House of Commons
Defence Committee

Service Complaints Commissioner for the Armed Forces: the first year

Eighth Report of Session 2008–09

Report, together with formal minutes, oral and written evidence

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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.

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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 Mike Hennessy (Clerk), Richard Ward (Second Clerk), Karen Jackson (Audit Adviser), Sara Turnbull (Inquiry Manager), Richard Dawson (Senior Committee Assistant), Christine McGrane (Committee Assistant) and Miguel Boo Fraga (Committee Support Assistant).

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1 Introduction

1. The Defence Committee has had a long-standing interest in the Service complaints system. In this inquiry we examine the effectiveness of the current Service complaints procedures based on the findings of the Service Complaints Commissioner in her first annual report. We also examine the Commissioner’s evaluation of the support given to her by the Ministry of Defence during the year.

2. The first annual report of the Service Complaints Commissioner for the Armed Forces was published on Wednesday 4 March 2009.1 We took oral evidence from Dr Susan Atkins, the Service Complaints Commissioner, on 17 March 2009. We also received a supplementary memorandum from her, for which we are grateful.
2 Background

3. We begin by setting out the background that led to the creation of a Service Complaints Commissioner, in which the work of our Committee played a significant role.

**Duty of Care Report**

**March 2005**

4. In its Report, *Duty of Care*, published in March 2005, the previous Defence Committee recommended that an independent military complaints commission be established. The crucial elements of the commission were that:

- it would be independent of the Armed Forces and the MoD;
- its recommendations would be binding;
- it would have the power to look at past cases; and
- it would have access rights to all documentation and persons.

**July 2005**

5. In its response to our predecessor Committee’s Report, the Government stated:

> [We] accept that there is a case for introducing an independent element to the complaints system: there are different models for this, in this country and abroad, and their implications need detailed examination. We will carry out this work ahead of the introduction of the Armed Forces Bill planned for later this year.

**Armed Forces Bill**

**November 2005**

6. The Armed Forces Bill was introduced in the House of Commons in November 2005. The Bill as introduced to the House included provisions to establish a Service complaint panel. From the information on the face of the Bill it appeared that the MoD’s promised “independent element in the complaints system” consisted of a single voice on the panel. It appeared that complaints could either reach the Service complaint panel once the existing process through the chain of command has been exhausted, or if requested by the complainant. Many of the details about how the panel would work were to be set out in regulations to be made by the Secretary of State for Defence, rather than being on the face of the Bill. It was clear that the Government had rejected the main principles of our
predecessor Committee’s recommendations—the Bill did not provide for a mechanism to deal with complaints that was truly independent of the chain of command.

**December 2005**

7. Following the 2005 General Election, in our First Report of Session 2005–06, on the *Armed Forces Bill*, published in December 2005, we stated that the establishment of a Service complaint panel was insufficient and urged the Government to table amendments to the Bill to strengthen the degree of independence in its proposals. We also urged the Armed Forces Bill select committee to express a clear view on the inadequacy of the Bill. In its response in March 2006, the Government did not appear to have accepted our arguments, but we welcomed its willingness to debate the matter further.

**The Deepcut Review**

8. The March 2006 report, *The Deepcut Review* was conducted by Nicholas Blake QC, now Sir Nicholas. It recommended that that there should be an independent ‘Commissioner of Military Complaints’ or Armed Forces Ombudsman, with the ability to receive unresolved complaints from Service personnel or their families; to supervise the investigation of such complaints; and to supervise the response to a complaint including providing advice on any disciplinary or administrative action to be taken. Its Report recommended that this Commissioner make publicly available an annual report on issues relating to the welfare of soldiers.

9. In its response to the Blake Report in June 2006, the Government argued that some of the functions for the Commissioner recommended in the Report—the ability to intervene in the handling of a complaint and to supervise investigations, and to institute legal proceedings against decisions not to prosecute—were inappropriate to an independent commissioner and risked undermining the chain of command and the independence of the prosecuting authorities. The Government, however, agreed to extend the role of the external reviewer proposed under the Bill, to change the title to ‘Service Complaints Commissioner’, and to give him or her direct access to Ministers.

**May 2006**

10. The ad hoc select committee on the Armed Forces Bill published its Report in May 2006. It was unconvinced that an Ombudsman was an appropriate mechanism to deal with complaints (similarly, a Commissioner); nevertheless, it believed that there was scope to deal with grievances more effectively, particularly those involving cases of alleged bullying. It welcomed the proposal to establish an independent reviewer for the Armed Forces’ redress of complaints procedures.

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7 The Deepcut Review, Nicholas Blake QC, 29 March 2006, HC 795
8 Government’s response to the Deepcut Review, June 2006, Cm 6851
9 Select Committee on the Armed Forces Bill, Special Report of Session 2005–06, HC 828–I
November 2006

11. During the Bill’s Committee stage in the House of Lords, the Government tabled three new clauses to the Armed Forces Bill providing for a Service Complaints Commissioner with the power to review the fairness and effectiveness of the military complaints system and to provide the Secretary of State with an annual report to be laid before Parliament. These new clauses also gave the Commissioner a limited role in regard to the investigation of complaints. The Commissioner was given power to refer allegations of certain types of wrongdoing—whether made by the alleged victim or by someone else—to an officer (normally the Commanding Officer of the alleged victim). The officer would have a duty to inform the alleged victim about the allegation and to find out whether he or she wanted to make a complaint about it. The officer would have a duty to ensure that the alleged victim knows about how to make a Service complaint and about any time limits on this.

12. We published our Report, Armed Forces Bill: proposal for a Service Complaints Commissioner, on 7 November 2006.10 We welcomed the proposal to create a Service Complaints Commissioner: we felt that creating an independent office to which people could make complaints should meet a key concern that Service men and women and their families are not always willing to raise issues with the chain of command. However, we wanted Parliament to be aware that the role proposed for the Commissioner in these clauses fell a long way short of the investigatory body proposed by our predecessor Committee in its Duty of Care Report. The Bill was passed and received Royal Assent on 8 November 2006.

Appointment of the Commissioner

13. In its response to our Report, the Government clarified that its proposals in the Armed Forces Act struck the right balance between ensuring that Service personnel could have confidence in the complaints system while preserving the responsibility of the chain of command to investigate and remedy wrongs. It provided an assurance that the Commissioner would be adequately resourced and said that it intended to establish the post of Commissioner in advance of full implementation of the Act, for which the target was the end of 2008.11 The appointment of Dr Susan Atkins, formerly the Chief Executive of the Independent Police Complaints Commission (IPPC), was announced on 7 November 2007 and she took up her post on 1 January 2008.


3 The Service Complaints System

14. In this chapter we set out the Service Complaints System that is explained to Service personnel in Joint Service Publication 831. The latest edition of this publication, which we summarise below, came out in December 2008.12

The Complaints Procedure

15. Any person subject to Service law who thinks that they have been wronged in any matter relating to their Service has a statutory right to make a Service complaint. From 1 January 2008, as part of the implementation of the Armed Forces Act 2006, any serving or former member of the Armed Forces can also contact the Service Complaints Commissioner independently. All Complaints are resolved at one of three levels: Commanding Officer (Level 1), Superior Officer (Level 2), and the Defence Council (Level 3). January 2008 also saw the introduction of Service Complaints Panels, which will include an independent member to consider certain cases.

Level 1: The Commanding Officer

16. Normally, the Commanding Officer (CO) is the officer who has been appointed by the appropriate authority to be CO of a ship, unit or establishment and is able effectively to exercise their powers as such.13 If the CO is the subject of complaint, the complaint is made to the CO’s immediate superior in the chain of command. If that officer is also implicated, an officer of equal rank to the CO is nominated by the lead headquarters for that Service. If a complaint is made about a decision of the CO to reject a Service complaint, the CO passes it on to the Superior Officer.

17. Having considered a complaint, the CO may decide to

   - uphold the complaint and grant any redress which is appropriate within the CO’s authority;

   - Reject the complaint (this does not prevent that decision being reversed at a higher level); or

   - Refer the complaint. If the CO believes that the complaint is well founded but lacks the authority to grant the redress sought, it is referred to his superior officer.

18. After reaching a decision, the CO informs the complainant, and anyone implicated in the complaint, in writing. If the complainant is not satisfied with the CO’s decision he or she may apply in writing for the complaint to be referred to a higher level (the superior officer).

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12 Joint Service publication 831, Redress of Individual Grievances: Service Complaints Issue 2.0, Ministry of Defence, 1 December 2008

13 Where the CO is a one-star officer, he may delegate to officers serving under command of colonel rank or equivalent the function in respect of Service complaints.
**Level 2: The Superior Officer**

19. The Superior Officer (SO) must be at least one rank above the CO considering the complaint. They must be an officer:

- of or above the rank of rear admiral, major-general or air vice-marshal; or
- of above the rank of RN captain, colonel or group captain who has been authorised by an officer (from (a) above) to carry out the function of SO.

20. The SO may receive a complaint in the following circumstances:

- referred from the CO; or
- referred from the CO because the complainant was not satisfied by the decision or the redress offered by the CO.

21. Having considered a complaint, the SO may decide to uphold, reject or refer the complaint to Defence Council level (Level 3). After reaching a decision, the SO informs the complainant, and anyone implicated in the complaint, in writing. If the complainant is not satisfied with the SO’s decision they may apply in writing for the complaint to be referred to the Defence Council.

**Level 3: The Defence Council**

22. Complaints that are referred to the Defence Council level are received by single Service secretariats. Complaints at this level may be dealt with in the following ways:

- the Defence Council may consider and make a decision on the complaint. In practice, the single Service Boards will deal with the complaint.
- the Defence Council may delegate the function of considering and deciding complaints to a Service Complaints Panel (SCP).
- the Defence Council may refer a complaint to an SCP for consideration and a recommendation, but will take the decision on the complaint itself.
- the Defence Council may require an SCP to assist it, and authorise investigation of the complaint by an SCP or another person.

23. In considering complaints, the single Service Board will comprise at least 2 members. The members may consider the complaint papers separately before meeting together to decide the case.

