



House of Commons  
Defence Committee

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**The work of the  
Service Complaints  
Commissioner for the  
Armed Forces:  
Government's and  
Commissioner's  
Responses to the  
Committee's Eighth  
Report of Session  
2012–13**

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**Fourth Special Report of Session  
2013–14**

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## Defence Committee

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

### Current membership

Rt Hon James Arbuthnot MP (*Conservative, North East Hampshire*) (Chair)  
Mr Julian Brazier MP (*Conservative, Canterbury*)  
Thomas Docherty MP (*Labour, Dunfermline and West Fife*)  
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Ms Gisela Stuart MP (*Labour, Birmingham, Edgbaston*)  
Derek Twigg MP (*Labour, Halton*)

The following Member was also a member of the Committee during this inquiry.

Sandra Osborne MP (*Labour, Ayr, Carrick and Cumnock*)

### Powers

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### Publications

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

### Committee staff

The current staff of the Committee are Alda Barry (Clerk), Dougie Wands (Second Clerk), Karen Jackson (Audit Adviser), Ian Thomson (Committee Specialist), Christine Randall (Senior Committee Assistant), Rowena Macdonald and Carolyn Bowes (Committee Assistants), and Sumati Sowamber (Committee Support Assistant).

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## Fourth Special Report

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The Defence Committee published its Eighth Report of Session 2012–13 on *The work of the Service Complaints Commissioner for the Armed Forces* on 26 February 2013. The responses from the Government and the Service Complaints Commissioner for the Armed Forces were received on 14 June 2013 and 3 May 2013 respectively and are published as Appendices 1 and 2 to this Report.

## Appendix 1: Government response

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The MoD shares the Committee's view that the Service complaints system is an important part of ensuring that the duty of care that the nation owes to its Service personnel is carried out effectively. The system has evolved considerably since its introduction in 2008, and continues to do so. MoD acknowledges that despite progress in some areas there remains more to be done to meet the needs and expectations of members of the Armed Forces. Performance is still not consistently good and backlogs, whether from 2012 or before, can have a detrimental impact on individuals and on the working of the system. MoD is determined to fix these deficiencies. The progress made by the Royal Navy shows what can be achieved within the current system. The changes made in January this year should help deliver further improvements. But it remains clear that we also need to step back and take a view, with the SCC, of what further improvements might be made to the overall system. This work is underway.

The SCC has informed the Committee in her own response that we have met to consider the implications of joint recommendations and to coordinate a way forward. The MoD will respond shortly to the SCC's Annual Report for 2012 which will provide an opportunity to report further progress.

### *Confidence in the Complaints System*

**We accept that the steady increase in the level of Service complaints made directly to the chain of command or referred by the Commissioner may indicate an increasing level of confidence in the system. However, we are concerned to note the Commissioner's comments regarding a much lower rate of annual increase in contacts about matters that could become Service complaints compared to the first three years that her post had existed. Our concern was heightened by other organisations, such as the Service Families Federations, reporting lower levels of contact from Service personnel, solicitors reporting an increase in the number of individuals approaching them as they felt the Commissioner had no powers, and the increase in the number of people not pursuing matters with the Commissioner after initial contact for the same reason. (Paragraph 15, Conclusion 1)**

**We are further concerned that the Commissioner and others are reporting that fears of redundancy among Service personnel appear to be deterring them from making Service complaints. It is unacceptable that Service personnel who believe they have a genuine grievance in relation to redundancy or any other matter are reluctant to seek redress and resolution of the matter through the appropriate channels because they fear the consequences of making a complaint. As a matter of urgency the MoD and the Commissioner should investigate this matter and report their findings to us in response to our Report. (Paragraph 16, Recommendation 2)**

**We note that the number of contacts that the Commissioner receives about bullying, harassment, improper behaviour and victimisation has continued to increase. Although this may indicate an increasing confidence in reporting such matters, it also suggests continuing problems in these areas. We are concerned about the continuing gap between anonymous reporting of incidents in the Armed Forces Continuous**

