PARLIAMENTARY DEBATES

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Select Committee on the Armed Forces Bill

ARMED FORCES BILL

First Sitting

Thursday 25 March 2021

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Monday 29 March 2021

The Committee consisted of the following Members:

Chair: JAMES SUNDERLAND

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Antoniazzi, Tonia *(Gower)* (Lab)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Dines, Miss Sarah *(Derbyshire Dales)* (Con)
† Docherty, Leo *(Aldershot)* (Con)
† Docherty-Hughes, Martin *(West Dunbartonshire)* (SNP)
† Henry, Darren *(Broxtowe)* (Con)
† Hodgson, Mrs Sharon *(Washington and Sunderland West)* (Lab)
† Holden, Mr Richard *(North West Durham)* (Con)
† Jones, Mr Kevan *(North Durham)* (Lab)
† Lopresti, Jack *(Filton and Bradley Stoke)* (Con)
† Mercer, Johnny *(Minister for Defence People and Veterans)*
† Monaghan, Carol *(Glasgow North West)* (SNP)
† Morgan, Stephen *(Portsmouth South)* (Lab)
† Wheeler, Mrs Heather *(South Derbyshire)* (Con)

Yohanna Sallberg, Matthew Congreve, *Committee Clerks*

† attended the Committee

Select Committee on the Armed Forces Bill

Thursday 25 March 2021

[James Sunderland *in the Chair*]

Armed Forces Bill

2 pm

The Chair: Before we begin, I remind Members that *Hansard* colleagues would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk.

To indicate that you wish to speak next, please raise your hand in front of the camera or use the "hand up" function in Zoom. To intervene or to make a point of order, please unmute and state that. Members being intervened on are reminded to repeat any part of their speech that may have been interrupted by the intervention.

We now begin line-by-line consideration of the Armed Forces Bill. The grouping list for today's sitting has been circulated to Members and is available on the Committee's web page. It shows how the amendments have been grouped together for debate. Amendments grouped together are generally on the same or a similar issue.

Please note that decisions on amendments take place not in the order they are debated but in the order they appear on the amendment paper. The grouping list shows the order of debates. Decisions on each amendment are taken when we come to the clause to which the amendment relates.

As a reminder and perhaps for those watching, this is the first time that Parliament has conducted virtual line-by-line scrutiny of any Bill. This is the first time for all of us. We will go carefully. We will make sure that we are slow and deliberate.

Clause 1

Duration of Armed Forces Act 2006

Question proposed, That the clause stand part of the Bill.

The Minister for Defence People and Veterans (Johnny Mercer): Thank you, Mr Sunderland, and for all the comments—I have watched the sessions, which have been very interesting. I am more than happy to engage in debate on any of the amendments that have been tabled.

May I get some guidance from you, Mr Sunderland, and the Clerks? Clearly, I think the clause should stand part of the Bill, but we will then go through the amendments, as I understand it. Is that right, or would you like me to speak to the amendments straight up?

The Chair: Minister, I urge you to speak to clause 1. The order will be: Minister to lead, then Labour spokesperson, SNP spokesperson, anyone else to come in at will, and the Minister to wrap up. We might cover each of the clauses quickly, but people might wish to speak to them. Certainly, Minister to open and to move clause 1.

Johnny Mercer: The primary purpose of the Armed Forces Bill is to provide for the continuation in force of the Armed Forces Act 2006, which would otherwise expire at the end of 2021. The clause provides for the continuation of the Act for a year from the date on which the Bill receives Royal Assent and allows further renewal thereafter by Order in Council for up to a year at a time, but not beyond the end of 2026. Crucially, the 2006 Act confers powers and sets out procedures to enforce the duty of members of the armed forces to obey lawful commands. The central effect of the expiry of the Armed Forces Act would be to end the powers and provisions to maintain the armed forces as disciplined bodies. That is all I have to say on clause 1.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

Constitution of the Court Martial

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider the following:

That schedule 1 be the First schedule to the Bill.

Amendment 1, in schedule 1, page 38, line 11, at end insert

"or lower ranks after a minimum service of 3 years".

This amendment would extend Common Law rights for people to be tried by a jury of their peers to be extended to those in the Armed Forces.

Clause stand part.

Clauses 3 to 6 stand part.

Johnny Mercer: Following the recommendations of the Service Justice System review, changes are being introduced in the Bill to allow more senior non-commissioned officers to sit as lay members, to change the number of lay members to six or three, and to introduce qualified majority voting. Those changes will have the effect of aligning the court martial system more closely with a civilian jury.

Currently, only officers and warrant officers can be lay members of a court martial. The clause will allow OR-7 ranks to be lay members—that is, chief petty officers, colour sergeants, staff sergeants and flight sergeants. That broadens the pool from which court martial lay members can be drawn, while preserving the seniority of lay members to fulfil the disciplinary role needed by the court martial.

Currently, there can be anywhere between three and seven lay members sitting on a court martial to decide on the verdict and then, if appropriate, on sentencing with the judge advocate. The clause will fix the numbers to either six or three lay members sitting on a court martial board. The intention is that serious cases will be dealt with by boards of six lay members, which is half the usual number on a civilian jury. The intention is that court martial rules will provide that six-member boards are needed where the defendant could be sentenced to more than two years' imprisonment.

The clause would also introduce qualified majority voting on verdicts where there is a board of six lay members. At least five lay members must agree if there are six lay members, or four if the board reduces to five due to illness or another reason. Those numbers are roughly in proportion to the way in which qualified majority verdicts work in the civilian jury system.

The Chair: I am aware that Martin Docherty-Hughes wishes to speak to amendment 1, but I ask first whether the Labour spokesperson wishes to comment.

Stephen Morgan (Portsmouth South) (Lab) *indicated dissent.*

Martin Docherty-Hughes (West Dunbartonshire) (SNP): I thank the Minister for moving the clause. I note the Government's willingness to align the military judicial process so that it is more akin to a civil jury. The concern of my colleagues on the Opposition Benches is that, in the evidence recently given by Judge Lyons to the Committee, he stipulated:

> "I believe, in the modern world, that the maintenance of discipline is in everyone's interests, and as a first step I would wish to see it opened to OR-7. I think opening it further is a step too far at this stage."

What concerns me and my SNP colleagues is that when pushed on the rationale for such an opinion, Judge Lyons was unable to substantiate why someone with substantial service under OR-7 should be excluded. Therefore, the judicial process, in terms of peer judicial decision, does not reflect the reality of military life.

I hope that the Government will consider accepting the amendment. There are those who have substantial service in the armed forces, not just in the sense of command but in lived experience of being in the Army. Some of the evidence given to the Defence Committee's Sub-Committee on Women in the Armed Forces, and the armed forces ombudsman's evidence in recent Defence Committee meetings, reflected that the judicial processes of the armed forces are not held in high regard by many serving and former service personnel. The amendment would—at least in some sense—go some way to rectifying that, ensuring that the military process is reflective of the reality of military life. At this point, if the Government are unwilling to accept the amendment, I will press it to a vote.

Mr Kevan Jones (North Durham) (Lab): I wish to speak in support of the amendment. The issue was quite clearly looked at by Judge Lyons in his report. As has just been said, there is no rationale for why other rank 7 was seen as a particularly relevant cut-off point. The important thing is that we make the move to mirror the civilian justice system, although I certainly accept that there are differences between the two because of operational issues.

To be judged by one's peers is a fundamental right. The provision would exclude large numbers of individuals, including some who may have many years of experience in the armed forces and of sitting on courts martial. I do not think that a good enough reason for excluding those individuals has been put forward in evidence. One possible justification was that people would not understand the procedures. Well, I find that rather patronising for non-commissioned officers, some of whom have been in the armed forces for many years. I would draw a parallel with civilian courts, where there is no qualification process or aptitude test for sitting on a civilian jury. It is for them to weigh up the evidence.

I think that Judge Lyons was basically saying in his report that the movement he outlined was all that he could get away with in the military legal system. I think that he was pushing for further change, but quite clearly did not want to offend or cause things not to go further. I think that he certainly saw this as a step towards, possibly, allowing other ranks to sit on courts martial.

The important point is to ensure that the individuals being tried feel that they get a fair hearing. In the hierarchical way that courts martial are judged at the moment, individuals might not perceive the process as fair because they are judged by more senior officers who determine promotion and other prospects for lower ranks, and might not only have limited understanding of the individual's life experience, but could ultimately influence the outcome of the individual's career, for example. I do not think a good enough reason has been put forward for why this cannot be extended, and I therefore support the amendment.

Carol Monaghan (Glasgow North West) (SNP): I will say just a couple of words in support of my colleague's amendment. The Bill should be seen as an opportunity to modernise and to introduce some fairness—or perceived fairness—into service justice.

To include the NCOs and lower ranks is a step towards a more equitable method of delivering service justice, and how that is viewed by personnel is important. It is important that those sitting on a court martial board understand the experience of the people before them. Unfortunately, the experiences of commissioned and non-commissioned personnel can often be quite different. This is a real chance to build greater fairness, and perceived fairness, into the system. I urge the Government to consider the amendment carefully.

2.15 pm

Mr Richard Holden (North West Durham) (Con): The evidence on this point was interesting. It was clear from the judge's comments that we are moving a step in the right direction. However, it is only just a step. A review of this measure in five years' time, at the next opportunity, is the right thing to do. The Committee heard evidence, and I questioned the judge, on the essential nature of this being different to a civilian court and the idea of discipline in the forces. The judge's recommendations and the expansion, but not total movement, on this point, provide a sensible level. I urge Committee Members to oppose the amendment.

Johnny Mercer: I have read the amendment. It seeks to increase lay membership of court martial boards beyond the rank of OR-7 and the changes we are making, as set out in the clause, apply to all service personnel, irrespective of rank, after serving for a period of three years.

The amendment seeks to bring the court martial board closer to the membership of a jury of a civilian Crown court in England and Wales, entitling all ranks to be tried by their peers. The amendment does not, however, take account of the key difference between the civilian courts and the court martial board. It is only the latter that has a part to play in determining the sentence with the judge.

[Johnny Mercer]

I should first make it clear that we very much welcome the recommendation on this matter in the service justice review. Increasing the range of ranks from warrant officer to chief petty officer staff sergeant who can sit on a board as recommended is the right thing to do. It increases diversity of experience and also increases the pool of personnel eligible to sit on a board. Very careful consideration was given as to where we should draw the line on eligibility. A key factor in that was the role that the board has in determining the appropriate sentence to be awarded.

As I have already explained, the court martial board deliberates with the judge on the sentence to be awarded and the judge is relying on the collective service experience of those board members to assist in deciding the appropriate sentence. The sentence in the court martial fulfils a number of purposes, including punishment, the maintenance of discipline and deterrence. It must also take into account what is in the best interests of the service and the maintenance of operational effectiveness.

Martin Docherty-Hughes: I recognise the move to include at least OR-7, but for the benefit of those watching our proceedings today, by going no further than OR-7, we are not just excluding privates, we are excluding lance corporals, corporals and sergeants, who probably have substantial life experience and military experience. While we are taking a step forward, there is substantial evidence from the ombudsman and the Defence Committee over the last 10 years that we are not going forward fast enough. Does the Minister not recognise that some of the profound issues the military justice system faces would be assisted by the amendment?

Johnny Mercer: I am afraid I do not agree. We need to take this sequentially. It is an important move down to OR-7, and it will be reviewed again in due course. We want to make this the fairest justice system available, and if that includes moving beyond OR-7, we will do so in future, but at this time I do not agree with the hon. Gentleman. An appreciation of these factors comes with experience and, to a certain extent, with rank and the exercise of leadership and command over others. That is not the same as having served a specific period of time in the armed forces, as proposed in the amendment. In the light of that, we concluded that those at the rank of OR-7 and above are most likely to have the breadth of experience necessary to undertake the required role in sentencing. I have considered and answered the hon. Gentleman's points. I hope, following these assurances, he will agree to withdraw the amendment.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 7

Concurrent jurisdiction

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): I beg to move amendment 19, in clause 7, page 4, line 26, at end insert—

'(4A) Guidance under (3)(a) must provide that murder, manslaughter and rape must be tried in civilian court when offences are committed in the UK.'.

This amendment will ensure that the most serious crimes – including murder, manslaughter, sexual assault, and rape - are tried in the civilian courts when committed in the UK.

The Chair: With this it will be convenient to discuss the following:

Amendment 2, in clause 7, page 6, line 27, at end insert—

'(ca) Justice Directorate in Scotland'.

This amendment equalises the requirement for all the devolved administrations to be consulted.

Clause stand part.

Mrs Hodgson: It has been a pleasure to serve under your chairmanship throughout this Committee, Mr Sunderland, and to be able to participate virtually. I am aware that this is the first time that line-by-line has been done this way. We are pioneers, and I am sure we are doing a grand job for others who will no doubt follow. I hope the Minister will carefully consider all the amendments, which are based on the evidence we have heard and received from experts and stakeholders throughout the process.

Amendment 19 would ensure that the most serious crimes, including murder, manslaughter, sexual assault and rape, are tried in the civilian courts when committed in the UK. The first recommendation in His Honour Shaun Lyons's 2020 service justice system review was:

"The Court Martial jurisdiction should no longer include murder, manslaughter and rape when these offences are committed in the UK, except when the consent of the Attorney General is given."

Judge Lyons told the Committee in oral evidence that he felt it was not Parliament's intention for murder, manslaughter and rape that happened in the UK to be tried in the service justice system. Indeed, in 2006, Lord Drayson, the then Government spokesperson in the Lords, said:

"I have already told the House that we do not propose that, under the Bill, murder, rape or treason alleged to have been committed by a serviceman in the United Kingdom will normally be investigated and tried within the service system."—[*Official Report, House of Lords,* 6 November 2006; Vol. 686, c. 587.]

During the Select Committee on the Armed Forces Bill 2006, Major General Howell, head of the Army Prosecuting Authority, also said that he understood that courts martial would be used in exceptional situations. Despite that, the protocols do not reflect that intention or the Lyons review recommendation; the amendment takes account of that.

Throughout the evidence sessions we heard about the culture and archaic views around victims of sexual harassment and rape, with perpetrators being described as being of "good character" but had just had a bit too much to drink and made a mistake. We have to tackle that perception, and that is why I wholeheartedly agree with the written evidence that we received from Tony Wright from Forward Assist:

"Sexual assault…is sexual assault and rape…is rape, it should not be minimised by calling it unacceptable behaviour."

That culture, coupled with low conviction rates for rape cases at court martial—at just 10% between 2015 and 2019—means that there is little trust in the system that should be there to provide justice. The civilian courts are not perfect but, during the same period, the conviction rate for rape was 59% in civilian courts, with considerably more cases being tried each year in those courts. Yesterday, the Minister said to the Committee:

"I am comfortable, with that protocol in place",

and that it provides

"a resilient route to justice for those who need it."

A low conviction rate of 10% for rape, however, does not match the Minister's words.

Trying the most serious offences that occur in the UK in the civilian courts would help to improve conviction rates and, as Professor Sir Jon Murphy told this Committee, it would put the victim "at the heart" of the system. The Government have an opportunity with the Bill and the amendment to do just that. They cannot continue to brush serious crimes under the carpet as an inconvenient truth not to be dealt with because it could affect the defendant's career. Sexual assault and rape affect all aspects of a victim's life for many, many years, and the victim must be the priority.

A judge-led inquiry, the Victims' Commissioner, the founder of the Centre for Military Justice and Forward Assist all agree that murder, manslaughter and rape should not be tried in the military system, unless in exceptional circumstances. I hope the Minister will join us to make that happen with the amendment.

Martin Docherty-Hughes: I fully support the hon. Lady and her amendment. If it comes to a Division, I and my SNP colleagues will vote with Labour.

On amendment 2, it is clear in the Bill that the judicial systems of these islands are included. For example, in proposed new chapter 3A, the "Guidance on exercise of criminal jurisdiction" for England and Wales includes the Secretary of State and the Attorney General. We then go to Northern Ireland, and the measure is clear about including the Northern Ireland judicial service. Within the process, the guidance mentions the criminal jurisdiction in Northern Ireland, which is the Secretary of State and the Department of Justice in Northern Ireland.