**Service Complaints Panels**

24. SCPs have the full delegated powers of the Defence Council. They will normally consist of two serving officers of at least one-star rank, usually of the same Service as the complainant. Single Service secretariats are responsible for nominating SCP members, except that independent members are nominated by the central secretariat.
25. When an independent member is required on an SCP, that SCP will consist of three members. An independent member can be any person appointed by the Secretary of State who is neither:

- a member of the regular or reserve forces, or
- a person employed in the civil service.

26. Under the Armed Forces Act, an independent member is required for complaints relating to allegations of:

- discrimination,
- harassment,
- bullying, or
- dishonest, improper or biased behaviour.

These subjects of allegations are referred to as ‘prescribed behaviours’.

27. Decisions by SCPs have to be unanimous or by simple majority if there are more than two members on the SCP. Decisions of SCPs are final. Having considered a complaint, the Defence Council may decide to uphold and grant the appropriate redress, or reject the complaint. After reaching a decision, the Defence Council informs the complainant, and anyone implicated in the complaint, in writing. The letter should contain information on the next steps available to the complainant and that if the complainant remains dissatisfied, where to get further assistance.
4 The Service Complaints Commissioner

28. Finally, we consider how the Service Complaints Commissioner has operated in the first period since her appointment.

The Service Complaints Commissioner’s Role

29. The Commissioner describes her role as two-fold

i) to provide rigorous and independent oversight of how the Service Complaints System is working and to report annually to ministers and Parliament; and

ii) to provide an alternative point of contact for Service men and women who do not feel they can raise a complaint with their chain of command without the Commissioner’s oversight. Also, someone acting on a Service man or woman’s behalf such as member of their family, a friend or MP, can raise concerns with the Commissioner.14

30. The post of Commissioner is a statutory appointment made by the Secretary of State for Defence. The Commissioner provides an alternative point of contact for individuals (either Service personnel or a third party—who wishes to make an allegation on behalf of a Service person) who feel unable to approach the chain of command to make an allegation that a Service person has been wronged. If that Service person has been wronged in terms set out as “prescribed behaviours” then the Commissioner has the statutory power to refer such allegations to the chain of command for action—usually the CO (Level 1) of the complainant. The chain of command is obliged to inform the Commissioner of decisions made with regard to the complaint.

31. The Commissioner may also decide to refer the matter if the allegations are not related to the matters of prescribed behaviour to the chain of command. However, in such cases there is no statutory obligation for the chain of command to inform the Commissioner of decisions made regarding the allegation. The Commissioner must be informed of decisions taken on referred matters not related to prescribed behaviours. It is not sufficient that the chain of command has a statutory obligation to inform the Commissioner of decisions taken on referred matters relating to prescribed behaviours.

The Commissioner’s Objectives

32. The Commissioner’s first year has been about

taking stock and establishing a baseline on how the Services are handling complaints, what is being done well and what needs to improve for complaints to be dealt with fairly, efficiently and effectively.15

14 Service Complaints Commissioner – Annual Report 2008, Chapter 1, p 7
15 Service Complaints Commissioner, Press Release, 9.3.09
33. The Commissioner has set clear aims, values and objectives for her own office, including: understanding the environment of the three Services, delivering good customer service, ensuring widespread knowledge of the new system, establishing a reliable recording system for complaints, ensuring effective integration of the SCC and Tri-Service systems, establishing expectations and requirements, and delivering her annual report on time.\textsuperscript{16} We were impressed with the Commissioner’s thorough approach to developing her own role and setting realistic, yet still challenging, targets for her office.

\textbf{Delivering objectives}

\textit{Understanding the environment of the three Services}

34. Over the year the Commissioner has spent around a quarter of her time visiting personnel across all services in England and on operations in Afghanistan to understand the nature of military operations and the differences between the Services. \textit{We commend Dr Atkins for her decision to undertake regular and frequent visits to military bases and to operational theatre to gain an understanding of the environment of the three Services, and how the complaints system operates in practice. We hope she will continue to visit Service establishments and operational theatre regularly.}

\textit{Designing and delivering a communications campaign}

35. The Commissioner expressed some disappointment that, despite the distribution of an easy-to-read summary of the new complaints system by the MoD and a leaflet from her own office on the Service Complaints Commissioner’s role, very few personnel in some of the establishments she visited in the second half of the year had heard about her powers and purpose.\textsuperscript{17} In her supplementary memorandum to us, the Commissioner stated that

\begin{quote}
Last year the MoD distributed the Joint Service Publication 831 and an explanatory leaflet on the service complaints system, both of which covered my role, as well as arranging for a note about the SCC to be included on the pay packet of every member of the Armed Forces and assisting me to distribute to Units my leaflet on the Service Complaints Commissioner role. I do know that attention has been drawn to the role by my visits—for example soldiers have told me that leaflets went up on notice boards the day before I arrived.

Following the recommendations in my annual report, the Chief of Defence Staff is asking Service Chiefs to ensure that information about my role is cascaded to all Service personnel through the regular channels and attention drawn to the need to ensure that any information, for example the new leaflet that is designed for trainees and junior ranks, reaches its intended audience.\textsuperscript{18}
\end{quote}

36. \textit{Some work has evidently been undertaken to advertise and explain the Commissioner’s role. However, we believe that it is essential that the attention of}

\textsuperscript{16} Service Complaints Commissioner – Annual Report 2008, Chapter 7, p 87
\textsuperscript{17} ibid., Chapter 3, p 20
\textsuperscript{18} Ev 11
Service men and women is drawn more comprehensively to the Commissioner’s role by the MoD and that regular communications are made to maintain this attention. We hope that the MoD and each Service will continue to support the Commissioner’s work in this area.

Relations with key MoD and Military Personnel

37. The Commissioner has been supported by MoD Central Secretariat staff in liaising with each Service Secretariat. This support included an induction programme in which she met a wide range of Service personnel, Service legal branches, inspectorates, support agencies and the three Service Family Federations. In her supplementary memorandum to us she stated that

The MoD arranged for me to meet key personnel early in 2008, individually and by arranging visits across the Services. Those I met were generous with their time, information and advice.

Like me, the MoD and Services have made it a priority to ensure that I meet new post holders as personnel change. That my induction involved a wide range of Service Chiefs has meant that I have established good working relationships with incoming post holders. However this will remain a priority for me.  

38. We consider the Commissioner’s access to key Service personnel to be of vital importance to her duties. The Commissioner has stated that it will remain a priority for her and we recommend that the MoD continues to encourage regular communication between the Commissioner and key Service personnel and Service agencies.

The Commissioner’s Powers

39. The Commissioner has not been granted the powers envisaged in our predecessor Committee’s Report, Duty of Care, or in Sir Nicholas Blake’s Report issuing from the Deepcut Review. She does not have the power to intervene in the handling of a complaint or the investigation or response to a complaint. Nor does she have the power to re-open cases.

40. In her oral evidence to us, the Commissioner stated

what I have said in the report is that if I believe that the powers are insufficient, I will say so, but at present I do not believe the strength and the extent of my powers have fully been tested.

I think I will be in a much better place at the end of the year to come to a view to say whether the system of the chain of command, buttressed in those cases with an independent member, is providing that degree of rigour of investigation and fairness that the system is intended to provide, or whether in fact the system needs to be enhanced.
41. The powers of the Service Complaints Commissioner fall short of those envisaged by both our predecessor Committee in its Duty of Care Report, and by Sir Nicholas Blake in his Report following the Deepcut Review. It is still too early to decide whether the Commissioner has sufficient powers. We agree that the Commissioner will be much better placed to judge the performance of the system in her next Report. We recommend that our successor Committee takes further evidence from the Commissioner on this particular matter of powers at the appropriate time.

**Non-combat deaths**

42. At the end of 2008 the Commissioner requested that she be kept informed about non-combat deaths, particularly in training establishments across the three Services. This request was granted by the MoD and the Commissioner receives, as Ministers do, confidential reports on such incidents. During the oral evidence session, we asked the Commissioner about her relationship with the Coroners’ Service.\(^{20}\) In her supplementary memorandum she told us that

> This is an evolving area and one on which I will continue to reflect. I now have a role in relation to notifications of unexplained deaths, as explained in more detail in my response to Q44. This system started in December 2008 and my role is still developing. My initial thoughts are that the information I receive will enable me to ask questions about wider issues and systemic concerns, which will be complementary to, but separate from, the work done by the Coroners' Service. The issues I consider will also include the involvement of and communication with families. I will keep this aspect under review as my role develops.\(^{21}\)

43. We support the Commissioner’s request that she receive reports on non-combat deaths, and find the MoD’s initial compliance encouraging. However, we are concerned that the Commissioner does not have a statutory right to receive such reports, and we expect the MoD to continue to keep the Commissioner informed systematically of any such deaths in the absence of such a right. The Commissioner, in having sight of confidential reports on the circumstances surrounding any non-combat death, will be much better placed in helping to prevent the recurrence of such circumstances in future.

**Joint Personnel Administration (JPA)**

44. The Commissioner believes that having reliable complaints recording system, which is being used correctly and in which everyone has confidence, is a precursor to an effective Service Complaints System. The chain of command, Service HQs and the Commissioner need a system from which to spot trends and areas of concern and that can be interrogated to find best practice. Without this, the capability of the system to promote organisational and operational improvement may be very limited.\(^{22}\) We agree with the Commissioner’s view that having a reliable complaints recording system is an essential foundation for an effective Service Complaints System.

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\(^{20}\) Q 8, Q 44  
\(^{21}\) Ev 12  
\(^{22}\) Service Complaints Commissioner, Annual Report 2008, Chapter 3, p 26
45. In 2007, the Navy and the Army joined the RAF in recording all Service complaints on the Joint Personnel Administration (JPA) Service Administration system. The Commissioner’s early discussions with MoD and the Services revealed that problems with consistency and reliability of JPA Service complaints statistics could impact on their use in her annual report. Checks revealed that there were omissions and inaccurate recording of data present. We commented on the failure of JPA in our recent Report on the MoD’s Annual Report and Accounts. The Commissioner requested that the JPA Service complaints process be audited by the MoD’s Defence Internal Audit team. The audit found that each Service continued to use the systems they had in place before JPA was introduced and this double handling meant that JPA was seen to be an additional burden. The audit also found that users perceived the JPA complaints module difficult to use. A JPA “refresh” in November 2008 helped to remedy some of the issues, including the addition of new Service complaints terminology which was previously absent. The MoD has accepted all but one of the audit’s recommendations. MoD Defence Internal Audit (DIA) team’s fifth recommendation was rejected on the grounds that asking units to produce a paper return in addition to entering cases on JPA would be counterproductive to the goal of having a single, effective, end-to-end system that efficiently provides reliable management information.