**Attitude Survey and the Recruit Training Survey and the actual numbers of complaints. Further action is required to address this disparity. We note that the Commissioner has requested that the Adjutant General undertake an inquiry in relation to the serious complaints that she received in 2012 in respect of the Army. The MoD should update us on this as part of its response to our Report and we expect to see the report of any inquiry that the Adjutant General initiates. (Paragraph 31, Recommendation 6)**

**We are disappointed and concerned that Service personnel who felt they had been the victim of a behaviour which may give rise to a prescribed complaint did not have confidence to pursue this matter through the chain of command. While it is entirely appropriate and understandable that potential complainants would prefer to make use of the Commissioner, we are concerned that some Service personnel may decide against pursuing their grievance altogether. The MoD and Service Chiefs should commission research into the reasons for the lack of confidence in the chain of command to deal with prescribed complaints. The MoD should also review the systems in place for monitoring the performance of commanding officers in respect of these complaints. (Paragraph 34, Recommendation 8)**

The MoD is concerned by any suggestion that Armed Forces personnel are reluctant to raise genuine grievances whatever their origin. With the SCC it will take these related recommendations as one. We will identify and scrutinise existing sources of relevant material (e.g. surveys completed or planned) and where necessary consider new avenues, which could include approaches to personnel most likely to have experienced certain situations or sending questionnaires to those who approach the SCC. It has not been possible to complete this research in time to report findings to the Committee. MoD will keep under review current procedures for monitoring COs' performance in handling complaints.

**We are concerned that the number of sexual harassment and other sexual offences allegations made to the Commissioner remains low. Other evidence, such as the 2006 Equal Opportunities Commission and MoD Survey into sexual harassment in the Armed Forces, suggested that the incidence of such offences was a lot higher than the number of complaints would indicate. We also note that a number of complainants when going to the Commissioner with issues that are not about rape or sexual assaults cite such incidents from their past as contributing to their not trusting their chain of command. We note that the MoD is attempting to produce the most accurate information possible but it is inappropriate for them to fail to provide accurate figures in answers to Parliamentary Questions. Without accurate figures, the MoD is unaware of how severe a problem it is dealing with in relation to sexual offences within the Armed Forces or what measures it is required to take to rectify the offences committed. We recommend that the MoD instigate new research into the level of sexual offences in the Armed Forces and the actions required to tackle it and to encourage possible victims to report such allegations whether to the Commissioner, the Royal Military Police or the chain of command. (Paragraph 32, Recommendation 7)**

Criminal activity involving sexual offences cannot be dealt with by the Service complaints process, nor therefore by the SCC, but is a matter for the separate and independent justice system. Work is ongoing to determine more accurately the level of sexual offences involving members of the Armed Forces, as highlighted in the debate secured by

Madeleine Moon MP on the Service Justice System on 31 January this year. The results of this work, together with any relevant insights from the work on the recommendations above, may also help to inform our understanding of what action we might take to increase confidence in raising allegations of this nature.

### *Learning Lessons*

**We commend the work that the Commissioner has undertaken with the Services to identify systemic failures that could lead to potential Service complaints and we expect this work to continue so lessons are learned for the future. It is essential that each of the Services continuously learn lessons from the complaints they receive and ensure that appropriate steps are taken to stop the causes of the complaints arising in the future. This will lead to a more efficient system and release resources to deal with other areas in the complaints system. The MoD, the Commissioner and the single Services should undertake further work to improve the way weaknesses are identified and lessons learnt. Attention should be given to the areas that the Commissioner has already identified as demonstrating systemic weaknesses such as pay and allowances, the application of policy and procedure and the relationship between the criminal justice system, the military system and the Service complaints system. The MoD should set measurable aims, objectives and targets for improvements in these areas and these should be included in the response to our Report. (Paragraph 23, Recommendation 3)**

Work is in hand, but MoD recognises that, to be more effective, a more systematic approach is needed to gathering and exploiting lessons. It will have an initial lessons learnt process in place by July 2013, and will monitor and adapt it as necessary through to being fully operational by December 2013. Progress will be reviewed periodically by MoD Head Office and the single Services at Director level.

