

Britain's culture of no comment

July 2016 - Emily Knowles

SUMMARY

It has long been accepted that “the MOD’s long-held policy is not to comment on Special Forces” like the Special Air Service (SAS).¹ But research undertaken and commissioned by Remote Control shows that this blanket opacity policy is not standard practice, and the UK is lagging behind its allies on transparency over its use of Special Operations Forces (SOF).

The US, Australia, and Canada are all more transparent about their deployment of SOF than the UK. This leaves the British public, and the parliament that represents them, among the least-informed of their foreign allies about the government’s current military activities in places like Syria² and Libya,³ stymying informed debate about the UK’s role in some of the most important conflicts of our age.

The UK’s culture of no comment is harming oversight at a crucial juncture for modern warfare. The UK’s use of SOF is set to increase, with funding doubling after the 2015 Strategic Defence and Security Review (SDSR).⁴ This risks pushing an ever-greater share of UK military action under the radar. This opacity carries significant risks for the effectiveness, accountability, and perceived legitimacy of its military actions abroad:

- **Effectiveness** - The ability of governments to deploy SOF without public scrutiny might result in them being used because their deployment is politically expedient, rather than because they are the best possible tool for the job. This could put strain on the UK’s limited SOF resources, and could limit the range of choices available to military planners. In the long term, this strategy could damage the effectiveness of UK responses to insecurity.
- **Accountability** - It is impossible to hold the government to account over actions it won’t disclose, and information about UK SOF is tightly controlled through exemptions in the Freedom of Information Act,⁵ monitoring of media content,⁶ and use of the Official Secrets Acts to punish negative leaks of information.⁷ There is no provision for parliamentary scrutiny of UK SOF, making them even less transparent than the intelligence services.
- **Legitimacy** - There is little public understanding of, or clarity over, how SOF are supposed to operate when deployed. This feeds an assumption that they are specifically used for illegal and otherwise illegitimate operations. Most information that could counter these claims is classified (e.g. SOF doctrine, rules of engagement). If strong legal and operational frameworks are in place, the prevailing opacity may be causing unnecessary damage to the perceived legitimacy of SOF operations.

'No Comment'

In 2011, Al Jazeera journalists ran into British SOF on the ground in Libya, bringing their deployment abruptly into the public domain.⁸ When questioned on who had authorised the mission, then-Secretary of State Liam Fox responded that he had “no intention of commenting further on Special Forces.”⁹

This response effectively quashes informed parliamentary and public debate, and it has been used repeatedly over the last year to mask what appears to be a growing UK military response to ISIS:

- In February 2016, claims surfaced that British SOF were spearheading a “secret war” against ISIS in Libya, including covert discussions about supplying weapons and training armies and militias. The MOD responded that it is a “long-held policy... not to comment on Special Forces.”¹⁰
- In March 2016, when a leaked memo confirmed that British SOF had been operating in Libya since at least the beginning of 2016, this was repeated: “It is our long-standing policy that we don't comment on Special Forces operations.”¹¹
- In May 2016, a story began to circulate that British SOF had fired on, and destroyed, an ISIS suicide-truck heading for Misrata. The official statement: “The Ministry of Defence does not comment on Special Forces.”¹²
- In June 2016, it was reported that British SOF are on the front line in the fight against ISIS, this time in Syria. The MOD responded that “It is our longstanding policy that we don't comment on Special Forces operations.”¹³

There has been no parliamentary authorisation of UK military action in Libya,¹⁴ and the authorisation for air strikes in Syria specifically precluded the deployment of UK troops in ground combat operations.¹⁵ It is often forgotten that SOF are automatically omitted from these provisions. This means that a total force of around 3000 SOF troops (plus substantial reserves)¹⁶ is free to be deployed into combat roles without any public authorisation or notification.

Comparative transparency from Britain's allies

In contrast to the UK's blanket refusal to comment on the deployment of its SOF, it is not unusual for official spokespeople from the American, Australian, and Canadian administrations to publicly announce details of SOF deployments. This provides reporters, and the general public, with an important opportunity to question government strategy and debate the implications of their involvement in conflicts overseas.

