



House of Commons
Defence Committee

**Armed Forces Bill: proposal
for a Service Complaints
Commissioner: Government
Response to the
Committee's Fourteenth
Report of Session 2005–06**

**Second Special Report of Session
2006–07**

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The Defence Committee

The Defence Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Ministry of Defence and its associated public bodies.

Current membership

Rt Hon James Arbuthnot MP (*Conservative, North East Hampshire*) (Chairman)
Mr David S Borrow MP (*Labour, South Ribble*)
Mr David Crausby MP (*Labour, Bolton North East*)
Linda Gilroy MP (*Labour, Plymouth Sutton*)
Mr David Hamilton MP (*Labour, Midlothian*)
Mr Mike Hancock MP (*Liberal Democrat, Portsmouth South*)
Mr Dai Havard MP (*Labour, Merthyr Tydfil and Rhymney*)
Mr Adam Holloway MP (*Conservative, Gravesham*)
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Mr Brian Jenkins MP (*Labour, Tamworth*)
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Robert Key MP (*Conservative, Salisbury*)
Willie Rennie MP (*Liberal Democrat, Dunfermline and West Fife*)
John Smith MP (*Labour, Vale of Glamorgan*)

The following Members were also Members of the Committee during the Parliament.

Mr Colin Breed MP (*Liberal Democrat, South East Cornwall*)
Derek Conway MP (*Conservative, Old Bexley and Sidcup*)
Mr Mark Lancaster MP (*Conservative, North East Milton Keynes*)
Mr Desmond Swayne MP (*Conservative, New Forest West*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at:

www.parliament.uk/defcom

Committee staff

The current staff of the Committee are Philippa Helme (Clerk), Eliot Wilson (Second Clerk), Ian Rogers (Audit Adviser), Stephen Jones (Committee Specialist), Adrian Jenner (Inquiry Manager), Richard Dawson (Committee Assistant), Sheryl Dinsdale (Secretary) and Stewart McIlvenna (Senior Office Clerk).

Contacts

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Armed Forces Bill: proposal for a Service Complaints Commissioner

The Defence Committee published its Fourteenth Report of Session 2005–06 on the Armed Forces Bill: proposal for a Service Complaints Commissioner on 7 November 2006, as House of Commons paper HC 1711. The Government's response to this report was received on 19 December 2006. This is appended below.

Appendix: Government response

Letter to the Chairman from Derek Twigg MP, Parliamentary Under-Secretary of State for Defence, Ministry of Defence

I am writing in response to the Defence Committee's fourteenth report of session 2005–2006 of 7 November 2006 on the Armed Forces Bill and the proposal for a Service Complaints Commissioner (SCC).

The Committee's report covered two issues which had been highlighted in a previous report.¹ I am pleased that the Committee's concern has been met in respect of the first, that of the reinstatement of the annual renewal of Service Law, and I am grateful to the Committee for its statement welcoming the MoD's openness in facilitating parliamentary scrutiny of developments in Service Law.

I am pleased that the Committee welcomes the proposal to create a SCC and shares our view that creating an independent office to which people can make complaints will prove valuable, especially for Servicemen and women and their families who may not be willing to raise issues with the chain of command. However, the Committee makes it clear that its concerns have only been partially met with regard to the second issue; that of the degree of independence in the complaints procedure, and that the proposals for a Service Complaints Commissioner fall a long way short of the investigatory body proposed by its predecessor Committee.

I and my colleagues have explained to the House on a number of occasions the significant powers that we will give to the Commissioner, including the power to refer allegations of bullying, harassment or other forms of misconduct to the chain of command for investigation and action as appropriate and to be informed of the progress and outcome of that complaint. The Commissioner will also have direct access to Ministers and will report annually and publicly on the efficiency, effectiveness and fairness of the complaints process and on any other aspects of the redress system that the SCC considers appropriate or that the Secretary of State directs.

We remain absolutely convinced that our proposals for the SCC, coupled with the inclusion of an independent member on Service Complaints Panels considering certain types of complaints including bullying, harassment and other forms of improper behaviour, will provide a package of improvements to the Service complaints process that are right for the way our Armed Forces operate, and which meet the overall objective underpinning the recommendations made in the Deepcut Review. We listened carefully to what the Committee has said and to the debates that took place as the Armed Forces Bill progressed through Parliament and these proposals have evolved accordingly. They will strike the right balance between ensuring that Service personnel can have confidence in a system that is fair, effective and transparent, whilst preserving the fundamental responsibility of the chain of command to investigate wrongs and remedy them. Any move to enable a Commissioner to be able to supervise the handling or investigation of a Service complaint would undermine this responsibility. It would also risk undermining the system

1 Defence Committee, First Report of Session 2005–06, Armed Forces Bill, HC 747

under which a Service Complaint Panel with an independent member would be responsible for dealing with complaints that have not already been resolved by the chain of command to the complainant's satisfaction.

With regard to the appointment of the Commissioner, I thought it would be helpful to repeat some of what Paul Drayson said in another place on 31 October. We believe that it will be absolutely crucial to appoint the right person to the role of the Commissioner, and as such we intend that this individual will be someone of the stature and experience appropriate to a post of this importance. In order to introduce the greatest independence to the system, the Commissioner will not be a serving member of the Armed Forces or a serving member of the civil service. In this way, we hope to open the field to as wide a variety of applicants as possible. We expect the normal principles of the public appointments process will apply, and that appointment will take place through public advertisement and a fair and open competition. In developing the terms of reference for the role we are consulting a number of sources who are able to usefully contribute. It is intended that the terms of reference should be minimally prescriptive in order for the Commissioner to have the flexibility to develop the role as he or she sees appropriate, and to ensure that the SCC is not unnecessarily constrained in any way.

I should like to reassure the Committee of our intention to ensure that the Commissioner is adequately resourced in order to give full effect to his or her functions and responsibilities. Direct access to Ministers and the SCC's annual, public report will provide the Commissioner with the means to raise any concerns about resources in relation to his or her workload as necessary, and as this new role develops.

I note the concern of the Committee that much of the detail of the new complaints mechanism remains to be established by secondary legislation. Drafting of the necessary statutory instruments and explanatory memoranda is underway, and I repeat the commitment made by Des Browne to provide the Committee with copies of these in draft in sufficient time before being laid before Parliament.

To conclude, I welcome the importance that the Committee attaches to the introduction of the Commissioner. It is vital that we get this right in order to give our Service personnel an improved and more transparent process through which to raise complaints, in which both they and the chain of command can have confidence. We are committed to the implementation of this important process, and as such we intend that it will take place in advance of full implementation of the Armed Forces Act, for which the target date is the end of 2008. I will welcome the Committee's continued close interest as we take this forward.

18 December 2006