When the Bill comes to the process in Scotland, however, with "Guidance on exercise of criminal jurisdiction" in Scotland, there is a glaring omission: we see the Secretary of State, but not the Justice Directorate of Scotland. Given that the directorate covers a completely different judicial process and system, that is a glaring omission. I hope that the Government are willing to include what my hon. Friend the Member for Glasgow North West and I have proposed, the insertion of the Justice Directorate of Scotland, to bring the clause into line with the rest of the Bill, as it is for England and Wales, and Northern Ireland.

I hope the Minister will accept the amendment of that small anomaly, to ensure clarity—he will forgive me for using the terminology—unity and unanimity across the process. I might be willing to consider what the Government say before pressing for a vote.

2.30 pm

Johnny Mercer: I will deal with the amendments in reverse order. Amendment 19 seeks to ensure that the most serious crimes—murder, manslaughter and rape—are tried in the civilian courts when committed by a service person in the UK. It seeks, through statutory guidance, to undermine the current legal position, which is that there is full jurisdictional concurrency between the service and civilian justice systems. I want to take this opportunity to explain clearly why the Government do not consider that to be the right approach.

To begin with, it is important to be clear that the amendment goes further even than the service justice system review recommended. It would mean that murder, manslaughter and rape committed in the UK could never be dealt with in the service justice system. The Lyons review recommended that such cases could continue to be tried in the service justice system with the consent of the Attorney General. Even some of those who were critical of such offences being retained in the service justice system seemed to accept at least some ongoing role for the service justice system. For example, there is general consensus that cases including cross-jurisdiction elements—offending both overseas and in the UK—would be appropriately tried in the service justice system.

The Government resist the amendment on that basis alone; however, as is now well known, the Government are also unable to accept the Lyons review recommendation directly, and have instead opted for an alternative and improved approach. As explained on Second Reading, the decision to retain jurisdictional concurrency was taken after full and careful consideration. The Government are confident that the service justice system is capable of dealing with all offences, whatever their seriousness and wherever they occur, bolstered by the improvements recommended by the Lyons review.

One of the most detailed examinations of the way the service police deal with cases of domestic abuse and serious sexual offences was contained in an audit by retired Detective Superintendent Mark Guinness in 2018 as part of the Lyons review. That audit found that service police have the necessary training, skills and experience to carry out investigations into such cases. The service prosecutors and judiciary are trained, skilled and experienced. Victims and witnesses receive support that is comparable to that received in the civilian system, for example through the armed forces code of practice for victims of crime.

Members have referred to statements by Ministers to Parliament during debates on what became the Armed Forces Act 2006. Ministers at the time said that murder, manslaughter or rape committed in the UK would normally continue to be tried in the civilian system; however, those were policy statements made nearly 15 years ago by Ministers in a different Government. Those policy statements did not alter the legal position set out in the Act: that of concurrent jurisdiction. We are considering what the position should be today and for the future, not what the position was 15 years ago.

In the light of that, the Government have concluded that it is right that the current legal position of jurisdictional concurrency is maintained in principle. The service justice system exists to support operational effectiveness and discipline, and to do that effectively it needs flexibility. That is why the Government have concluded that decisions on where cases should be tried should be taken on a case-by-case basis by independent prosecutors.

Clause 7 places a duty on the heads of the service and civilian prosecution authorities to agree guidance relating to how decisions are made where there is concurrent jurisdiction. That will bring much needed clarity on how decisions on jurisdiction are made, and will ensure that decisions on jurisdiction are transparent and independent of the chain of command and Government. The director of service prosecutions in his evidence to the Committee stated that in cases of murder, manslaughter or rape, service and civilian prosecutors will need to

[Johnny Mercer]

consult on where the proper jurisdiction lies. The Bill makes it clear that where a disagreement over jurisdiction cannot be resolved the civilian prosecutors will have the final say.

To be clear, the aim of that approach is not to increase the number of serious crimes being tried in the court martial; it is to ensure that the service justice system is able to deal with those offences in principle when committed by a service person in the UK, and that there is a transparent, robust and independent way of resolving where jurisdiction lies. I hope that that explains the rationale for the Government's approach and the safeguards that exist, and that, following those assurances, the hon. Member for Washington and Sunderland West will agree to withdraw her amendment.

Amendment 2 seeks to include the Justice Directorate in Scotland as one of the statutory consultees that must be consulted by the issuing authorities of the protocol regarding the exercising of concurrent jurisdiction in Scotland. The hon. Members for Glasgow North West and for West Dunbartonshire have stated that the purpose of the amendment is to ensure that devolved Administrations are appropriately consulted.

New section 320B of the 2006 Acts provides for the Lord Advocate and Director of Service Prosecutions to agree a protocol for the exercise of concurrent jurisdiction in Scotland. Subsection (8) requires them to consult all authorities listed there before agreeing the protocol or any revision to it. Those listed for Scotland are the Secretary of State, the Chief Constable of the Police Service of Scotland, or any other person whom the issuing authorities think appropriate. Corresponding provision is made for England and Wales in new section 320A, and for Northern Ireland in new section 320C.

The constitutional frameworks for criminal justice are different between England and Wales, Scotland and Northern Ireland. As a result, the office holders responsible for agreeing the three protocols with the DSPs and the list of consultees are designed to reflect those differing arrangement in each jurisdiction. In relation to Scotland, the clause was drafted in consultation with the Scottish Government and the Crown Office and Procurator Fiscal Service. The role of the Lord Advocate agreeing the protocol and the list of Scottish consultees reflects those comments prior to introduction. On the involvement of the Scottish Government in developing the protocol, it is of course the case that the Lord Advocate is a member—

Martin Docherty-Hughes: Will the Minister give way?

Johnny Mercer: Yes, but the hon. Gentleman's last intervention simply reiterated his point. I accept that, but I will take interventions only if they add to the point something that we have not already covered.

Martin Docherty-Hughes: I do hope so. The Minister mentioned the Scottish Government. My amendment relates to the civil service through the Justice Directorate, so there is a clear differentiation, and it is not necessarily an engagement with the Government, but with the civil service and differing legal system of Scotland. That is why it is clear that it is about the Justice Directorate and not, for example, the Cabinet Secretary for Justice.

Johnny Mercer: I appreciate that point, but the outcome that we are trying to achieve will be similar. The clause was drafted in consultation with the Scottish Government and the Crown Office and Procurator Fiscal Service. The role of the Lord Advocate in agreeing the protocol reflects those comments prior to its introduction. We have been around the houses and got those people's views.

On the involvement of the Scottish Government in developing the protocol, the Lord Advocate is of course a member of the Scottish Government, so there is no question of the Scottish Government not being involved in the creation of the protocol in Scotland. In addition, new section 320B(8) of the 2006 Act provides that the Lord Advocate and the Director of Public Prosecutions may also consult anyone else thought appropriate.

I hope that helps to explain how we have designed the clause in a way that is sympathetic to the differing constitutional arrangements across the UK, and I hope that hon. Members will withdraw their amendments.

Mr Jones: May I begin by thanking Justice Lyons for his review? In his evidence to the Committee, he clearly outlined why amendment 19 is needed. I am a veteran of the 2006 Bill Committee, and it is quite clear, as Judge Lyons said in evidence, that when this amendment was made to that Bill, the intention was not for the wholesale movement towards serious crimes being heard in courts martial in the UK. They were for exceptional circumstances in which, for example, one crime had been committed overseas and one in the UK, given the ability of the court martial to deal with such cases. That was a sensible way forward because the service police would clearly be the lead authority in the investigation of such serious crimes committed abroad as murder, rape or manslaughter,.

The problem, which my hon. Friend the Member for Washington and Sunderland West outlined eloquently, is to do with confidence in the system. When the system was outlined, I do not think courts martial were meant to deal with these serious crimes. I support the military justice system, and I do not think the amendment would do anything to damage it. I think it would boost confidence in it.

The problem with the current system has been outlined. The conviction rate for rape is not satisfactory—I accept there are problems not just in the military system but in civilian life as well—and one of the key issues is investigation. The Minister said he was confident that the service police have the capacity to investigate such serious crimes. I would not want to criticise professional individuals, but, as with anything, the more specialism someone has and the more cases they deal with, the more expertise they get in gathering evidence and in supporting victims.

Clearly, the service police deal with a limited number of serious cases, so I would have thought that, when such alleged crimes are committed in the UK, it would be important to involve the local civilian police, who deal with serious sexual assaults, rapes, manslaughter and murder more often. Because of that experience not only in gathering evidence but in dealing with victims, they should have primacy. I am old enough to remember the Deepcut inquiry undertaken by Lord Justice Blake and know those cases in detail. I accept that is going

back a number of years, but the clear problem there was the way in which evidence was not gathered—in some cases it was ignored or destroyed—and the assumption, without rigorous investigation, that suicide was the main cause of death in all cases.

The amendment is really about the system's integrity and getting confidence for victims as well. As we saw in evidence from Forward Assist and retired Lieutenant Colonel Diane Allen, there is an issue in ensuring that, first, those who complain think they will be listened to as victims, and secondly, the armed forces' hierarchical structure is not an impediment to the proper investigation of serious accusations. I can see the reason for courts martial dealing with cases in exceptional circumstances, as outlined in the 2006 Act, such as those that take place overseas and in this country, but I cannot see why routine cases in the UK are not dealt with by the civilian courts. I therefore support the amendment.

The Minister said it is a policy decision, but I am not sure. The intention was there, and I do not think much has changed in the past 15 years. What we need to do now is to ensure that, as was outlined in evidence we heard from the Victims' Commissioner and other witnesses, the victim is at the centre of any system we put in place.

Carol Monaghan: I will say a few words in support of the amendment. The Defence Sub-Committee has been taking evidence on the experience of women in the armed forces. We know there are a whole range of issues specific to female personnel. When we are looking at serious crimes such as rape, so many different issues have to be considered —we need to consider consent and whether there is a proper reporting structure—and those who make complaints must have confidence in the system.

We have already discussed the membership of the court martial board. How can someone have confidence in a trial when those who are deciding the outcomes are likely to be male and of higher ranks, and not likely to have any understanding of the woman or the victim's experience? In other words, they will not have anything in common with the person who is bringing forward the complaint.

2.45 pm

It is far more likely that there will be clarity, diversity and understanding among members of the jury in a civilian court. I therefore ask the Minister to reconsider the measure. The amendment is important. If we hope to increase diversity in the armed forces and improve the experience of different groups, including women, we need to take it seriously.

Martin Docherty-Hughes: I, too, support the shadow Veterans Minister and the Labour amendment. I sit on the Defence Sub-Committee on Women in the Armed Forces chaired by the hon. Member for Wrexham (Sarah Atherton), who represents the Government party. We are going through extraordinary evidence submitted by women who have served in the armed forces over many years, and the amendment would go some way towards tackling the profound issues they have faced.

Mrs Hodgson: I have listened carefully to the Minister, my right hon. Friend the Member for North Durham and other hon. Members. I am minded to withdraw the amendment, while reserving the right to bring it back at a later stage. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Does the hon. Member for West Dunbartonshire wish to press amendment 2 formally? It has just been debated.

Martin Docherty-Hughes: Not at this stage, though we might bring the amendment back at a different stage of the Bill.

The Chair: Before we move on to deciding clause 7, I will make a couple of process announcements. We are feeling our way with this first ever virtual sitting of line-by-line scrutiny and I wish to make two points. First, for the avoidance of doubt, the decision on amendment 1 to schedule 1, which we debated earlier, will be made later, when we reach the schedules, which are on page 2 of the selection list. The amendment was grouped for debate, but the decision will be made separately, later in proceedings.

Secondly, I am very happy with how interventions have worked so far. Rather than coming through me as the Chair, I am happy for Members to intervene virtually, as Mr Martin Docherty-Hughes has already done successfully, directly on the person speaking.

Clause 7 ordered to stand part of the Bill.

Clause 8

ARMED FORCES COVENANT

Stephen Morgan: I beg to move amendment 7, in clause 8, page 9, line 16, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

This amendment, with Amendments 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 widens the scope of the Bill to address all matters of potential disadvantage for service personnel under the Armed Forces Covenant including employment, pensions, compensation, social care, criminal justice and immigration.

The Chair: With this it will be convenient to discuss the following:

Amendment 8, in clause 8, page 9, line 17, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 3, in clause 8, page 9, line 19, at end insert—

"(aa) a relevant government department;".

This amendment, with Amendments 4, 5 and 6 would place the same legal responsibility to have 'due regard' to the Armed Forces Covenant on central government and the Devolved Administrations as the current drafting requires of local authorities and other public bodies.

Amendment 12, in clause 8, page 9, line 24, at end insert—

"(3A) The Secretary of State may, after consulting the Welsh Ministers, make regulations by statutory instrument to—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Amendment 9, in clause 8, page 9, line 29, at end insert—

"(3A) The Secretary of State may by regulations made by statutory instrument—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Amendment 10, in clause 8, page 11, line 13, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

See explanatory statement for Amendment 7.

Amendment 11, in clause 8, page 11, line 16, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 4, in clause 8, page 11, line 18, at end insert—

"(aa) a relevant department in the devolved administration in Wales;".

See explanatory statement for Amendment 3.

Amendment 13, in clause 8, page 12, line 27, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

See explanatory statement for Amendment 7.

Amendment 14, in clause 8, page 12, line 30, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 5, in clause 8, page 12, line 32, at end insert—

"(aa) a relevant department in the devolved administration in Scotland;"

See explanatory statement for Amendment 3.

Amendment 15, in clause 8, page 13, line 1, at end insert—

"(3A) The Secretary of State may, after consulting the Scottish Ministers, make regulations by statutory instrument to—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Amendment 16, in clause 8, page 13, line 43, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

See explanatory statement for Amendment 7.

Amendment 17, in clause 8, page 14, line 2, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 6, in clause 8, page 14, line 4, at end insert—

"(aa) a relevant department in the devolved administration in Northern Ireland;"

See explanatory statement for Amendment 3.

Amendment 18, in clause 8, page 14, line 18, at end insert—

"(3A) The Secretary of State may, after consulting the relevant department in the devolved administration in Northern Ireland make regulations by statutory instrument to—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Clause stand part.

Stephen Morgan: It is a pleasure to serve under your chairmanship, Mr Sunderland. I rise to speak initially to amendments 3 to 6, which are in my name.

The amendments are designed to ensure that central Government and devolved Governments have the same due regard to the covenant that the Bill places on local authorities and other public bodies. The amendments go to the very heart of Labour's prescription for a Bill that attempts to outsource Ministers' responsibilities for delivering the armed forces covenant for all service personnel, veterans and their families. As drafted, the Bill places significant new legal responsibilities to deliver the covenant on everyone from local councils to NHS foundation trusts, clinical commissioning groups and school governors, but not to Departments or Ministers.

Over the past few months, I have met many groups named in the Bill, including council leaders and armed forces champions from across the country, and I have been repeatedly struck by the good work that they are doing in places such as North Tyneside, which in 2018 became the first local authority to fund an armed forces

officer, and Rushmore, which is closer to home for me, in Hampshire, where the Labour council is pioneering innovative ways to reach armed forces communities to ensure that their views are heard. Their good work, however, is often limited by the lack of resource and direction from the centre. I have also spoken to forces families in my constituency and to organisations such as SCiP Alliance—the Service Children's Progression Alliance—as well as service charities. They, too, are clear that there should be a consistent approach and that national Governments should be subject to the same duty as councils.

It is true that in some places there is low awareness of the covenant, but many of the policy areas in which members of the armed forces community experience difficulty are clearly the responsibility of national Government, or are based on national guidance provided to other delivery partners. Ministers say that they do not want to be too prescriptive about the outcomes, for fear of stifling innovation at local level, so let me provide some real-world examples of the ways in which that approach damages outcomes for veterans.

I have campaigned for some time to ensure that coroners record veterans' suicides. In doing so, I saw answers from responsible Ministers and the coroners themselves. Each considered it to be the responsibility of the other to set policy on the issue. Such Catch-22s are allowed to persist and prevent us from making the well-meaning promises of the covenant a reality. The Minister has spoken of his desire to raise the floor of what is delivered by the Bill, which is a commendable aspiration, but that can only happen when central Government are responsible. Ministers could then set measurable, enforceable standards, which are ultimately responsible for delivering.

The current drafting also means that serving personnel, for whom many services are the responsibility of the MOD, will not benefit from the Bill. Government will therefore continue to evade any real responsibility to raise the standard of service accommodation, which we have heard from witnesses is in an appalling state. That will create a two-tier covenant that applies to some in forces communities, but not others, and will risk reinforcing the postcode lottery that the Minister himself concedes is the experience of many veterans.

