

DECLASSIFIED
RESTRICTED MANAGEMENT



PERMANENT SECRETARY

D/PUS/2/59(145)

29 February 2008

Minister(AF)

Copy to:

SofS
Minister(DES)
USofS
CDS
VCDS
2ND PUS
CNS
CGS
CAS
CDM
DCDS(Pers)

SG
2SL
AG
Air DCinC Pers-AMP
CJO
Policy Director
Command Sec FLEET
DG Sec LF
Command Sec AIR
Command Sec PJHQ
DGLS

DG SP Pol
DG Info
DGMC
DE&S COS
D SP Pol SC
D SP Pol AFW
SP Pol Cmd Paper TL
DD Pers LF Sec
Special Advisers

BOARDS OF INQUIRY AND INQUESTS

I attach a detailed submission on BOIs and Inquests. It is the product of work which Ian Andrews has led involving all three services. It has not been a full scale review of the BOI system, which would, I think, take longer and need a dedicated review team. But it addresses a number of the concerns the Secretary of State, you and others have expressed recently, and includes, in an annex, Air Command's comments on lessons learned from the experience of the Nimrod BOI.

2. The main issues on which I suggest we concentrate in a discussion are:

- the point the Secretary of State asked me to look at on whether, in cases like the Nimrod accident where a conventional BOI will illuminate the incident itself but not the prior events (adequacy of safety case, etc) which are a necessary part of the story, we could have a different procedure in which a relatively short fact-finding exercise would be followed, if necessary, by a fuller inquiry into the whole course of events. The short point is that we could, and the submission recommends the early involvement of Command Secretaries (the senior Civil Servants in the Single Service commands), so that they can, in appropriate cases, consider and put to Ministers the option of a wider ranging or more independent inquiry than would normally be provided by a BOI.

1
RESTRICTED - MANAGEMENT
DECLASSIFIED

RESTRICTED - MANAGEMENT
DECLASSIFIED

- the scope for providing more timely and effective support for families – the submission recommends a new direction to the chain of command requiring the briefing of family members of those killed as soon as practicable, and revised guidance to BOIs on keeping families informed through suitably caveated briefings. The advisory booklet for family members on BOIs and inquests which has now been produced (and is attached to the submission) should also help.
 - the means by which we coordinate this whole process. The recommendation to which I attach most importance here is for the creation of a joint secretariat (building on the Army's AJAX team) to manage the Department's overall relationship with coroners, to contain some active case management capability, and to produce integrated progress reports for Ministers.
 - Media handling – the submission envisages DGMC being informed of progress with BOIs from an early stage, and Command Secretaries working with DGMC to ensure early preparation for the publication of high profile BOI reports. DGMC are also following up some of the detailed points you have raised recently about press office involvement in inquests, news briefs and core scripts, and generally getting ourselves ahead of the curve publicly.
3. There is more in the submission, but this note is intended to crystallise the main issues for a discussion which we would very much welcome.

[Signed on Original]

BILL JEFFREY

Enclosure:

1. D/PUS/2/59(146) dated 29 Feb 08.

2
RESTRICTED - MANAGEMENT
DECLASSIFIED

RESTRICTED - MANAGEMENT
DECLASSIFIED



PERMANENT SECRETARY

D/PUS/2/59(146)

29 February 2008

Minister(AF)

BOARDS OF INQUIRY AND INQUESTS

References:

- A. MSU 13/5/3G dated 5 Dec 07.
- B. MSU 10/5/5N dated 7 Dec 07.
- C. D/MSU/4/9/is dated 7 Dec 07.

