

# **The Defence Press and Broadcasting Advisory Committee**

## **Minutes of a Meeting Held in the Ministry of Defence**

**At 6pm on Thursday 1 November 2012**

D/DPBAC/3/2/1

The following were present:

Mr Jon Thompson (MOD) Chair  
Mr D Wilson  
(representing Mr O Robbins  
Cabinet Office)  
Mary Calam  
(representing the Home Office)  
Mr J Sinclair  
(representing Mr L Bristow, FCO)

Mr S Bucks, Vice-Chair  
Mr P Barron  
Mr E Curran  
Mr C Garside  
Mr J Green  
Mr J Grun  
Mr M Jermey  
Mr D Jordan  
Ursula Mackenzie  
Mr J MacManus  
Mr G Martin  
Mr R Satchwell  
Mr R Walker

Air Vice-Marshal A Vallance  
Air Commodore D Adams  
Commander Roland Woods

Secretary  
First Deputy Secretary  
Second Deputy Secretary

1. Apologies had been received from Mr T McKane (MOD), Mr L Bristow(FCO), Mr J Battle, Jane Crust, Mr B McIlheney, Mr O Robbins(Cabinet Office)

2. The Chair opened the meeting by welcoming to the Committee Mr Laurie Bristow who has replaced Mr Thomas Drew as the FCO representative, Mr Charles Garside of the Daily Mail who has replaced Mr Robin Esser as a representative of the Newspaper Publishers' Association, Mr Richard Walker of the Sunday Herald who has replaced Mr John McLellan as the representative of the Scottish Daily Newspaper Society and Mr Geoff Martin of Ham and High who has replaced Mr Alan Qualtrough as the representative of the Newspaper Society.

## **Agenda Item 1 – Minutes of the Meeting held on 9 May 2012**

3. There were no amendments to the minutes of the meeting held on 9 May 2012, which were approved by the Committee as an accurate record.

## **Agenda Item 2 – Matters Arising from the Previous Meeting**

4. Para 16: Managing National Security Disclosures. This would be dealt with under Agenda Item 4

5. Para 17-18: Special Forces Public Information Policy. This would be dealt with under Agenda Item 5.

6. Para 19-22: Review of DPBAC Administrative and Executive Support Functions. This would be dealt with under Agenda Item 6

7. Para 23: Composition of the DPBAC Media Side. This would be dealt with under Agenda Item 7

## **Agenda Item 3 – Secretary's Report**

8. Day-to-Day Business. The last 6 months had proved to be a period of unprecedentedly low activity. A total of only 67 enquiries were received during the period, averaging less than 3 per week. This compared with the 232 enquiries received for the period November 2010 to May 2011 (admittedly a record high), but was also less than half of the totals in other recent periods. The down-turn during the current period was most marked in the field of UK military operations and UK military equipment, which were the subject of 3 and 4 requests for advice respectively compared with 71 and 9 respectively for the same period last year. Moreover, 2 of the requests for advice on UK military operations were of an historical nature, being concerned with the Northern Ireland 'Troubles'. The reasons for this fall off in enquiries seemed to be several. Public and hence media interest in UK participation in operations in Afghanistan had been falling away for some time and now rarely surfaced in the news. Instead, defence reporting had focused mainly on budget cuts, procurement issues and disciplinary concerns, all of which fall well outside DA Notice guidelines. Also, the media continued to be notably cautious in its general reporting pending the results of the Leveson Inquiry. The dominance of the news in the summer months by the Olympic Games and Paralympics, and more recently by the Jimmy Savile affair, was a further factor. However, and despite the much reduced enquiry rate, the prime objective of the DA Notice System – to prevent the inadvertent disclosure of sensitive national security information - continued to be achieved, with no significant breaches of the DA Notice code occurring during the period.

9. DA Notice Letters to Editors. In comparison with the five DA Notice letters of advice to all UK editors sent out in the preceding reporting period, the Secretary had sent out only two of these so-called 'Advisories' during this reporting period. The first of these had advised editors to seek DA Notice advice before repeating the names of former and serving MI5 and MI6 officers in connection with a civil claim against the UK Government and Intelligence Agencies. The second was to inform editors of the changed arrangements for DA Notice adviser coverage resulting from the implementation of the Review of the DA Notice Secretariat.