The Minister also let the cat out of the bag that the Government are not serious about delivering for our armed forces with this Bill. At Defence questions in February, the Minister said that

"the legislation is very clear that it does not specify outcomes, but simply ensures that a set of principles is adhered to."—[*Official Report*, 1 February 2021; Vol. 688, c. 668.]

Without the statutory guidance that will underpin the legislation, our armed forces are without the principles and without the outcomes, and this Government will be allowed to get away from responsibility for delivering.

Amendments 7 and 18 are also in my name. Amendment 7, as grouped with amendments 8 to 18, is designed to widen the scope of the Bill to include all areas of potential disadvantage for service communities. The Minister has previously said that the narrow focus of the Bill on housing, healthcare and education is because they are the areas of greatest concern for armed forces communities. Although those are undoubtedly critical areas for the armed forces community, the Bill does not fully cover them, and many areas of disadvantage are totally left out, including employment, pensions, compensation, social care, criminal justice and immigration. We heard from the witnesses who came before the Committee what, in practice, that omission will mean: nothing on social care, where service charities continue to highlight fundamental problems with the availability and cost of care; nothing on the shameful scandal of Commonwealth veterans forced to pay eye-watering fees for UK citizenship, despite their service to our country; and nothing for the cohort of war widow pensioners who, according to the Defence Committee, continue to endure a "grotesque injustice".

In short, Ministers risk creating a two-tier armed forces covenant and a race to the bottom on standards in those areas that have been omitted. The amendments seek to ensure that areas of disadvantage that have been persistently highlighted in armed forces covenant annual reports will be finally addressed. We are challenging the Government to deliver on their promise to enshrine all of the covenant into law, not just pick and choose based on their opinion. Given that the statutory guidance, which will give real meaning to the Bill, will not be published until after Royal Assent, it is still unclear to what extent the limited areas included in the Bill will be addressed.

As I noted earlier, functions that sit within the MOD, such as service accommodation, are also out of scope. Section 343 of the Armed Forces Act 2006 contains powers for the Secretary of State to add bodies and functions. That rare oversight is welcome, but it is not clear in what circumstances those powers would be used. With Ministers suggesting that the Bill will not have prescribed outcomes, there seems to be no review mechanism that would trigger or consider the addition of new public bodies. Service charities such as the Royal British Legion and Help for Heroes would be keen to see some clarity on that, so perhaps the Minister can speak to that in his response.

I strongly expect that the Minister will reject the amendment, but both he and I know that in doing so he will be concealing that he has not truly fulfilled his party's manifesto commitment to enshrine the armed forces covenant into law.

Johnny Mercer: I think some of that speech was written before my evidence session yesterday, where I promised to ensure that statutory guidance is available as soon as possible. I will try to accelerate that, because I want Members to have a copy. We need to look at how it has been done before and what the regulations are around this stuff, but I am keen that we all work as a team to try to get this done.

Clause 8 amends part 16A of the Armed Forces Act 2006 by inserting six new sections, which will impose on certain public bodies across the UK a duty to have due regard to the three principles of the armed forces covenant, and provide for the Secretary of State to issue guidance and widen the scope of the new duty.

The principles of the armed forces covenant are: the unique obligations of, and sacrifices made by, the armed forces; that it is desirable to remove disadvantages arising for service people from membership, or former membership, of the armed forces; and that special provision for servicepeople may be justified by the effects on such people of membership, or former membership, of the armed forces.

[Johnny Mercer]

Proposed new sections 343AA to 343AD to the 2006 Act impose the duty in each of the four nations of the United Kingdom. The new duty will apply where particular types of public body are exercising certain of their public functions in key areas of health, housing and education that are vital to the day-to-day life of our community. The bodies and functions specified in each of those sections are different because they reflect the different systems in place in each of our four nations. However, they aim to cover those bodies that are responsible for developing housing allocation policy for social housing, homelessness policy and the administration of disabled facilities grants, which can be vital for injured veterans.

In education, we know that our service families face difficulties, due to their mobility, in getting children into schools and, more troublingly, in ensuring access to the necessary assessments and support when they have children with special educational needs or disabilities, as it is described in England. We know that service children have specific wellbeing needs. The duty will target those who are responsible for that, ensuring that they understand and consider the very specific needs of our community's children.

In healthcare, again, much has already been achieved, but service families and veterans still experience disadvantages, often as a result of their mobility and other healthcare requirements caused by military service. This duty will apply to all bodies that are responsible for commissioning and delivering healthcare services across the UK.

3 pm

New section 343AE provides:

"The Secretary of State may issue guidance relating to the duties imposed".

He must consult with the respective devolved authorities, where relevant, and other stakeholders before publishing the guidance. That guidance will be crucial to ensure that the bodies subject to the new duty understand the principles of the covenant and the ways in which members of our armed forces community can suffer disadvantage arising from service.

Finally, new section 343AF provides that the Secretary of State may widen the scope of the new duty to include additional functions and bodies in other areas. Before doing so, he would be required to consult with the relevant devolved authorities and other stakeholders, and any amendment would have to be made by way of affirmative regulations, requiring the express consent of Parliament. I will therefore resist the amendment.

Amendments 3 to 18, which I will move on to now, make effectively the same four changes to the sections imposing a new duty in each of the four nations of the United Kingdom. These amendments appear to have three main aims: to include central Government Departments and the devolved Administrations in the list of bodies subject to the duty; to widen the policy areas to be covered by the new duty to include employment, pensions, compensation, social care, criminal justice and immigration; and to give the Secretary of State power to make regulations, subject to the affirmative procedure, to determine which public bodies and public functions would be covered in the new areas.

Clause 8 covers public functions in healthcare, housing and education, exercised by the local and regional bodies that are responsible for these services. These are key areas of concern for our armed forces community. Our experience shows that the most important factor that enables the successful delivery of those services for our community is awareness of the covenant and of how disadvantages can affect the ability of service personnel to access those services. The services are delivered at the local level across the UK by public bodies with a knowledge of their area and an understanding of the needs of their community, which is why they are included in the scope of the proposed duty. However, the serving armed forces are very mobile, and it is vital that all who deliver these key services are aware of the challenges that service personnel can face in avoiding experiencing disadvantage because of their service. That is why we are focused on improving service delivery and raising awareness of the covenant at the local level in this legislation.

Central Government's delivery of the covenant is regularly scrutinised through parliamentary processes, such as Defence oral questions, the House of Commons Defence Committee and all-party parliamentary groups, and through the Covenant Reference Group, which includes external partners from the service charity sector. Other public bodies are not subject to this level of scrutiny. In addition, at present the Armed Forces Act 2006 requires the Secretary of State for Defence to lay an annual report before Parliament to cover the effects of membership or former membership of the armed forces on servicepeople, their families, and veterans in the fields of healthcare, education and housing, and in the operation of inquests. Devolved Administrations and other bodies are required to be given an opportunity to contribute their views to this report. This duty to report will remain a legal obligation, and it remains the key, highly effective method by which the Government are held to account for delivery of the covenant.

Our legislative proposals build on that by introducing a duty to have due regard to the covenant principles in the three areas that make the most difference to the lives of the armed forces community. I do not question the importance of the additional policy areas that these amendments seek to add to the scope of this duty: they are clearly very important areas for the serving and veteran communities. Indeed, this legislation will sit alongside a range of existing initiatives and programmes aimed at supporting this group. For example, the Department is currently piloting a guaranteed interview scheme to support veterans applying for jobs in the civil service. We also, of course, support those transitioning from service through the career transition partnership and the new defence transition service, which provide bespoke services supporting service leavers. The Government work with veterans and employment charities, and we recognise the important role that service charity partners play in supporting veterans into employment.

In relation to pensions and compensation for the armed forces community, the armed forces pension scheme is one of the best in the public sector, and—almost uniquely—is non-contributory. Our compensation schemes, the war pension scheme and the armed forces compensation scheme compensate for injury, illness or death caused by service on a no-fault basis. The independent medical expert group advises the Government on the medical and scientific aspects of the compensation schemes and

related matters, and it provides independent assurance that armed forces compensation scheme policy and decision making reflect contemporary medical understanding of the causation and progress of disorders and injuries.

The importance of social care is also recognised. As the Government set out in the spending review, we are committed to the improvement of the adult social care system, and we will bring forward proposals this year. Our objectives for reform are to enable an affordable, high-quality and sustainable adult social care system that meets people's needs while supporting health and care to join up services around people. We therefore do not believe that it would be appropriate to include social care in this measure at present, not least because our experience suggests the social care issues that all veterans can face are most often linked to their age, rather than to their service. It should be remembered that social care provision is already considered on a case-by-case basis, so we expect that those delivering such care are already taking service into account where that is necessary.

Clause 8 already includes a power in new section 343AF for the Secretary of State to widen the scope of the duty to additional public bodies and functions in the same or additional areas following a consultation. That renders unnecessary the suggested new clause to allow the Secretary of State to make regulations to define which bodies and which specific functions in the new areas are covered by the duty. I therefore hope that right hon. and hon. Members will agree not to press the amendments.

Mr Jones: I rise to support the amendments and to say to the Minister that he has read his civil service brief well—if he could do it a bit more slowly, we might be able to follow it. I do not think he addressed any of the points in the amendments. Again, like a lot of things that the Government do, the spin and presentation is very different from what will actually be put into practice. We should not be surprised by that, because we have a Prime Minister who is an expert at saying one thing and doing another.

The Bill would put the covenant into law, but there is very limited movement on that, with an emphasis on local authorities and the local level. I accept that the delivery of services is done at local or regional level, but we have to recognise that a lot of the policy areas are influenced by national decisions.

The Minister might care to read the 2008 Command Paper entitled "The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans," which was the origin of the covenant report and was launched by the then Minister for the Armed Forces, Bob Ainsworth. Its key point is to ensure that armed forces personnel, veterans and their families are not disadvantaged because of their service to the nation. I implemented it, and we had armed forces champions across main Government Departments. The main emphasis was to try to hardwire support for the armed forces community, including veterans, serving personnel and their families, into policy making. By excluding Whitehall Departments, the Bill will make it very difficult, even with the best will in the world, to ensure that some Departments have due regard to those things when they consider policies. If it is good enough for local authorities and local health boards, it should be good enough for the national Departments.

The scope of the Bill needs extending if the covenant is to have teeth in practice. As my hon. Friend the Member for Portsmouth South has mentioned, that move would be supported by the Royal British Legion and the British Armed Forces Federation, because a lot of the issues that affect members of the armed forces are completely outside the scope of local authorities, the devolved Administrations and others. One issue that has been raised—I know a later amendment addresses this—is around foreign and Commonwealth soldiers. That is a Home Office policy in which due regard has clearly not been given to those brave servicemen and women who have loyally served this country, and who will be disadvantaged, because of their service, in getting leave to remain. I do not understand the idea that the main Government Departments should not be covered.

The Minister says that those Departments are scrutinised by Parliament and various Select Committees, and so on, but if we had "due regard" in law it would mean that when policy was being determined within Departments, they would have to have due regard to the effect on service personnel, their families and veterans. That would have a strengthening effect, which was certainly what was intended when the idea was launched in 2008. An opportunity is being missed to ensure that the main Departments will be covered by the legislation.

Another issue that has been raised is something that lets off the MOD. The Minister says that most of the areas in question concern things that are delivered locally by local authorities, but one of the biggest complaints that the service family federations have raised is armed forces housing. There are examples of local provision not being fit, so that it would not be accepted if was provided in the public sector. There are areas that fall within the remit of the MOD that are not covered by "due regard", and so those things will continue.

An opportunity in the Bill is being missed and the publicity around it—that it will be a sea change—is not being lived up to. The onus is being put on local authorities and providers. I support that, but they are not the problem, to be honest. As with a lot of things in this country, the delivery of local services is often to be commended. The innovation in local authorities and the things we heard about in evidence from the devolved Administrations are light years ahead of what happens in Whitehall.

As to the importance of local delivery, I accept that it might be patchy and might vary, but that came out of the work of the MOD pilot on the welfare pathway, which I think worked very well. It was taken up by the coalition Government and renamed the armed forces covenant. There has been a willingness on the part of local authorities and local bodies to make change. However, if it is good enough for them, it should be good enough for Departments, and I have not yet heard a good reason why those responsibilities should not fall to central Departments as well.

I understand how Whitehall works, and that civil servants might not like that to be part of the checklist that they have to check off when they develop policies. However, it would certainly strengthen the position with respect to making sure that armed services personnel and their families, and veterans, are not disadvantaged, and that they are at least taken into consideration and given due regard when new policies are brought forward.

[Mr Kevan Jones]

The Minister talks about the statutory guidance, and I thank him for the draft that we have been sent. We will perhaps talk about it later, but it will only be as good as the enforceability for veterans, service personnel and their families, so that they actually get redress when things go wrong.

As I have said, I think that this is an opportunity missed, and I cannot yet see a good reason why what I have suggested should not be covered. If the amendments were accepted, the Government could quite rightly say that the armed forces covenant had been put into law. Without them, there will be very limited scope for the armed forces covenant to have any legal backing at all. With that, I conclude my remarks.

3.15 pm

Johnny Mercer: I hear what the right hon. Gentleman says. I respect him and the points he has made, but I disagree with him.

Stephen Morgan: I listened very carefully to what the Minister had to say, and I think it is clear that the Government cannot do half a job in fulfilling their manifesto commitment to enshrine the covenant in law. Nor should Ministers be allowed to outsource the delivery to cash-strapped local authorities and other stretched public bodies, especially during a pandemic. They must take responsibility themselves. I will not press amendments 3 to 6 and 7 to 18 now, but I give notice that we may return to them on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 8 ordered to stand part of the Bill.

Clause 9

RESERVE FORCES: FLEXIBILITY OF COMMITMENTS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 2 be the Second schedule to the Bill.

Johnny Mercer: Clause 9 amends sections 24 and 25 of the Reserve Forces Act 1996 to replace the existing full-time service commitment, which enables members of a reserve force to volunteer to undertake a period of full-time service, with a new continuous service commitment. The amendment will also clarify the basis on which a reservist can perform additional duties.

The new continuous service commitment will in future enable members of a reserve force to volunteer to undertake a period of full-time service or part-time service, or a combination of both, under one commitment, allowing for the first time seamless movement between full and part-time service. These important modernising steps will help to attract and retain people who have the key skills that Defence needs and who want to serve in a way that better suits their personal circumstances. The measures will also allow Defence greater freedom in how it generates military capability, by utilising reservists in a more effective and agile way.

Failure to implement these measures and increase the utility of reservists would be a counterproductive step. It would risk sending a message that Defence does not wish to achieve its goal of a whole-force approach, and that it is not listening to the people who serve our nation so well. It would restrict Defence's ability to improve the offer to reserve personnel in tandem with the offer to regular personnel. It would delay the introduction of important modernising changes that will bring benefits both for reservists and their families and for Defence.

Mr Holden: I support exactly what the Minister has said. After spending time in the MoD as a special adviser myself, I know that it is vital that we do everything possible to ensure that our reserve forces are part of the whole force approach. This clause is in that category, so I support it.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

SERVICE COMPLAINTS APPEALS

Mrs Hodgson: I beg to move amendment 20, in clause 10, page 20, line 17, leave out subsection (4).

This amendment will remove attempts to reduce the amount of time service personnel have to make appeals in service complaints cases from six weeks to two weeks.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

That schedule 3 be the Third Schedule to the Bill.

New clause 9—*Service complaints*—

'(1) The Armed Forces Act 2006 is amended as follows.

(2) In section 340A (who can make a service complaint?) after subsection (1) insert—

"(1A) If a person to whom the Armed Forces Covenant applied find themselves wronged in any matter relating to the Armed Forces Covenant, the person may make a complaint."

(3) In section 340A (who can make a service complaint?) at end insert—

"(4A) Not withstanding any regulation made under subsection (4), a person may make a complaint about the delivery of the Armed Forces Covenant.""

This new clause would expand the powers of the Service Complaints Ombudsman to include matters relating to the Armed Forces Covenant. This would provide service personnel and veterans with an avenue through which they can report and arbitrate disputes regarding its delivery.

Mrs Hodgson: Amendment 20 would remove attempts to reduce the amount of time that service personnel have to make appeals in service complaints cases from six weeks to two weeks. New clause 9 would expand the powers of the service complaints ombudsman to include matters relating to the armed forces covenant. This would provide service personnel and veterans with an avenue through which they could report and arbitrate disputes regarding its delivery. If I may, I will start with amendment 20 on the time to appeal.