**We agree with the Commissioner's warning that as many Service personnel leave the Services over the next few years there is a potential for an increase in Service complaints regarding discharges, particularly as there may be reductions in the personnel and back office functions of the Services and MoD. It is important that the MoD and the Services take pre-emptive action to lessen the impact of this and prevent a possible increase in complaints. A vital part of this will be learning lessons from previous complaints regarding discharge procedures. (Paragraph 39, Recommendation 10)**

Pre-emptive action can be taken through, for example, risk assessments or learning from complaints. The action on recommendation 3 is expected to improve our ability on the latter. The Army has, for example, learnt lessons from its earlier redundancy tranches and made changes aimed at reducing the likelihood of appeals based on the same grounds in the current round.

### *Clearing and Preventing Backlogs*

**We note the challenges that the Commissioner has identified for the individual Services. We note the large backlogs at the unit level in the Army and RAF and expect action to be taken and appropriate resources identified to clear them. We also note that the RAF required lawyers to be involved at every stage of the complaints process. This had caused difficulties during the Libya campaign as the number of lawyers was capped and they were required for other duties. While operational requirements will always be**

**paramount, the MoD should investigate actions that could mitigate this in the future, for example whether lawyers from another Service could be used or whether lawyers are always necessary at every stage. (Paragraph 24, Recommendation 4)**

The use of Reservists and of trained investigators from outside the complaints arena is being explored to clear backlogs and to prevent them. Using the new reports, the Army is improving the accuracy of its data on the extent of its backlog and its understanding of what causes delay, and is holding individual Formation HQs to account for bearing down on open cases. Early indications are that this is having a positive effect on progressing older complaints at the CO level.

The RAF's early analysis of the impact of the steps taken last year to reduce COs' reliance on legal advice shows an average reduction of some 46 days in the time taken to progress complaints. If this continues to be beneficial and, for example, there is no increase in appeals, the RAF will consider extending the practice to level 2. The RAF is also investing in legal awareness training for its HR professionals so as to further reduce the call on legal advisers.

The Services already share legal advisers, for example when there may be potential conflicts in individual cases, but they are each under resource constraints and must guard against anything which might otherwise affect the ability to deliver business in a timely manner for their own Service.

**We commend the Royal Navy for the way it has approached the handling of complaints and reducing its backlogs but it must guard against complacency. Although each case is different and the complainant must always have the final decision on whether to pursue a formal complaint, the Royal Navy's practice of, where possible, resolving complaints informally is advantageous. We hope that the Army and RAF will follow and adapt this approach to their circumstances. (Paragraph 25, Recommendation 5)**

The RN recognises fully the need to build on its success and to not become complacent. It is looking to extend its practice of identifying potential "quick wins" to level 1 complaints where possible. The case for mediated resolution, where this is appropriate, and the championing of informal resolution/quick wins continues to be communicated to all Legal Advisers at Naval Legal Service Termly Updates and on the Annual Training Course.

In her Annual Report for 2012 the SCC comments on the increased use of informal resolution across all three Services. The Army and RAF are already building on that progress: the Army's central caseworkers remind those handling complaints in the chain of command that the fact that a formal complaint has been raised does not preclude continued attempts at informal resolution, and the subject is covered in Commanding Officers (Designate) and Adjutants training courses; the RAF has reinvigorated its emphasis on informal resolution, notably through roadshows with the Garnett Foundation which advocate mediation. Both Services are looking to learn from the RN's more flexible approach, where appropriate to the configuration and role of their own Service.