10. The Secretary said that he remained convinced that great care needed to be exercised before issuing an 'Advisory', and indeed he had denied several requests from the Intelligence Agencies to issue further 'Advisories' during the period. Issuing too many advisories reduced them to commonplace and thus risked them being ignored; it also increased the danger that DA Notice guidance might not be sought when it was really needed.

11. Main Areas of Enquiry. Requests by the media and officials for DA Notice advice during the period had been focussed on 3 principal areas: the Intelligence Agencies, the Special Forces and the DA Notice System.

12. The Intelligence Agencies. Media interest in the Intelligence Agencies continued, but at a much reduced level than in the previous period. Some 25 requests were received in the last 6 months, in comparison with 50 enquiries during the preceding period. In very large part, these concerned issues of public 'naming' of intelligence officers.

13. Special Forces (SF). During the period there had been only 9 enquiries for DA Notice advice on SF issues, a small drop from the preceding period, but much less than the average over the last 5 years of perhaps 35 per period. Media reporting on SF activities apparently continued to be informed largely by leaks or guesswork, and was very often imaginative and speculative. However, there had been no breaches in the DA Notice code concerning SF (or indeed any other area) during the period.

14. The DA Notice System. During the last 6 months the Secretary had responded to 22 enquiries about the workings of the DA Notice System: from the media themselves, officials, academics, fringe organisations and members of the public. Enquiries concerned 'D Notices' allegedly issued about records of the trial of Dr Stephen Ward in 1963, to block publicity on Government financial support to the National Coal Board during privatisation and coverage of the Kuala Lumpur War Crimes Tribunal. More recently, the Secretary had been asked how many 'D Notices' had been issued to the BBC between August 2011-12 and whether there were any 'D Notice' restrictions on the reporting of the murders of the Al Hilli family. These and several other

requests showed how little the DA Notice System, its span of oversight and workings were understood by the general public.

15. Other Areas of Enquiry. The period had included 4 other requests for DA Notice advice. Two of these had concerned possible DA Notice action related to the loss of a classified lap-top, and that of a brief case containing classified material. Another had been a Freedom of Information request asking for a list of all D notices put in place or requested since the beginning of the year, while the subject of the fourth request had nothing to do with the DA Notice System.

16. The 'D Notice' Website. As had been reported previously to the DPBAC, agreement had been thought to have been reached that the '*dnotice*' website would remain outside the Government website architecture and continue to use a '.org' (rather than a '.gov.uk') address. However, this had been subsequently rejected by the Cabinet Office, and an appeal had to be launched to recover the position. The Secretary emphasised how important it was for the website to have an independent address. Not to do so would undermine the credibility of the DPBAC's independence. Happily, the Cabinet office had now accepted the arguments and had agreed that the *dnotice* website should be exempted from the Government's website architecture.

17. DA Notice System Promotion. The Secretary had continued to promote a better understanding of the DA Notice System whenever possible, although this had inevitably been constrained by the Secretary's absence during much of the summer in hospital and convalescence. Nevertheless, the Secretary had given 2 lectures/seminars during the period. Arrangements were in hand for several further lectures in the coming months.

18. Books. DA Notice advice had been sought on 6 book manuscripts during the last 6 months.

19. Committee Discussion. The Chair and Vice-Chairman thanked the Secretary for his comprehensive report. The Vice Chairman said that he fully supported the Secretary's position on the sparing use of Advisories. He also said that retaining the independence of the website had been hugely important.