During the evidence sessions, we heard about delays at the front of the complaints system, at level 1. The target is that 90% of complaints are dealt with in 24 weeks, but that is not being met and the former service complaints ombudsman, Nicola Williams, says

that that is not an appropriate metric if it cannot be met. The delays at the front of the system are the reason why people do not have confidence in it. In my previous speech, I mentioned the culture and archaic views that still persist about perpetrators, but also victims, which makes them often reluctant to come forward with a complaint. Nicola stated:

"If the initial process is taking not months but sometimes years before a level 1 decision, and then you ask the complainant to keep to a two-week appeal timeframe, with reasons, you can see how that is not exactly going to engender further confidence in the service complaints system, either from a complainant or from a respondent."

Retired Lieutenant Colonel Diane Allen also supported that and said that reducing the right to appeal

"would not in any way help the system we have at the moment."

She went on to say that it would be "profoundly unfair", given that the complainant will receive MOD legal documents and be expected to understand them within just two weeks, without legal representation.

Nicola Williams said that reducing the time to appeal would:

"come across…as if you are trying to prevent people from exercising their right to appeal".

I am sure that it is not the Minister's intention to reduce or remove people's right to appeal, so will he set out what his intention was, given that we have heard that the issue with delays is at the front of the system and not at the back?

New clause 9 would expand the powers of the service complaints ombudsman to include matters relating to the armed forces covenant. This would provide service personnel and veterans with an avenue through which they could report and arbitrate disputes regarding its delivery. The Minister has previously said that the covenant would be enforced via judicial review. Only one in 10 judicial reviews succeed, and the cost of unsuccessful judicial reviews is upwards of £80,000. That is why we have tabled this amendment—to ensure that access to redress is easy and accessible.

The Army Families Federation set out in written evidence that

"there is little value in a review and remediation process that might take months, or even years, to resolve."

Stakeholders, including Cobseo, back our calls for an appropriate ombudsman to enforce the covenant. Given that complaints to the local government and social care ombudsman on the covenant are mostly about things like school transport and admissions, service families do not have the time to wait years for the outcome of a judicial review. They need an immediate response. I thank the Minister for providing a draft copy of the statutory guidance last night. I note that on page 4 there is a suggestion that the complaints process may include an ombudsman. Will that be instead of or as well as judicial review?

Mr Sunderland, both amendment 20 and new clause 9 seek to ensure that service complaints and disputes about the enforcement of the covenant are dealt with quickly and effectively, to ensure that serving personnel, veterans and their families get the best possible service as a result of the Bill. I hope the Minister will take these amendments on board.

Johnny Mercer: In answer to the Opposition's veterans spokesperson, I can say that that option is being considered as well as judicial review, not instead of. But these options are being considered at the moment as we try to find a way forward. Clause 10 and schedule 3 are part of wider reforms to support service personnel through the complaints system and to increase efficiency and reduce delays within the service complaints process.

This clause will be complemented by a programme of other changes that do not require primary legislation. The Wigston review into inappropriate behaviours highlighted a lack of confidence in the current system. The previous service complaints ombudsman for the armed forces has also made an assessment in her annual reports that the service complaints system is not yet efficient, effective or fair. It is crucial that our service personnel feel confident that complaining will not adversely impact them. Therefore, complaints must be dealt with appropriately and in a timely fashion to build that trust further.

It is key then that legislative changes are implemented to ensure that the service complaints system is more efficient. Ensuring that complaints are resolved in an appropriate timescale is part of a wider package of reform to increase trust. Clause 10 changes the minimum time limit that can be set out in regulations for submitting an appeal against a first level decision or for making an application to the service complaints ombudsman to two weeks. I should point out that bringing the minimum time limit down to two weeks does not mean that all appeal applications will be limited to two weeks regardless of the circumstance. Where a serviceperson's duties mean that this will not be appropriate, additional time will be provided.

Clause 10 also provides the ability to set out in regulations the grounds on which appeals can be brought, for example where correct process has not been followed or where new evidence has come to light which may have had a significant impact on the original decision. At present, an appeal can be brought against a decision body where the complainant does not agree with its decision for any reason, with no limits on what that reason can be. This legislation will ensure that an appeal can be brought only where there are procedural errors or where new evidence is provided.

Schedule 3 makes a consequential amendment to equality legislation to make sure that procedural requirements remain consistent with the changes in this clause. Service personnel will not be penalised by this clause and mechanisms will be in place to ensure that individuals requiring extra time to submit an appeal will be able to do so where appropriate. We must ensure that we modernise and reduce delay in the service complaints system, creating, where we can, a consistent experience across defence and following best practice from other parts of the public sector.

Mr Jones: The important thing to say is that everyone wants the complaints system to be efficient. It is in the interest of the complainant. It is in the interest of someone who is accused that they get a swift resolution. The evidence, as my hon. Friend the Member for Washington and Sunderland West highlighted, is that the delay does not help anyone. Part of it is due to not only the complexity of some of the cases but, in some cases, the inefficient way in which the armed services, particularly the Army, deal with them.

3.30 pm

I do not see anything to be gained from reducing the appeal time from six to two weeks. The Minister talks about modernising the system. This seems very one-sided against the complainant. He also stated that others things that do not need legislation will be brought in to improve the complaints system. I would welcome that. It would be interesting to see them as the Bill is going through, so that we can see the whole picture. What I do not want is for the reduction to, as retired Lieutenant Colonel Diane Allen said, put people off making legitimate appeals. That does not help the individual or the military. Often lessons learned come out of disciplinary cases that can then change procedure and the way that they operate. An efficient way of dealing with them should be put in place, but not at the expense of the person making the appeal.

On new clause 9, an issue that emerged throughout our evidence sessions was how we ensure that individuals who are not receiving due regard have some way of complaining. I commend the work of the armed forces ombudsman. I remember the reaction from some people in the armed forces when that legislation went through. It was as if an independent ombudsman would cause the world to stop. It has not. It has led, rightly, to people having independent recourse when they are not happy with things that the chain of command do. From reading her annual reports, there is a long way to go.

Given that our intention in the Bill is to put the armed forces covenant partly into law as a system of redress, the Government's initial approach—that people go down the judicial review process—is not correct for most people. It is not only time consuming but it would be beyond the financial capacity of most individuals. In its evidence, Cobseo made the important point that it wishes to see some type of redress system, which at present is an omission from the Bill. It would certainly improve things.

On ensuring that we have action, the local government and social care ombudsman said that he was already dealing with, I think, 36 complaints, mainly since 2015, relating to school transport and school admissions. I do not suggest that we should ensure that a large number go through to the ombudsman. Hopefully, if the system is working properly, the complaints should be dealt with by local councils, health authorities or others through their internal complaints procedures.

However, we all know as Members of Parliament that in some cases, with the best will in the world, the best complaints systems and the best endeavours by individuals, people do not get redress at local level. It is an omission from this Bill, and I am glad that the Minister is looking at it. I am not yet convinced that the service complaints ombudsman is the correct way to do this, or if we should extend the role of the local government and social care ombudsman or another ombudsman, and the relevant ones in Scotland—I accept that they are different in Scotland and Wales—to ensure that they have jurisdiction for this. Without that, it will be an omission that could lead to frustration that we are agreeing in law that people should not be disadvantaged and that authorities should have due regard for the covenant, but accepting that people will have nowhere to go if they do not get the service that they expect and, in some cases, should get.

It will be interesting to see what proposals the Minister brings forward. I strongly urge him to look at this area, because it will improve the Bill, not only in terms of redress but in the way in which we can ensure that people are not disadvantaged as a result of serving their country, and that there is some form of redress if that is not achieved.

Mrs Hodgson: I have listened carefully to the Minister's response, but due to the strength of the evidence that we received from witnesses I would like to test the will of the Committee and press amendment 20 to a vote.

The Chair: The question is that the amendment be made.

Martin Docherty-Hughes: On a point of order, Mr Sunderland. Could the Clerks advise whether we should make sure that Members turn their videos on when they are voting?

The Chair: Thank you. We have agreed that. Could all Members have their microphones and their videos turned on when voting? We have a few technical issues, so please bear with us.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 1]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

Clause 10 ordered to stand part of the Bill.

Clause 11

SERVICE POLICE: COMPLAINTS, MISCONDUCT ETC

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 4 be the Fourth schedule to the Bill.

Johnny Mercer: The service police are members of the armed forces who perform for the armed forces, wherever they are in the world, broadly the same role as their civilian counterparts in police forces across the UK. The recent service justice system review recommended that the MOD set up an independent complaints system to deal with complaints against the service police.

Each of the provost-marshals operates complaints procedures, but there is no legal requirement to do so. Currently, only MOD policy requires that, which leaves those who are unhappy about the actions of the service

police without a legal right for their complaint to be dealt with. It also means that there is no one independent of the service police who can investigate serious complaints about them.

The clause therefore amends the Armed Forces Act 2006 to create a new regime for complaints against the service police and related matters. It does so by establishing the service police complaints commissioner and enabling the creation of a regime for complaints, conduct matters, and death or serious injury matters, which is modelled on the regime for the civilian police in England and Wales. That regime is overseen by the director-general of the Independent Office for Police Conduct.

The clause also contains provisions in relation to recent changes to the England and Wales regime that allow for super-complaints and whistleblowing to be made. Those will enable us to replicate the civilian regime here, too. *[Interruption.]* Sorry, Chair, would you mind putting yourself on mute? I keep thinking someone is trying to intervene, and I do want to let people intervene.

The new independent service police complaints commissioner will oversee the new complaints regime, and in particular will carry out investigations into the most serious allegations against the service police. The commissioner will also have overall responsibility for securing the maintenance of suitable arrangements for making complaints and dealing with other serious matters. The creation of that new oversight regime brings the service police into line with their civilian counterparts.

In making its recommendation, the service justice system review did not set out what the new regime should look like. However, it did suggest some areas for consideration. First, the service justice system review considered who would be able to make a complaint and when. It proposed that people who are able to make a complaint should include all those subject to the Armed Forces Act and all those who have been subject to that Act. Under the new regime, anyone will be able to make a complaint so long as they have been adversely affected by the matter complained of.

With regards to time limits, the service justice review suggested that the MOD should consider a time limit to be set on bringing complaints. The new regime will aim to replicate the civilian one wherever possible, and so there will be no time limit for complaints that occur after the SPCC is established. For historical matters, which will apply to incidents that may happen today, in addition to something that may have occurred in the 1970s, for example, we will look at the Police Reform Act 2002 model, but need to give greater consideration as to how that will work. Parliament will have an opportunity to scrutinise that in detail when we bring forward regulations under new section 340P of the Armed Forces Act, which is proposed in this clause.

Finally, the service justice system review suggested that a clear distinction should be drawn between which complaints fall to the SPCC and which to the service complaints ombudsman. Further details as to how the new regime will operate will be set out in regulations under proposed new section 340P, which will be subject to the affirmative procedure, with full parliamentary scrutiny.

Forgive me if I missed any interventions, Mr Sunderland. You might have had to keep your line open. I do not mean to ignore everyone, and I am sorry if I have.

The Chair: Thank you, Minister. We are having mute problems here and are just going to bear with it as best we can. Just to reiterate, if any Member wishes to intervene on anybody who is speaking, please do so directly. Can you hear me okay now?

Johnny Mercer: I can hear you okay. It was just that I could hear someone talking and I thought they might have been trying to intervene. I then realised that it was you and asked you to mute, but you were not able to do so. Then I heard the noise again and assumed it was you, so I carried on. If it was someone trying to intervene, I am sorry.

The Chair: It was probably us here. I think the mute button here is not working, or we have an issue with it. We are doing our best to stay very quiet, but there is lots of movement in the room. Please bear with us.

3.45pm

Mr Jones: I welcome this proposal, because I think it is a huge step forward in terms of having oversight of the service police. I support the idea of having a separate ombudsman or complaints procedure, rather than the current police complaints procedure. Obviously, it will be a learning curve for whoever is appointed and for the system.

I want to ask about the way in which it will be formed. Obviously, as the Minister has outlined, it will mirror some of the systems that are already in place for oversight of the civilian police force. It will be helpful in terms of understanding how service personnel can make complaints.

There are two aspects that I would like some clarification on. One is about how this is going to be communicated to service personnel. It will be a new departure, and an important point will be to ensure that service personnel know that this is open to them, in terms of making a complaint if they are dissatisfied with the way in which service personnel deal with a complaint or any other concerns they have regarding issues relating to their service.

I would also like some clarity about complaints from civilians. In many cases, civilian contractors are employed on Army bases, RAF stations and naval facilities. Many civilian personnel also live at armed forces facilities if they are married to or are in a relationship with members of the armed forces. This is about whether or not they will be able to make complaints as well. Clearly, there may be situations involving civilians who are dissatisfied with the way in which service police investigate something or the way they are tret. I would be interested to know what the remit is.

The other area relates to families of service personnel. I accept that much has changed since Lord Justice Blake's report on Deepcut, but I spoke to the families of the four young people who tragically lost their lives, and one of the issues was their huge criticism of the way in which the service police conducted those investigations. Will there be an option for the families of service personnel, especially in cases where someone loses their life, to make a complaint to the new ombudsman if they are not satisfied?

Overall, I welcome this proposal. I think it is a movement in the right direction. I think it will not only help service personnel, but help drive up standards in terms of the way in which service police operate.

The Chair: I call the Minister to wrap up.

Johnny Mercer: I have nothing further to add at this stage.

The Chair: The question is—

Mr Jones: Chair, wait a minute. I asked some questions—I'd expect the Minister to reply to at least some of them.

Johnny Mercer: I think that the questions you asked have been answered in the speaking note that I just went through.

Mr Jones: With the greatest of respect, they haven't.

Johnny Mercer: Which one do you feel hasn't been answered?

Mr Jones: The issue around civilians, in terms of the jurisdiction and families being able to complain. I know you're just reading the notes out, but it might be worthwhile just thinking, when you're reading them, that some people might want to scrutinise this, rather than have to listen to you reading what the civil servants have told you.

Johnny Mercer: The reality is that that question around jurisdiction has been answered. I am happy to repeat the answer, but it has been answered already.

Mr Jones: I don't think it has.

Johnny Mercer: Okay. Would the Clerks like to come in and confirm whether or not it has been answered?

Mr Jones: It is not for the Clerks to do that.

Leo Docherty (Aldershot) (Con): Beg to move formally.

Johnny Mercer: I beg to move formally, Chair.

Mr Jones: No—could I have an answer?

The Chair: Minister, are you happy to wrap up?

Johnny Mercer: I am happy to wrap up.

The Chair: It is your prerogative to wrap up.

Johnny Mercer: I will wrap up there. Thank you very much.

Mr Jones: Chair, can I make a suggestion to help the Minister? If he does not know the answer to that question now, could he possibly write to Committee members to answer the points that I have raised? They are perfectly legitimate points. We are not hostile in any way; it is just that the Minister is clearly not on top of his brief.

Johnny Mercer: As ever, I am hugely appreciative of the advice from Mr Jones. I am more than happy to write another letter on any of these issues. I am more than happy for him to have a copy of everything I have said today, and if he still has questions, I would be more than happy to sit down with him and go through them.

The Chair: Mr Jones, I thank you for your intervention, but it is the Minister's prerogative to wrap up and he has done so.

Mr Jones: If he knew what he was talking about, it might help, Chair.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 12

POWER OF COMMANDING OFFICER TO AWARD SERVICE DETENTION: ROYAL MARINES

Question proposed, That the clause stand part of the Bill.

The Chair: With this, it will be convenient to consider clauses 13 to 17 stand part, and that schedule 5 be the Fifth schedule to the Bill.

Johnny Mercer: A discrepancy currently exists within the Armed Forces Act when it comes to the sentencing of personnel of equivalent rank in the Royal Navy. Under the current law, commanding officers are empowered at summary hearing to award a sentence of detention to personnel up to and including the rank of leading hand. However, this does not apply to the Royal Marine rank of corporal, a position that is equivalent to that of a leading hand. Should a commanding officer decide at summary hearing that an offence, if proven, might attract a sentence of detention for a Royal Marine corporal, that individual would have to be referred to the court martial, where such a punishment could be imposed.

