

Prime Minister



I have read through these terms of reference and procedure and they seem alright to me. There hasn't been an Appeal to the Three Advisers since 1969.

It is important to stick to the definition of subversion at x1, not least for consistency with Lord Bridge's latest report.

Ref. A085/648

MR BUTLER

The Three Advisers: Terms of Reference and Statement of Procedures

Agree with the revised draft and the procedure for publication?

In its report on security procedures and practices in the public services, the Security Commission observed that the procedures and terms of reference of the Three Advisers had become out of date in the light of the changes in the nature of the threat to security in the twenty years since the Report of the Radcliffe Committee.

FEB 6.3.

2. The Personnel Security Committee (PSC) was therefore asked to revise the procedures and terms of reference to provide an up to date definition of the nature of the threat to security, and a statement of the groups who have a right of appeal to the Three Advisers. Revised procedures and terms of reference were drafted and cleared with both PSC and the Official Committee on Security (SO). We then consulted the Three Advisers and the Council of Civil Service Unions (CCSU), who proposed a number of amendments which required further detailed consideration by both Committees. This has now been completed, and all the suggested amendments except one are recommended for acceptance.

3. I now attach a revised draft of both the Terms of Reference of the Three Advisers and the Statement of the Procedure to be followed when the reliability of a public servant is thought to be in doubt on security grounds, which incorporate the changes agreed by PSC and SO. The only amendment which is not recommended for acceptance was made by Mr Hewlett, and was endorsed by the CCSU. He suggested that the definition of

Mr. Hewlett is the former trade unionist member of the Three Advisers



subversion in paragraph 2.b.i of the Statement of Procedures and 1.a. of the Terms of Reference was too wide and that the following amendment should be made:

delete:

".... whose aims are to undermine or overthrow Parliamentary democracy in the United Kingdom of Great Britain and Northern Ireland by political, industrial or violent means;"

and substitute:

".... whose aims are to overthrow democratic Parliamentary government in this country by violent or other unconstitutional means;"

Whilst this amendment would bring the definition into line with the form of words used by Lord Diplock and referred to in the Statement on the Recommendations of the Security Commission (Cmnd 8540), it omits specific reference to "political and industrial means". This phrase was included in the definition accepted by Parliament in 1975 and is currently used for vetting purposes. We have assumed, therefore, that Ministers would not wish to delete these words.

It is also used in the criteria published with the Bridge Report

Lord Harris's Statement

Amend not

4. If the Prime Minister is content with the revised drafts, we shall let the Three Advisers and the CCSU know that their amendments have been accepted (with the exception referred to above), and incorporated into revised Terms of Reference and Statement of Procedures. The way will then be clear for publication and I suggest that this should be done by an arranged written Parliamentary Question to the Prime Minister.

RA

4 March 1985

ROBERT ARMSTRONG

TERMS OF REFERENCE OF THE THREE ADVISERS

1. It is the policy of Her Majesty's Government that no-one should be employed in connection with work the nature of which is vital to the security of the State who:

(a) is, or has recently been, a member of a communist or fascist organisation, or of a subversive group, acknowledged as such by the Minister, whose aims are to undermine or overthrow Parliamentary democracy in the United Kingdom of Great Britain and Northern Ireland by political, industrial or violent means;

(b) is, or has recently been, sympathetic to or associated with members or sympathisers of such organisations or groups, in such a way as to raise reasonable doubts about his reliability;

(c) is susceptible to pressure from such organisations or groups.

2. You have been appointed to advise Ministers in any cases referred to you whether in your opinion their prima facie ruling that an individual comes under paragraph 1 has or has not been substantiated. In doing so you should answer the following questions:

(a) Are there, or are there not, reasonable grounds for supposing that the individual has or has recently had sympathies, associations or connections of the type described in paragraph 1 above?

(b) If you are in doubt about the answer to 2(a) above, how do you assess the evidence whether presented to you or elicited at the hearing before you?

3. In answering these questions your aim should be to give the Minister the utmost help in deciding himself what course to take.