Issue

1. The scope and options for improving the Board of Inquiry (BOI) process.

Recommendations

2. That you agree that:
 - a. the immediate priority, following an incident, is to understand the facts and circumstances and put into place measures that will prevent a similar incident recurring.
 - b. new direction should be issued to the chain of command that it should always brief family members of those killed in an incident as soon as practicable after it has occurred, thereby initiating an early relationship between the Department and the families.
 - c. Command Secretaries should be informed of the decision to proceed with a BOI and, if the incident has wider implications for Defence, seek Ministerial approval for the terms of reference of the inquiry.
 - d. revised instructions for the conduct of BOIs should be issued to reflect current best practice and to emphasise the need to:
 - keep Command Secretaries and DGMC informed of the progress of BOIs and of associated briefings to the families, particularly those with a high profile, thereby enabling Ministers to be alerted to the wider issues;

3
RESTRICTED - MANAGEMENT
DECLASSIFIED

- ensure timely advice on the publication of the report; and,
 - provide Command Secretaries with a copy of a BOI report at the same time as it is passed to the Reviewing Authorities, thereby enabling fuller consideration of wider issues and early preparation (with DGMC) for publication of the report.
- e. for inquests, a new joint secretariat (building on the Army's Project AJAX team) should be created to co-ordinate all three Services' management of inquests (including feedback to the Press Office), the relationship with coroners and joint reports to Ministers;
- f. Ministers should reaffirm their predecessors' view, arising from the BOI into the Mull of Kintyre Chinook crash, that BOI reports should not apportion blame. Where it is necessary for the BOI report to present criticism the Board should show how it has substantiated its findings. Individuals or an appropriate representative of an organisation should be given the opportunity to present their evidence so that the Board's opinion is based fairly on the balance of probability.
- and note that:
- g. Much has been done over the past year to manage expectations of the BOI process more carefully by keeping families better informed without prejudicing the process of the investigation. In particular we have produced a booklet for family members to explain BOIs and inquests.
- h. The Armed Forces Act 2006 (AFA 06) provides for a harmonised Service Inquiry system which will replace BOIs. Service Inquiries will have the same purpose as BOIs and will not be radically different. We plan to implement Service Inquiries mid-2008 ahead of full implementation of AFA 06 in 2009. Policy for the new Service Inquiries is currently being drafted. This will reflect current best practice and provide comprehensive guidance for the end-to-end process of Service Inquiries and related matters, including support to families and disclosure.
- i. DGMC will follow up a number of other presentational factors with Command Secretaries, DG SP Pol and DGLS, consistent with the recommendation at paragraph 2d.

Timing

3. Routine.

Background

4. Concerns following the publication and release of the Nimrod XV230 Board of Inquiry (BOI), followed by the then most recent inquest summary, resulted in three separate but related requests for advice (References A to C). I undertook to provide a comprehensive piece to address the various issues raised. This is attached at **Annex A** with the specific questions you and Secretary of State raised highlighted in bold. The issues raised separately about the release of the BOI report into the circumstances surrounding the injury and

RESTRICTED - MANAGEMENT
DECLASSIFIED

aftercare of _____ were the subject of separate advice from DCDS(Pers) and LF Sec (which has also informed the preparation of this advice).

Why have a BOI?

5. The immediate priority for the department, following an incident, is to examine the facts and circumstances, learn lessons, and put into place measures that will prevent a similar incident occurring. This work must gather evidence quickly in order to provide immediate guidance to prevent a similar incident. Families of those killed or injured should be made aware of these initial findings and helped to understand that, at this stage, evidence may be limited.

6. A decision should then be made by the Services on how the investigation should proceed, and the Command Secretary informed. If it is judged that the immediate lessons have been learned and it is clear that there are no longer term issues, the convening authority may recommend that a Board of Inquiry is not necessary, as is currently the case for 50% of operational deaths. If it is necessary to do further work into the circumstances surrounding an incident in order to make recommendations which may reduce the risk of recurrence, or to improve procedures, then the Service should be able to approve the convening of a Board of Inquiry and the Command Secretary be consulted on its terms of reference. With the levels of hindsight the BOI into the circumstances surrounding the injury and aftercare of _____ suffered from its terms of reference being set without adequate consultation with key stakeholders at that stage.

