not all other countries relied solely on legal sanctions when information damaging to national security was published or broadcast and that judgements made on whether or not something was damaging were made after-the-fact rather than anticipatory. There was no evidence so far of any prior guidance been given to the media as to what might or might not be judged damaging to national security of the respective countries, save that in certain cases the publication or broadcast of anything which attracts a national security classification may warrant prosecution under the OSA equivalent. Even then, powers of prosecution normally seemed to be aimed against the person who leaked the classified information rather than the journalist or editor who broadcast or published it. None of the countries so far reported on had any recent record of OSA prosecutions of the media. However, it was impossible to say at that stage whether this was due to a disciplined media which steered well clear of exciting the attention of the authorities or the reluctance of the authorities to proceed with a prosecution even when the relevant national security law is thought to have been broken. What was clear was that the DA Notice System provided a clear safety net which seemed to be missing in other countries. Nevertheless, the Committee would need to wait for advice from key countries such as France, Germany and the US before reaching any firm conclusions.

13. The Chairman thanked the Secretary for his work and observed that whilst protocols and codes played a part, there were also cultural elements which were difficult to encapsulate. The Vice Chairman agreed and said that

it would be difficult to translate any of the systems reported on so far into our own. Other members of the Media Side stressed the importance of a US view and in particular their attitude to applying the law. The Secretary would consolidate the advice into a single document once all the responses had been received. Tim Dowse agreed to hasten those missions which had not yet responded.

ACTION: Tim Dowse and the Secretary

Agenda Item 5 – Public Domain Information Availability

14. The Secretary reported on how the new guidelines were working in practice. He said that during the last 6 months, there were several cases in which the DPBAC's understanding of information that was 'already widely available in the public domain' was a factor in the DA Notice advice given. In none of these cases did the journalists concerned challenge the Secretary's judgement. He stressed that the points at issue in these cases did not pose the type of extreme dilemma that would put the DPBAC's understanding to the ultimate test, but the overall message was that experience to date was "so far so good". For the present, there seemed to be no reason to amend the current DPBAC understanding in any way.

15. In discussion, the Vice-Chairman said that the new guidelines had certainly proved successful so far. However, they did not cover the rapidly expanding social networking sites such as Twitter, which had already become a powerful news dissemination tool. It was agreed that the guidelines might need to be amended in due course. The Secretary agreed to keep the situation under review.

ACTION: The Secretary

Agenda Item 6 – Special Forces Public Information Policy Update

16. The Chairman invited Nick Pett (MOD Press Office) to update the meeting on the day to day management of SF Public Information Policy. Nick Pett thanked the Media and the Secretary for working closely with the Press Office to ensure that stories could be published without releasing sensitivities. He stressed the value of the DA Notice System in ensuring that capabilities and sensitivities were protected whilst maintaining the news-worthiness of stories. There had however been a number of occasions where sensitive information had been published. The Secretary said this was often through leaks from within the SF community and was for the chain of command to deal with. The Vice-Chairman said it would be helpful to know details of where and when the system had failed so that the media could take steps as well. Nick Pett said it was usually when a non-defence journalist, who was less likely to understand the system, was responsible for the story. He

offered to provide the Committee with a list of those who might benefit from being offered advice on the DA Notice System. Media members also offered to provide the Secretary with a list of website journalists who were unlikely to be familiar with the system.

17. The Chairman updated the meeting on the planned DSF/DPBAC briefing. This had been interrupted by the Election and it would be necessary to consult with new ministers before going ahead. For the same reasons, the review of Disclosure Policy was also on hold. The Vice-Chairman asked if there were any clues to the conclusions. The Chairman said there were none at this stage – this too would be governed by judgments made by new ministers.

ACTION: Nick Pett and the Secretary

Agenda Item 7 – The Posting of DPBAC Minutes on the DA-Notice Website

18. The Secretary confirmed that meetings dating back to 5 December 2000 had been posted on the website. Details of meetings prior to that could be made available by the Secretary on a case-by-case basis. A note had now been posted on the website to this effect.

Agenda Item 8 – Any Other Business

No additional business was raised.

Closing Remarks

20. The Chairman recorded the Committee's thanks to Paul Horrocks who was leaving, having given up his post as Editor of the Manchester Evening News. He had been an important contributor to the Committee's deliberations since he joined in April 2009. His place as Newspaper Society representative would be taken by Alan Qualtrough (Note: Editor-in-Chief, Western Morning News and Evening Herald and Regional Editorial Director, Northcliffe Southwest Daily Newspapers).

Next Meeting

21. The next DPBAC meeting was planned to be held at 1800 on 9 November 2010. The meeting will be followed immediately by the annual DPBAC dinner in Admiralty House. The annual DPBAC Reception will take place in Admiralty House at 1830 on Tuesday, 23 November.

Andrew Vallance
AVM
Secretary, DPBAC

14 May 2010

Distribution

All Committee Members
The 'dnotice' Website