4. If you agree with the prima facie ruling you should specify your grounds. If you do not agree with the prima facie ruling or do not reach a firm opinion in any instance you should assess the evidence for the Minister reporting the weight which you have attached to particular factors.

5. You should in all cases take precautions to safeguard any very secret sources from which any of the information bearing on the conclusions has been obtained.

6. In the appreciation of a case, aspects of an individual's character or conduct should be taken into account when they bear upon his reliability in the general context of communist,

fascist or other subversive associations, sympathies or connections. (Where no question of such associations or sympathies arise, cases involving character or conduct will not be referred to you, but appeals will be dealt with under the normal grievances procedure of Departments.)

7. A decision of what employment is to be regarded as involving "connection with work the nature of which is vital to the security of the State" or on what constitutes "classified work" or "access to classified information" is not one for you but for Ministers in charge of Departments. Your functions do not extend beyond advising Ministers as set out above.

8. You have also been appointed to advise Ministers, in cases referred to you in any of the following categories, whether in your opinion the case for their prima facie ruling has or has not been substantiated:

(a) the individual is an official of a union with members in the civil and public services who may acquire access to classified information in the course of negotiations or while visiting secret establishments, and the responsible Minister issues a notice of refusal to negotiate with him or of denial of access to a secret establishment on any of the grounds described in paragraph 1.

(b) the individual is removed from classified work or is refused a Positive Vetting clearance and in consequence his career is likely to be prejudiced because he, his spouse (or any person who is regarded or lives as his spouse) or other close relative has overseas connections which are judged to constitute a security risk because they may impose a strain on his loyalties or make him vulnerable to pressure from a foreign intelligence service.

(c) the individual is a British citizen employed by an International Defence Organisation, whether on secondment or directly recruited, and

(i) the responsible Minister rules that there is a prima facie case for withdrawing his security clearance on any of the grounds described in paragraph 1 or sub-paragraph 8(b) above, and

(ii) he would be liable to dismissal or to suffer financial loss as a result of such withdrawal.

In considering cases in these categories you should be governed by the considerations set out in paragraphs 3-7 above. When the individual is employed by an International Defence Organisation you will be asked also to take into account the security criteria in the regulations of the IDO concerned.

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STATEMENT OF THE PROCEDURE TO BE FOLLOWED WHEN THE RELIABILITY
OF A PUBLIC SERVANT IS THOUGHT TO BE IN DOUBT ON SECURITY
GROUNDS

1. The procedure set out below applies to:
 - (a) the public service (excluding members of the Armed Forces who are dealt with under the appropriate Service regulations);
 - (b) the United Kingdom Atomic Energy Authority (including British Nuclear Fuels Limited and United Kingdom employees of URENCO Limited);
 - (c) The Civil Aviation Authority;
 - (d) British Telecommunications plc;
 - (e) The Post Office;
 - (f) Police Forces (including civilian employees);
 - (g) civilian employees of the Territorial Army and Auxiliary Forces Associations;
 - (h) employees of firms engaged on classified Government contracts, departmental consultants and employees of NAAFI who are liable to dismissal or to suffer financial loss as a result of the responsible Minister issuing a directive that secret matter should not be disclosed to them.

For convenience and brevity the term 'public servants' is used to cover all these groups, except that the reposting provisions in paragraph 10 and 11 below may only be a practical proposition for those described at sub-paragraph (a).

2. The Minister (that is, the Minister responsible for the Department or organisation to which the public servant belongs) will have before him information on which to decide whether the reliability of the public servant is prima facie to be regarded as in doubt on security grounds. His reliability will be so regarded if:

- (a) he is, or is to be, employed in connection with work the nature of which is vital to the security of the State, and simultaneously;
- (b) (i) he is, or has recently been, a member of a communist or fascist organisation, or of a subversive group, acknowledged as such by the Minister, whose aims are to undermine or overthrow Parliamentary

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democracy in the United Kingdom of Great Britain and Northern Ireland by political, industrial or violent means; or

(ii) he is, or has recently been, sympathetic to or associated with members or sympathisers of such organisations or groups, in such a way as to raise reasonable doubts about his reliability; or

(iii) he is susceptible to pressure from such organisations or groups.