7. Some incidents are complex, and while a BOI can concentrate on identifying the most likely causes, there is sometimes the need for the wider Defence picture to be understood. For example, while the Nimrod XV230 BOI included a careful investigation of the incident itself, its remit did not extend into the history and safety record of the Nimrod, the safety case, certification of airworthiness, etc, which is now being examined by Charles Haddon-Cave QC. Where there is a need to capture the broader departmental perspective, and where there is high public interest in the case, Command Secretaries should seek Ministerial approval for the terms of reference. This would lead to an early decision on whether to broaden the scope of the inquiry to include a suitably senior and experienced president, or to hold a further reaching independent inquiry. This should not be at the expense of delay to the immediate launching of the BOI, as the two could be run concurrently.

8. A BOI is not a criminal or judicial investigation; it cannot punish individuals nor award damages, nor rectify miscarriages of justice, and it should not attempt to apportion blame. This was not the case before 1997 when Ministers decided, in light of the BOI into the Mull of Kintyre Chinook crash (in which the pilots were blamed by the chain of command for gross negligence) that BOI reports into matters involving death or serious injury should not apportion blame. This is to avoid criticism that deceased personnel, who are unable to defend themselves, and also those seriously injured, are blamed unfairly for incidents, and to protect the interests of individuals alleged to be involved.

9. For deaths on operations there will be a coroner's inquest to determine who the deceased was, and establish when, where and in what circumstances the deceased came to his or her death. Liaison with the coroner is important and includes the provision of military witnesses and subject matter experts, advice in military matters, access to documents and reports, assistance to Treasury Solicitors and Counsel (if engaged), and attendance at pre-

DECLASSIFIED

inquest meetings and inquests. Although all initial contact with the coroner is managed by the Joint Casualty and Compassionate Centre (JCCC), this phase of activity is currently managed differently by the Services. The Army has a dedicated team, Project AJAX, which oversees all coroner and liaison activity, and appoints a senior-level case officer from within the team who will work with the coroner. The RN maintains its contact with the coroner through the JCCC to determine what witnesses are needed; all other work is undertaken through the FLEET Command Secretariat. Likewise, the RAF maintains contact through JCCC but has a number of civilian and military stakeholders involved in the inquest process. This process ensures a coherent approach within the relevant Service, but has the draw-back that the political, presentational and media aspects of these cases are managed in more than one place and there is no single overview of wider departmental issues.

What we have done so far

10. We owe it to the families to tell them what we know, when we know it, and much has been done in recent months to improve the support given to the families of those killed or injured. Following a written Ministerial statement in June 2007, which set out our initiatives to improve such support, Visiting Officers and Assisting Families attend pre-inquest and inquest hearings, and families are briefed at the outset of the BOI process, and are kept informed of progress, normally by letter every four weeks, until disclosure of the report. It is important to manage expectations of the BOI process and we have just completed production of a booklet (copy attached) to explain the nature and purpose of the BOI and coroner's inquest. This will help families understand the process and provides an opportunity to suggest improvements.

11. Each of the Services has taken steps to improve their management of the BOI process. The Army has appointed Permanent Presidents to improve consistency and experience in the handling of its high profile cases. The RN and RAF, with far fewer high profile incidents to deal with but often more technically complex cases, have taken steps to create pools of expertise from which BOI Presidents are drawn, and to brief newly-appointed Presidents fully on their roles and responsibilities at the start of a BOI.

12. As regards inquests, individuals who are called to give evidence on behalf of the Services or MOD are provided with guidance on what to expect during the inquest. The RAF have employed a legal firm to provide cross-examination training (this is not the same as coaching, which would be unacceptable) for technical and subject matter experts who will be called to give evidence in the forthcoming high-profile inquests. The Army's subject matter experts are now more experienced. But in the end we do not have control over what an individual might say when giving evidence under oath.