#### **Agenda Item 4 – Managing National Security Disclosures**

20. The Secretary had reported at the last meeting that the status of DA Notice advice and 'Advisories' ( letters to all UK Editors) had come into question as a result of certain Court cases. In the lead up to the Employment Tribunal involving Alfred Bacchus (formerly of GCHQ) and during the Inquest into the death of Gareth Williams (GCHQ/SIS), DA Notice guidance had been

offered to editors on which members of the national intelligence agencies could be publicly named. In the former case, the Tribunal judge subsequently gave a more permissive ruling. Similarly, the Coroner ruled that an artist could be present and sketch participants during the Inquest into the death of Gareth Williams. This had led the SIS and GCHQ to ask whether the Secretary's advice could still be adhered to. In neither case had the Coroner/Chairman been told of the previous DA Notice guidance or the rationale on which it was based.

21. Such clashes between DA Notice advice and subsequent court rulings clearly risked undermining the credibility of the DA Notice System. Arguably, the Government lawyers involved in each of these cases should have provided the information to the Coroner/Chairman, but this did not happen. The Committee had expressed the view at the last meeting that a more consistent mechanism should be pursued to ensure that judges/coroners/tribunal chairmen would be made aware, before they reached a decision on a disclosure matter, of any relevant DA Notice advice that had been issued. The Secretary had agreed to discuss the matter with the Treasury Solicitor and Crown Prosecution Service.

22. The Secretary said that his work on this issue had unfortunately been delayed by his absence in hospital and convalescence during the summer. However, it was now progressing well. The Secretary had spoken to the MOD lawyers, Treasury Solicitors and the Ministry of Justice (MoJ). It seemed that there were 3 bodies which might be the best institutions for disseminating information to the judiciary on the nature of the DA Notice System and whether in specific cases any DA Notice advice had been offered to the media with the supporting rationale. These were:

- The Government Litigators Group (GLG)
- The Coroners' Society
- The Judicial Office

Following the Secretary's initial meeting with the responsible MoJ official, the issue had been brought before the GLG at its 3-monthly meeting at the end of October. It had become clear that the GLG were in fact already aware of the problem and that during the meeting some form of action was decided upon. However, exactly what had yet to emerge and may not do so until shortly before the next GLG meeting, when the minutes were traditionally promulgated. The Secretary said that he intended to wait until the outcome from the GLG meeting was clear before deciding what further action was needed and whether or not there was a need to engage with the other 2 relevant bodies. The aim was to ensure that direction was given to judges/coroners/tribunal chairmen so that they could take into account any DA Notice advice given.

23. Discussion. The Vice-Chairman thanked the Secretary for his work on this important issue and highlighted the danger that the credibility of the System could be undermined if there was confusion between DA Notice advice and court rulings. The Chairman said that he would be happy to engage with the MoJ at the appropriate level if required.

**ACTION: The Secretary**

### **Agenda Item 5 – Special Forces Public Information Policy**

24. The Chairman invited Darragh McElroy (MOD DMC) to update the Committee on Special Forces' (SF) Public Information Policy. Darragh McElroy said that there had been few issues concerning SF disclosure during the past 6 months although there had been a degree of speculation over Syria, the Olympics and Prince Harry in Afghanistan. The Press Office continued to work closely with DSF, core defence correspondents and the DA Notice Secretary. He stressed that MOD policy did allow for some flexibility when briefing SF matters.

25. Discussion. As background for those new to the DPBAC, the Vice-Chairman said that SF disclosure was a long-term point for discussion. The Media Side remained keen to engage more with DSF. The NCND policy was unsustainable in the longer term. The Secretary said that past engagement with the SF community had included small briefing sessions for the Committee and a visit to Credenhill. His recent attempts to meet with DSF had met with no success – three planned meetings during the past few months had been cancelled, and he had just been told that DSF was unavailable until January. As an alternative, he planned to take this forward with COS DSF. The Secretary reiterated the Media Side's view that it was unsatisfactory that most SF information reached the media through leaks. The Chairman offered to engage directly with DSF, and the Vice-Chairman indicated that this would be most helpful.