As a result of this discrepancy, there is a lack of clarity in how discipline is administered for all equivalent ranks within the Royal Navy under the terms of the Armed Forces Act. This clause seeks simply to remove that disparity by aligning sentencing powers available to commanding officers of leading hands and Royal Marine corporals at summary hearing.

Question put and agreed to.

Clause 12 accordingly ordered to stand part of the Bill.

Clauses 13 to 17 ordered to stand part of the Bill.

Johnny Mercer: On a point of order, Mr Sunderland. Clearly, I want to answer everybody's questions. I have checked with my team and there was no question from the right hon. Member for North Durham, but we will go over *Hansard* again, and if I have missed anything, I will go back to him to ensure that he has the answers he requires.

The Chair: Thank you for that point of order, Minister, which is on the record.

Mr Jones: Further to that point of order, Mr Sunderland. If the Minister had listened to the speeches, he might have got the questions.

Johnny Mercer: I do not think that is a point of order; it is a personal opinion.

Mr Jones: It's not for you but for the Chair to decide that.

The Chair: Order.

Clause 18

POSTHUMOUS PARDONS IN RELATION TO CERTAIN ABOLISHED SERVICE OFFENCES

Question proposed, That the clause stand part of the Bill.

Johnny Mercer: Clause 18 reflects the Government's commitment to the fair and equal treatment of lesbian, gay, bisexual and transgender armed forces personnel. The clause amends section 164 of the Policing and Crime Act 2017 to extend posthumous pardons for very old, abolished service offences.

Presently, section 164, in so far as it relates to the armed forces, refers only to historical service offences from before 1881 of men who served in the Navy, but not of those who served in the Army or the Royal Marines, the latter being when ashore. The amendment will ensure that those who served in the Army or Royal Marines before 1881 and were convicted at court martial for now abolished service offences can be pardoned for those offences. The RAF is not affected by the amendment because it was not constituted until 1917 and is already covered in the existing provisions of section 164. I am pleased that through this clause, we continue to address historic injustice and demonstrate that the military is a positive place to work for all who choose to serve.

LGBT personnel have made, and continue to make, significant contributions to the armed forces. I hope that the Committee has seen the work that we have done over the past 12 months to try to right the horrendous wrongs that were done to that community during their time in service.

Carol Monaghan: How will the Minister determine who is in that group? Many people in the LGBT community left the armed forces, but not because they were convicted of being LGBT. They left under other circumstances—in some ways, to make it easier for the military to get rid of them. Can he give a bit more detail on how he will identify those affected? That has to be done.

Johnny Mercer: The hon. Lady makes a really good point, and there is a lot to work through in that space. There is also the question of those who would have received the medal for long service and good conduct but were asked to leave because they were part of the LGBT community. I have been clear that the apology and medal restoration is a first step. We are working through the legal ramifications of addressing some of those historical wrongs. That is ongoing, but I am unable to comment on the progress at the moment.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Clause 19

POWER OF BRITISH OVERSEAS TERRITORIES TO APPLY AFA 2006 ETC

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clauses 20 and 21 stand part.

4 pm

Johnny Mercer: Clause 19 confirms that a British overseas territory can rely on section 357 of the Armed Forces Act 2006 to apply the UK service justice system to a British overseas territory force even if the section does not extend to that territory. The clause is necessary as the UK Government and the Government of Gibraltar have been working on Gibraltar legislation, which would bring the Royal Gibraltar Regiment into the UK service justice system in reliance on section 357.

Mr Jones: Chair, can the Minister slow down? He is going at a rate of knots here.

Johnny Mercer: Sorry—was that an intervention, or a complaint?

Mr Jones: It is a complaint to the Chair, asking the Minister to slow down; he is rabbiting on at such a rapid rate of knots that I cannot hear a word.

Johnny Mercer: I do not think that is rabbiting on. I think that is a very personal insult, Chair. Is there a point of order or an intervention, or shall I carry on?

The Chair: Order. Minister, please carry on. I urge you to slow down in accordance with the Member's wishes.

Johnny Mercer: I will of course slow down my speaking to make sure my hon. Friend can clearly understand what I am saying.

Mr Jones: Right hon. Friend, actually.

Johnny Mercer: I am terribly sorry—my right hon. Friend, with emphasis on the friend.

The clause is necessary because the UK Government and the Government of Gibraltar have been working on Gibraltar legislation, which would bring the Royal Gibraltar Regiment into the UK service justice system in reliance on section 357. This is the first time that a British overseas territory has made use of section 357.

Unlike other British overseas territories, as a result of amendments made in 2011 and 2016, the Armed Forces Act 2006 no longer extends to Gibraltar. This clause therefore confirms that the Government of Gibraltar can make use of section 357 of the Armed Forces Act 2006 to apply the service justice system contained in the Act, with or without amendment, to the Royal Gibraltar Regiment.

Mr Jones: I have a question about the circumstances under which the Royal Gibraltar Regiment would use the powers and on what occasions. How many times is it envisaged that it will do so?

Johnny Mercer: Is my right hon. Friend asking me to predict the future? Is he asking how many times they are going to use this power?

Mr Jones: I want to know on what type of occasions they will use the power and whether the Department has done any estimates of how often it will be used.

Johnny Mercer: The clause simply brings the Royal Gibraltar Regiment and the use of section 357 of the Armed Forces Act into line with our other overseas territories. It is simply about aligning what happened when the 2006 Act came in. The amendments that were made in 2011 and 2016 no longer extend to Gibraltar, because of changes in the overseas territory. We are simply realigning Gibraltar with the rest of the overseas territories at this time.

Mr Jones: Will the Minister write and explain on what occasions it would be applied and if any number of cases have been envisaged?

Johnny Mercer: I would be delighted to write to my right hon. Friend.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clauses 20 to 26 ordered to stand part of the Bill.

New Clause 1

AGE OF RECRUITMENT

"(1) The Armed Forces Act 2006 is amended as follows.

(2) Section 328, subsection 2(c): leave out "without the consent of prescribed persons."—*(Carol Monaghan.)*

This new clause would raise the age of recruitment into the Armed Forces to 18, in line with NATO allies and UN standards.

Brought up, and read the First time.

Carol Monaghan: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 2—*Equalising the Minimum Term for Service in the Army*—

"(1) The Armed Forces Act 2006 is amended as follows.

(2) In section 329, subsection 2(c) substitute "or to transfer at a prescribed time to a reserve force" with "or to transfer to a reserve force after a prescribed number of years from the date of their enlistment without regard to his age on that date".

This new clause ensures that service personnel aged under 18 are not required to serve for a longer period than adult service personnel.

Carol Monaghan: New clause 1 establishes age 18 as the minimum age for recruitment into the UK armed forces. Each year, the British armed forces enlist over 2,000 young people aged 16 and 17, mostly for the Army, and particularly for the infantry. It is notable that most Army recruits are 16, more than any other age. The United Kingdom is out of step with many of its allies in allowing enlistment at 16, and in a response to a written question from the right hon. Member for Dwyfor Meirionnydd (Liz Saville Roberts), we find that underage recruits require longer training. We also know that they warrant more complicated duty of care plans and demonstrate a greater frequency of attrition.

In the three-year timeframe from 2015 to 2018, the Army enlisted just under 5,300 16 and 17-year-olds, and of this cohort, nearly a third dropped out before they completed their phase 2 training. As the Army's accredited educational requirements for under-age recruits are limited to basic literacy, numeracy, and information and communications technology courses, it is clear that many 16 and 17-year-olds who withdraw from their training will re-enter the civilian world without immediate access to further employment, training and education. Typically, it has been commonplace for the Army to recruit young people from economically deprived areas, and while military service is a fruitful and fulfilling career for many of our service personnel, it is undeniable that encouraging 16 and 17-year-olds to remain in full-time education generates considerable benefits. Full-time education until the age of 18 should be the norm for all young people, and the opportunities for professional and personal development are indisputable, alongside the invaluable psychological, emotional and social growth that full-time education facilitates.

On top of these considerations, it also makes clear economic sense to increase the age of recruitment to 18, as the large drop-out rate that I have previously mentioned is costly in terms of both resources and time spent on training. Finally, adopting such a policy stands to bring the UK into line with the vast majority of its international contemporaries. Three quarters of states worldwide now have armed forces personnel who are exclusively aged 18 and over, including most of our NATO allies. While 16 and 17-year-olds cannot serve on the frontline, recruitment at the ages of 16 and 17 is detrimental to international efforts to end the use of children in military settings. The UN convention on the rights of the child has urged the UK to increase its minimum recruitment age to 18. If, as this Government have often stressed, we are entering an era of a truly global Britain, it seems appropriate that the UK should align with its global partners in the international community.

Adopting an adults-only enlistment policy would also be welcome domestically. The Children's Commissioners for the UK's four nations, the UK Joint Committee on Human Rights and numerous trade unions and health professionals have expressed their support for adult-only recruitment. If we are to safeguard the wellbeing, development, educational opportunities and physical safety of our young people, it is crucial that we change the minimum age for armed forces recruitment to 18.

New clause 2 would ensure that service personnel aged under 18 would not be required to serve for a longer period than adult service personnel. Most of the Committee's discussion up to now has centred on removing any disadvantage experienced by service personnel in relation to their civilian counterparts, but we have not yet discussed the age discrimination that exists within the armed forces. The Bill does nothing to ensure that personnel recruited under the age of 18 experience no disadvantage compared with those recruited as adults.

At present, Army regulations that define a minimum service period discriminate against younger recruits. An Army recruit has a right of discharge for a fixed period of time after enlistment, but, once that period has expired, a recruit who enlisted at age 18 or above must serve for at least four years from the date of their enlistment. However, for recruits who enlisted at age 16 or 17, the clock restarts at age 18, so they must serve until they turn 22 at least—another four years. That commits them to up to six years of service when they are still a minor. As result of that disparate treatment, young recruits have to serve longer to have the right to leave the Army.

That inconsistency on service relates solely to the Army; it does not exist in the Navy or RAF. Only due to an armed forces exemption in the Equality Act 2010 is that allowed to remain. Such age discrimination would be prohibited in the civilian workforce, and new clause 2 would correct that by equalising the minimum service period for all recruits across the Army, ensuring that recruits under 18 experience no disadvantage compared with their adult counterparts.

The new clause builds on comments in the Army's 2019 review of its junior entry policy that considered new terms of service to align the minimum commitment length of recruits aged under 18 to those who joined over the age of 18. The review commented on how a change in this area could attract potential young recruits and their parents and

"would mitigate some external criticism and provide greater consistency."

In addition, the review mentioned that the change could make the process of leaving the Army as an under-18 "more transparent" and easier to understand. As such, the new clause would be an entirely reasonable and straightforward addition to the Bill and bring a consistent and logical approach to the minimum length of service across the armed forces. I urge the Committee to consider it carefully.

Martin Docherty-Hughes: I recognise that the Minister will oppose the new clauses, especially on the age of recruitment—I am sure we disagree on that principle—but I hope the Government and members of the Committee will recognise the age discrimination for those under 18 who remain in the armed forces and the detriment caused through their service not being recognised. I hope we can agree in a collegiate way that anyone who remains in the Army once they reach 18 must have that prior service calculated in their long-term service in the armed forces. Anything else is a detriment to them and also underscores our lack of commitment to them, with their military service not being counted.

4.15 pm

Mr Jones: I understand that there are individuals who wish to support a ban on those under 18 joining the Army. I know that that has been campaigned on for quite a while now. Those individuals draw an analogy between what the Army does and the situation of child soldiers around the world. I do not agree with that, and I must say I do not agree with the provisions of the new clause.

It is quite clear now that individuals under 18 cannot be sent into combat, which I totally support and think is right, but we must balance that against the opportunities that recruiting 16 to 17-year-olds gives those individuals. I suggest that anyone who wants to see the positive way individuals can and do improve their lives visits the Army Foundation College in Harrogate.

Many of those individuals, as the hon. Member for Glasgow North West highlighted, come from deprived communities; many have been failed by the education system, so credit to the Army particularly for the work it does at the Foundation College, giving people a second chance, which the education system has failed to do. On my visits there, what appalled me was the fact that the education system had failed individuals, but the Army had given them a second chance with raising basic numeracy and literacy skills. Individuals who would possibly not have had an opportunity to have a fulfilled career were able to do so through the work undertaken at the Army Foundation College.

The other issue raised is the duty of care for those individuals, but we have come a long way on the duty of care for under-18s. There was a huge problem with the way under-18s were supervised and looked after, especially those who joined the armed forces who came from care, for example. Mr Justice Blake's reforms following Deepcut had a huge amount to do with that.

Martin Docherty-Hughes: We will disagree, I am sure, on the age of recruitment, but on new clause 2 on minimum service terms, does the right hon. Gentleman recognise that, if under-18s who are recruited at 16 remain within the armed forces, that minimum service should be included? While we may disagree on the recruitment age, should that minimum service not be included within their service period?

Mr Jones: I will come on to that—I was going to address that in the second part of my contribution.

There has been change in terms of the duty of care of individuals. Ofsted, for example, now inspects places such as the Army Foundation College, and the practices that the Army has in place to ensure that there is a duty of care around those young people set an example that many other institutions could follow. In terms of the opportunity it gives people, I would not want, by banning under-18s, to stop many young people getting the positive move forward in their lives and the opportunities that the Army gives them.

There are two issues on which I do agree with the hon. Member for Glasgow North West, relating to early service leavers. That is not just an issue for under-18s, but for those who join post 18. To be fair to the armed forces, they have done quite a lot on ensuring that early service leavers have support. That is an issue that I raised when I was in the Ministry of Defence, because some of those individuals end up in the social services network, homeless and so on.

The question is about when people leave, if they are under 18 and decide that the armed forces, or the Army in particular, are not for them. I stand to be corrected if I am wrong, but I think there is a package around those who have left care and joined the armed forces. Anything that can be done to improve their experience is the right thing to do.

I am not against new clause 2, but we need to look at what happens in practice. There are quite good reasons why people have to sign on for a certain period of time, because of the commitment. From my experience, however, there is a mechanism to enable most people who do not want to stay in the Army and other armed forces to leave. I do not think it is such an onerous straitjacket as has it been described by some individuals.

I understand where the hon. Member for Glasgow North West is coming from, and I accept that there is a difference of opinion, but overall, my experience is that service in the armed forces gives great opportunities to many young people who would not get them if we did not recruit under-18s. The important thing to say is that many people who join at that age go on to have very good and fulfilling careers in the armed forces, and they

[Mr Kevan Jones]

also gain life skills and technical skills that they use when they leave the Army and move into civilian life. That is why I do not support the new clauses.

Mr Holden: I agree with a lot of what the right hon. Gentleman has said. I have had constituency cases of young people who have really benefited from going to Harrogate at age 16, who are thoroughly enjoying and making the most of their time in the armed forces, and who have been joining up with our local regiment, the Rifles, as part of that. I urge hon. Members to think properly about the new clauses and the impact that they will have on some young people who have found a real path in the Army, with the extra training and support that it can provide both educationally and more broadly.

Johnny Mercer: The new clauses seek to raise the age of recruitment to the armed forces to 18, and to ensure that recruits under 18 serve the same period of time as those who enlisted at the age of 18. We remain clear that junior entry offers a range of benefits to the individual, the armed forces and society, providing a highly valuable vocational training opportunity for those wishing to follow a career in the armed forces.

We take our duty of care to entrants aged under 18 extremely seriously. Close attention has been given to this subject in recent years, especially after the tragic deaths at Deepcut. We have robust, effective and independently verified safeguards in place to ensure that under-18s are cared for properly. The provision of education and training for 16-year-old school leavers provides a route into the armed forces that complies with Government policy on education while also providing a significant foundation for emotional, physical and educational development throughout an individual's career.

There is no compulsory recruitment into the armed forces. Our recruiting policy is absolutely clear: no one under the age of 18 can join the armed forces without formal parental consent, which is checked twice during the application process. Additionally, parents and guardians are positively encouraged to engage with the recruiting staff during the process. Service personnel under the age of 18 are not deployed on hostile operations outside the UK, or indeed on operations where they may be exposed to hostilities.

The hon. Member for Glasgow North West is concerned that people who join the armed forces before their 18th birthday serve longer than those who join after their 18th birthday. However, this is not a matter of length of service, but a matter of discharge. The rules on statutory discharge as of right—DAOR—allow all new recruits, regardless of age, to discharge within their first three to six months of service if they decide that the armed forces is not a career for them. Additionally, service personnel have a statutory right to claim discharge up to their 18th birthday, subject to a maximum three-month cooling-off period. These rights are made clear to all on enlistment.