The impact this is having

13. A BOI is not a prerequisite of an inquest, but some coroners find the information contained within a BOI report useful, particularly where the circumstances of the death are complicated by operational or technical military issues, and therefore we normally pass a copy of the report to the coroner. In May 2007 we issued detailed guidance on the disclosure of BOI reports to families, the coroner and other interested parties. In particular the guidance includes how third party information should be redacted to allow the family to follow the narrative. This provides an opportunity for individuals to identify additional witnesses they might like the coroner to invite to attend the inquest, which had previously been a concern both to families and the coroner. We continue to face criticism over the redaction of BOI

RESTRICTED - MANAGEMENT
DECLASSIFIED

reports but we have clear obligations under various legislation affecting the disclosure of the information which include the Health Records Act 1990 (in respect of the deceased), the Data Protection Act 1998, and the Freedom of Information Act 2000. We have gone as far as practicable within the law.

14. The length of time a BOI and inquest takes is determined partly by the nature, location and complexity of the circumstances of the incident under investigation. As at 26 February there were 100 open inquests, below last summer's peak of 132, but still well above the backlog of 80 inquests that was judged to be unacceptable in Spring 2006. Much of the improvement to the inquest process has come from the work done in Oxfordshire, and in particular the diligence of Andrew Walker. Although he has 28 inquests still to hear in Oxfordshire, the burden is gradually moving to David Masters, the Wiltshire coroner, who has 38, mostly unlisted. He acknowledged publicly following the announcement on 5 October 2007 of extra resources, that his concerns were allayed and he has fully embraced the policy change to transfer single deaths to "home" coroners.

15. The use of pre-inquest hearings, while recognised by all, including families, as a valuable contribution to the inquest process, can also add delays to the process. In addition, coroners often wait for access to the MOD's reports, including the BOI report, before taking their own work forward. We must show coroners that we treat our investigations as matters of urgency so that we might expect them to do the same. You met Andrew Walker and David Masters on 21 February: both responded positively to our desire to work with them to make the inquest process work better and quicker for bereaved families.

What more we plan to do

16. It is important for the families of those killed or injured to feel part of the process and therefore the BOI should engage with them on convening, if necessary through the Visiting Officer. This is to help the families understand the BOI process and the purpose of the inquiry, and also to offer them a copy of the terms of reference and an opportunity to discuss specific issues or to raise relevant questions. The BOI should then keep the families informed on progress of investigations through suitably caveated briefing on interim findings. On completion of the BOI, for compassionate reasons, it should offer the family a redacted copy of the Board's convening order, terms of reference, findings, recommendations and the comments made by the convening authority/reviewing authority from the overall report, with a briefing conducted in person. The families should be given too the redacted supporting evidence of the full BOI report if they wish. DGMC should also be consulted when planning to release information to families throughout the process.

17. Command Secretaries, as my representatives, will be more closely involved to ensure that policy and presentational issues are detected early and managed correctly. The involvement of Command Secretaries must not prejudice the impartiality of the BOI process; but nonetheless the Command Secretary should be informed of the decision to proceed with a BOI and, if the incident has wider implications for Defence, seek Ministerial approval for the terms of reference of the inquiry. The Command Secretaries should then also see a copy of the BOI's report at the stage it is submitted to the Reviewing Authority. If necessary, they could urgently alert Ministers to wider issues, to ensure sufficient and timely consultation and advice on the publication of the report, and to take additional action where appropriate, such as consider if a further review or inquiry is appropriate.

7
RESTRICTED - MANAGEMENT
DECLASSIFIED

RESTRICTED - MANAGEMENT
DECLASSIFIED

18. Where it is relevant to the circumstances surrounding an incident the Board may find it necessary to present criticism of decisions and/or of the way in which procedures were carried out at the time. This is in keeping with discovering the facts and learning lessons. Criticism may relate to an individual or to an organisation but in each case the Board should show how it has substantiated its findings. Individuals or an appropriate representative of an organisation are to be given the opportunity to present their evidence so that the Board's opinion is based fairly on the balance of probability. This best practice will be implemented into Service Inquiries.