No statement of general application can be made as to what constitutes sympathy or association under (b)(ii) or what can be regarded as susceptibility to pressure under (b)(iii) above. Each case will be assessed in the light of the particular facts.

3. If the Minister rules that there is a prima facie case, the public servant is at once to be so informed and will where necessary be sent on special leave with pay, care being taken as far as possible not to disclose the reasons for his absence to his colleagues.

4. The public servant will at the same time be given any particulars, such as the date of his alleged membership, or the nature of the alleged sympathies, associations or connections, that might enable him to clear himself. There will however have to be limits to the information given for he cannot be given such particulars as might involve the disclosure of the sources of the evidence.

5. At the same time the public servant will be asked to say whether he accepts or denies the allegation. If he accepts the allegation he will be dealt with as described in paragraphs 10 and 11 below. If he does not admit the allegation he shall have fourteen days in which to make written representations to the Minister if he so wishes.

6. The Minister will reconsider his prima facie ruling in the light of any representations the public servant may make. If the Minister decides that there is no reason for varying it, the public servant shall be so informed and shall then have seven days in which to decide whether to ask for a reference to the Three Advisers. If he does not ask for such a reference he will be dealt with as in paragraph 9 below. If he does ask for a reference to the Three Advisers the latter will be asked to consider the case as soon as possible.

7. The function of the Three Advisers is set out in their Terms of Reference. Where there is no suggestion of communist, fascist or other subversive associations, sympathies or

connections, cases involving aspects of character or conduct will not be referred to the Tribunal, and appeals will be dealt with under the normal grievance or similar procedures of Departments.

8. In discharging their functions the Advisers will take into account the representations made by the public servant. They will hear him in person if he so wishes and he may be accompanied by a "friend", who may be a trade union official, to help him in presenting his opening statement in reply to the charge. At the discretion of the Three Advisers, the "friend" may remain to assist the appellant for as much of the proceedings as the Three Advisers consider appropriate. The "friend" must withdraw when asked to do so. The public servant may also ask third parties to appear before the Advisers separately to testify to them as to his record, reliability and character. In the special circumstances of these cases the proceedings must be governed by the requirement that neither sources of evidence nor evidence which might involve the disclosure of sources can be given to the person against whom the charge is brought. The Advisers will therefore count it as an important part of their functions to see that anyone appearing before them can make his points effectively and will adapt their procedure in such a way as to give him the best possible opportunity of bringing out the points which he wishes to bring to their notice.

9. On receiving the report of the Three Advisers, the Minister will reconsider his prima facie ruling and if he decides to uphold it, he will give the public servant an opportunity of making representations to himself or his representative before action is finally taken. Similar opportunity will be given when the public servant does not wish his case to go to the Advisers.

10. If the prima facie ruling is finally upheld, a public servant will be posted to or retained in a non-secret branch within his own Department, or, if this is not practicable, will be posted to a non-secret branch in another Department. If he belongs to a category which it is impossible to employ in any other than a secret branch, or if his qualifications or experience are such that no alternative employment elsewhere in the Government service can be found, he will have to be dismissed unless he accepts the option, which should always be afforded in such cases, of resigning.

11. Before a decision to repost, or in the last resort, to dismiss (with resignation as the alternative), is made effective, the public servant's trade union should be afforded an opportunity of suggesting any alternative reposting that it may think more suitable, or of suggesting a possible reposting as an alternative to dismissal or resignation.

12. A public servant will be given a similar opportunity to make representations to the responsible Minister and to have his case referred to the Three Advisers as described above if:

(a) he is an official of a union with members in the civil and public services who may acquire access to classified information in the course of negotiations or while visiting secret establishments, and the responsible Minister issues a notice of refusal to negotiate with him or of denial of access to a secret establishment on any of the grounds described in paragraph 2(b);

(b) he is removed from classified work or is refused a Positive Vetting clearance and in consequence his career is likely to be prejudiced because he, his spouse (or any person who is regarded or lives as his spouse) or other close relative has overseas connections which are judged to constitute a security risk because they may impose a strain on his loyalties or make him vulnerable to pressure from a foreign intelligence service.

