



Government Response to the Intelligence and Security Committee's Annual Report 1997-98

*Presented to Parliament by the Prime Minister
by Command of Her Majesty
October 1998*

Cm 4089

2.30

published by The Stationery Office
as ISBN 0 10 140892 7

comments

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1. The Government welcomes the Intelligence and Security Committee's latest Annual Report. The Committee acknowledges the continued need for the intelligence and security Agencies in a changed but still dangerous world and believes that they must be maintained and funded in a sustainable way. The Government reached the same conclusion in the Comprehensive Spending Review and has accordingly set spending plans which will enable the Agencies to face up to the formidable tasks, old, new and changing, which confront them.
2. The Committee has reached a number of detailed conclusions and made several recommendations. A few touch on operational matters which cannot be discussed in public. The Committee has taken these up directly with the Prime Minister. But most of the Committee's conclusions and recommendations are set out in full in their Report which the Prime Minister has laid before Parliament. The Government will give careful consideration to each of the Committee's recommendations. The Government is also making time available shortly for the first in a regular series of Parliamentary debates on the Agencies. Members of Parliament will therefore have an opportunity for a discussion of the issues raised in the report.

The Agencies' Priorities and Plans

3. The operational work of the Agencies is necessarily conducted in secret. They are engaged in countering a range of threats to British interests and those we have in common with our friends throughout the world. The ability of the Agencies to respond flexibly to new challenges is an important strength in the less stable post-Cold War World.
4. The Government welcomes the Committee's strong support for the increased priority the Agencies are giving to counter-drugs work. We shall continue to harness the invaluable contribution which they make to this important task.
5. The Committee also strongly supported the Agencies' vital work against terrorism associated with Northern Ireland. Together with their work against the threat from international terrorism, this will continue to occupy a significant proportion of the Agencies' effort for the foreseeable future. We hope, however, that with continued progress towards peace in Northern Ireland, it will be possible for the Agencies to reduce the level of resources devoted to Irish counter-terrorist activity; but continuing vigilance will be necessary.

Finances

6. The Committee suggests that Ministers may wish to see financial information in the same format as it was presented to them. The Government acknowledges that the Committee has been greatly helped by a revised presentation of Agency expenditure and we shall certainly consider whether it meets Ministerial needs. Ministers have full access to all financial information on the Agencies, which was carefully considered in the Comprehensive Spending Review.
7. The Committee has a number of recommendations concerning the National Audit Office. These are principally matters for the Committee, Parliament, the Comptroller and Auditor-General and the National Audit Office.
8. The Government expects the examination of the Agencies by the National Audit Office to be, with very limited agreed exceptions, on the same basis as its work on all other departments, including in areas of capital expenditure. This examination is complementary to the Intelligence and Security Committee's oversight of the Agencies. The Government

would not object to the Intelligence and Security Committee reaching agreement with the Chairman of the Public Accounts Committee of the House of Commons and the National Audit Office over the disclosure of reports. This would be on a similar basis to that by which they are shared with departmental Select Committees of the House of Commons.

9. The Government will ensure, as the Committee seeks, that the arrangements for the disclosure of information to the Comptroller and Auditor-General by the Secret Intelligence Service and by the Security Service are brought into line. The Comptroller and Auditor-General will be provided with the reasons when it is not possible to disclose information to the National Audit Office.

Personnel Management Issues

10. The Government shares the Committee's views that good personnel policies and practice are of particular importance for the Agencies, and that a range of measures are needed to deal with potentially disaffected staff. Considerable efforts are already made to ensure that staff are reliable before they are placed in sensitive roles, but as the Committee recognises, it is not always practicable to place new or unproven staff in non-sensitive posts. Nor is it possible always to identify such posts with confidence.

11. The Government acknowledges that the Committee were impressed by the commitment and experience of those in the Agencies responsible for handling disaffected staff. At the same time the Committee recognised that there were limits to what can be achieved if an individual refuses to make use of the range of assistance available. The Government does, however, remain committed to maintaining a strong defence against illegal disclosures by Agency staff or former staff.

12. Although intelligence and security work gives rise to special considerations, the Government shares the Committee's wish that the employees of the Agencies should have the same rights as other employees. For example, the Government took swift action after the General Election to restore trade union rights at the Government Communications Headquarters (GCHQ). There has been no general ban preventing access by security and intelligence service staff to employment tribunals since 1996; instead decisions on such access are taken on a case-by-case basis. The Government is now examining further ways of ensuring that employees have access to tribunals when national security considerations cannot be met by existing safeguards.

13. The Staff Counsellor for the Agencies already examines any personal issue which is brought to him, including grievances against management. The Agencies will continue to remind staff of this facility, and it will be included formally in the Staff Counsellor's terms of reference.