19. The creation of a new joint secretarial team to coordinate all three Services' management of inquests for cases where our personnel have been killed in Iraq and Afghanistan, which usually cause the greatest anxiety and public comment, will allow Ministers to get the information they need in good time and for coroners to be properly managed. We have considered options to improve the synergy across the Services and believe work done, such as liaising with families, should remain with uniformed staff in single Service headquarters, but with parallel work being coordinated by a centralised secretariat team. This work will include: the preparation of BOI reports for release to the families, coroners, and wide publication; liaising with the Royal Military Police; direct inquest-related activity such as the preparation of papers, pre-inquest meeting with coroner and staff, briefing of witnesses, attending inquests and dealing with coroners throughout, and associated media work; and, reporting to Ministers and supporting them in, for example, Parliamentary announcements. The key to success of a centralised case management function, that does not interfere with the independent conduct of single Service BOIs, is that it should involve close tracking of individual cases with sufficient authority to keep questioning the rate of progress. A joint team will have better visibility of wider and interrelated Defence issues.

20. The Armed Forces Act 2006 (AFA 06) provides for a harmonised Service Inquiry system which will replace BOIs. Service Inquiries will have the same purpose as BOIs and will not be radically different. We plan to implement Service Inquiries mid-2008 ahead of full implementation of AFA 06 in 2009.

21. Service Inquiries will bring several benefits. First, all Service Inquiries will be conducted on a statutory and consistent basis. BOI are currently convened under statute in the case of the Army and RAF (the Army and Air Force Acts 1955) but in the case of the Royal Navy they are convened under the Royal prerogative and are therefore non-statutory. Second, under current legislation (applying to the Army and RAF) evidence given by or against a person in a BOI cannot be used in evidence against that person in a Service court (including summary proceedings). For Service Inquiries, this admissibility bar will be extended to criminal civil courts. Another key benefit is that regulations and procedure for Service Inquiries will be harmonised across the Services under a single policy. Service Inquiries will be mandatory for deaths and serious injury where the Convening Authority considers that lessons may be learned which are not apparent from the incident. There are discretionary circumstances which allow a Service to hold an inquiry, into any incident, if it thinks it would be in the interests of the Service. Policy for the new Service Inquiries is currently being drafted. This will reflect current best practice and provide comprehensive guidance for the end-to-end process of Service Inquiries and related matters, including support to families and disclosure.

8
RESTRICTED - MANAGEMENT
DECLASSIFIED

22. The President of a Service Inquiry will have new powers to:

- a. Compel Witnesses. A power to call civilian witnesses and to summon witnesses who fail to attend. The latter will be achieved through the issue of a witness notice by a judge advocate. A new offence has been created where a witness fails to comply with the witness notice or intentionally frustrates the function of the Service Inquiry.
- b. Invite Observers. A discretionary power that would allow the President of any Inquiry to decide, with the consent of the Convening Authority, who should be invited to attend as an observer, including next of kin, and at what part of the proceedings.

Presentational Issues

23. Each BOI report, once released to the family, and each inquest has the potential to result in media or Parliamentary comment. DGMC and Private Offices must be consulted early in preparing the release of a BOI report to enable effective communication planning and wider consideration of the external impact of the report and they must be prepared to react promptly.
24. There is a range of other presentational factors, for example earlier engagement of the Press Office with BOI reports, which will be addressed through improved briefing and guidance to Board Presidents and better involvement of Command Secretaries. Other issues are more tactical, such as the preparation of a core script covering operational deaths, a comprehensive newsbrief to cover all the issues identified in each BOI report and better feedback to the Press Office from MOD officials where present at inquests; and DGMC will follow these up with Command Secretaries, DG SP Pol and DGLS.
25. The Command Paper setting out the first ever cross-Government strategy for the provision of support to those serving in, and who have served in, the Armed Forces will also present an opportunity to promote the work which is being done to support families.
26. This submission is not intended for public consumption and therefore no presentational issues are expected to arise from it.