Units should be required to provide returns for general complaints similar to those provided for Equality & Diversity (E&D) cases, including ‘nil returns’. This would reduce the risk that Stage 1 complaints are not recorded on JPA, and provide statistical information to MOD, the SCC and the Services themselves.

46. The Commissioner has accepted that implementing the Defence Internal Audit recommendation on providing returns for general complaints would be counterproductive at this stage. However, she believes that systemic weakness in the recording of complaints remains, as does the need for good management information on all Service complaints to support proactive management at unit, as well as higher, levels. The work by the MoD and Services on upgrading JPA should include the ability to meet this recommendation without these adverse consequences. We support the Commissioner’s view.

Resources available to the Commissioner

47. The Commissioner was contacted by 193 people in 2008. The expectation is that the number of initial contacts will increase as awareness of her role and confidence in her place in the complaints procedure grows. It is vital that the Commissioner is given the resources needed to cope with the expected increase in initial contacts. We intend to follow with great attention the extent of the resources placed at her disposal by the MoD.

48. We were surprised to learn that for much of her first year the Commissioner was supported by just two full-time members of staff, and that recruiting two additional
members of staff was delayed due to uncertainties arising out of MoD restructuring.\textsuperscript{26} In her oral evidence to us, the Commissioner stated

The MoD has agreed that I shall have two extra staff: I have got one of those people in temporarily and the interviews for the third person happen next week. So I am being provided, or will be provided with the resources I need; I am afraid it is just taking rather a long time.\textsuperscript{27}

49. We are concerned that staff resources requested by the Commissioner in order to undertake her statutory duties were seemingly not given proper priority by the MoD. As a result, the Commissioner’s plans to undertake a sample audit of complaints had to be shelved. We recommend that the MoD offers more generous support to the Commissioner in future, in assisting her to minimize the impact of any delays in recruiting staff and to ensure that she can carry out effectively the tasks entrusted to her.

50. The Commissioner has produced a detailed and comprehensive annual report. The fact that she had such a small number of permanent staff available for this task highlights the hard work involved in its production and we pay tribute to all of those involved. We were told by the Commissioner that her office received assistance only with design and production.\textsuperscript{28} It is imperative that individuals who contact the Commissioner initially feel confident in her and in her place within the Service Complaints System. The MoD should provide the Commissioner with the resources which she feels are necessary to achieve good customer service.

51. In her first annual report, the Commissioner has laid down solid foundations to her work and her future role within the Service Complaints System. The Commissioner summarised her key findings in the form of eight conclusions; under each conclusion recommendations have been set out for the MoD and the Services.\textsuperscript{29} The Commissioner has, having consulted with the Services and the MoD at senior and operational levels, also set several objectives for 2009. The Commissioner intends to base her second report on progress against those objectives.\textsuperscript{30} It is not our intention to comment on each conclusion, recommendation and objective set down by the Commissioner. We support the general thrust of the Commissioner’s conclusions, recommendations and objectives and expect the MoD to consider carefully each recommendation in its response to the Commissioner’s report. We consider that she has made an impressive start.

The status of the Commissioner’s annual report

52. The Commissioner, as required, submitted her annual report to the Secretary of State for Defence. The Armed Forces Act 2006 requires the Secretary of State to lay the Commissioner’s reports before Parliament.\textsuperscript{31} The Report was deposited in the Libraries of

\begin{footnotes}
\item[26] Service Complaints Commissioner, Annual Report 2008, Chapter 3, p 23
\item[27] Q 45
\item[28] Q 55
\item[29] Service Complaints Commissioner, Annual Report 2008, Chapter 7, pp 85–86
\item[30] ibid., p 87
\item[31] Armed Forces Act 2006 (c 52, 339)
\end{footnotes}
the House of Commons and House of Lords on 4 March 2009, but it has not been laid formally before Parliament. This is a serious oversight which must not be repeated. To ensure that the Commissioner’s work is brought properly to the attention of all Members of Parliament, and to comply with a statutory requirement, the Secretary of State must lay the Commissioner’s next annual report formally before the House as an Act Paper. We hope that the failure properly to lay the first annual report of the Commissioner before Parliament is in no way indicative of the low profile accorded to the work of the Commissioner by the MoD.
Conclusions and recommendations

1. The Commissioner must be informed of decisions taken on referred matters not related to prescribed behaviours. It is not sufficient that the chain of command has a statutory obligation to inform the Commissioner of decisions taken on referred matters relating to prescribed behaviours. (Paragraph 31)

2. We commend Dr Atkins for her decision to undertake regular and frequent visits to military bases and to operational theatre to gain an understanding of the environment of the three Services, and how the complaints system operates in practice. We hope she will continue to visit Service establishments and operational theatre regularly. (Paragraph 34)

3. Some work has evidently been undertaken to advertise and explain the Commissioner’s role. However, we believe that it is essential that the attention of Service men and women is drawn more comprehensively to the Commissioner’s role by the MoD and that regular communications are made to maintain this attention. We hope that the MoD and each Service will continue to support the Commissioner’s work in this area. (Paragraph 36)

4. We consider the Commissioner’s access to key Service personnel to be of vital importance to her duties. The Commissioner has stated that it will remain a priority for her and we recommend that the MoD continues to encourage regular communication between the Commissioner and key Service personnel and Service agencies. (Paragraph 38)

5. The powers of the Service Complaints Commissioner fall short of those envisaged by both our predecessor Committee in its Duty of Care Report, and by Sir Nicholas Blake in his Report following the Deepcut Review. It is still too early to decide whether the Commissioner has sufficient powers. We agree that the Commissioner will be much better placed to judge the performance of the system in her next Report. We recommend that our successor Committee takes further evidence from the Commissioner on this particular matter of powers at the appropriate time. (Paragraph 41)

6. We support the Commissioner’s request that she receive reports on non-combat deaths, and find the MoD’s initial compliance encouraging. However, we are concerned that the Commissioner does not have a statutory right to receive such reports, and we expect the MoD to continue to keep the Commissioner informed systematically of any such deaths in the absence of such a right. (Paragraph 43)

7. We agree with the Commissioner’s view that having a reliable complaints recording system is an essential foundation for an effective Service Complaints System. (Paragraph 44)

8. The Commissioner has accepted that implementing the Defence Internal Audit recommendation on providing returns for general complaints would be counterproductive at this stage. However, she believes that systemic weakness in the recording of complaints remains, as does the need for good management
information on all Service complaints to support proactive management at unit, as well as higher, levels. The work by the MoD and Services on upgrading JPA should include the ability to meet this recommendation without these adverse consequences. We support the Commissioner’s view. (Paragraph 46)

9. It is vital that the Commissioner is given the resources needed to cope with the expected increase in initial contacts. We intend to follow with great attention the extent of the resources placed at her disposal by the MoD. (Paragraph 47)

10. We are concerned that staff resources requested by the Commissioner in order to undertake her statutory duties were seemingly not given proper priority by the MoD. As a result, the Commissioner’s plans to undertake a sample audit of complaints had to be shelved. We recommend that the MoD offers more generous support to the Commissioner in future, in assisting her to minimize the impact of any delays in recruiting staff and to ensure that she can carry out effectively the tasks entrusted to her. (Paragraph 49)

11. It is imperative that individuals who contact the Commissioner initially feel confident in her and in her place within the Service Complaints System. The MoD should provide the Commissioner with the resources which she feels are necessary to achieve good customer service. (Paragraph 50)

12. We support the general thrust of the Commissioner’s conclusions, recommendations and objectives and expect the MoD to consider carefully each recommendation in its response to the Commissioner’s report. We consider that she has made an impressive start. (Paragraph 51)

13. To ensure that the Commissioner’s work is brought properly to the attention of all Members of Parliament, and to comply with a statutory requirement, the Secretary of State must lay the Commissioner’s next annual report formally before the House as an Act Paper. We hope that the failure properly to lay the first annual report of the Commissioner before Parliament is in no way indicative of the low profile accorded to the work of the Commissioner by the MoD. (Paragraph 52)
Formal minutes

Tuesday 23 June 2009

Members present:

Mr James Arbuthnot, in the Chair

Mr David S Borrow Mr Adam Holloway
Mr David Crausby Mrs Madeleine Moon
Mr David Hamilton Mr Bernard Jenkin
Mr Dai Havard Richard Younger-Ross

Draft Report (Service Complaints Commissioner for the Armed Forces: the first year), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 52 read and agreed to.

Resolved, That the Report be the Eighth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report, be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 30 June at 10.00 am]
Witnesses

Wednesday 18 March 2009

Dr Susan Atkins, Service Complaints Commissioner

List of written evidence

1 Dr Susan Atkins, Service Complaints Commissioner
### List of Reports from the Committee during the current Parliament

The reference number of the Government’s response to each Report is printed in brackets after the HC printing number.