While there is still a high degree of institutional opacity surrounding allies' use of SOF (for example in the way that they are audited),¹⁷ there is not the same blanket refusal to engage the public over all SOF activities that characterises the UK's approach.

In October 2015, President Obama announced that he had authorised the first sustained deployment of SOF to Syria. He reported that they would number fewer than 50 personnel, and were being deployed to strengthen anti-ISIS forces. The statement came by way of an official spokesperson, who defended the move against accusations of mission creep from the media audience, and insisted that this did not mean that Obama's strategy to avoid putting combat troops in Syria had fundamentally changed.¹⁸ In April 2016, Obama announced that he was sending an additional 250 SOF to Syria.¹⁹

In November 2015, Canadian Prime Minister Justin Trudeau gave a press conference where he discussed increasing Canada's contingent of 69 SOF trainers in Iraq. While the Department of National Defence refuses to discuss operational details, it has confirmed that Canada's SOF in Iraq are operating under a mandate that allows them to accompany Kurdish forces up to and across front lines, and into battle.²⁰

In the same month, then-Australian Prime Minister Tony Abbott announced that 200 SOF members had been cleared to deploy to Iraq, where they would begin to advise and assist local security forces in the fight against ISIS.²¹ This was followed, in April 2016, by the announcement that the Australian Defence Inspector General had begun an investigation into the internal culture of the Special Forces following a period of high-intensity Australian SOF deployments in the post-September 11 period.²²

While not every deployment of SOF is announced by Britain's allies, the policy of providing official, unclassified briefings on a number of SOF activities is an indication that there is nevertheless the expectation that the public should be kept as informed as possible, and that debate on SOF actions abroad should not be unreasonably restricted.

In contrast to the UK's lack of parliamentary scrutiny of SOF activity, President Obama has begun to bring more transparency to US SOF activity, insisting that Joint Special Operations Command's (JSOC) sensitive missions be briefed to select congressional leaders.²³ This increased oversight has occurred at the same time that US SOF were expanding,²⁴ without preventing US SOF from acting as powerful military forces with a global reach.²⁵

UK policy on SOF is out of date

Public debate over SOF mission creep or mandates in foreign conflicts is just not possible in the UK.

The official cloak of secrecy surrounding the SAS may enhance its myth of invincibility, but if this blanket opacity continues, it looks set to obscure a greater and greater share of UK combat operations from scrutiny. This is out of step with the new importance being attached to SOF activities.

In a document leaked in 2013, the UK Ministry of Defence argued that one way to continue conducting military operations despite the risk-averse nature of the British public was "investing in greater numbers of SF [Special Forces]."²⁶ The risk of huge numbers of casualties is lower, and the public backlash from any such losses seems to be much weaker than with regular troops.²⁷

This advice appears to have been heeded. In the 2015 SDSR, the government pledged to more than double investment in SOF equipment.²⁸ This amounts to £2 billion of new investment in the capability of UK SOF, according to the 2015 Spending Review.²⁹

SOF are increasingly being sent in to complex conflict zones for sustained periods of time. Rather than acting as force-multipliers for UK regular troops, they are increasingly running remote control wars; operating as the only boots on the ground, guided by drone reconnaissance and cooperating with local groups.³⁰

A consequence of SOF operating alone is that sustained bouts of conflict and entire remote control wars can end up being fought without any public awareness of the UK's involvement. Current actions in Libya and Syria mark a distinct change from the use of UK SOF in the Afghanistan and Iraq wars, where the regular army's presence ensured that there was scrutiny of UK actions, even if the precise role of SOF remained classified.

The changing role of SOF needs to be accompanied by the modernisation of British policy towards their blanket opacity. This is particularly crucial as the share of UK combat operations undertaken by SOF is set to grow.

The risks of current UK policy on SOF

The UK's blanket opacity policy towards SOF carries significant risks for the effectiveness, accountability, and perceived legitimacy of its military actions abroad.

Effectiveness

A source for a recent report on UK SOF injuries in a fight against ISIS troops admitted that: "Politically no one has an appetite for open war against ISIS, so it's done in secret."³¹

While using SOF might allow the UK government a military presence in areas otherwise closed to them, they must be careful to avoid letting political expediency outweigh other strategic considerations when it comes to involving the UK in conflict abroad. There are drawbacks to relying solely on a SOF presence on the ground, and operating this policy because the government 'can' rather than 'should' may damage the long-term effectiveness of UK action abroad.