[Signed on Original]

BILL JEFFREY

Enclosure:

1. Boards of Inquiry and Coroners' Inquests Information for Bereaved Families Booklet

RESTRICTED - MANAGEMENT
DECLASSIFIED

ANNEX A TO
D/PUS/2/59
DATED 29 FEB 08

**AIR COMMAND RESPONSE TO POINTS RAISED IN RELATION TO XV230 BOI
ANNOUNCEMENT**

Family handling in order to ensure they feel informed and included, for instance, could they have been given a brief in advance on the Nimrod aircraft structure and systems.

1. Family handling is conducted via the Visiting Officer (VO) system. This ensures that the families have a single, enduring point of contact from their own Service. In this case those VOs were co-ordinated from RAF Kinloss, the home Station of the crew.
2. The BOI did not give regular updates to the families on its emerging findings. Efforts were though made to ensure that they were informed via their VOs of the status of the inquiry and of significant developments, for example the decision to reconvene the BOI in the summer of 2007 to consider further evidence.
3. Throughout the Board's investigation the families had regular contact with their Visiting Officers and with OC 120 Squadron (Crew 3 were members of No 120 Sqn) to answer questions relating to the BOI process and its general progress.
4. Air Boards tend to involve more complex factors than most Ground Boards, due to the complexity of aircraft systems in general, and as a result they can take time to complete. In this case the BOI took longer than usual for an Air Board. This reflects the extreme difficulty of piecing together heavily fragmented evidence coupled with the lack of access to the crash site for more than a few hours. There was also a requirement in this case for the BOI to reconvene to consider new evidence. In circumstances like this, there is a balance to be struck between making early undertakings about when the BOI will be released that cannot be met, and not saying anything about timings.
5. A technical briefing to help the families understand the BOI should always be considered, and indeed one was provided to the families in parallel with the announcement. Such consideration should include whether doing this in advance would partially disclose some of the BOI's findings which might increase speculation, as opposed to increasing understanding.

Identifying the likely consequences of publishing the BOI.

6. Air Command provided advice to Ministers on 9 November 2007 that the BOI was likely to cause considerable public and media reaction, and that the Department's role was likely to be perceived negatively. That advice included a short summary of the issues most likely to attract media attention. It also identified the requirement to align our public position with that of BAE Systems and contained handling proposals for the

A - 1
RESTRICTED - MANAGEMENT
DECLASSIFIED
DRAFT

RESTRICTED - MANAGEMENT
DECLASSIFIED

day incorporating announcements to Parliament, the families and the media Ministers were briefed orally by the Board of Inquiry President on 14 November.

7. The only significant point which Ministers subsequently decided was required for the announcement and which was not covered in Air Command submissions was the requirement for an independent QC-led review. The factors which brought Ministers to this conclusion were all clearly identified and brought to their attention.

Engaging key stakeholders early.

8. General practice is that BOIs are kept on close hold until they are accepted by the convening and reviewing authorities since, until that point, the BOI team can still be directed to carry out further work. From that point on, AOC 2Gp and others in the Command were fully seized of the need to prepare for the release as quickly as possible, and certainly before Christmas. In this case the requirement was particularly pressing because the families had expected the BOI to be released in the summer and there would have been substantial public criticism if we had delayed into another calendar year. Air Command recognised that Ministers would want to be seen to handle the announcement in a way which demonstrably put care of the families centre stage (and timing would be an element of this, including Parliamentary timing); which appropriately recognised the Ministry's responsibility and did not shirk it; and which gave a convincing and demonstrably authoritative report of what had happened.