#### Session 2008–09

| First Report | Winter Supplementary Estimates 2008–09 | HC 52¹ |
| Second Report | The work of the Committee 2007–08 | HC 106 |
| Third Report | Defence Equipment 2009 | HC 107 (HC 491) |
| Fourth Report | Spring Supplementary Estimate 2008–09 | HC 301 |
| Fifth Report | Ministry of Defence Annual Report and Accounts 2007–08 | HC 214 (HC 534) |
| Sixth Report | The UK’s Defence contribution to the UK’s national security and resilience | HC 121 |
| Seventh Report | Defence Support Group | HC 120 |

¹ Government response published as Memorandum in the Committee’s Fourth Report (HC 301)

#### Session 2007–08

| First Report | UK land operations in Iraq 2007 | HC 110 (HC 352) |
| Second Report | Costs of operations in Iraq and Afghanistan: Winter Supplementary Estimate 2007–08 | HC 138² |
| Third Report | UK/US Defence Trade Cooperation Treaty | HC 107 (HC 375) |
| Fourth Report | The Iran hostages incident: the lessons learned | HC 181 (HC 399) |
| Fifth Report | Ministry of Defence Annual Report and Accounts 2006–07 | HC 61 (HC 468) |
| Sixth Report | The work of the Committee in 2007 | HC 274 |
| Seventh Report | Medical care for the Armed Forces | HC 327 (HC 500) |
| Eighth Report | Operational costs in Afghanistan and Iraq: Spring Supplementary Estimate 2007–08 | HC 400³ |
| Ninth Report | The future of NATO and European defence | HC 111 (HC 660) |
| Tenth Report | Defence Equipment 2008 | HC 295 (HC 555) |
| Eleventh Report | Ministry of Defence Main Estimates 2008–09 | HC 885 (HC 1072) |
| Thirteen Report | The contribution of Unmanned Aerial Vehicles to ISTAR capability | HC 535 (HC 1087) |
| Fourteenth Report | Recruiting and retaining Armed Forces personnel | HC 424 (HC 1074) |
| Fifteenth Report | UK operations in Iraq and the Gulf | HC 982 (HC 1073) |

² Government response published as Memorandum in the Committee’s Eighth Report (HC 400)
³ Government response published as Memorandum in the Committee’s Eleventh Report (HC 885)
Session 2006–07

First Report  
Defence Procurement 2006
HC 56 (HC 318)

Second Report  
Ministry of Defence Annual Report and Accounts 2005–06
HC 57 (HC 376)

Third Report  
Costs of operations in Iraq and Afghanistan: Winter Supplementary Estimate 2006–07
HC 129 (HC 317)

Fourth Report  
The Future of the UK’s Strategic Nuclear Deterrent: the Manufacturing and Skills Base
HC 59 (HC 304)

Fifth Report  
The work of the Committee in 2005 and 2006
HC 233 (HC 344)

Sixth Report  
The Defence Industrial Strategy: update
HC 177 (HC 481)

Seventh Report  
The Army’s requirement for armoured vehicles: the FRES programme
HC 159 (HC 511)

Eighth Report  
The work of the Defence Science and Technology Laboratory and the funding of defence research
HC 84 (HC 512)

Ninth Report  
The Future of the UK’s Strategic Nuclear Deterrent: the White Paper
HC 225–I and –II (HC 551)

Tenth Report  
Cost of military operations: Spring Supplementary Estimate 2006–07
HC 379 (HC 558)

Eleventh Report  
Strategic Lift
HC 462 (HC1025)

Twelfth Report  
Ministry of Defence Main Estimates 2007–08
HC 835 (HC 1026)

Thirteenth Report  
UK operations in Afghanistan
HC 408 (HC 1024)

Fourteenth Report  
Strategic Export Controls: 2007 Review
HC 117 (Cm 7260)

Fifteenth Report  
The work of Defence Estates
HC 535 (HC 109)

Session 2005–06

First Report  
Armed Forces Bill
HC 747 (HC 1021)

Second Report  
Future Carrier and Joint Combat Aircraft Programmes
HC 554 (HC 926)

Third Report  
Delivering Front Line Capability to the RAF
HC 557 (HC 1000)

Fourth Report  
Costs of peace-keeping in Iraq and Afghanistan: Spring Supplementary Estimate 2005–06
HC 980 (HC 1136)

Fifth Report  
The UK deployment to Afghanistan
HC 558 (HC 1211)

Sixth Report  
Ministry of Defence Annual Report and Accounts 2004–05
HC 822 (HC 1293)

Seventh Report  
The Defence Industrial Strategy
HC 824 (HC 1488)

Eighth Report  
The Future of the UK’s Strategic Nuclear Deterrent: the Strategic Context
HC 986 (HC 1558)

Ninth Report  
Ministry of Defence Main Estimates 2006–07
HC 1366 (HC 1601)

Tenth Report  
The work of the Met Office
HC 823 (HC 1602)

Eleventh Report  
Educating Service Children
HC 1054 (HC 58)

Twelfth Report  
HC 873 (Cm 6954)

Thirteenth Report  
UK Operations in Iraq
HC 1241 (HC 1603)

Fourteenth Report  
Armed Forces Bill: proposal for a Service Complaints Commissioner
HC 1711 (HC 180)
Witness: Dr Susan Atkins, Service Complaints Commissioner for the Armed Forces, gave evidence.

Q1 Chairman: Good afternoon, Dr Atkins. There may be a clitch of votes in the House of Commons shortly after 5 p.m. and so it looks very possible that this evidence session will be cut far shorter than we would like. We will make a decision on that when the first vote comes. The chances are that then we will adjourn this meeting for today and we will then try to decide whether we have covered enough ground before then in order to say that we feel satisfied with the information that we have or whether we would like to put you to the inconvenience of coming back again on some other occasion. I am sorry about that but that is the way that the House works. We would like to cover as much ground as possible in an impossibly short time. If you could make your answers terse but informative, that would be helpful, and I would ask the committee members to make their questions terse as well. Dr Atkins, there is no need to introduce yourself because you have done so in your report, as well as having been assiduous in speaking to members of the Committee on an individual basis. May I ask as an opening question: what is your view, after this period of your having been in office, of the effectiveness of the new complaints system? I understand that you have done so in your report, as well as having been assiduous in speaking to members of the Committee on an individual basis. May I ask as an opening question: what is your view, after this period of your having been in office, of the effectiveness of the new complaints system? I understand that you would like to open with a few words.

Dr Atkins: Thank you, Chairman. In the light of the time constraint, I will not do so, other than to say that I very much welcome the opportunity of being before the Committee because I think it is a vital part, as a statutory office-holder, of my accountability to Parliament and to Service men and women and the public through Parliament. I think that goes to the heart of the effectiveness of my role. The other thing I was going to say, but it is in my introduction and I hope you will take it as read, is that I am very conscious of the background to the establishment of my role and the heartache of the families and service men and women who have suffered in the past. I pay tribute to them and I would like that to be on record. You asked me about my overall assessment and in the report I say that I have looked at the operation of the Service complaints system as against the principles for a good complaints system and in the light of the casework of the people who have come to me. In my overall assessment, it is well designed but there is room for improvement in a number of areas. Would you like me to go on?

Q2 Chairman: Yes, please. Dr Atkins: I am very clear that a complaints system, if it is working effectively, makes a very important contribution to organisational effectiveness and in the Service context, that means operational effectiveness, but in order for that to be effective, there must, first of all, be confidence in the system, and I find that too few service men and women and their families currently have that level of confidence to come forward. They need to be confident that when they bring a complaint, they will be treated properly and seriously. In my experience, the tipping point for people bringing complaints is not simply an individual justice or individual outcome, but they fail to suffer in silence, if you put it that way; they take actions because other people will not suffer in the same way they believe they have in future. In order to be effective, therefore, there needs to be an ability for lessons to be learnt. I find, first of all, that it is taking complaints too long to be investigated and resolved. People are not getting the communication about their complaints that is there in the procedures, in some instances. Certainly, the quality of the communication when it does occur can be quite terse and to the point and therefore it is information; it is not necessarily good communication. At the outcome there are not sufficient infrastructure mechanisms for lessons to be learnt and shared.

Q3 Chairman: What do you intend to do about this with the MoD and with the Services in order to change that?

Dr Atkins: My report, as you know, makes some recommendations on those broad conclusions. In relation to the infrastructure, I did commission an internal audit of the joint personnel administration, the JPA—

Q4 Chairman: We will come on to that.

Dr Atkins: That made five recommendations. The MoD immediately accepted four and have taken action on two. I am pleased to say that the forum and the joint working group which was recommended has met. They have already scoped out the business processes and the requirements and are well on track to putting that into the system to get the basic data capture infrastructure. That may
take some time, I am told, because of the way IT projects and improvements can and have to be undertaken. There may be the beginning of 2010 before that is in place, but I think it is very important that it has been done. I think it is a sign of the MoD commitment that they got on to that as quickly as they did. I have also set objectives for the Services. You will know from the report that I set at the beginning of 2008 some targets for timeliness and communication. One of my recommendations for them for 2009 is that they should set interim targets to get to the goal of 90% of all complaints being dealt with within 30 working days at level 1 and 2 and 60 working days at level 3. I know that the Army already are considering what target that will be. These are the issues that I have identified and the recommendations I have made. The Secretary of State has written me assuring me that the Service Chiefs are taking seriously working with MoD colleagues and will be giving me a formal reply in due course.

Q5 Mr Havard: Moving on to your powers. I sat on the committee that drew up the Duty of Care Report. We asked for something that is much more rigorous than your role and remit. We did not get it, not yet anyway. You obviously were the Chief Executive of the Independent Police Complaints Commission, so you have some background in relation to that. We were looking very much in relation to a model perhaps from Northern Ireland at time, to the ombudsman process. I am wondering whether you have any observations you would like to share with us now about the ability to investigate, intervene and possibly re-open cases, because very much your report is, understandably, about trying to get greater efficiency. As the process moves on, have you any observations as to whether your powers need to be enhanced or changed in relation to those things? Dr Atkins: My experience from setting up the Independent Police Complaints Commission and working very closely obviously with the Police Service Ombudsman for Northern Ireland is that any oversight body has to be appropriate to the particular organisation that they are overseeing. Very often where a body ends up is not where it starts. You will know that the IPCC was a third iteration of police complaints oversight in Great Britain. The powers that the IPCC had stemmed from the powers of the two previous organisations. In relation to my existing powers, what I have said in the report is that if I believe that the powers are insufficient, I will say so, but at present I do not believe the strength and the extent of my powers have fully been tested. If I can explain, you are absolutely right that when somebody comes to me and I refer a case, the impact is that the Chain of Command are under a legal duty to keep me informed, and do so and do so right up to the Defence Council level. What I flagged up fairly early on with Service Chiefs and Ministers from the MoD was that when I get those reports, I have two choices: I can sit back and wait for a complaint to go all the way up to the Defence Council level, whether a Service Board or a Service Complaints Panel, and then come to a judgment that I do not think the case has been dealt with fairly, which is the traditional ombudsman model; or I can say “actually, I do not think that this is fair”. I can do that either at the conclusion of a particular level or whilst an investigation is ongoing.