Deploying SOF may feel like the only politically feasible option for governments facing strong domestic opposition to the use of military force against credible threats to national security. This does not, however, mean that it is never counter-productive. Indeed, the latest sightings of UK SOF in Libya seem to suggest that anti-ISIS operations are being carried out in conjunction with Libyan armed groups from Misrata and eastern Libya, areas that have strongly resisted the emergence of the unity government in Tripoli that the UK is supporting diplomatically.³²

Using UK SOF to empower these groups to fight ISIS may have the unintended consequence of bolstering

their resistance to the peace process that the UK government is supporting.³³ By treating counter-terrorism operations and political processes as separate and divisible, the UK's use of SOF in complex conflicts could end up undermining the government's longer-term political goals, threatening the effectiveness of UK action abroad.

The strategic ramifications of SOF deployment in complex environments can be potentially damaging, and poor decision-making could derail UK contributions to peace and security. When the effectiveness of UK action abroad is at stake, it is particularly important to know that decisions are not being driven by political expediency rather than strategic calculation.

Accountability

It is impossible to hold the government to account over actions it won't disclose. This makes scrutinising UK SOF strategy, judging the success of failure of government defence and security policies, and identifying lessons learned extremely difficult.

The actions of the intelligence services are granted some level of oversight by the 2013 Justice and Security Act,³⁴ which created the Intelligence and Security Committee of Parliament. An additional layer of scrutiny is permitted now that MI5, MI6 and GCHQ each have press officers authorised to speak to the media.³⁵ There is no parallel system to oversee the actions of UK SOF. Information about SOF is specifically exempt from the Freedom of Information Act,³⁶ and any information that is leaked is open to prosecution under the Official Secrets Acts.³⁷

In a March 2015 review of the Defence Advisory Notice System,^a the reviewers noted that:

“Special Forces (SF) are probably the least willing of all the agencies to engage with the media (in spite of a certain amount of leaking and self-publicity by ex-SF members) and tend to stick to the formula of ‘neither confirm nor deny’ any information related to SF. This can make it quite difficult for the media to judge the veracity of some of the stories that are put to them or

^a The Defence Advisory Notice System is the non-legally-binding system that the UK Government uses to advise the media about whether publishing material they receive about SOF might be harmful to national security. In addition to SOF, the system covers information on military operations, nuclear and non-nuclear weapons and equipment, ciphers and secure communications, sensitive installations and home addresses, and UK Security and Intelligence Services. (<http://www.dnotice.org.uk/danotices/index.htm>)

to weigh the security implications [of publishing the information].”³⁸

In some cases, measures to restrict the appearance of stories about SOF activities in the press seem to have been unevenly applied. For example, during the recent wars in Iraq and Afghanistan, a number of ‘positive’ accounts of SOF successes were reported on,³⁹ raising suspicions that these leaks had the unofficial blessing of the MOD.⁴⁰ However, when it came to a story leaked by an ex-SAS serviceman about the SOF's role in the rendition of Iraqis and Afghans to prisons where they faced torture, the MOD swiftly obtained a court order to prevent further disclosures.⁴¹

Rather than allowing the occasional leak of SOF ‘good news’ stories, it would be easier to hold the government to account over information released in official, unclassified background briefings on SOF activities. Unfortunately, in contrast to its allies, the UK has not chosen to do this.