9. Following the logic of paragraph 8, the key stakeholders in the process of releasing the BOI were:

- The Next of Kin
- RAF Kinloss (the Nimrod Force HQ) and the colleagues of the Nimrod's crew;
- Ministers
- The Chief of the Air Staff (and particularly his responsibility for the RAF's reputation)
- DE&S – the Nimrod IPT who were bound to feel involvement in the loss of the aircraft)
- AOC 2 Gp and his staff
- DGMC
- Legal Advisors, Claims Officers and the other branches across Head Office and Headquarters Air Command

10. Air Command's own lessons identified process has raised the following relevant points to inform handling of sensitive BOI releases (certainly this includes any which relate to incidents in which lives were lost, but potentially others as well) in future:

- A senior officer is required to co-ordinate the BOI release. He should hold a minimum of 2* rank, as in this case.
- D News, AD Def PR and Air Cmd DACOS Media and Comms need to engage with each other early, to produce an agreed Media Handling Plan.

A - 2

RESTRICTED - MANAGEMENT
DRAFT
DECLASSIFIED

RESTRICTED - MANAGEMENT
DECLASSIFIED

- The BOI President's briefing to Ministers worked well, and should be conducted in future as early as possible. However, more can be done to ensure that Ministerial intent is fully understood at an early stage;
- Early consultation with the families on the venue and handling of their part of the release is essential and valuable, as long as we are honest about what will be offered and do not raise expectations.

11. Air Command has recognised that more should have been done sooner to engage Ministers in the development of an agreed Departmental position on how to respond to the conclusions of the BOI. This would have aided all parties and reduced some of the last minute staff work. Such an agreed position must be informed by DGLS and DGMC advice but cannot be driven entirely by either. It should also include an assessment of the families' position and related correspondence, such as Freedom of Information requests. The submissions of 9 and 16 November and the briefing on 14 November were only partially successful in eliciting the required central direction.

A joint co-located Air Command/DE&S team being established in the lead-up to the publication.

12. In the view of both Air Command and DE&S, the scope for providing the high-volume, short deadline, technically complex secretariat output required for BOI announcements of this nature would not be improved by the creation of joint Air Command/DE&S Secretariat teams. By collocating secretariats, we would separate at least one of them from their subject matter experts. We consider that a better answer is to ensure that well in advance of the announcement we have clarified the ownership of the task and set up agreed procedures and suitable staffing levels to meet the need. There is a need for one Secretariat to take the lead, with clearly defined lines of responsibility, thereby streamlining the staffing process. In the case of the Nimrod XV230 announcement, Air Command Business Secretariat was the lead secretariat, but required a great deal of support from DE&S Secretariat and from the Nimrod IPT. In similar cases in the future, DE&S would take an early decision on a case by case basis on the merits of embedding experienced secretariat officials within the IPT, where these do not already exist, during key periods in the preparation of handling material.

How to present the vast amount of information/Q&A so that it is both manageable and tailored for the variety of people who need to use it.

13. For the day of the announcement Air Command and DGMC produced:

- Draft Oral Ministerial Statement;
- Draft Written Ministerial Statement;
- A draft statement for the Chief of the Air Staff;
- Comprehensive briefing material in Line to take / Accusation / Background / Q&A format;
- A Press Statement with a number of detailed annexes;

A - 3
RESTRICTED - MANAGEMENT
DRAFT
DECLASSIFIED

- A summary of the BOI recommendations and the actions taken to implement them;
- A summary of media coverage on the incident over the previous year.
- Briefing on those who lost their lives and their Next of Kin, with a history of their dealings with the Department;
- A briefing note for the families explaining in brief the findings of the BOI;
- A briefing pack for those briefing the families privately to enable them to explain the BOI.

All of this was completed alongside the finalisation of the choreography of the day and the extremely time-consuming task of redacting the BOI and its Annexes. Given the short timescales involved this represented an extremely large task for Air Command Business Secretariat and others. The briefing pack reached 70 pages in length, but for convenience was indexed and covered by a much shorter executive summary.

14. Air Command went to considerable lengths to ensure that all elements of this pack were appropriate to the audience and consistent with each other.

15. A requirement for individually tailored briefing packs would have made it more difficult to ensure consistency and therefore have risked subtly different messages appearing in public. This could potentially have made us look unsure or ill-coordinated and as a result raised new issues in the media. A requirement to produce multiple tailored briefing packs would also have put additional pressure on the available staff resource, which was severely stretched as it was.