Q6 Mr Havard: That is fair, in a sense, of the process, not the merit. Dr Atkins: In terms of the process, and what I have said is that my test of fair in an individual case will be whether the procedures have been followed correctly or whether the conclusion that is arrived at is reasonable within the circumstances. In a number of cases during the year, I have flagged up in the investigation of a particular case where I think the process is not being followed, particularly where there is a potential risk that a Commanding Officer or deciding officer is going to come to a conclusion with specific issues not addressed. In my experience when I have done that, then the Chain of Command have taken that on board and done it again. In one case where a decision was made and I explained that I did not think that the decision was fair because that particular Service’s procedures had not been followed, they re-opened the case and gave him the redress that he wanted. I think there is an ability actually I would not say to intervene but to maintain proactive oversight, which is similar to supervision with IPCC or others. The other reason I think it is too soon is that very few of the cases that I have referred have come to conclusion. As you know, over 50% of the contacts and allegations made to my office were about improper behaviour of one sort or another and only 75% of all referrals have yet been completed. I predict that in the next few months there will be a number of those cases that I referred, particularly about serious issues and improper behaviour, which will be held and heard by Service Complaints Panels sitting with an independent member. I think I will be in a much better place at the end of the year to come to a view to say whether the system of the Chain of Command, buttressed in those cases with an independent member, is providing that degree of rigour of investigation and fairness that the system is intended to provide, or whether in fact the system needs to be enhanced.

Q7 Mr Havard: So any change in your powers might come through this iterative development, if I can describe it in that way. You are not finding currently any sort of conflict between your activities and this idea of the proper responsibility of the Chain of Command. Do you see a way in which your powers could be increased that would avoid there being such a conflict?

Dr Atkins: At present, any time that I have made a request, the Services have acceded to it, so I have never got to a position yet where I have asked for something to be done that they have not been entirely comfortable with. In fact, I would say absolutely the opposite, that they are proactively seeking my guidance in how to undertake investigations to complaints fairly. There could
situations where I think there needs to be more independence in the investigation, and that might be where a complaint is made about some part of Service that is integral to that investigation, but we have not got to that point yet.

Q8 Mr Havard: Do you think there are going to be any effects on your ability to work and the sorts of things you want to do from any changes that you see coming in terms of the Coroner’s Service and inquests and so on? One of the things that exercised our minds when we did the Duty of Care Report was to look at the bad practices that had operated in the Coroner’s Service for some years past and to see if there was inefficiency or improvement there. Are there any changes in your relationship to it? Should it be changed in some fashion? Do you have any relationship with it?

Dr Atkins: It is not something I have considered but I will reflect on that and come back to you.¹

Q9 Mr Havard: As for your ability to voice what you think and what you know, are there any undue restrictions on your being able to report or say anything? Have you had any concerns about that?

Dr Atkins: No, none whatsoever.

Q10 Mr Havard: The openness of the process is clearly important if it is going to encourage people to use it.

Dr Atkins: Absolutely.

Q11 Chairman: I had an email recently saying that the person involved has read through the report, is in total agreement with things in handwriting in this report and is in admiration of the recommendations but in some doubt as to whether the recommendations will actually see their way through into reality. That is perhaps a natural scepticism at this early stage of your existence, would you say, or do you understand where that person is coming from?

Dr Atkins: The reason I gave the quotes in handwriting was, first of all, to make them stand out, and I think that goes to the previous questions about whether there are any restrictions on me saying things that people perhaps might not want me to say, and it is giving the people who do not have the confidence in the system the voice. Where I thought the Service men and women who had written to me, or their families, had been very articulate in saying what a lot of people were saying in perhaps a less articulate way, I included them in, and I am very pleased that people have recognised that. I think it is inevitable; people will say “I will wait and see”. I would imagine all members of this Committee will say, “I will wait and see” and I too am waiting to see the response back from the MoD, but nothing in my relationship with Ministers or with officials or with Service personnel gives me any doubt that they will be considered seriously and will be acted upon. As I said, already some of them I know are being acted upon.

Q12 Mr Havard: You say in your report that a lot of the current practice you see is predicated on individual redress and not necessarily in the organisation, structure and changes and so on, which is what you are trying to turn people’s attention to. Do you think there is a lack of understanding about the difference between a grievance process, as it were, a complaints process, and a disciplinary process and the relationship between the two, very often some running in parallel with one another? Is that one of the organisational questions that you want the Services to address in terms of their expertise for delivering the process?

Dr Atkins: Yes.

Q13 Mr Havard: I have seen this as an old, ex-trade union official so many times before.

Dr Atkins: In the final chapter of my report I raise that specific issue and say that I have found—and I give a number of examples of where I think this is coming through—a confusion of the two.

Q14 Mr Havard: One needs to be speedy and the other longer considered?

Dr Atkins: I mention things like: if a complaint is made, somebody must be treated as innocent until proven guilty; I talk about the conflation of the complaints burden of proof and the criminal burden of proof. I also talk about when an allegation has been made of bullying which may be low level but persistent, and I give the analogy of schoolyard bullying, but the traditional Service way of dealing with serious behaviour is through the disciplinary route, which is the criminal route. Therefore, if a criminal investigation launched into particular aspects does not meet the criminal burden of proof, then it undermines the investigation of the complaint. There are a number of examples where I flag that up. I make no recommendations about it but I have said that this is an area that I want the Services to look at and I will keep looking at it.

Q15 Richard Younger-Ross: My apologies if you have answered these questions. I have not yet learnt the art of bilocation, which is obviously a trick you need to be in the place. Considering the problems with the consistency and reliability of Service complaints, statistics, considering that there are omissions in the recording of data, particularly in the Army, and further that there is no proposed change to the JPA until 2010, are you satisfied that the MoD is treating the recommendations to improve the JPA recording with sufficient urgency?

Dr Atkins: I should say that there are issues about recording across all three Services. While I flag up one particular issue in relation to equality and diversity complaints in regard to the Army, you will see that on the recording of all complaints, including non-prescribed behaviour complaints for the RAF and the Royal Navy, they were unable to provide me with the statistics at level 1. So this is not just an Army issue: this is across all Services. I think I would say that in relation to data recording my experience at the IPCC and elsewhere is that inevitably these things when they involve IT take some time and

¹ Ev 12
when it is an aspect of a total personnel system, it is inevitable it is going to take some time. I regret that because I have a three-year appointment and if I am not reappointed, it means that it might be my successor who sees the benefit of my work but I have also said I think there are things that the Services can do in the meantime. I know that MoD colleagues, officials, are working very hard with them in order that there can be more complete data next year.

Q16 Richard Younger-Ross: Is there anything specific you can tell us that you think they can do?  
Dr Atkins: The internal audit report made a recommendation that secretariats in the three Services should have more oversight of what is going on at level 1. In the past, the secretariats have been there to ensure that when a complaint got to the Defence Council—the Army, Admiralty or Air Force Board—that all the casework, the paperwork, was in order. What I am saying is that that focus at the top is the wrong focus. You need to get the support and the oversight internally of the headquarters team, actually what is going on at the first level. That may mean more paper returns, and I do not want to add to bureaucracy, but I do think that there is more which is a cultural shift as much as anything; it may need a bit more resource to get that information.

Q17 Richard Younger-Ross: Can we move on to accessibility and the communication? Do you think that the appointment of a commissioner might deter personnel from making complaints? For example, a service man or woman might think that too official, or perhaps they might actually be going behind the CO’s back and more importantly perhaps the CO will think they are going behind their back. How would you feel about that?  
Dr Atkins: It is very interesting: to be shown very shortly British Forces Broadcasting Service are going to what I think is technically called an “infomercial”—a sort of public service advert which will go out on their television programmes overseas to cover the gap between commercial television programmes. The angle that they took was to show that actually it is just me and a very small number of people and that they will get personal attention. I think that goes to the point that some people may think that a commissioner means that here is somebody very grand with serried ranks of people dealing with their complaint. They only have to get in touch with us and for Janet or Amit to talk to them to realise that that is not the case and they get a very personal service. We have had a lot of people writing saying that we have given them the confidence to make the complaint and without our services they would not have got the result that they did. I think the second point that you raised about people thinking that they are being disloyal is certainly true and it makes it a big barrier. One of the quotes the Chairman referred to was from a service woman who said that she felt that she had to come to us and she felt very disloyal about it but had not choice. One of the key messages that I am making, and I am making it to Commanding Officers and particularly to the middle officers, commissioned and non-commissioned, is that this is not about team disloyalty; it is about strengthening the team. I fear that there are some people who still think that people should not go outside the family, as it were, but I am not finding that at Commanding Officer level. I do think the Commanding Officers have a really important role in telling people that that is not what it is like.

Q18 Richard Younger-Ross: Do you expect the numbers who come to you to grow?  
Dr Atkins: Yes.

Q19 Chairman: Do you think Commanding Officers and those beneath them have a sufficient degree of training about the powers that you have and the procedures that they can follow in relation to complaints to you?  
Dr Atkins: When I have gone out and visited Commanding Officers, I find that they do know about me. I was struck, and I have put in the report, from the Continuous Attitude Survey the number of officers, particularly in the RAF and the Marines, who either did not know or were unsure about how to make a complaint. I think that my experience is that Commanding Officers understand, not necessarily everybody under their command does, but I think it is more about the complaints system and expertise in the complaints system than necessarily the commissioner role.

Q20 Mr Havard: When you say “Commanding Officer”, what is in your head? Is this Major level or Captain?  
Dr Atkins: No, it is Lieutenant Colonel in the Army, normally; it is a Captain in the Navy; and Group Captain in the RAF.