Ultimately, service personnel under the age of 18 have a statutory right to leave the armed forces up until their 18th birthday and without the liability to serve in the reserve, as an adult would. However, the benefits of an armed forces career, including for under-18s, are very clear. The armed forces remain one of the UK's largest apprenticeship providers, equipping young people with valuable transferrable skills for life. Irrespective of age, all recruits who need it receive education in the key skills of literacy and numeracy; and, also irrespective of age, over 80% of all recruits enrol in an apprenticeship programme, equipping them with the skills that they need to succeed and which they will continue to build on throughout their careers, serving them well when they leave.

The armed forces offer apprenticeships across a broad range of specialisations, including the engineering disciplines, digital and communication technologies, construction, catering, human resources and administration. Ofsted regularly inspects our initial training establishment, and we are very proud of the standards that we achieve. Indeed, over the last 10 years, Ofsted has documented significant improvements in, among other things, support with English and maths, under-18s and care leavers, injury reduction, retention rates, communication with parents and staff selection, training and development.

Despite that record, we guard against complacency and recognise that there is always more that we can do. One example is the new inspection framework that we have agreed with Ofsted to align more closely with the unique challenges of initial military training.

Mr Holden: I recognise what the Minister says about Ofsted, but I want to highlight a concern of a family in my constituency, whose son, Dan Bravington, was at Harrogate and has gone through basic training. As part of parental buy-in, one of the great things that they like to see is the passing-out parades at the end. When will those parades restart? They are an important way of binding families, especially those of young people, into the broader military family.

Johnny Mercer: My hon. Friend is right that passing-out parades are a huge part of the journey of our forces' families through the system. He will be aware, though, that generally we align with Public Health England's advice and the Government's direction. We are looking to get those parades going as soon as possible, and I am acutely aware of the effect on families of not attending them. Guidance will be issued in due course in line with the Government's expectations on a relaxation of restrictions.

We welcome the independent scrutiny of Ofsted and the confirmation that it provides that we treat our young recruits well. Our armed forces provide challenging and constructive education, training and employment opportunities for young people, as well as fulfilling and rewarding careers. Following those assurances, I hope that the hon. Member for Glasgow North West will agree to withdraw the amendment, but I thank her for her careful consideration. I know that her husband is a veteran, and I am extremely grateful for the thoughtful way in which she applies herself to these subjects. I look forward to engaging with her further on these important issues down the road.

Carol Monaghan: It is interesting to hear Members talking about the positive experiences of young people. Many Members will know that I am a teacher by profession. A number of the young pupils I taught went on to join the Army at age 16. Some of them had an extremely positive experience, as I highlighted in my comments; however, we need to look at the 30% who are dropping out. Why is there such a high drop-out rate?

For that 30% of 16 to 17-year-olds, some of whom do not have the strongest educational or family backgrounds, all they have from joining the Army is another failure under their belt. They have missed out on educational opportunities in the period they have been in the Army, and it is difficult to rejoin the education system after having dropped out of the Army. Also, there are under-18s who are on active service. They might not be on the frontline, but they serve in the Royal Navy on submarines.

On new clause 2, the Minister said that up to the age of 18, people can drop out. We understand that, but the problem is that once they turn 18 the clock starts again, and it is then four years beyond that before they can drop out. That is what they are signing up to. Their entire service is a six-year commitment, essentially, rather than a four-year one. If we were to equalise the opportunity for the youngsters who are joining up in comparison to adults who join aged 18, they should be able to leave sooner. They should simply be committing to another two years, not another four.

4.30 pm

Mr Holden: I understand the spirit and the background that the hon. Member brings to this. I think everyone knows that because of the unique circumstances of someone who joins at 16, where they can drop out at any point until they are 18, it is very different from the situation of someone who formally joins at 18 for another four years. Those things are slightly conflated in the new clause.

Carol Monaghan: I thank the hon. Gentleman, but that is not the case in the Navy and the RAF, so there is already a disparity.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 9.

Division No. 2]

AYES

Docherty-Hughes, Martin	Monaghan, Carol

NOES

Anderson, Stuart	Jones, rh Mr Kevan
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather
Holden, Mr Richard	

Question accordingly negatived.

New Clause 3

REPORT ON HEALTH AND EDUCATION OUTCOMES

"(1) The Armed Forces Act 2006 is amended as follows.

(2) In section 343A, after subsection 7, insert—

'(7A) Particular descriptions of service people as set out in subsection 7 shall include service people aged under 18, in respect of whom the Secretary of State shall consider:

(a) whether as a consequence of their service any disadvantage arises regarding their mental and physical health and their attainment of accredited educational qualifications in comparison with civilians of the same age; and

(b) whether their service is consistent with their best interests.'"—*(Carol Monaghan.)*

This new clause requires the Secretary of State to use the annual Armed Forces Covenant report to assess (a) the health and educational outcomes of personnel under age 18 and (b) the service of personnel under age 18 in relation to the Convention on the Rights of the Child article 3.

Brought up, and read the First time.

Carol Monaghan: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 12—*Mental health report—*

"(1) No later than 12 months following the day on which this Act is passed, and every 12 months thereafter, the Secretary of State must publish a report which must include—

(a) a definition of what constitutes 'priority care' as set out in Armed Forces Covenant and how the Secretary of State is working to ensure that it is being provided, and

(b) a review of waiting time targets for service personnel and veterans accessing mental health support.

(2) The first report published under this section must also include a resource plan to meet current Transition, Intervention and Liaison Service waiting time targets for the offer of an appointment in England and set new targets for mental health recovery through the veterans mental health pathway."

This new clause would require the Government to produce a definition of 'priority care' to help primary care clinicians deliver the commitments in the Armed Forces Covenant, conduct a review of mental health waiting time targets for service personnel and veterans, and produce a resource plan to meet current waiting time targets.

Carol Monaghan: The new clause would require the Secretary of State to use the annual armed forces covenant report to assess the health and educational outcomes of personnel under the age of 18 and the service of personnel under the age of 18 in relation to article 3 of the convention on the rights of the child.

The time in a young person's life from the ages of 16 to 18 is significant, and this transition to adulthood is typified by expanding opportunities and capabilities. These years also bring substantial risks and vulnerabilities. Research undertaken by UNICEF has shown that adolescents are more vulnerable to external pressure, influence and risk taking than adults are because of the processes of neurocognitive and psychological development. To ensure the transition between adolescence and adulthood as a time for healthy development and resilience building, 16 and 17-year olds must be in an environment that facilitates sustained learning, skills development, respect for individuality, social support and strong relationships. The UN convention on the rights of the child recognises the needs and vulnerabilities of adolescents and it consequently defines every person below the age of 18 as a child. This convention obliges all public or private social welfare institutions, courts of law, administrative authorities or legislative bodies to always consider the best interests of the child in any matter which concerns them.

I do not consider 16 and 17-year olds to be children; I would consider them as young people. However, the same applies here. For the reasons I have stated, we have a moral and legal duty to pay particular attention to the experiences and outcomes of those who join the armed forces before they turn 18. Those under 18 in the military take on risks and obligations just like their adult colleagues, which may put them at a disadvantage relative to their civilian peers in areas such as health and education.

[Carol Monaghan]

While Army recruits are not sent to the frontline until they turn 18, the impact of military employment at such a young age, particularly on recruits from a stressful childhood background, has raised numerous human rights and public health concerns. Among those who have raised concerns have been the UN Committee on the Rights of the Child, the Children's Commissioners for the four jurisdictions of the UK, and the Joint Committee on Human Rights. The Ministry of Defence does not collect information about the socioeconomic profile of armed forces personnel. However, other research has found that Army recruits under the age of 18 generally come from England's poorest constituencies, with recruitment concentrated in urban fringe areas in the north of England.

Official data from the MOD shows that the youngest recruits tend to have underdeveloped literacy. Education for the youngest Army recruits is largely restricted to basic literacy, numeracy and IT. As I have already mentioned, with 30% of 16 and 17-year-old recruits leaving before finishing phase two training, that presents an immediate risk to their employment, education, training and social mobility prospects, and it certainly puts them at a disadvantage compared with their civilian peers.

As for health, those recruited under the age of 18 are more likely to die or be injured in action over the course of their military career, and they are at greater risk of mental health-related problems, such as alcohol abuse and self-harm. The additional rights and protections of 16 and 17-year-olds under the law and the need to ensure positive health and educational outcomes for this age group is a clear justification for the MOD to consider the impact of military service on personnel aged under 18.

As such, new clause 3 would require the Secretary of State to use the annual armed forces covenant report to assess the health and educational outcomes of personnel under the age of 18 and to consider whether service is in their best interest. Such annual reporting carries no risk to the effectiveness of the armed forces, rather it would solely ensure that those entering the armed forces under the age of 18 are given the consideration they require.

When we are considering the issue of no disadvantage in health and education, this should include proper consideration of the disadvantage that young recruits may experience compared with other 16 and 17-year olds. As these years are crucial in shaping life outcomes, it is important that the Ministry of Defence treats the welfare of service personnel under the age of 18 with the highest priority and comes forward freely to report on their outcomes.

Mrs Hodgson: It is a pleasure to follow the hon. Lady. New clause 12 would require the Government to do three things: first, to produce a definition of "priority care" to help primary care clinicians to deliver on the commitments in the armed forces covenant; secondly, to conduct a review of mental health waiting time targets for service personnel and veterans; and, finally, to produce a resource plan to meet current waiting time targets. I shall address each in turn.

"The Armed Forces Covenant Annual Report 2020" acknowledges the confusion about what priority care means. It says that

"in practice this remains inconsistent, and there is a lack of clarity about the interpretation of the policy by government, clinicians, and the NHS."

During oral evidence to this Committee, Ray Lock, from the Forces in Mind Trust, said that

"anything you can do to provide greater certainty would be helpful."

The first part of this new clause therefore seeks to do just that and provide a definition as to what the Government really mean when they talk about priority care and treatment.

Moving to the second part of the new clause, on a review of mental health waiting time targets for service personnel and veterans, I have already written to the Minister regarding waiting times under TILS—the veterans' mental health transition, intervention and liaison service—which have not been met. The average waiting time to be offered a face-to-face appointment for TILS in 2019-20 was 37 days, which misses the target of 14 days. Conducting a review of mental health waiting time targets for service personnel and veterans would establish why they are not being met and—to move to the final part of the new clause—what action needs to be taken to address that gap.

I know that the Minister is proud of the launch of Operation Courage, but I urge him to continue to seize this moment to make real and measurable change to the mental health services for serving personnel and veterans. This new clause would bring much-needed clarity to the priority care promised through the covenant and is designed to address the issue of waiting times not being met. I know that the Minister will want to resolve those issues and I therefore hope that he takes the opportunity offered by the new clause.

Johnny Mercer: I pay tribute to the hon. Member for Washington and Sunderland West and her dogged support for these issues. The problem that the Government have with new clause 12 is the fact that this stuff is already covered in the annual covenant report, as required by the Armed Forces Act 2006. On the issue of waiting time targets and resource plans, I refer hon. Members to the armed forces covenant report, which contains that suite of metrics concerning physical and mental health service provision.

I recognise that the hon. Lady has written to me, and I am investigating the figures that were presented in the House. I have a dashboard that shows me waiting times in TILS, the CTS, which is the complex treatment service, and HIS, the high intensity service, across the country. If it is wrong, I will write to her and correct the record, but above that, I will do everything I possibly can to drive down those waiting times.

The metrics assessing health service performance are kept under constant review to ensure that they continue to usefully measure the state of health service provision in England. Separate reporting in this case would be disproportionate. Although I appreciate the desire to pin down in general terms the definition of "priority care", we must be circumspect in doing so or risk the possibility of unduly binding those public bodies that are in scope to a model that would not necessarily meet

the needs of the local population. It is for that reason that we designed the legislation around a duty to have due regard. That ensures that service deliverers have the flexibility to cater for local requirements, while ensuring an increased awareness and understanding of the armed forces covenant.

The Department will be developing guidance with a wide range of stakeholders over the next year. It will include an explanation of the unique features of service life and the sacrifices made by the armed forces community. It will explain how these obligations and sacrifices can cause disadvantage for the armed forces community in respect of their ability to access goods and services.

4.45 pm

Healthcare bodies will be able to use this additional information about potential areas in which members of our armed forces face disadvantage when considering standard needs assessments and prioritisation policy. For instance, because service personnel are required to be mobile, they may experience disruption in a course of treatment. This will ensure that such policies are developed with an enhanced understanding of the impact on service personnel and their families. We have and will continue to communicate with these key stakeholders through initiatives such as the MOD/UK Departments of Health Partnership Board, as well as directly to the armed forces community through a dedicated communications strategy.

Turning to new clause 3, I previously outlined the excellent training and education the armed forces deliver as one of the country's largest apprenticeship providers, working with industry and the Department for Education to deliver the recognised transferable qualifications. The training is just one of many benefits available to all recruits as part of a military career, including those under 18 years old. I also referred to our long-standing relationship with Ofsted and our track record of consistent improvement. Ofsted offers independent scrutiny and challenge. Its independent reports on armed forces training are published annually and are publicly available. We feel that that is the proper way to report on educational achievement and intend to continue this relationship under the terms of recently agreed new inspection framework.

I obviously reject the implication in the proposed new clauses that an armed forces career results in any disadvantage to our under-18 service personnel. The reality is that the armed forces provide a compelling and high-quality career, founded on superb training and the highest standards of care for each and every one of them. I hope, given these assurances, the hon. Members for Glasgow North West and for Washington and Sunderland West will agree to withdraw their new clauses.

Carol Monaghan: For the reasons I have already stated, we have a moral and legal duty to pay particular attention to the experiences and outcomes of those who join the armed forces before they turn 18—both for those who remain in service and those who choose to leave early. While the Minister highlighted some of the work that has been done in this area with Ofsted and the MOD, surely it would not be difficult to make a specific report on the outcomes of the 16 and 17-year-old recruits? They have very specific needs and requirements. I cannot see any reason why there cannot be a statement on the health and educational outcomes of these personnel in the annual report. At the moment, however, I am happy to withdraw the new clause. I thank the Minister for his comments, and I hope he will consider my contribution. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: Order. We are drawing today's session to a close. We meet again on 31 March.

4.48 pm

Adjourned till Wednesday 31 March at Nine o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
COMMITTEES

Select Committee on the Armed Forces Bill

ARMED FORCES BILL

Second Sitting

Wednesday 31 March 2021

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Sunday 4 April 2021

The Committee consisted of the following Members:

Chair: JAMES SUNDERLAND

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Antoniazzi, Tonia *(Gower)* (Lab)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Dines, Miss Sarah *(Derbyshire Dales)* (Con)
† Docherty, Leo *(Aldershot)* (Con)
† Docherty-Hughes, Martin *(West Dunbartonshire)* (SNP)
† Henry, Darren *(Broxtowe)* (Con)
† Hodgson, Mrs Sharon *(Washington and Sunderland West)* (Lab)
† Holden, Mr Richard *(North West Durham)* (Con)
† Jones, Mr Kevan *(North Durham)* (Lab)
† Lopresti, Jack *(Filton and Bradley Stoke)* (Con)
† Mercer, Johnny *(Minister for Defence People and Veterans)*
† Monaghan, Carol *(Glasgow North West)* (SNP)
† Morgan, Stephen *(Portsmouth South)* (Lab)
† Wheeler, Mrs Heather *(South Derbyshire)* (Con)

Yohanna Sallberg, Matthew Congreve, *Committee Clerks*

† attended the Committee

Select Committee on the Armed Forces Bill

Wednesday 31 March 2021

[James Sunderland *in the Chair*]

Armed Forces Bill

9 am

The Chair: Before we begin, I remind Members that *Hansard* colleagues would be grateful if you could email your speaking notes to hansardnotes@parliament.uk. As before, to indicate that you wish to speak, please raise your hand in front of the camera or use the "hand up" function in Zoom. To intervene or to make a point of order, please unmute and state that. Members being intervened on are reminded to repeat any part of their speech that may have been interrupted by the intervention.