Personal Records/Files

14. The Committee suggests that there should be an independent check of the processes under which the Security Service destroys files no longer required for its work, particularly in respect of files relating to subversion. As the Home Secretary made clear in his written answer on 29 July, the Government believes that the Service should continue to review files for destruction on a systematic basis, taking into account their continued operational value, their historical significance and the obligation derived from the Security Service Act 1989 to retain certain categories of records against the possibility of a complaint to the Security Service Tribunal.

15. The decision to open a file must remain an operational one, to be taken by the Security Service. This reflects the statutory position whereby the Director-General is responsible for ensuring that no information is obtained by the Service except so far as is necessary for the proper discharge of its functions. In the same way the decision to retain or destroy a file must be an operational one, made in the light of the Service's best judgement about the information it needs to pursue its current and future work efficiently and effectively. The Director-General must also ensure that no information is disclosed by the Service except so far as is necessary for the discharge of its functions or where specifically required to do so by the law. Hence, those circumstances apart, Security Service files are never disclosed to outsiders, and it has been the view of successive Governments that this should remain the case. The Government therefore endorses the Committee's recommendation that access to personal files, even within the Service itself, be restricted to those with a clear need to see them. The Service already has in place procedures to ensure that this is the case, and audit arrangements which track and record internal access to any file.

16. Accordingly, the Government does not believe that the process of reviewing files for destruction would be assisted by independent scrutiny. It would be neither practicable, given the scale of the exercise and the detailed judgements that need to be made, nor appropriate since it would involve second guessing decisions that the Service is required to make and for which it is responsible in law. The Government has, however, invited the Advisory Council on Public Records to review the criteria which the Service currently applies in determining which files should be kept on account of their historical interest, so as to ensure that in making those judgements the Service has available the very best advice as to what should be retained.

17. The Committee indicates that it intends to consider further the Security Service's current practice of only reviewing files for destruction on individuals who are over 55 years old. The Committee's principal concern turns on files relating to subversion, on which the Service is no longer conducting investigations, and their possible use in vetting. The Service is actively reviewing old files for destruction, but this is a time-consuming task and priorities must be established. The Government endorses the Service's pragmatic judgement that the files which should be reviewed first are those which are the oldest and where there are therefore less likely to be papers of any relevance to current work. Moreover, the Government's policy is that the Service will no longer surface records in the vetting context purely on account of membership of organisations hitherto considered subversive.

18. The Committee acknowledges that there is a heavy responsibility on the Director-General of the Security Service in putting forward to the Prime Minister or Leader of the Opposition information on those elected, to ensure that it has been properly checked and relates solely to national security. The Government is satisfied that the Director-General takes this responsibility seriously and that the arrangements continue to be proper and appropriate.

19. The Committee was concerned by communications which might have been "obtained incidentally during the course of an authorised, targeted collection" by GCHQ. All GCHQ interception is carried out only for the purposes set out in the Intelligence Services Act 1994 and, where applicable, with the necessary authority granted in the form of warrants signed by the Secretary of State under the Interception of Communications Act 1985. Records are retained and material used only in accordance with those Acts. Material which does not reach the threshold for immediate inclusion in an intelligence report but is nonetheless of potential value is only retained for as long as it is operationally necessary. These arrangements are subject to continuing scrutiny by the Commissioners appointed under the Interception of Communications Act and the Intelligence Services Act and their reports are laid annually before Parliament.

Oversight Issues

20. The function of the Security Commission is to investigate and report on breaches of security and to offer advice; and its remit extends across the whole of the public service. The Government recognises that there may be circumstances, in relation to breaches of security in the Agencies, where the Intelligence and Security Committee may wish to look into matters which are also the subject of scrutiny by the Security Commission. When both bodies are engaged it would be sensible to ensure that duplication of effort is avoided as far as possible.

21. The Government believes that it is in everyone's interests that the views of the Intelligence and Security Committee are held to be authoritative. Thus, as the Committee wishes, the Government intends to maintain as open and frank a relationship as possible. It will do so in accordance with the letter and spirit of the statute, which recognises that there are sensitive matters that cannot be disclosed to the Committee, and, matters of national security aside, the Government will maintain with the Intelligence and Security Committee the usual conventions by which it deals with Select Committees of the House of Commons. As far as an investigative capability is concerned, should the Committee wish to verify matters put to it, the Government will, within the current legal framework, consider each request as sympathetically as possible, and discuss with the Committee any necessary strengthening of its staff.

GCHQ Accommodation Project

22. The Government shares the Committee's assessment of the critical nature of GCHQ's accommodation project and the importance of avoiding any disruption of operations. Close attention will be paid to all aspects of the management of this project.

Future Programme of Work

23. The Government looks forward to the Committee's findings on the range of issues which it has identified for further work. The Intelligence and Security Committee's remit is confined to the intelligence and security Agencies, but the Agencies themselves do not have a monopoly of interest in intelligence and security matters. Issues arise which cut across the functions of the Agencies and others, for example the Armed Forces and the police. It will often be appropriate for the Committee to examine the effects on the Agencies of changes elsewhere. But the principal responsibility for oversight of other organisations lies elsewhere, including with Select Committees of Parliament.