Q21 Chairman: What feedback do you get from them as to how well your new system is working? I say “your” system—the system involving you?  
Dr Atkins: I get feedback in two ways: through the secretariats, through talking with Commanding Officers on individual cases, if I have a concern; and by going out and meeting Commanding Officers. At the very beginning, there were people who did not quite understand their duty to me of keeping me informed, and I think the figures in the report show that and that once they understand, then they get the gist of it. But the feedback has been that it has actually been very helpful. I can help in two ways: first of all, we do help people who come to us to focus on what the complaint really is and what they want to happen as a result, which may not be the same as what the individual redress is. A lot of Commanding Officers welcome finding out what is happening inside their command and welcome the opportunity of being able to grip something. I have given in some of the case studies examples of Commanding Officers who have been able either to sort out a problem without the person making a complaint or have gone ahead and still investigated, even though the individual said they did not want to make a complaint.
Q22 Mr Havard: Is it a question of training the officers, as it were? Lieutenant Colonel is a fairly high level. I wonder whether you have been to any of the training establishments at a much lower level where they are training the trainers and to places like Sandhurst or wherever officers start. It just seems to me that I would expect Lieutenant Colonel level to want good management information—if it helps with that system, then that is fine—and to understand it. I would like your observations about where the training is underneath that level.

Dr Atkins: I have been to training establishments and when I go to them I meet not just the Commanding Officer and the senior team but I meet usually senior NCOs and junior NCOs separately, sometimes together, and obviously I meet with the trainees and I always meet without a senior rank being there. It is a somewhat artificial environment.

Q23 Mr Havard: Do you see embedded in their training information about you in this process?

Dr Atkins: Some and I do not think complaints is very high on the training agenda, but what I do find is that for example in the Army the divisions are giving very good support. So when a complaint is referred, the central secretariat and the Service secretariat give really good guidance on what needs to be done. It is included in the training of officers but as you can imagine, if you are thinking about training for operations, I would not want it that they spend all their time thinking about complaints; I would want them to be trained on operational things. It is important that they have the guidance and access to somebody who knows and when they need it, they can get the support they need.

Q24 Chairman: That is the Commanding Officers. What sort of support is given to someone about whom a complaint is made? If someone is making a complaint of, say, bullying or something like that, is there any support in terms of advice or anything like that within the Services to those who are the subject of a complaint?

Dr Atkins: Yes. They can be given an Assisting Officer. As I understand it, they are not always given an Assisting Officer but they can be provided with that support, and I think that is best practice. I am also very clear that the duty to communicate applies equally to the person complained about as to the person who is making a complaint. You will know that some of the case studies that I give are about such people who have not been kept informed. I should say that when I go, and I talked about meeting people in units and in training establishments, I make this point that very often people come up to Janet and I afterwards and say, “This happened to me” and we say, “Get in touch; write to us and we will take it forward”.

Q25 Chairman: Do they feel that they have enough people that they can contact to avoid any feeling of isolation, would you say? Would a complainant feel that?

Dr Atkins: Some complainants clearly do not feel that they are getting the support they need. It is not the majority. By my very nature because I am dealing with complaints and not what comes afterwards, I have not met and I do not have the same amount of information about the people who are complained about. I have had a few people who have contacted me who are in that position but I would not want to make a generalisation. I must say from previous experience in HR and elsewhere that having a complaint made about you can be a very distressing business, and that is why I believe that they do need support; they do need good communication and timely handling is as important for them as it is for the person making the complaint.

Q26 Mr Holloway: Can people come directly to you rather than going through the Chain of Command?

Dr Atkins: Yes, they can, and they do not have to come themselves either. About 19% of people who contacted me last year were families, friends, it could be a mate, MPs—I have had a number of MPs write to me—Royal British Legion have and people through their solicitors, either through their solicitors or because their solicitors had suggested they get in touch.

Q27 Mr Holloway: What sorts of thing are people complaining about? Take the Army, what sorts of things are you hearing about, the range of complaints?

Dr Atkins: The report gives full details.

Q28 Mr Holloway: I am afraid that I have only flicked through it.

Dr Atkins: I had 193 people contact me last year, and of those 21 were about issues that could never be a Service complaint, so we have got down to 172. About half of those were about bullying, harassment, discrimination or some sort of improper behaviour. The majority of the people in those categories came from the Army but if you proportion the complaints from the Army, Navy and RAF, they are broadly in proportion to the numbers within those Services, so slightly more complaints of bullying and harassment from the Army and RAF, slightly more complaints of discrimination from the RAF and Navy.

Q29 Mr Holloway: I am sure Dai will be able to tell me how many you upheld, but what percentage did you uphold or find there was a legitimate problem?

Dr Atkins: I do not uphold them. I do not have the figures right in my head but about 18% of them have been completed to the satisfaction of the person making the complaint, probably less than 10% not to satisfaction, and the rest of them are still in the system. There is one that totally got to the end and I said I did not think it was fair and that was the one I was talking about where the Service re-opened it. It is too soon to say whether of all the ones that I have referred so far, I think that they have been dealt with fairly.
Q30 Chairman: Moving on to timeliness, you have set a goal for 2010 for the Services. How would you advise each Service on the action they need to improve themselves in terms of timeliness and have you given them any advice on that or have they asked for it?

Dr Atkins: I have discussed very broadly and very generally because I shared my emerging findings with the Services during the year rather than just ending up with a report at the end of the year. The advice is that you have, first of all, to work out what your track record is. That was my concern in relation to the RAF and the Navy, that they are not able to provide that information at level 1 where the bulk of the cases are. That is something that does need to be remedied. First of all, find out what your track record is, where you are now, where you want to get to, and then work out why you are where you are and what can be done. Some simple things are to triage complaints so that the ones that are easily dealt with you can then get through and put some resources in and resolve them. Some things that the Army are considering they are already doing but they want to systematise this more, and they have picked this up in discussions throughout the year with me, is that where a complaint is either going to be really complicated or the redress that is sought is a change of policy—so it is the sort of thing that could only ever be sorted out at Defence Council level—then they will fast track it. They are already fast tracking complex complaints about sexual harassment and about bullying to the Service Complaints Panels. That is something that has been developed over the year, but that triaging, that putting of your resources into what can be dealt with fast and moving complaints to the level where they can be dealt with properly rather than dragging it out and going through the procedure, is something that they have taken on board and should lead to a much more timely handling of complaints.

Q31 Chairman: Have you done any work with benchmarking?

Dr Atkins: I have not done much work with benchmarking.

Q32 Mr Havard: What you have just said is interesting because my understanding is that when the thing was being set up, or before it was set up and when we took evidence, the military were saying that clearly benchmarking was something they would rely on to get a better understanding about what is best practice and what they should do. Are you going to do some work on benchmarking? That was not going to be my question but it is now.

Dr Atkins: Maybe I need to explain my answer. What I have done is looked at the system, the Service complaints system, and that is benchmarking, against the BOI principles and the report gives the conclusions on that. Have I systematically looked at the types of complaints that are coming up, the processes that go through, with a sister organisation in a similar way either between the RAF, the Navy and the Army or with those forces elsewhere or some other discipline service? No, I have not. Quite frankly, working three days a week and with two members of staff, we have done, I think, jolly well. As for the things that I believe need to be done first: do I think benchmarking is a good thing to do? Absolutely. Do I think that this is something that the Services should do? Yes, I do.

Q33 Mr Havard: We will come on to ask you some questions about resources perhaps a bit later on but I give you the opportunity to make a bid. The time limits within the process that you were talking about earlier: I may be wrong about this but, as I understand it, these are to some degree within your gift, are they, to flex or change or advise could be different?

Dr Atkins: These are set down in guidelines, so, yes, they could be changed. I think setting the target— and it is something that I have said, it is not in guidance—of 90% of all complaints within 30 working days is a very challenging target. It may be that when we look at the seriousness, that has to be flexed slightly in order to recognise different types of complaint.

Q34 Mr Havard: As I understand it, you have not set anything for 2010 as yet in relation to that or the revision of that?

Dr Atkins: I have put it on the Services. I have set something to get to 2010: you tell me how you are going to get there.

Q35 Mr Havard: On the question of speediness of the process and the timeliness does raise a question about whether or not there could be error and unfairness. This is a set of organisations differentially learning at different speeds about how to change. Is that why you are being careful about prescriptive time limits?

Dr Atkins: Yes. In the chapter at the end on timeliness, and I give the current record for the Services, I say that one of the things that I will be looking at is to see whether things could be done too speedily. If you have a complex case, and you will see that the average time for the Royal Navy at level 2 is 25 working days, that might be a sensible average time for a minor complaint; it would not be if it is a complaint about indirect discrimination or a very complex case of bullying.

Q36 Mr Holloway: On this bit about people coming directly to you, in your experience, do Commanding Officers feel that people have the ability to come direct to you? Do they feel that it undermines the Chain of Command and encourages whingeing?

Dr Atkins: I have not found that Commanding Officers think that coming to me is going behind their back. That might have been a fear a few years ago. It is not a fear that I found to be realised. I have had discussions with people in more junior ranks
about a whingeing culture and I recognise that the military is different. If you need to be able to give an order and everybody jumps to it, you are inevitably going to have a different relationship than if you are working in Sainsbury’s. It does not, however, mean that when somebody makes a complaint that they are not treated seriously, taken seriously. I think there is a difference between a complaints culture and a whingeing culture and actually they have a moaning culture at present and what they need is a complaints culture. I made that distinction passing across the square at Sandhurst with a group of Regimental Sergeant Majors, and they got point! Chairman: I would love to see these definitions written out somewhere.

Q37 Mr Jenkins: I might be jumping the gun here but I am trying to get clear in my own mind with regard to the function of your office. I am sure it will support you whole heartedly in this. They are there to support you but we are always going to get complaints in any organisation; the trick is to reduce the number of complaints by reducing the problems and reducing the inappropriate behaviour— inappropriate behaviour in those surroundings and in those circumstances; it might be appropriate somewhere else but it is inappropriate in that sense. What is the loop to have your office feed back into the Services to ensure they are taking appropriate action to reduce these cultural differences of inappropriate behaviour?

Dr Atkins: The target I set last year for 2010 was to reduce the gap between reports of bullying, harassment and discrimination that are in the various Service surveys and the numbers of complaints, because it was my expectation that, as you say, you have to know about the problems in order to take action to reduce them, and my concern was, and still remains, that people do not have the confidence to speak out and, therefore, the Services cannot act. By putting in this report the annual findings from those surveys and including in those surveys questions about my role and about fears of victimisation, I hope to be able to monitor that. The feedback loop, though, is that when it is decided that there has been bullying, harassment or discrimination, firstly, I go back to the Commanding Officer and say, “What are you doing about it?”; but I meet the Deputy Chief of Defence Personnel every six weeks, I meet the Service Personnel Board, which he chairs, which has the Service Personnel Officer’s Second Sea Lord, Adjutant General, Air Member Personnel, three times a year and I meet those gentlemen individually once a quarter. So I am holding them to account proactively in real-time as well as finding out what is happening, and I am also invited to sit as an observer on the Ministry of Defence Equality and Diversity Committee, so I also can see what is happening and give advice there.