Before we proceed, I will make a handful of short admin points. First, new clauses are being voted on in numerical order—so at the end, even if they are grouped. We agreed on day one that Members could intervene directly on the person speaking, or equally by putting their hand up. Spontaneity is important in the debate. We will go to the very end of all the new clauses and votes today. It may take longer or shorter than the allotted time. Once again, this is a brand new way of working for all of us, so please be patient.

New Clause 4

Armed Forces Representative Body

"(1) The Armed Forces Act 2006 is amended as follows.

(2) After section 333 insert the following new clause—

'333A Armed Forces Representative Body

In accordance with HM Government's obligations under Article 11 of the European Convention on Human Rights, there is to be an Armed Forces Representative Body, existing outside the rank structure, but accountable to members and to Parliament in order to:

(a) represent personnel in matters of discipline: summary hearings, courts martial and other disciplinary hearings;

(b) aid personnel in the redress of individual grievances, and through the service complaints process;

(c) negotiate on behalf of personnel on matters relating to, but not limited to pay, terms and conditions and terms of enlistment;

(d) act as an advocate for general welfare of personnel during and immediately after their enlistment.

This Representative Body shall not have the ability to strike.'"—*(Martin Docherty-Hughes.)*

This new clause would oblige the UK Government to legislate for the creation of an Armed Forces Representative Body similar to the Police Federation.

Brought up, and read the First time.

Martin Docherty-Hughes (West Dunbartonshire) (SNP): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 19— *Armed Forces Federation*—

"(1) The Armed Forces Act 2006 is amended as follows.

(2) After section 333, insert the following new clauses—

'333A Armed Forces Federation

(1) There shall be an Armed Forces Federation for the United Kingdom for the purpose of representing members of the Armed Forces in the United Kingdom in all matters affecting their welfare and efficiency, except for—

(a) questions of promotion affecting individuals, and

(b) (subject to subsection (2)) questions of discipline affecting individuals.

(2) The Armed Forces Federation may represent a member of the armed forces at any proceedings or on an appeal from any such proceedings.

(3) The Armed Forces Federation shall act through local and central representative bodies.

(4) This section applies to reservists of the Armed Forces as it applies to members of the Armed Forces, and references to the Armed Forces shall be construed accordingly.

333B Regulations for the Armed Forces Federation

'(1) The Secretary of State may by regulations—

(a) prescribe the constitution and proceedings of the Armed Forces Federation, or

(b) authorise the Federation to make rules concerning such matters relating to their constitution and proceedings as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision—

(a) with respect to the membership of the Federation;

(b) with respect to the raising of funds by the Federation by voluntary subscription and the use and management of funds derived from such subscriptions;

(c) with respect to the manner in which representations may be made by committees or bodies of the Federation to officers of the Armed Forces and the Secretary of State; and

(d) for the payment by the Secretary of State of expenses incurred in connection with the Federation and for the use by the Federation of premises provided by local Armed Forces bodies for Armed Forces purposes.

(3) Regulations under this section may contain such supplementary and transitional provisions as appear to the Secretary of State to be appropriate, including provisions adapting references in any enactment (including this Act) to committees or other bodies of the Federation.

(4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) This section applies to reservists of the Armed Forces as it applies to members of the Armed Forces.'"

This new clause would create a representative body for the Armed Forces, akin to the Police Federation.

Martin Docherty-Hughes: Good morning to my colleagues in Committee. For a Bill that for some time tried to narrow in scope, the Armed Forces Bill has always had a way of getting us to debate some quite meaty and fundamental issues about who we want to be as a political state. If I say so myself, new clause 4, at least for the Opposition, brings together most of the threads that we have been talking about over the last month. Some on the Committee, including current and former members of the Defence Committee, will, I am sure, be bored stiff of my going on about an armed forces representative body, because I have been banging

on about it before my private Member's Bill in 2018 and since. I will try not to go over too many of the points that I made in that speech three years ago.

Since I became a member of the Defence Committee in 2017, I have lost count of the number of witnesses that we have had before us who have spoken about the difficulty in achieving institutional and organisational change in the Ministry of Defence, not just in personnel but in other areas such as procurement. The MOD has the fifth-largest budget in Whitehall, and if it were a city it would be bigger than Dundee or Brighton, so from my perspective, why on earth do we continue to create hideously complicated, bespoke personnel solutions when there exists a model of employer-employee relations that works for the rest of society? Is that not the very point of a whole-of-society approach to defence?

While I continue to be impressed by the knowledge, dedication and positivity of those who work in the military charity sector, I have no doubt that the multifarious nature of the sector is easily exploited by the Ministry of Defence to ensure that it keeps things exactly as it likes them. A proper representative body would be able to encompass the diversity of the armed forces family, and speak with one strong voice that Secretaries of State and the Government could not ignore when it was convenient.

Take the recent Overseas Operations (Service Personnel and Veterans) Bill. Although no one in the Opposition was likely to support it in principle, I understood the genuinely held beliefs of colleagues who wanted to see an end to repeated and vexatious prosecutions. The Ministry of Defence understood that also, and very astutely slipped in part 2 of the Bill, which put time limits on the ability of personnel to take action against the failings of the Ministry of Defence as an employer, cleverly packaging two unrelated issues together to ensure that the downside—the UK's commitment to the international rule of law being watered down—was sweetened by giving more protection against actions by the very people that the Bill was supposed to protect.

I do not think that a proper representative body would have allowed that to pass, even if it supported the principles of the Bill, because it would have understood it to be the pig in the poke that it was. My final point is about the difference between the Scottish National party's new clause 4 and our colleagues in the Labour party's new clause 19 on an armed forces federation. I believe the principal difference between the two—I am happy to be corrected—is that new clause 19 seeks to create a federation that represents personnel in all matters except pay. From the conversations I have had with colleagues, I understand what provisions they would like to put in place to ensure that personnel are represented in pay negotiations, but I would like to hear more about why they think that the trade union-style model does not work in this specific instance.

In the week after the highest-ranking officer in the British Army for quite some time was convicted of a crime, the financial rewards for those in higher ranks come sharply into focus, with all the associated layers of class subtlety ingrained within the armed forces that this contains. We all know, even if we are afraid to say it, that there will not be many pongoes or matelots getting help to send their weans to private school, despite the fact that they undertake the most dangerous and demanding roles in the military.

The Minister for Defence People and Veterans (Johnny Mercer): I just thought that I would factually correct a couple of issues. The stuff around the education allowance is cross-ranks, so playing to class divisions is just a load of nonsense, as was the rest about leveraging in pieces to another Bill. Does my hon. Friend understand the causal link between civilian claims and part 2 of the Bill, leading to part 1 and criminal prosecutions, or is this just some sort of diatribe against the whole thing?

Martin Docherty-Hughes: It seems as though the Minister has woken up rather grumpy this morning. I do not think we see the lower ranks being found guilty of manipulating their position to pay for their weans to go to private school.

Johnny Mercer: They have.

Martin Docherty-Hughes: We will move on.

Carol Monaghan (Glasgow North West) (SNP): The Minister is quite correct to say that a private school allowance or boarding school allowance is available across every rank, so we agree that that is factually correct. What is also factually correct is that it is almost exclusively utilised by commissioned officers rather than non-commissioned ranks.

Martin Docherty-Hughes: I am grateful to my hon. Friend for reminding the Minister of his own policy.

Johnny Mercer: Will my hon. Friend give way?

Martin Docherty-Hughes: I am not giving way any further. The Minister has had enough time; he has had plenty of time. I am afraid the Minister will just need to sit down and mute himself.

Negotiating pay and conditions was essential to the betterment of working-class people in the shipbuilding and associated industries that many of my forebears served in. I cannot imagine why that would not be the case for those members of my family and for my constituents serving in the armed forces today.

As with all the other new clauses that my hon. Friend the Member for Glasgow North West and I have tabled, I do not expect new clause 4 to pass, but I ask Members of the governing party to reflect on the fact that this may be the way things have always been done or part of the charm of serving in the armed forces, but young people today will increasingly ask themselves why working in the NHS comes with a framework of obligations that people can expect from their employers and a host of independent advice that they can rely on, whereas public service in the armed forces does not. No amount of effusive praise that we give them in the House of Commons makes up for that.

One Armed Forces Day or Week each year does not make up for the 365-days-a-year protection that would be created by an organisation that allowed them all to speak with one strong voice. That is why I think an armed forces representative body gets to the very heart of everything we have been talking about on this Bill Committee—to the heart of what kind of country we want to live in, and how the social contract between the Government, the people and their armed forces should work.

Stephen Morgan (Portsmouth South) (Lab): New clause 19 is designed to provide for the establishment of a federation for the armed forces. It owes much to the

[Stephen Morgan]

British Armed Forces Federation, which pioneered service representation. This issue has been close to the heart of my right hon. Friend the Member for North Durham, and I am loth to let an Armed Forces Bill go without raising it. It has been clear for some time that the armed forces need independent advice and representation. Witnesses that I have seen before this Committee have reinforced that point and we continue to hear shocking stories of abuse that takes place within units. We have also heard that continued delays discourage the use of the service complaints system, and of a concerning perception that someone's career will be under threat if they complain persistently. Most members of the armed forces have also endured a real-terms pay cut for most of the last decade.

Given the renewed emphasis that Ministers appear to be placing on the value of people as assets to national defence, the time may be right to formalise representation and support for service personnel on issues such as welfare and pay. I want to stress that this federation would not be equivalent to a trade union for the armed forces. It would not conduct or condone any form of industrial action or insubordination within the armed forces. The federation would work with the Ministry of Defence to put in place a form of understanding that could deal with such issues. It would also recognise the importance of the chain of command. We can learn from positive forerunners such as the British Armed Forces Federation, which clearly reinforces the point that the chain of command is to be recognised, not overridden.

Although the proposal might be seen to be radical or dangerous by some, other nations, including the US and Australia, already have similar models embedded into existing military command structures. Given that Ministers in this Government have been so fond of looking to Australia for solutions, I hope that they will feel able to do so again. The nominally independent Armed Forces Pay Review Body and the service complaints ombudsman present a clear direction of travel towards independence.

Our armed forces give their lives for us. Ministers should seize this opportunity and also give them a voice.

Carol Monaghan: I just want to add a couple of comments. Both these new clauses seem to worry the Government, and we have to wonder why. I think many personnel will wonder, "Why would the Government not wish to support these proposals?" A body that can speak for armed forces personnel on issues such as housing, terms and conditions, and pay would surely be a benefit. If personnel could raise these issues themselves, it could avoid situations such as those that we have seen recently through the National Audit Office report on the poor quality of single living accommodation.

It is important that we look at other bodies that work. The Police Federation would be a good example. In the Police Federation, individuals do not have the ability to strike and there is no threat to the chain of command. Despite us raising these issues time and again, the Government simply throw the same lazy arguments back at us. Those lazy arguments include, "We don't want anything that undermines the chain of command." This organisation would operate separately; it would be a body that personnel could go to without breaching the chain of command. All of us here understand the importance of that.

What arguments is the Minister going to come up with for opposing these new clauses? We have heard the same arguments time and again on strikes and chain of command, but we have said that these new clauses are no threat to those things. What can the Minister tell us other than that? Why would he not want to support personnel when they are looking for improvement? I do not think any of us would argue about what they want. They want decent housing, and decent terms and conditions; and we should not have any problem with that. I am really interested to hear what the Minister has to say.

Johnny Mercer: What we have seen there is the granularity of the problem when it comes to debating these issues. The Scottish nationalist party Members have put forward two things that are fundamentally and factually inaccurate to support their argument—

Carol Monaghan: On a point of order, Mr Sunderland. Could you remind the Minister that the name of our party is the Scottish National party? He is using that other term deliberately and continues to do so.

9.15 am

The Chair: The point of order has been noted; I have no doubt that the Minister is aware.

Johnny Mercer: Colleagues have put forward two arguments that are factually not true. I just do not know how to respond when colleagues put forward points of view that they know to be untrue, which I correct on the record, yet they still advance them as though they are on some crusade for the benefit of the members of our armed forces. It really is sixth-form-debating-level behaviour and it means that I cannot respond to their points—

Carol Monaghan: Will the Minister give way?

Johnny Mercer: No, I will not give way, because my hon. Friends even corrected each other when one said that the continuity of education allowance was only for officers, which it is not, and then split between commissioned—

Carol Monaghan: On a point of order, Mr Sunderland. The Minister is now trying to rewrite the record. I was very careful in what I said and I pointed out to him that I agreed 100% with what he said about the education allowance being available for all. However, I did say that it was almost exclusively used by officers, and that is the case.

Johnny Mercer: It is not the case; it is about a 45%-55% split.

Martin Docherty-Hughes: Will the Minister give way?

Johnny Mercer: I would be delighted to give way.

Martin Docherty-Hughes: I am concerned that the Minister is trying to rewrite the record, because all I said—I will remind myself of what I said—was that the most senior member of the armed forces, or of the Army at that point, was found guilty of misusing that fund. I never said anything about anybody not being able to access it.

Johnny Mercer: No, the hon. Gentleman said that matelots and pongoes, the lower ranks, do not get to use the fund, which is factually incorrect. I am sorry; I do not mean to be obtuse with Members, but I have come into this role to serve members of the armed forces and I will not stand idly by if people make things up. If someone is going to debate these issues and bring forward things that are not true, which I am afraid largely emanate from the Scottish nationalist party, it will be very difficult to engage. However, I will address the other points.

The new clauses seek to create through primary legislation a representative body for the armed forces that is similar in many respects to the Police Federation. New clause 19 proposes that details of how such a federation would operate would be set out in regulations. Of course the Government understand that Members from all parties in the House wish to support our armed forces and protect their interests; that is at the heart of what we do and I believe our actions show that. However, we are not persuaded that there is a requirement or indeed a groundswell of support for a federation along the lines that have been suggested. The interests of our armed forces personnel are already represented through a range of mechanisms, not least the chain of command.

On matters of pay, the Armed Forces Pay Review Body and the Senior Salaries Review Body provide annual recommendations on pay for the armed forces to the Prime Minister. Evidence is gathered from a number of sources, including the bodies commissioning their own independent analysis of pay comparability and taking written and oral evidence from the MOD and from service families federations, as well as spending a significant amount of time visiting military establishments within the UK and overseas.

Staying on the subject of pay, I should highlight that the X-Factor addition to basic military pay, which is currently at 14.5%, recognises the special conditions of military life, including limits on the ability of service personnel to negotiate on this issue.

Mr Kevan Jones (North Durham) (Lab): Will the Minister give way?

Johnny Mercer: I would be delighted to give way.

Mr Jones: The Minister is making various claims about the Armed Forces Pay Review Body, and he is correct that it does great work in assessing the different effects of armed forces life, but it depends on Ministers and the Treasury accepting its recommendations. There was not a problem until 2010, but there has been since. How do ordinary members of the armed forces ensure that their pay issues are taken into account if the Government, who have ignored the recommendations of the Armed Forces Pay Review Body on numerous occasions since 2010, ignore those recommendations?

Johnny Mercer: They have not ignored them. I sat on the last one, and I advocated for the pay of the armed forces. The Government have a clear role when it comes to pay across the public sector. They work hard to maintain the independence of these bodies, which are robust in challenging the Government to make sure our people are paid fairly. My right hon. Friend will have seen that the integrated review talks about a new way of operating, which will have to be reflected in a new reward and recognition scheme that looks at pay across the ranks, across the trades and across employment, to make sure that people are remunerated and recognised in line with what we are asking them to do. I understand the point he is making, but I do not accept that the Government have turned down these recommendations and are cracking on willy-nilly with pay.

Mr Jones: I accept that the Minister might accept the pay review body's recommendations, but he does not implement them. In 2013 the Government refused to reappoint Professor Alasdair Smith when he recommended things they did not like. There was not a problem until 2010, but since 2010, although the Conservative party says it stands for the armed forces, the Government have not implemented the pay review body's recommendations. As we heard earlier, it would be okay not to have a representative body if the Government automatically accepted the pay review body's recommendations, which I am proud that the last Labour Government did, but this Government have not done that.

Johnny Mercer: Okay. Staying with the subject of pay, I should highlight that the X-factor addition to basic military pay, which is currently at 14.5%, recognises the special conditions of military life, including limits on the ability of service personnel to negotiate on this issue.

Importantly, the service complaints ombudsman provides independent and impartial scrutiny of the handling of service complaints made by members of the UK armed forces regarding any aspect of their service life. Improvements to the service complaints process are being progressed, and those do not require primary legislation, although there is one small measure in the Bill that seeks to change the legislation in certain circumstances.