**ACTION: Chairman  
The Secretary**

### **Agenda Item 6 – Review of DPBAC Administrative & Executive Support Functions**

26. The Chairman invited the Secretary to give an update on progress with implementing the findings of the Review of DPBAC Administrative & Executive Support Functions. By way of background, the Secretary said that for the last 40-50 years the DA Notice Secretary had been almost the sole provider of DA Notice advice. He held the reins 24/7, except when on leave or unable to do his duties (through sickness or whatever); at such times the part-

time Deputy Secretary had stood in for him. This System had worked well when the media was governed by print deadlines and periodic – but widely separated – news broadcasts. However, the development of the internet and the 24 hour news cycle had meant that the System, dependent as it was on only 2 individuals, had become increasingly vulnerable and needed to be made more robust if it was to remain credible. Hence, a key recommendation of the Review had been to establish a second part-time Deputy Secretary post and to institute a weekly shift system to ensure robust DA Notice adviser coverage.

27. The Second DA Notice Deputy Secretary had now been recruited, and Commander (RN retired) Roland Woods had taken up post last month. The Secretary explained that in the future, the year would be divided into thirteen 4-week periods. In every 4-week period the Secretary would act as duty DA Notice adviser for 2 weeks, with each of the two Deputies holding that duty for one week each. The principle of a single point of contact and responsibility for DA Notice advice would be maintained, and advice to the media on individual national security information disclosure cases would fall to whichever of the DA Notice advisers was on duty at the time. On DA Notice policy issues, day-to-day responsibility would continue to lie (on behalf of the DPBAC) with the Secretary.

28. Some further detailed changes emerging from the Review remained to be implemented:

- Creation of a ‘cloud’ system to improve information sharing within the Secretariat.
- Acquisition of one or more *IPads* or equivalent tablet devices to assist adviser responsiveness. (Currently, there was a single Blackberry for the 3 advisers)
- Renegotiation and realignment of the existing contracts of the Secretary and First Deputy.

The Secretary said that he hoped to complete the remaining actions in the next few weeks.

29. Discussion. The Chairman thanked the Secretary for his work. Considerable surprise was expressed by the Committee at the poor level of IT support currently provided to the Secretariat. The Chairman said that he would ensure that the Secretariat was provided with the resources needed to ensure the efficient operation of the new arrangements.

**ACTION: Secretary**

## **Agenda Item 7 – Composition of the DPBAC Media Side**

30. This item had arisen as a result of discussion at the Spring DPBAC meeting about the possibility of an additional Media Side member with specific digital experience. The Vice-Chairman said that following discussion with members of the Media Side, it had been agreed that there was a certain lack of clarity as to how best to secure this expertise. For, example, should it be someone from social media, an ISP representative or a journalist who specialised in on-line publication? The Vice-Chairman suggested that the Secretary should be tasked with carrying out further research to establish the best way of providing this important capability. This was agreed.

**ACTION: Secretary**

## **Agenda Item 8 – Any Other Business**

31. MOD Green Book. The Vice-Chairman explained that during MOD's recent updating of the Green Book, wording had crept in suggesting that there could be an *obligation* for embedded journalists to consult the DA Notice Secretary in certain circumstances. The Media Side were quite clear that this was unacceptable. However, they would be more than happy to see the Green Book *encouraging* journalists to consult the Secretary. Furthermore, the DA Notices could be included as an appendix. Darragh McElroy (MOD DMC) said that he would bring the Media Side's concerns and suggestions to those involved with updating the Green Book. The Vice-Chairman added that it was important to remember that the Green Book reflected a bilateral agreement between the MOD and embedded journalists and was not for the direct involvement of the DPBAC.

**ACTION: Secretary**

## **Closing Remarks**

32. The Chairman reminded the Committee that the DPBAC Annual Dinner at Admiralty House would be held immediately following the meeting. The Chairman also reminded Committee members that the DPBAC Annual Reception (marking 100 years of the D Notice System) would be held in Admiralty House between 6.30 pm and 8.30 pm on Thursday 29 November.

## **Next Meeting**

33. The next DPBAC meeting was planned for 6 pm on Tuesday 7 May 2013, immediately after the Media-side pre-meeting, which would begin at 5.00 pm.



*Andrew Vallance*

Andrew Vallance  
AVM  
Secretary, DPBAC  
2012

November

Distribution

All DPBAC Members  
The '*dnotice*' Website