#### *Handling of Prescribed Complaints*

**We note that the number of contacts that the Commissioner receives about bullying, harassment, improper behaviour and victimisation has continued to increase.**

**Although this may indicate an increasing confidence in reporting such matters, it also suggests continuing problems in these areas. We are concerned about the continuing gap between anonymous reporting of incidents in the Armed Forces Continuous Attitude Survey and the Recruit Training Survey and the actual numbers of complaints. Further action is required to address this disparity. We note that the Commissioner has requested that the Adjutant General undertake an inquiry in relation to the serious complaints that she received in 2012 in respect of the Army. The MoD should update us on this as part of its response to our Report and we expect to see the report of any inquiry that the Adjutant General initiates. (Paragraph 31, Recommendation 6)**

This inquiry relates to a particular Service complaint that is currently under investigation. Once complete, the lessons from all relevant areas will be drawn together. The SCC will be consulted as part of the follow-on inquiry. MoD will consider with the Committee Chair how best to inform him of the outcome and conclusions when the work is complete.

**We support the introduction of fee-earning Harassment Investigation Officers (HIOs) to replace the previous system of civilian and Service volunteers who undertook this role in addition to their normal duties which caused delays in dealing with complaints. This should lead to an improvement in the investigation of MoD civilian and Service bullying and harassment complaints. We commend the MoD for recruiting the full operating capability of 50 HIOs by 1 August 2012. We recommend that the MoD continue to increase the number of HIOs to ensure that there is always sufficient capacity available especially if there is a surge in the number of the bullying and harassment complaints. The MoD should also consider similar arrangements for the investigation of other complaints. We further recommend that the Commissioner undertake an analysis of the effectiveness of HIOs at the end of 2013 and this should be included as part of her 2013 Annual Report. (Paragraph 36, Recommendation 9)**

Work is in hand to assess whether the cadre of harassment investigation officers is achieving the performance expected of it. In addition to existing metrics, we are looking at how we can assess whether complainants or respondents go on to make further complaints for example on the conduct, outcome or timeliness of HIO investigations. The performance of the HIO arrangements will be analysed in July this year, so that we can adapt as necessary before a final evaluation of effectiveness at the end of the year. This work will also show whether the number of investigators is sufficient. The narrow scope of bullying and harassment investigations suits the HIO cadre model, but it may not be transferable to providing widely deployable investigators for complaints about, for example, single Service terms and conditions of service. We shall, however, explore the potential for other ways to build investigative expertise.

#### *Miscellaneous*

**We note the rise in 2011 of potential Service complaints in respect of medical treatment and welcome the reduction in the numbers which the Commissioner anticipated for 2012. We welcome the Surgeon General's commitment to a continuous improvement approach to complaints. In response to our Report, the MoD should update us on progress on the review of medical complaints processes used across Defence Medical Services, particularly on lessons that might be learned from the complaints system for redundancy appeals process. (Paragraph 43, Recommendation 11)**



A single, tri-Service process for handling medical and dental complaints is being finalised and will be published shortly. During its development, best practice from the Service complaints process and from the SCC's Annual Reports was shared with the medical staffs as were the Principles of Fairness that guide complaints handling. The medical staffs also drew on the NHS complaints process for best practice. There was nothing from the process for bespoke redundancy appeals that would further enhance the proposed medical complaints process.

**We agree with the Commissioner that the review of the Service complaints system took too long. Given that she had reported in her Annual Reports that the system was not efficient, effective or fair, the review should have been given more urgency. (Paragraph 47, Recommendation 12)**

It was not a lack of urgency that contributed to the time taken to conduct the review, rather a need to build a body of evidence to help identify how the system was being used based on reforms that had been made to that point, and where future improvements might then be focussed. To provide that evidence, we tracked individual new complaints that were raised during 2011.