Legitimacy

There is little public understanding of, or clarity over, how SOF are supposed to operate when they are deployed. This feeds an assumption that they are specifically used for illegal and otherwise illegitimate operations. For example, a British news report on SOF activity in Afghanistan concluded that:

“500 British special forces soldiers are engaged in intense operations designed to kill as many Taliban commanders as possible. That such operations are of questionable legality is clear from the special (and secret) legal advice given to special forces, different to that given to the rest of the British armed forces.”⁴²

This mistrust may be unfounded, although the fact that most of the information that could counter these claims is classified (such as the UK doctrinal authority for Special Forces JWP 3-40 ‘Special Forces Operations’) does not help to provide public clarity. While a basic description of SOF roles can be gleaned from other doctrinal documents,⁴³ comments on the legal and ethical background that surrounds SOF activities are not specifically covered. For more information on this, you need to turn to the Strategic and Operational Guidelines for Counter Insurgency Operations,⁴⁴ which was released by Wikileaks rather than the MOD:

“There is a widespread misconception that special

forces are, or should be exempt from the legal constraints which bind armed forces. This is a misguided and dangerous notion... Flouting the law is invariably counterproductive both in the short and long term. Once members of any special forces have been discredited in the courts and the media it is difficult to justify their continued employment and the insurgents will then have removed a major obstacle to the achievement of their aims. Successful special operations have to be mounted within the law and any temptation to ignore legal constraints must be resisted.”⁴⁵

A recent inquiry warned that the UK's lack of a carefully thought out, and publicly stated, legal case for using lethal force outside of war zones may leave the armed forces open to prosecution.⁴⁶ In addition, the fact that public approval is incompatible with the blanket opacity policy deprives SOF deployments of an important source of legitimacy. Troops deserve to know that they have public backing, that they are fighting for legitimate causes, and that their actions are part of a larger strategy for peace and stability.

If UK SOF are bound by strong legal and operational frameworks, this information is not readily available to the public. In this sense, the prevailing opacity may be causing unnecessary damage to the perceived legitimacy of SOF operations.

Conclusions

The blanket opacity policy that the UK has for its SOF is not standard practice. Other countries, such as the US, Canada, and Australia, make public statements about SOF deployments to active conflict zones, and respond to questions about their mandate and strategy. The US has increased its transparency over SOF in recent years without it restricting their ability to deploy SOF.

The fact that the UK public, and the parliament that represents them, do not have access to any official information about the deployment of SOF means that there can be no meaningful, informed debate about the UK's role in some of the most important conflicts of our age. This opacity could have damaging implications for the effectiveness, accountability, and legitimacy of UK military options abroad.

Mechanisms to monitor SOF in the UK have not evolved at the same pace as changes in the way that they are deployed in today's conflicts. If the culture of no comment is not challenged, and policy is not modernised, an increasing share of foreign UK military action risks being pushed under the radar. This is a huge political decision that deserves debate, and should hinge on questions of success and security rather than on those of political expediency.

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Remote Control is a project of the **Network for Social Change** hosted by **Oxford Research Group**. The project examines changes in military engagement, with a focus on remote control warfare. This form of intervention takes place behind the scenes or at a distance rather than on a traditional battlefield, often through drone strikes and air strikes from above, with special forces, intelligence operatives, private contractors, and military training teams on the ground.