Q38 Mr Jenkins: Can I just pursue this, Chairman? As we know, the leaving report of the Government on Armed Forces personnel is much more truthful than the in-Service reports, of course, and they have tabulated a catalogue of events that they felt would have been complaints if they had stopped in the Services. Do we have any chance of evaluating the reductions level in the future? How can we get this reduction, because these are the complaints that are not voiced, and when they are not voiced in the system, is there any way of reducing that level of complaint?

Dr Atkins: I am sorry; I am having difficulty hearing. Can you repeat that? I have not got the gist of the question.

Q39 Mr Jenkins: We get a lot of complaints tabulated by leaving Service personnel. How do we ensure that that is fed back into the system directly to alter the culture? I am looking for that loop. It is all right at the top end, but it is actually at the bottom end that we have got the problem and at the bottom end where the complaints are not registered or taken up?

Dr Atkins: Former Service personnel can come to me and they can make a complaint after they have left, and the families of those can also come to me, and there are some case studies in here of that happening. The normal rule is that a complaint has got to be made three months after it occurs, and that applies to former personnel. There is an exception—if it is just and equitable—and what I determine is whether I think there are grounds for it to be just and equitable, not the Commanding Officer, and put it into the system; so that is one loop. People very often will tell others when they have left, and there can be formal support organisations or informal support organisations like Daniel’s Trust—you have got the Royal British Legion, Combat Stress, a variety of people—and I am working with them so that I get information from them as well. I think when people have suffered and leave, a lot of people want to put it behind them but sometimes they find they cannot, and we have had a number of people who have written to us, it might be two or three years afterwards, and said, “I thought that I could walk away from this, but actually I cannot for peace of mind”, and in those circumstances, even though it is long after the three months, I have referred it. To his credit, and it is not a case study, but one Commanding Officer, when I did that, the individual had not left the Service but he had left the particular unit and gone to a joint service, said, “I thought I could make this complaint, but I could not”, but the Commanding Officer still investigated and raised the issues of concern, which were policy and practice issues, with the Service Headquarters. So I do play a role in that feedback loop, but it is not a complete answer.

Chairman: We have a very short amount of time left and I want you, Dai, please, to concentrate on those questions that are absolutely key.

Q40 Mr Havard: The Service Complaints Panels. You report in 2008, I believe, there were four.

Dr Atkins: Yes.

Q41 Mr Havard: None of them dealt with prescribed behaviour, which is slightly surprising from my point of view, in the sense that the whole motivation or the
original spur to doing all of this was particularly bullying in the Services, harassment and those sorts of issues which assaulted complainants talk about changing behaviour over, and yet none of the cases dealt with seem to deal with that. Why is that?

Dr Atkins: I think it goes to timeliness and the fact that they come in at level three. I can check on the numbers, but I think probably four to six will be sitting with independent members in the next few months, and they are in those prescribed behaviours, but they have just taken, you know, starting from the beginning—

Q42 Mr Havard: You have anticipated my other question about what is happening now, what is happening subsequent to 2008.

Dr Atkins: Yes.

Q43 Mr Havard: So there are a series—

Dr Atkins: There will be some coming through, yes.

Q44 Mr Havard: —dealing with them. As you probably know, all over, national news, by which I mean Wales, maybe it has not got to England, there are two boys on the run from a training establishment in Wiltshire, claiming they have been beaten up, their teeth have been loosened, they are afraid for their safety and all of this sort of stuff. So, clearly, bullying must take place, or something happens, prima facie. I do not know whether their story is true, but there must be cases about that must be coming through the system. Could you not make inquiries about things like that, that just come to public notice, without having to wait for the 30 days?

Dr Atkins: Absolutely, and, more than that, last year I raised with the MoD and Service chiefs my concern that I be informed about non-combat deaths, any death or unexplained incidents, particularly in training establishments across the three Services, and that was started at the end of 2008 and I get, as ministers do, confidential reports, so reports from the two young men from Hullavington Barracks came through to me, as did others. So I get that information and I can ask questions, and where there are incidents, I have had Commanding Officers ring me up and ask for advice on that reporting system. The other thing that happens: I talked about working closely with support organisations. If parents go to some of those support organisations, then they can contact me and let me know, and we have had a case (of course it has got to be confidential) where I and my office have worked very closely with the Service to ensure that a young man who was very scared about going back to his Service went back to the training establishment, and he and his parents are very happy about how that has been dealt with.

Q45 Mr Havard: It really brings me on to a question about your resources. One of the specific things I was interested in is your need to appoint your own wholly independent legal team or legal advice. Do you think that that would be useful to you? Should you have resources for that? What other resources do you think might be useful to you in terms of publicising your staff, and so on, because, as you say, you have a very small staff and limited resources?

Dr Atkins: Yes. When I was appointed I had a choice whether to be a commissioner in the model, say, of Commissioner of Public Appointments or Civil Service Commissioner, where actually the department provides the corporate resources for you or to go to a non-departmental public body. Quite clearly, it did not make sense to go the latter route, because it has got a huge overhead, but what I did do, and got agreement as a principle, was where there was any perception that provision of services by the Ministry of Defence would interfere with my independence, then I would be given the resources to get those services externally. So I am not given legal advice by the Ministry of Defence lawyers, I purchase it independently from the Treasury Solicitors, and I have got a budget line this last year, and this year it has increased, for such legal advice. So there are no restrictions and, indeed, although I have been given a budget line, the MoD will take that on-risk and there is an understanding that I can go for the legal advice that I need, and that seems absolutely right. Similarly, I have had independent communications services. At the very beginning, my very first website, because that went live on 1 January 2008 within a month of me taking up post, was provided by the MoD, but I now have external services. So I have a small staff. The MoD has agreed that I shall have two extra staff: I have got one of those people in temporarily and the interviews for the third person happen next week. So I am being provided, or will be provided with the resources I need; I am afraid it is just taking rather a long time.

Q46 Mr Havard: We would like to congratulate you, I think, on producing the report that you have already produced with a limited amount of resources, frankly. It is impressive what you have done in a short period of time. I was just concerned that the perception of fairness may be one thing in relation to Service panels and all the rest of it, but also the perception of your independence to provide fairness is clearly crucial in you getting confidence from people to participate with your organisation.

Dr Atkins: Yes.

Q47 Mr Havard: I do not know whether, therefore, you would make any recommendations about extra resources, for example, for communications and getting your message across?

Dr Atkins: I have been given a budget line of £230,000 for non-staffing, including communications, for 2009, and that seems perfectly adequate for what we can do this year.

Q48 Chairman: How are you going to raise your profile?

Dr Atkins: In a number of ways. We have a leaflet to go out for junior ranks which I have involved young soldiers in helping me design. We will be trying to get that out to all recruits. The recruits themselves have suggested that that should go out with the joining literature, because that is when they and their mums
and dads read things. Leaflets are not necessarily read. I have already talked about the advert going out on BFBS.

Q49 Chairman: That is the website.

Dr Atkins: The Services have said, and ministers and Service chiefs have agreed, to get another communication through official channels out and about, but my communication staff are working on another blitz to make sure: because, as you will see, it is an objective to try and increase that. I hope, by having a question asked. The Service Complaints Commissioner on the Continuous Attitude Survey, there are now 25,000 Service people who do know about me, but I have to say, when I first started doing visits and asked a group of people who had heard about me before I arrived, I was lucky if one person put their hand up. I am now lucky if it is six out of a room of 30 or 40. So there is a huge mountain to climb.

Chairman: That is a step forward.

Mr Holloway: I think you would be making a very big mistake if you put this stuff in the joining literature, because you would be absolutely overwhelmed. When people arrive in training establishments it is a hell of a shock to the system, and the system also needs to weed out people who are not robust and at the moment there is already the WRVS, the Chain of Command padres. I would suggest, unless you want to have a gigantic department, you would be making a great mistake.

Q50 Chairman: Have you found that you are absolutely overwhelmed?

Dr Atkins: No, I have not found it overwhelmed. My experience is, talking with parents at passing-out parades, or after a passing-out parade, at phase one establishments, when I asked them did they know about how to contact the Commanding Officer or to contact the training establishment when things went wrong—they are not asking about me, not asking about complaints—a lot of people said, no, and then somebody gently reminded them of the credit card that they were given with all the numbers, and then they remembered. So I think you have more confidence in—. You know, it is one step, it is a way of getting to people, but just sending information does not mean that people will be inundated, and in the Recruit Trainee Survey I think it is very encouraging that above 80% in the survey knew about how to make a complaint, felt that they were being given resource and four times the numbers had made a complaint in training establishments than in general units. What I do say in there is there is a difference between phase one and phase two, and some of that may be because actually Service life is not for people, and it takes a while at phase one. They have got to come and then they can leave, and that is a good thing. Do not get me wrong, I do understand that there is a difference between people in the Services and people in Sainsburys, and I am not saying that they should be treated in that way, they have a job to do and a culture, but I do think it is congruent with the culture that they can raise concerns and have them dealt with seriously when there are things that they need to make a complaint about.

Mr Holloway: We are on the same page, but as somebody who used to train young soldiers, I think you run the risk here of the system self-adjusting so that it does not get lots of complaints from young men and women who have had an almighty shock to their system and, as a result, it could well have a detrimental effect on the training of these people.

Q51 Chairman: I think that amounts to a comment of Adam Holloway’s rather than question. I am now going to ask a question. In the complaints that you have received and in the visits that you have made to different establishments have you found a pattern? Have you found that the same issues are cropping up time and again?