**The Service Complaints Commissioner's work is an integral part in delivering the Armed Forces Covenant. We are surprised and concerned that the MoD did not consult the Commissioner during the development of the Armed Forces Covenant or on the Annual Reports on the Covenant. We welcome the MoD's intention to give the Commissioner an opportunity to comment on statements made about the Service complaints system in future Annual Reports. Given the insight and information the Commissioner receives about the experience of Service life which is often wider than that of Service personnels' treatment by the chain of command, we believe that there would be value in the Commissioner being consulted on the draft Annual Report as a whole and in her joining the Covenant Reference Group. (Paragraph 78, Recommendation 19)**

MoD stands by the commitment given to the SCC that she will see the draft Annual Report. Members of the Covenant Reference Group are drawn from bodies that can have a direct bearing on the delivery of the Covenant's aim that our personnel experience no disadvantage particularly in respect of public services. To that end, representatives from other ombudsman or commissioner bodies attend by invitation, when agenda items directly concern their area of expertise, as the SCC has done in the past.

#### *Effectiveness of the Current System*

**In view of the Commissioner's evidence that "some of the Service Chiefs said they didn't quite understand what an ombudsman did, but they were sure they didn't want one", it is clear that discussions between the Service Chiefs and the Commissioner have not been as productive as they should have been. The MoD's wish to preserve the role of the chain of command in investigating and resolving complaints has been accepted by the Commissioner. The 2012 Armed Forces Covenant Annual Report said that there was more benefit to be gained for improving timeliness and tackling undue delay if the Commissioner were engaged whilst complaints were still live rather than her post becoming an ombudsman acting after the event. This contrasted with the**

**Commissioner's view that any Ombudsman model which excluded the oversight function until the conclusion of the internal process would not be effective, fair or be able to drive through the efficiencies that are required. While the involvement of an Ombudsman in cases that have not completed the internal complaints process would not be normal practice in the UK, we see no reason why the MoD and the Commissioner cannot agree a model for an Armed Forces Ombudsman that satisfies both their aspirations and concerns. (Paragraph 60, Conclusion 15)**

**While we support the changes to the role of the Commissioner which she has agreed with the MoD, we are disappointed that the MoD and the Services continue to be opposed to changing her role to that of an Armed Forces Ombudsman. We repeat the findings of previous Defence Committees that the Service Complaints Commissioner's role falls far short of that envisaged by them. We recommend that the Service Complaints Commissioner's role should be changed to that of an Armed Forces Ombudsman. In response to our Report the MoD should set out in full its reasons for opposing the establishment of an Armed Forces Ombudsman. The Commissioner has regularly reported that the Service complaints system was not efficient, effective or fair and that the current system was not sustainable and needed simplification and redesign. An important first step to rectifying this would be to resolve the continuing debate on the role of the Commissioner. The MoD, Services and Commissioner should increase their efforts to resolve the differences between them on the Commissioner's role. (Paragraph 66, Recommendation 16)**

MoD acknowledges that the complaints system is not working consistently well, and therefore in a way that our personnel should rightly expect. The SCC's assessment in her Annual Report 2012 of the progress made by the Naval Service is encouraging, and we would expect gains made to be maintained and built on this year across all three Services, sharing best practice where appropriate.

Whilst the changes introduced from January this year are expected to improve performance, and work is in hand to tackle the existing backlogs, MoD is open to new ideas for further improvement. But they cannot be at the expense of maintaining the primacy of the chain of command, which so critically underpins morale and discipline particularly in conflict. Against this background, the key factor when considering more reform is not simply whether or not to re-title the SCC's role but about how reform would promote a system that is fair, effective, efficient and quicker to operate.

At the end of April, MoD and the SCC began discussions to explore what further, specific improvements might be made, including consideration of how the SCC role might be developed to achieve the outcomes that we both seek. In particular, we are focussed on options which offer the best prospect of tackling delay. At the time of writing, two further discussions have been held and more are planned.