Endnotes

- 1 "Defence in the Media: 26 February 2016 | Defence in the Media," accessed April 20, 2016, <https://modmedia.blog.gov.uk/2016/02/26/defence-in-the-media-26-february-2016/>.
- 2 "Defence in the Media: 6 June 2016 | Defence in the Media," accessed June 8, 2016, <https://modmedia.blog.gov.uk/2016/06/06/defence-in-the-media-6-june-2016/>.
- 3 "Defence in the Media"; "Defence in the Media: 26 March 2016 | Defence in the Media," accessed April 20, 2016, <https://modmedia.blog.gov.uk/2016/03/26/defence-in-the-media-26-march-2016/>; "Defence in the Media – 26 May 2016 | Defence in the Media," accessed June 8, 2016, <https://modmedia.blog.gov.uk/2016/05/26/defence-in-the-media-26-may-2016/>.
- 4 UK Government, "National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom" (HM Government, November 2015), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf.
- 5 HM Government, *Freedom of Information Act 2000*, 2000, http://www.legislation.gov.uk/ukpga/2000/36/pdfs/ukpga_20000036_en.pdf.
- 6 "Defence and Security Media Advisory (DSMA) Notice System," accessed June 21, 2016, <http://www.dsma.uk/>.
- 7 HM Government, *Official Secrets Act 1911*, 1911, http://www.legislation.gov.uk/ukpga/1911/28/pdfs/ukpga_19110028_en.pdf; HM Government, *Official Secrets Act 1989*, 1989, http://www.legislation.gov.uk/ukpga/1989/6/pdfs/ukpga_19890006_en.pdf; "Ex-SAS Officer to Sue Met for Unlawful Arrest," *The Independent*, April 28, 2013, <http://www.independent.co.uk/news/uk/crime/ex-sas-officer-to-sue-met-for-unlawful-arrest-8591209.html>.
- 8 Julian Borger and Martin Chulov, "Al-Jazeera Footage Captures 'Western Troops on the Ground' in Libya," *The Guardian*, May 30, 2011, sec. World news, <http://www.theguardian.com/world/2011/may/30/western-troops-on-ground-libya>.
- 9 Parliament, "House of Commons Hansard Debates for 14 Mar 2011," March 14, 2011, col. 15, <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110314/deb-text/110314-0001.htm>.
- 10 "Defence in the Media."
- 11 "Defence in the Media."
- 12 "Defence in the Media – 26 May 2016 | Defence in the Media."
- 13 "Defence in the Media."
- 14 Emily Knowles, "Briefing: We Need Greater Transparency on UK Military Operations in Libya" (London: Remote Control, May 2016), <http://remotecontrolproject.org/briefing-we-need-greater-transparency-on-uk-military-operations-in-libya/>.
- 15 "MPs Approve Motion on ISIL in Syria - News from Parliament," *UK Parliament*, accessed June 17, 2016, <http://www.parliament.uk/business/news/2015/december/mps-debate-motion-on-isil-in-syria/>.
- 16 Paul Rogers, "UK Special Forces: Accountability in Shadow War | Oxford Research Group" (Oxford Research Group, March 30, 2016), http://www.oxfordresearchgroup.org.uk/publications/paul_rogers_monthly_briefing/uk_special_forces_accountability_shadow_war.
- 17 Jon Moran, "Assessing SOF Transparency and Accountability: The Use of Special Operations Forces by the UK, US, Australia, and Canada" (Remote Control Project, July 2016), <http://remotecontrolproject.org/publications-category/reports/>.
- 18 "Obama to Send Special Forces to Syria," accessed April 19, 2016, <https://www.yahoo.com/news/us-send-fewer-50-special-ops-forces-syria-151524914.html?ref=gs>.
- 19 "Syria Conflict: Obama to Deploy 250 More Special Forces Troops," *BBC News*, accessed June 28, 2016, <http://www.bbc.co.uk/news/world-middle-east-36126944>.
- 20 "Canadian Commandos May Be on Front Lines Fighting ISIS: James Cudmore," accessed May 23, 2016, <http://www.cbc.ca/news/politics/special-forces-isis-iraq-combat-1.3318451>.
- 21 Daniel Hurst and political correspondent, "Australian Special Forces Moving into Iraq, Tony Abbott Says," *The Guardian*, November 10, 2014, sec. Australia news, <http://www.theguardian.com/australia-news/2014/nov/11/australian-special-forces-moving-into-iraq-tony-abbott-says>.
- 22 "EXCLUSIVE: Australia's Elite Special Forces Investigated over Disturbing Stories of Conduct," *The Sydney Morning Herald*, accessed June 14, 2016, <http://www.smh.com.au/federal-politics/political-news/australias-elite-special-forces-being-investigated-over-disturbing-stories-of-conduct-and-culture-20160416-go7wuh.html>.
- 23 Moran, "Assessing SOF Transparency and Accountability: The Use of Special Operations Forces by the UK, US, Australia, and Canada."
- 24 Jeremy Scahill, *Dirty Wars* (London: Serpent's Tail, 2014), 252, 282–83.
- 25 Moran, "Assessing SOF Transparency and Accountability: The Use of Special Operations Forces by the UK, US, Australia, and Canada."
- 26 "MoD Study on Attitudes to Risk," September 26, 2013, <http://www.theguardian.com/uk-news/interactive/2013/sep/26/mod-study-attitudes-risk>.
- 27 Ibid.
- 28 UK Government, "National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom."
- 29 HM Treasury, "Spending Review and Autumn Statement 2015" (HM Treasury, November 2015), 26, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf.
- 30 Quentin Sommerville BBC News, "Islamic State Conflict: The Libyans Gaining Ground in Sirte," *BBC News*, accessed June 23, 2016, <http://www.bbc.co.uk/news/world-africa-36604131>.
- 31 Chris Hughes, "SAS Heroes Blown up in ISIS Ambush on Top Secret Mission in Iraq," *Mirror*, February 5, 2016, <http://www.mirror.co.uk/news/uk-news/ss-heroes-blown-up-isis-7318678>.
- 32 Stratfor, "The West Moves Discreetly in Libya," March 9, 2016; Ruth Sherlock Telegraph @The Sunday, "Special Forces on Secret Libya Mission against IS," *Times LIVE*, accessed April 6, 2016, <http://www.timeslive.co.za/thetimes/2016/02/29/Special-forces-on-se>