16. In the light of these considerations, Air Command strongly recommends that the approach taken, where a single briefing pack is produced for all Ministerial and DMB-member engagements which also doubles as a lines-to-take pack for the press office, is the only solution which is likely to result in a reliable, consistent end product. We would be more than happy to receive and absorb any thoughts from Private Offices on how that single product might be improved.

Planning the choreography of the day.

17. Air Command's submission of 9 November recognised that the time remaining before the announcement was short, and identified a suitable date for the announcement for planning purposes. Our intention at this point was to preserve Ministers' freedom to decide on the date, and to decide whether the announcement would go ahead, in the light of our further advice.

18. The day was planned to balance the requirements of the families, Parliament and the media. DGMC and Ministers' offices were consulted frequently on the evolving arrangements. However, the timing of the final decision on the preferred date meant that detailed arrangements could not be finalised until quite late. Nevertheless, the logistics of the day were successful, and minor hiccups, such as the late arrival of some of the families due to London traffic, were managed appropriately.

RESTRICTED - MANAGEMENT
DECLASSIFIED

19. The key lesson to be learned is the requirement to consult the families on what they wish to receive in terms of briefing and meetings and where they wish to receive it. It would have been better to have conducted a more open consultation with the families earlier, given them a clear indication of what we would be able to offer and where, and invited them to choose.

20. A second learning point is that it is not possible to offer too much information, to the Next of Kin, although some may refuse some of it and care must be taken to flag up information that might be distressing. It should not be assumed that the Next of Kin will not wish to receive the detailed and often technical information that make up the annexes to the BOI.

21. A third learning point is to consider earlier all the elements that might be required, and put together a programme to allow them all to happen. It is likely that any future multi-casualty air incident will require a Minister to meet the families and an oral statement to both Houses, and that there will potentially be a need for several briefings at different locations. Giving the families and media access to the BOI President is crucial in persuading them that the BOI is authoritative. The process for selecting and preparing BOI members for sensitive BOIs involving fatalities, and the terms of reference for the role, should in future reflect the potential requirement to conduct briefings of this sort. AOC 2 Gp did take this into account when selecting the BOI President for XV230.

Possibility of an interim report (which in the case of the families of those killed on Nimrod could have at least provided them with the reassurance that the crew were cleared of any blame).

22. Interim Report. The Board of Inquiry into the loss of XV230 did produce an interim report in October 2006 which drew some provisional conclusions and ruled out enemy action as a potential cause of the crash. The findings of this report were not briefed to the families and so they did not receive any reassurance that the crew were not to blame. It might be argued that it would have been better if they had, but Air Command took this decision because it believed it would be unwise to brief the families on the findings of the interim report while significant further investigation was still required, to avoid the possibility of having to tell the families something different if evidence emerging in the later stages of the inquiry showed a failing in the crew. Air Command decided too that no public comment would be made on the BOI until the final report was published. This was because the Board was still collating and analysing all available evidence and any public judgements at that stage might have had to be revised later. As it was, the BOI into the loss of XV230 was conducted in a media spotlight, and there was much unhelpful and inaccurate speculation. Air Command refused to be drawn on this, and on publication of the final report most of the inaccurate theories circulating beforehand were not raised again.

Family handling to ensure they feel informed and included.

A - 5
RESTRICTED - MANAGEMENT
DRAFT
DECLASSIFIED

RESTRICTED - MANAGEMENT

DECLASSIFIED

23. It is clear that we have failed to engage effectively with some families in respect of the detail we provide on ongoing investigations, or to manage their expectations. Over the past year we have taken steps to manage expectations of the BOI process more carefully by keeping families better informed without prejudicing the process of investigation. But there are legacy cases, of which XV230 is one, where families bereaved in earlier incidents have not received as much information or support as we aim to provide now.

A - 6
RESTRICTED - MANAGEMENT

DRAFT

DECLASSIFIED