(c) he is a British citizen employed by an International Defence Organisation, whether on secondment or directly recruited, and:

(i) the responsible Minister rules that there is a prima facie case for withdrawing his security clearance on any of the grounds described in paragraph 2(b) or sub-paragraph 12(b) above, and

(ii) he would be liable to dismissal or to suffer financial loss as a result of such withdrawal.

Ref. A085/1014

MR BUTLER

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*TOP
copy
with
questions*

The Three Advisers: Terms of Reference
and Statement of Procedure

Thank you for your minute of 7 March in which you record the Prime Minister's agreement with the revised Terms of Reference and Statement of Procedure of The Three Advisers, and the proposals for publication.

Copies of the revised texts have been sent to The Three Advisers and to the Council of Civil Service Unions on a "CONFIDENTIAL until publication" basis. The way is now clear to make an announcement. It was agreed that this should be by an arranged written Parliamentary Question for answer by the Prime Minister. I attach drafts and should be grateful if you would make the necessary arrangements for the Question to be answered before the Easter Recess.

ROBERT ARMSTRONG

ROBERT ARMSTRONG

1 April 1985

DRAFT QUESTION

To ask the Prime Minister whether the Statement of Procedure to be followed when the reliability of a civil servant is thought to be in doubt on security grounds and the Terms of Reference of the Three Advisers, which were published by the Financial Secretary to the Treasury on 29 January 1957 (Official Report, column 152-156), have been revised.

DRAFT ANSWER

In the light of the Security Commission's report following their review of security procedures and practices in the public service (cmdnd 8540) the Terms of Reference of the Three Advisers and the Statement of Procedure have been revised as follows

(copies attached)

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(c) The Civil Aviation Authority;

(d) British Telecommunications plc;

(e) The Post Office;

(f) Police Forces (including civilian employees);

(g) civilian employees of the Territorial Army and Auxiliary Forces Associations;

(h) employees of firms engaged on classified Government contracts, departmental consultants and employees of NAAFI who are liable to dismissal or to suffer financial loss as a result of the responsible Minister issuing a directive that secret matter should not be disclosed to them.

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democracy in the United Kingdom of Great Britain and Northern Ireland by political, industrial or violent means; or

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9. On receiving the report of the Three Advisers, the Minister will reconsider his prima facie ruling and if he decides to uphold it, he will give the public servant an opportunity of making representations to himself or his representative before action is finally taken. Similar opportunity will be given when the public servant does not wish his case to go to the Advisers.

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(a) he is an official of a union with members in the civil and public services who may acquire access to classified information in the course of negotiations or while visiting secret establishments, and the responsible Minister issues a notice of refusal to negotiate with him or of denial of access to a secret establishment on any of the grounds described in paragraph 2(b);

(b) he is removed from classified work or is refused a Positive Vetting clearance and in consequence his career is likely to be prejudiced because he, his spouse (or any person who is regarded or lives as his spouse) or other close relative has overseas connections which are judged to constitute a security risk because they may impose a strain on his loyalties or make him vulnerable to pressure from a foreign intelligence service.

(c) he is a British citizen employed by an International Defence Organisation, whether on secondment or directly recruited, and:

(i) the responsible Minister rules that there is a prima facie case for withdrawing his security clearance on any of the grounds described in paragraph 2(b) or sub-paragraph 12(b) above, and

(ii) he would be liable to dismissal or to suffer financial loss as a result of such withdrawal.



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[Signature]

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

The Three Advisers: Terms of Reference and
Statement of Procedures

The Prime Minister has seen your minute of 4 March (A085/648) attaching revised procedures and terms of reference of the three advisers.

The Prime Minister is content with the revised drafts and your proposals for the next steps. The Prime Minister also agrees that the Government should not accept the amendment suggested by Mr Hewlett. She considers it essential to stick to the definition of subversion used by Lord Harris in Parliament in 1975, which was also referred to by Lord Bridge in his latest report.

Leib

7 March 1985

[Signature]