Dr Atkins: I think there are a number of areas. I would not say there is a pattern, but I think there are a number of areas of concern. I am concerned about the numbers of allegations coming from women, and looking at my case bag and talking with women when I am out and about, I think that there are areas of concern there, and it is not what you might imagine. It does tend to be women who have been in the Services for longer rather than young women of only a few years, and it does appear that the longer you are in the Service the more you suffer from sexual harassment, and particularly if you are in the areas, not regular and in the Grenadier Guards where they do not have women, but in an area where there are lots of women.

Q52 Mr Holloway: They do actually.

Dr Atkins: A Captain of the Engineers, a woman from the Royal Engineers, was working when I did visit the First Battalion, so you are right, there are women working alongside them, but it is the areas around the Territorial, the Reserves, the medical areas where I am seeing that there are issues arising, and I have flagged that up as an area of concern. I do not know why that should be, but I think that is something and I have shared that with the Service chiefs and it is something that we agree that we need to look at.

Q53 Chairman: So you have a process in place to look at that, do you, or are you saying that they have a process in place to look at that?

Dr Atkins: I am flagging up that this is an area of concern, and then I am asking them to meet with me to say, if this turns out to be well-founded—because the allegations I have had and I have referred into the system still have to be completed and there is a difference between an allegation going in and what the situation is when it has been investigated. I go back to the point that too few of these have completed their course of action, but there are issues of concern that I think are issues of potential concern and, if they are well-founded, then I will want the Services to pick those up and tell me what they are going to do about it.
Q54 Chairman: Would you say that in establishments where you find a pattern of cases that the Commanding Officers of those establishments are aware of them?

Dr Atkins: To date I have not found in individual establishments sufficient cases to say within that establishment there is a pattern, and remember I have only been going a year, and because also of the way of Service life, that people move around, sometimes a complaint which is made to a Commanding Officer is about an incident that occurred elsewhere. So I think it is too early to say within individual units for there to be a pattern.

What I would say is (and it is in one of the quotes there) that I have found that there are some places where any suggestion of a complaint is perceived that that individual is failing, and I think that is what I am asking the top of the Service system to pass the message down. It is not having a complaint on your watch that is a failure, it is failure to take action when you have that complaint, you have investigated it and found that there was something that needed to be fixed.

Chairman: Are there any further questions?

Q55 Mr Jenkins: Chairman, I thought the report was brilliant but, of course, with such a small staff you could not have produced this report, the design or production?

Dr Atkins: No. I had external assistance with the design and the production, but we wrote every word.

Q56 Mr Jenkins: What assistance did you have? Did you have any assistance from the MoD in its production?

Dr Atkins: They helped us get some of the photos, and I make the point in the report that the only thing where they exercised their statutory rights to say what was to go in or was not was in relation to the photos. People did not have to be recognisable unless it was a trip that I had made and a visit that I had made.

Q57 Mr Havard: I was wondering whether or not there was any difference in what was coming to you from personnel when they are based in the UK and when they are based elsewhere, either in a garrison or on operational activities. Have you observed anything in relation to that?

Dr Atkins: We had very few from theatre, and most of those have come through more recently. We have had some from Germany and from Cyprus, and sometimes we get queries from much further afield and those are picked up when they come back.

Q58 Mr Havard: You have not received anything in particular?

Dr Atkins: I have not received anything yet, but it is early days.

Q59 Mr Havard: What I was thinking of is whether or not, if you like, the utility of someone’s understanding is carried with them when they leave the shores and whether or not there is a bigger job to do in terms of getting the same ideas across consistently outside the UK as well as within the UK?

Dr Atkins: I do not know, but I will let you know. I went to Afghanistan last year. Janet and I are going to Germany in May and are planning to go to Cyprus probably at the end of September, beginning of October. So I will be in a better position next year to answer that question.

Q60 Chairman: Thank you very much indeed, and thank you for starting early and for being available to start early. We have finished just before the vote and that was a most helpful session. Thank you very much indeed.

Dr Atkins: Thank you very much for the invitation.

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Supplementary memorandum from Dr Susan Atkins, Service Complaints Commissioner

**Management Information (JPA)**

Do you think the reduction of “super-users” to restrict access to the JPA system records has remedied the concerns of personnel having complaints “on the record”?

Answer: Last year the MoD and Services took action to reduce the numbers of “super-users” who had access to JPA records after I had highlighted concerns about widespread access as a potential barrier to use of the service complaints system. It hasn’t been raised with me as an issue since.

Has the MoD agreed to include the recording of general complaints, similar to those provided for Equality and Diversity cases, on the JPA system in future?

Answer: Yes. A JPA service complaints module is already in operation for non equality and diversity complaints, although the DIA audit found its use to be imperfect and inconsistent. Because of concerns about confidentiality, particularly from the Navy, there is an agreement that equality and diversity complaints will not have to be recorded on JPA until there is an equality and diversity module. The MoD and the Services are developing the general complaints module, in the light of the DIA findings, and the equality and diversity module in tandem. I have asked them to explore whether one module can be developed that meets all concerns. The intention is that the new module(s) will provide full information about all types of complaints and will be easy to use.
ACCESSIBILITY AND COMMUNICATION

Do you think there has been any complacency in distributing information about your role within certain establishments?

Answer: Last year the MoD distributed the Joint Service Publication 831 and an explanatory leaflet on the service complaints system, both of which covered my role, as well as arranging for a note about the SCC to be included on the pay packet of every member of the Armed Forces and assisting me to distribute to Units my leaflet on the Service Complaints Commissioner role. I do know that attention has been drawn to the role by my visits - for example soldiers have told me that leaflets went up on Notice boards the day before I arrived.

Following the recommendations in my Annual report, the Chief of Defence Staff is asking Service Chiefs to ensure that information about my role is cascaded to all Service personnel through the regular channels and attention drawn to the need to ensure that any information, for example the new leaflet that is designed for trainees and junior ranks, reaches its intended audience.

What are the rules on media contact with a complainant or those who are the subject of a complaint?

Answer: I treat any approach to my office as confidential. I make it clear to the media that I do not and will not talk about individual cases in the system. The case studies included in my Annual Report had the consent of the complainant, were based on completed cases and were anonymised.

As far as my role is concerned I make no requirements on the complainant not to go to media. I cannot speak for any requirements the Services may impose.

SERVICE COMPLAINTS PANELS

In the event that a future SCP requires an independent member, how is that person chosen?

Answer: In 2008 the MoD ran an open competition, following which four independent members were appointed by the Secretary of State. An Independent panel member is required for any Service Complaints Panel hearing complaints of bullying, harassment and other prescribed behaviour, made since 1 January 2008. I understand that a number of such cases are due to be heard over the next few months. The central secretariat in the MoD will contact independent members and assign a member to a particular panel.

THE COMMISSIONER’S PRIORITIES (VISITS)

(a) During your visits, did you notice significant differences in attitudes towards the complaints process amongst the Services?

Answer: I have noticed a difference between Services as regards the complaints process in my dealings with them generally, not just on visits. These relate to the organisational structures and procedures, for example for handling any personnel matters, the volume and frequency of Service complaints and the Service culture of how general business is undertaken. There are differences too in the Services’ perceptions of the extent to which they have problems with bullying and harassment. My Annual Report shows that it is not just an issue for the Army. However, most of the attitudes and barriers I highlight in my Annual Report are common across the Services, eg the attitude towards complainants which creates barriers to making a complaint.

(b) For what particular reasons do you think such differences (if any) exist?

Answer: They relate to the culture of the Service which in turn relates to the operational requirements. For example, the Army, which is large and structured around a clear pyramidal hierarchy, provides written notification to complainants on the progress of a complaint: the smaller flatter structured RAF, with a higher percentage of officers and professionals, prefers to update complainants orally. Whilst I have recommended written updates for all Services in future (to avoid the risk of misunderstandings or oversight which have occurred in the RAF) care needs to be taken to ensure that such written communication is meaningful and reduces rather than exacerbates the stress involved in bringing a complaint. The Navy’s particular concerns about confidentiality link to operational life in confined quarters for long period of time. These operational, cultural and structural differences also seem to me to account for the different levels of information about Service complaints system, (the Navy with its strong divisional officer system of briefing having the highest awareness) and the roles the Service secretariats play in relation to Service complaints.
RELATIONS WITH KEY MoD AND MILITARY PERSONNEL

(a) Are you satisfied with the initial induction provided for you by the MoD?

Answer: Yes. The MoD arranged for me to meet key personnel early in 2008, individually and by arranging visits across the Services. Those I met were generous with their time, information and advice.

(b) Have changes of senior Service personnel affected your relationship with the MoD or the Services?

Answer: No. Like me, the MoD and Services have made it a priority to ensure that I meet new post holders as personnel change. That my induction involved a wide range of Service Chiefs has meant that I have established good working relationships with incoming post holders. However this will remain a priority for me.

RESOURCES

Has the delay in recruiting the extra staff you feel you need seriously affected your work during the year?

Answer: The impact has mainly been felt this year. Towards the end of 2008 and the first quarter of 2009, I did not have the resources to manage my statutory responsibility to report to Ministers and Parliament on the service complaints system and sustain good levels of customer service with an increasing workload. I have had to prioritise new referrals and the Annual Report. It will take a while and the agreed additional resources to get our customer service performance back on track. One new member of staff will join my office at the end of April and the MoD has agreed that the temporary caseworker, who has been in place since the beginning of March 2009, can stay until the fourth member of staff arrives.

During 2008 I had to shelve plans for auditing sample completed cases. Unless that fourth post, which will support me on the audit work and Annual report, is recruited soon, my plans for audit for 2009 may be in jeopardy. The MoD is aware and supportive of the fact that more resources are required and is looking to provide other assistance to minimize the impact of delay.

ADDITIONAL INFORMATION

In your response to Dai Havard’s question (Q8) on Coroners’ practices and your relationship with the Coroners’ Service, you mentioned that you would reflect on the matter and come back to us.

Answer: This is an evolving area and one on which I will continue to reflect. I now have a role in relation to notifications of unexplained deaths, as explained in more detail in my response to Q44. This system started in December 2008 and my role is still developing. My initial thoughts are that the information I receive will enable me to ask questions about wider issues and systemic concerns, which will be complementary to, but separate from, the work done by the Coroners’ service. The issues I consider will also include the involvement of and communication with families. I will keep this aspect under review as my role develops.

1 April 2009