**We are concerned that the Commissioner sees the review of the Service complaints system as a missed opportunity. The changes to deal with issues relating to demand and resources, delay, and appeals while beneficial in themselves are tweaking a system that needed to be fundamentally redesigned and simplified. The MoD must demonstrate to us, and more importantly to Service personnel, that the changes will bring real benefits and lead to a fairer and more efficient system. In response to our Report, the**

**Commissioner and the MoD should set out how they will measure the effectiveness of these changes. If they do not produce the desired effects the MoD should commit to an early and speedy reassessment of them and to further, more fundamental, changes. (Paragraph 48, Recommendation 13)**

The primary benefit that we are aiming to achieve is the more timely resolution of a greater proportion of our complaints whilst maintaining fairness. From January this is being measured against the new timeline and target of achieving resolution within 24 weeks for 90% of all complaints. These mirror the SCC's first goal against which she will assess performance next year. MoD is considering the SCC's recommendation that a review of the 24 week time target should also include an assessment of the cost of the complaints system. A secondary benefit, which impacts on timeliness and on confidence, would be a reduction in appeal rates. The new, two-monthly reports will help assess performance against the timeline and target.

**We believe there would be value in the Commissioner being able to undertake research and report on thematic issues in addition to her Annual Reports. We appreciate that this would require additional resources but the Commissioner's experience on these issues should be utilised. The MoD should examine whether any legislative changes are required to enable this to occur. (Paragraph 69, Recommendation 17)**

We will consider this fully as part of the work related to recommendation 16.

**We agree with the Commissioner that the Service complaints system is too complex and needs to be simplified. For example, three levels for the resolution of complaints is too many and adds to the length of time taken to resolve them. The MoD should reconsider the Commissioner's proposal that one level of appeal in the system should be removed. (Paragraph 49, Recommendation 14)**

The MoD wants a complaints system in which cases are handled fairly, effectively and efficiently in the SCC's terms, but also one in which there are proportionate safeguards for our personnel given their unique employment position. During our review we examined how we might remove a level, the impact that might have and the potential benefits. We concluded amongst other things that removing a level carried a considerable risk of creating greater backlogs, and would likely involve delegating authority to grant redress on wider Service or tri-Service issues below the Defence Council, to an inappropriate degree. It is worth noting also that ACAS guidance states that in larger organisations it may be appropriate to have a second level of appeal in an internal grievance procedure. We shall however continue to explore this in the course of the work relating to recommendation 16.

**We note the Commissioner's assessment she does not have sufficient resources and that in fact the resources she has are those that she requested in 2008. A sufficiently resourced Commissioner and Service complaints secretariats are essential to an effective and efficient complaints system and raising confidence in it. It is also vital that current resources are used in the most efficient manner. While we accept that in the current economic climate it is not easy to provide additional resources, it is not appropriate that the Commissioner feels "dissuaded" from making bids for resources. She should submit her requests for additional resources and a decision should be made on a case by case basis. In response to our Report, the MoD should inform us of the**

**outcome of the discussions on future resources and the Commissioner should confirm that the additional resources are adequate to allow her to fulfil her tasks. (Paragraph 72, Recommendation 18)**

Bids made by the SCC for additional resources are considered on a case by case basis, as the Committee recommends, and will continue to be so. We are committed to providing the SCC with sufficient resource to fulfil her role, and remain in discussion with her about what those needs might be, including the implications of the work described under recommendation 16.

#### *Recruitment of the next SCC*

**We would like to thank Dr Atkins for her work as the Commissioner. She has worked ceaselessly to improve the Service complaints system and to make her post a success. We agree with Dr Atkins that the new Commissioner should not come from a military background. It is vital that the Commissioner should bring an outside perspective to the Service complaints system and that Service personnel should have confidence in using the Commissioner's services. We expect the MoD in their response to this Report to give us their reaction to the Commissioner's view that the post should be full time. (Paragraph 81, Recommendation 20)**

There are no plans at present to change the Armed Forces Act 2006 which states that a person may not be appointed as the SCC if he is a member of the regular or reserve forces (nor if he is employed in the civil service of the state). Previous military experience can bring credibility and understanding, but we recognise that it can also have a negative impact as the SCC and Committee have set out. It is a fine balance, but we are keen to encourage applications from a wide field and not to exclude otherwise strong candidates unnecessarily, just as we do not seek to exclude candidates with previous civil service experience. The legislation does not specify whether the SCC post should be filled on a full or part time basis—we will keep this under review as work in connection with recommendation 16 progresses.