cret-Libya-mission-against-IS; Press Association, "British Special Forces 'Blew up Isis Suicide Truck in Libya,'" *The Guardian*, May 26, 2016, <http://www.theguardian.com/world/2016/may/26/british-special-forces-blew-up-isis-suicide-truck-in-libya>.

33 Mattia Toaldo, "Intervening Better: Europe's Second Chance in Libya" (European Council on Foreign Relations, May 2016), http://www.ecfr.eu/page/-/ECFR172_-_INTERVENING_BETTER_-_EU-ROPES_SECOND_CHANCE_IN_LIBYA_2.pdf.

34 HM Government, *Justice and Security Act 2013*, 2013, http://www.legislation.gov.uk/ukpga/2013/18/pdfs/ukpga_20130018_en.pdf.

35 Anthony Forster, "The Defence Advisory Notice System and the Defence Press and Broadcasting Advisory Committee: Report of the Review" (MOD, March 2015), <http://www.dnotice.org.uk/linked-files/dnotice/records/20150312-dpbacreviewreport-final-o.doc>.

36 HM Government, *Freedom of Information Act 2000*.

37 HM Government, *Official Secrets Act 1911*; HM Government, *Official Secrets Act 1989*.

38 Forster, "The Defence Advisory Notice System and the Defence Press and Broadcasting Advisory Committee: Report of the Review."

39 "SAS - Rescue Of Norman Kember," accessed June 22, 2016, <http://www.eliteukforces.info/special-air-service/sas-operations/normak-kember-rescue/>; "SAS Operation - Basra Rescue," accessed June 22, 2016, <http://www.eliteukforces.info/special-air-service/sas-operations/basra-raid/>; "SAS - Operation Marlborough," accessed June 22, 2016, <http://www.eliteukforces.info/special-air-service/sas-operations/operation-marlborough/>; "Operation Trent," accessed June 22, 2016, <http://www.eliteukforces.info/special-air-service/sas-operations/operation-trent/>.

40 Richard Norton-Taylor, "Secret and Unaccountable: The Double-Edged Sword of SAS Mythology," *The Guardian*, July 14, 2015, sec. UK news, <https://www.theguardian.com/uk-news/2015/jul/14/secret-and-unaccountable-the-double-edged-sword-of-sas-mythology>.

41 Ibid.

42 Richard Norton-Taylor, "Talking about Taliban Killers Is Taboo in the UK," *The Guardian*, December 6, 2011, sec. World news, <https://www.theguardian.com/world/defence-and-security-blog/2011/dec/06/sas-afghanistan>.

43 Joint Doctrine and Concepts, "Joint Operations Execution (Second Edition)" (Joint Doctrine and Concepts, March 2004), 46, [http://ids.nic.in/UK%20Doctrine/UK%20\(8\).pdf](http://ids.nic.in/UK%20Doctrine/UK%20(8).pdf).

44 UK Army, "Counter Insurgency Operations (Strategic and Operational Guidelines)," March 2007, para. 87, <https://file.wikileaks.org/file/uk-coin-operations-2007.pdf>.

45 Ibid., para. 15.

46 Joint Committee on Human Rights, "The Government's Policy on the Use of Drones for Targeted Killing," May 10, 2016, 25, <http://www.publications.parliament.uk/pa/jt201516/jtselect/jtrights/574/574.pdf>.