**We confirm our intention to hold a pre-appointment hearing with the proposed new Commissioner. We expect to be fully involved at every stage and for the MoD to consult us on the process and the job description from the beginning to ensure sufficient time for the recruitment process, the pre-appointment hearing and a smooth transition to the new Commissioner. Most importantly we expect the MoD to take full account of our views on the suitability of the proposed new Commissioner for the post. (Paragraph 82, Recommendation 21)**

In recruiting to the SCC post during 2013 we will ensure that the Committee is engaged in line with the Government's response, published on 24 January 2013, to the Liaison Committee's report on Select Committees and Public Appointments, and with the Cabinet Office guidance on Pre-Appointment Hearings by Select Committees.

## Appendix 2: Service Complaints Commissioner's Response

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Thank you and the Committee for your continuing interest in the work of the Service Complaints Commissioner. I welcome the Report of the Committee published in February this year and support the recommendations made.

I enclose my response to those recommendations directed to me as the Service Complaints Commissioner (SCC). In relation to recommendations made also to the MoD, I have met officials to consider the joint implications and to seek to co-ordinate our response. For the avoidance of doubt, however, I should stress that the response attached represents the SCC view.

*Dr Susan Atkins*  
*Service Complaints Commissioner for the Armed Forces*  
*3 May 2013*

*Fear of redundancy*

### **Recommendation:**

**We are further concerned that the Commissioner and others are reporting that fears of redundancy among Service personnel appear to be deterring them from making Service complaints. It is unacceptable that Service personnel who believe they have a genuine grievance in relation to redundancy or any other matter are reluctant to seek redress and resolution of the matter through the appropriate channels because they fear the consequences of making a complaint. As a matter of urgency the MoD and the Commissioner should investigate this matter and report their findings to us in response to our Report. (Paragraph 16)**

### SCC Response:

The SCC met the MoD in March 2013 to consider how to investigate the extent to which fear of redundancy or other matters was affecting a willingness to make a Service Complaint (SC). MoD officials had already discussed this matter with their research department. It was agreed that MoD would subject existing data (e.g. in the AFCAS reports) to further analysis to seek get behind the reasons for not making a SC. The MoD would also explore the possibility of amending or adding to existing or planned surveys and would consult Service charities, including the Families Federations, to get more information. In the light of information from this activity, the MoD and SCC would jointly consider further action, for example approaches to personnel subject to redundancy or sending questionnaires to those who approach the SCC.

### *Systemic failures*

#### **Recommendation:**

**The MoD, the Commissioner and the single Services should undertake further work to improve the way weaknesses are identified and lessons learnt. Attention should be given to the areas that the Commissioner has already identified as demonstrating systemic weaknesses such as pay and allowances, the application of policy and procedure and the relationship between the criminal justice system, the military system and the Service complaints system. (Paragraph 23)**

#### SCC Response:

The SCC first recommended that the MoD establish a system for identifying lessons to be learned from complaints and for monitoring action taken, in her Annual Report 2008, (recommendation 3.2). The SCC's Annual Report 2012 set out the approach the Navy has taken with regard to identifying any lessons arising from Service complaints. The SCC has discussed with MoD officials how to extend this approach across all three Services and the MoD. The MoD has set a timetable for doing so. The SCC will work with the MoD on this and consider how to incorporate lessons arising from the SCC's work and put our existing practice of identifying lessons on a more systematic basis.

### *Bullying inquiry*

#### **Recommendation:**

**We note that the Commissioner has requested that the Adjutant General undertake an inquiry in relation to the serious complaints that she received in 2012 in respect of the Army. (Paragraph 31)**

#### SCC Response:

The SCC has agreed with the Adjutant General that she will participate in this review, which it is intended will start by the end of June 2013 (dependent on the conclusion of one key complaint case).

### *Fee earning HIOs*

#### **Recommendation:**

**We further recommend that the Commissioner undertake an analysis of the effectiveness of HIOs at the end of 2013 and this should be included as part of her 2013 Annual Report. (Paragraph 36)**

#### SCC Response:

The SCC made a recommendation in Annual Report 2012 that the Services should provide her with a full report on their use of fee earning HIOs during 2012 and 2013 for consideration in her next annual report (Annual Report 2013). This should include data on how many have been used, how quickly they were appointed, costs, an end user assessment of the quality of investigations and the impact on timeliness of handling Service complaints. The MoD have subsequently agreed with the SCC that they will also produce

and consider data on whether the complainant goes on to appeal any decision made on the basis of such an investigation or, if the person complained about, goes on to make a new complaint about the investigation itself.

#### *Effectiveness of changes*

##### **Recommendation:**

**The changes to deal with issues relating to demand and resources, delay, and appeals while beneficial in themselves are tweaking a system that needed to be fundamentally redesigned and simplified. The MoD must demonstrate to us, and more importantly to Service personnel, that the changes will bring real benefits and lead to a fairer and more efficient system. In response to our Report, the Commissioner and the MoD should set out how they will measure the effectiveness of these changes. (Paragraph 48)**

##### SCC Response:

The SCC has reached agreement with the MoD that the key success criteria will include timeliness and appeal rates. The SCC also believes that costs should be included and awaits the MoD response to this recommendation.

#### *Armed Forces Ombudsman*

##### **Recommendation:**

**We see no reason why the MoD and the Commissioner cannot agree a model for an Armed Forces Ombudsman that satisfies both their aspirations and concerns. (Paragraph 60)**

**The Commissioner has regularly reported that the Service complaints system was not efficient, effective or fair and that the current system was not sustainable and needed simplification and redesign. An important first step to rectifying this would be to resolve the continuing debate on the role of the Commissioner. The MoD, Services and Commissioner should increase their efforts to resolve the differences between them on the Commissioner's role. (Paragraph 66)**

##### SCC Response:

In her Annual Report 2012, the SCC urged the Secretary of State for Defence to re-consider her recommendation for an Armed Forces Ombudsman, in the light of the endorsement by the Defence Committee. The MoD is engaging with SCC on this recommendation. The SCC has had discussions with senior Service personnel in all three Services and two meetings already with MoD officials to scope out what such a role might entail and the costs/benefits. A third meeting is planned for mid-May. I would expect the MoD to be able to set out their position on changing the SCC role to that of an Armed Forces Ombudsman in their formal response to my Annual Report 2012.

*SCC resources*

**Recommendation:**

**In response to our Report, the MoD should inform us of the outcome of the discussions on future resources and the Commissioner should confirm that the additional resources are adequate to allow her to fulfil her tasks. (Paragraph 72)**

SCC Response:

The MoD's attempt to find the SCC an extra temporary member of staff to support the introduction of the changes to SCC powers from January 2013 has, unfortunately, come to nothing and the SCC has so far been given no additional resources.

The SCC has considered the level of permanent resources necessary to support her work, under these changes and the anticipated work demands over the next 3 years. One reason for recommending an Armed Forces Ombudsman was efficiency, i.e. that an Ombudsman would enable the Service Complaints system as a whole to be simplified and make better use of resources. Given the meaningful discussion now taking place between the SCC and MoD about simplification of the Service Complaints system and more fundamental changes to the SCC role, the SCC has not yet submitted a bid to the MoD on this basis. She remains of the view that an Ombudsman role would enable more efficient use of both Services and MoD resources and SCC resources. Subject to the outcome of current discussions, she intends to make a bid in relation to changes to an Ombudsman model. If these discussions fail, the SCC will submit a bid for the resources required for her current role and the anticipated workload for the next three years. The SCC will report on the outcome of such resource bids in her 2013 Annual Report.