I should also mention that there are provisions in the service complaints system and the service justice system for support to be provided to those who make complaints or allegations, and to those who are the subject of such actions. There is also legal aid for those facing charges in the service courts, and there are assisting officers at summary hearings.

The Committee can be assured that individuals are not left without support and assistance. On many other issues, the Soldiers, Sailors, Airmen and Families Association, the Royal Naval Association, the Royal Air Forces Association, Veterans UK and a great many more regimental associations and groups throughout the country have regular access to the chain of command and Ministers to represent their members' interests. As I mentioned, the chain of command remains an important route through which personnel can make representations about matters of interest and concern.

[Johnny Mercer]

In addition, there are a range of other mechanisms for service personnel to have a voice on matters that concern them. The annual armed forces continuous attitude survey asks personnel about all aspects of their service life, and the results are used to inform the development of policy and to measure the impact of decisions affecting personnel, including major programmes and the armed forces covenant. The survey results are published. I should add that service personnel play an active role in the development of policies that affect them, and I see that every day in the work that goes on under the Chief of Defence People, Lieutenant General James Swift.

The Committee might not be aware that the Chiefs of Staff Committee, chaired by the Chief of the Defence Staff, has a WO1, Mr Haughton, as its senior enlisted adviser, and he has a voice on all the matters that come before that committee. As a further example of our commitment to improving diversity, all Army officers at two-star and above have a reverse mentor, which supports diversity of thought across all areas of the service.

Finally, Ministers and senior officers hold regular town hall meetings for all staff—service and civilians—to brief them on developments and issues and provide an opportunity for everyone to ask questions about those developments.

Tonia Antoniazzi (Gower) (Lab): I hope the Minister enjoys his virtual visit to Gower. Has that already taken place?

Johnny Mercer: I have not been to Gower.

Tonia Antoniazzi: Sorry, I thought the Minister was paying a visit—a virtual one.

Anyway, in written evidence, Forward Assist said:

"Survivors need military leaders to both hear them and protect them when they make complaints. Sadly, in many cases the current system allows victims to remain hidden, silenced and unacknowledged whilst perpetrators are free to offend again."

Does the Minister agree with that? What he is saying goes against that.

Johnny Mercer: May I ask my hon. Friend to repeat that? I did not understand the question.

Tonia Antoniazzi: We had written evidence, and I wonder if the Minister agrees with it. He says that there is a sufficient system in place, but Forward Assist said:

"Survivors need military leaders to both hear them and protect them when they make complaints. Sadly, in many cases the current system allows victims to remain hidden, silenced and unacknowledged whilst perpetrators are free to offend again."

That really concerns me.

Johnny Mercer: Yes, it really concerns me. Forward Assist does a load of brilliant work in this area, and I have been clear on the record before that too many incidents of unacceptable behaviour go on. The female experience in the military is nowhere near where I want it to be. We are contributing to the Defence Sub-Committee inquiry on the female experience, and I will be the Minister answering that. That is all acknowledged. I think that is a separate matter from a representative body.

I hope that I have clearly explained the rationale for the Government's approach and the provisions that do exist and that, following those assurances, the hon. Member for West Dunbartonshire will agree to withdraw the new clause.

Martin Docherty-Hughes: I am afraid that I will not withdraw the new clause but press it to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 3]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

New Clause 5

UPDATING GENDER NEUTRAL DRAFTING

"(1) Section 1 of the Armed Forces Act 2006 is amended as follows—

(2) In subsection (1) for 'he' substitute 'they'.

(3) In subsection (1)(c) for 'him' substitute 'them'.

(4) In subsection (2) for 'he' substitute 'they'."—*(Carol Monaghan.)*

This new clause would allow for gender neutral language to be used in legislation pertaining to service personnel.

Brought up, and read the First time.

9.30 am

Carol Monaghan: I beg to move, that the clause be read a Second time.

I hope the Committee will agree to the new clause, which would establish gender-neutral drafting in the Armed Forces Act 2006. The Act should reflect the diversity of military service personnel and veterans in the UK armed forces. The armed forces should be a safe and inclusive environment for all those who serve, regardless of gender, sexual orientation, religion, ethnicity or class. That inclusivity and respect must permeate all levels of military organisation, including at legislative level. By adopting gender-neutral language in the Armed Forces Act, we can demonstrate that the legal commitment to inclusivity for all gender identities permeates it. Words have power, and language matters. It is important that we adapt the legislation to reflect the true democracy of our armed forces, and I hope the Government feel able to support this new clause.

Johnny Mercer: Hon. Members seek to amend section 1 of the Armed Forces Act 2006 by substituting the gender-specific words in that text with gender-neutral language. Clearly, gender-neutral drafting in legislation is important, and it has been deemed essential by successive Governments in recent times. The practice now is that new primary legislation is drafted in a gender-neutral way. On 8 March 2007, the then Leader of the House of Commons, Mr Jack Straw, announced that all future Government Bills would be gender neutral

"so far as it is practicable".—[*Official Report*, 8 March 2007; Vol. 457, c. 143W.]

That approach is reflected in the Office of the Parliamentary Counsel's current drafting guidance. In accordance with that guidance, this Bill, including the amendments it makes to the Armed Forces Act 2006, has been drafted in a gender-neutral way.

However, the Armed Forces Act 2006 was drafted before the new approach of gender-neutral language was adopted, and it is not drafted in a gender-neutral way. While, as I say, the practice is now to draft in a gender-neutral way, it is not the Government's practice to update language in all legislation that is not otherwise being amended. In short, it is one thing to insert gender-neutral legislation, as this Bill does; it is quite another to revise existing legislative text, as this new clause proposes.

Further, from a common-sense perspective, the proposed new clause is rather narrow, seeking only to amend one small part of the Armed Forces Act 2006 and leaving much of the Act in the old, gendered-pronoun style. Conversely, it would be rather impractical and time-consuming to revisit the entirety of the Act. The Government will, of course, continue to adopt gender-neutral drafting when amending the Armed Forces Act 2006 for other reasons. On that basis, I hope the hon. Member will agree to withdraw her new clause.

Carol Monaghan: The Minister's response is rather disappointing. Yes, this new clause does refer to just one part of the 2006 Act, but it was hoped that that would then permeate through all of the Act. It is disappointing, when we are talking about the importance of diversity in the armed forces, that the Minister is not willing to look at this proposal. It would not be a huge amount of work to amend the entire Act; it would simply involve updating these particular gender-specific words. I am not going to push this new clause to a vote, but I am disappointed by the Minister's response. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 6

Duty of care for alcohol, drugs and gambling disorders

"(1) The Armed Forces Act 2006 is amended as follows.

(2) After section 20(2)(d) insert—

'(e) the person is dependent on, or has a propensity to misuse, alcohol or drugs.'

(3) After section 20(3) insert—

'(3A) The Secretary of State has a duty of care to offer a specific pathway for support and treatment for current and previously serving service personnel who experience—

(a) a propensity to misuse, alcohol and drugs,

(b) alcohol or drug dependency, and

(c) gambling disorder.

(3B) The Secretary of State must include in the annual Armed Forces Covenant report—

(a) the number of people accessing treatment and support as set out in section (1), and

(b) the current provisions for rehabilitation facilities for Armed Forces personnel who are experiencing a propensity to misuse or have a dependency on alcohol, drugs and gambling.'"—*(Dan Carden.)*

This new clause places a duty of care onto the Ministry of Defence to provide treatment pathways to serving personnel and veterans who experience alcohol, drug and gambling disorders and will include the number of people accessing treatment and current rehabilitation provisions in the annual Armed Forces Covenant report.

Brought up, and read the First time.

Dan Carden (Liverpool, Walton) (Lab): I beg to move, That the clause be read a Second time.

This new clause would place a duty of care on the Ministry of Defence in relation to finding a pathway to treatment for people suffering with addiction. We are familiar with the existing narrative that many of our armed forces community will, at some stage, struggle with their mental health. While there is agreement that we must prioritise the mental health and wellbeing of our armed forces, alcohol, drug and gambling use disorders—otherwise known as addiction—do not receive the same consideration, and serving personnel and veterans experiencing addiction are being failed by the current system.

In society, we should afford the same attention, resources and support to addiction as to any other mental health matter, because addiction is an illness—an illness with a higher prevalence across the services. The new clause would place a duty of care on the Ministry of Defence to ensure that it has a role to play in finding a pathway to treatment for those men and women who have given service. Combat Stress confirms that military personnel are more likely to suffer from substance misuse problems than civilians, yet there is only one veteran-specific addiction treatment facility in the whole of the UK—Tom Harrison House, in Anfield, in my constituency.

Turning to alcohol, drugs and gambling in times of uncertainty or hardship is normalised in the UK. The latest Office for National Statistics alcohol-specific deaths data show that this is now a national crisis. Our armed forces are a niche community with distinct values that make engagement with local services difficult. Many veterans and their families are isolated and do not receive the treatment they need and deserve. I have met many veterans visiting Tom Harrison House who felt completely let down by the MOD. I am yet to meet one who has received the support they need for their addiction through the Army, Navy or Air Force. Too often—in fact, it is the norm—people have to hit rock bottom to get picked up and offered support. Even then, treatment is not always available. One veteran told me:

"I gave my life to service, I was trained to lack empathy; conditioned to survive; asking for help was a weakness; encouraged to drink and when there was nothing left for me to give, I was discharged, without any re-conditioning, no support; completely alone."

That experience is unacceptable.

We just do not know how many veterans experience substance use disorders, as there is such limited reporting. The new clause would address that lack of understanding.

[Dan Carden]

As it stands, the MOD plays no role in the pathway of support for veterans who require treatment for addiction and other mental health issues, even though we know that the effect of service is often a determining factor in a veteran's illness. Once personnel have left service, they rely on the NHS and local authorities, and of course the UK's third sector organisations provide help and support. I absolutely value their work, but the MOD has a responsibility to those men and women that it has shirked for too long. Veterans are expected to use the same pathway as civilians—through the NHS and local authority services—yet drug and alcohol services have been decimated in the past 10 years, with part one of Dame Carol Black's review on drugs detailing that, in some local authorities, funding for these services has been cut by 40%. We expect veterans to navigate an underfunded system that does not cater for veteran-specific needs.

We know that addiction is often a symptom of deeper psychological problems. Substances are ways to escape and self-medicate. Although co-occurrence of substance use and mental health diagnoses is widely understood, to access mental health services the person must often address the substance use first. The Committee heard at first hand from Combat Stress just how obstructive that is to recovery. This fractured approach leaves too many in prolonged pain and suffering as they continue to fall between the cracks. While the Bill will enshrine the armed forces covenant into law, public bodies having that due regard will not help the many veterans who experience addiction.

Mr Jones: My hon. Friend is talking about veterans, but does he agree that there is a big issue with drug and alcohol misuse in the services? The services' main response is usually to dismiss people with those issues. Does he think more should be done to get treatment for those individuals while they are in service?

Dan Carden: I am grateful to my right hon. Friend. We know that levels of treatment do not match the levels of addiction that we believe exist. I will finish on this point. Currently, there is a zero-tolerance approach to alcohol and drug misuse in the forces, and that approach lacks understanding and is outdated. Other professions, including our doctors, the police force, the fire service and pharmacists, provide occupational support for substance use, and our armed forces should follow suit. I hope the Minister will address that issue.

New clause 6 will ensure that these men and women have access to a pathway of support for problematic alcohol, drug and gambling use, and it will allow information on service personnel and veterans' treatment, and the provision for it, to be included in the annual armed forces covenant report.

Johnny Mercer: This is a really important new clause, and there are some really good points in there. I am grateful to my hon. Friend the Member for Liverpool, Walton for raising these issues, because addiction is something that is particularly close to my heart, and we as a society and a Government need to do more on it. He raised some important issues. I will not just read him the blurb of what is available, because he knows about that. I will address a couple of the points that he made. I cannot accept the new clause, but I will talk about what we can do to address some of these issues.

I pay tribute to my hon. Friend for his lobbying in this cause. I know he has worked hard on it over a number of years. Tom Harrison House is a real beacon of support for those enduring substance abuse and addiction challenges, and I pay tribute to its work. When it comes to the responsibility for providing pathways for veterans, the difficulty that we have with the new clause is that, in this country, veterans are not an individual cohort on their own; they are civilians who have served, who were picked from society and will return to society. So, along the lines of what I have done with Operation Courage to ensure that there is a single front door and clear pathways that people can navigate, we must ensure that there are addiction pathways through these treatment services.

I ask my hon. Friend to come and see me in the Department, and perhaps we can visit Tom Harrison House. This has long been an issue for me. The third sector does amazing stuff in this field, but some organisations will not treat people until they have finished drinking, or whatever the addiction challenge may be, and we have to do more on that. I would like to visit Tom Harrison House and really listen to hear what the people there would do with the current situation. We have a sort of trailblazer going on in the NHS with Op Courage, and I do not see why we cannot do that with addiction services.

My hon. Friend talked about having a zero-tolerance approach in terms of people who have served. We do not have a zero-tolerance approach to those who are using drug and alcohol services; we provide support. I have seen that in units down in Plymouth, where people have received support for alcohol abuse. There certainly used to be a zero-tolerance approach to drugs, but there is not one now. We do what we can, cognisant of the way that society has changed. However, we are very clear that drug use is not compatible with service life, and that position has been upheld and proved time and again.

9.45 am

I cannot accept the new clause because it would essentially give the MOD responsibility for civilian services, but I can try to achieve the same effect by making a joint visit to Tom Harrison House and really understanding where the points of pressure are in ensuring that care pathway for our people, and work together to make sure that we can look after such people, who—my hon. Friend the Member for Liverpool, Walton makes a really strong and valid point—have been quietly shielded out from other services that other people have had access to. It is something that I feel very strongly about.

Mr Jones: My experience, like the Minister's, is that there is support within the military for individuals; I think I was the one who changed the policy around zero tolerance of drug use. May I ask about the support for such individuals? There will be individuals who have to leave the armed services because of drug and alcohol issues. What support is given to them? Transition for those individuals to get support in civilian life is important. Is there a specific pathway for people who have to leave because of drug and alcohol problems in the armed

services, or are they just left to their own devices? That would be a way to stop some of those individuals falling further into the addictions that have grasped them.

Johnny Mercer: They are not left to their own devices. There is now something called the Defence Transition Services, which were set up last year. They are specifically tailored to put our arms around all those individuals who are leaving service. They are not specifically tailored to those who suffer from addiction. The service is agile enough to deal with all our vulnerable service leavers, particularly those coming out of care and things like that. They can now access Defence Medical Services up to six months after they leave, but there is always more to do in this space. That is why I am keen to see my hon. Friend the Member for Liverpool, Walton at Tom Harrison House.

Mr Jones: I welcome what the Minister says, but if he is looking at the broader issue around veterans, could he perhaps also look at the support that he has given to individuals who have to leave because of addiction problems? I accept that there is a transition process, but some more work could be done to look at specific support for those who have to leave because of drug and alcohol-related issues.

Johnny Mercer: Yes, of course I will. I give a commitment to the Committee to work with my hon. Friend the Member for Liverpool, Walton to design the pathways and report back in future on what we can do better. With those assurances, I hope he will agree to withdraw the motion.

Dan Carden: I thank the Minister for the way that he has engaged with these issues, and for the work that he has already done. One of the key problems that we have is the poor set of data, and I look forward to working with him to see what we can do in the Bill on those issues. In the light of the Minister's commitments to meet and his offer to visit Tom Harrison House, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 7

WELFARE OF OPERATION BANNER VETERANS

"No later than 12 months following the day on which this Act is passed, and every 12 months thereafter, the Secretary of State must publish a report which must include the number of Operation Banner veterans who—

(a) have contacted the Office of Veteran Affairs,

(b) are accessing mental health treatment,

(c) are in the street homeless population, and

(d) are within the prison population."—*(Mr Jones.)*

This new clause will ensure that the Government offers consideration to the overall welfare of those service personnel that served in Operation Banner.

Brought up, and read the First time.

Mr Jones: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 15—*Duty to report—*

"The Secretary of State to place a duty on all public services to include a question on whether the respondent is a veteran, has previously served in the Armed Forces or is a reservist to all new service users."

See explanatory statement for NC14.

Mr Jones: New clause 7 is designed to get a commitment on looking at Northern Ireland veterans. I was very disappointed that the Government voted down our proposal for the Committee to take evidence from Northern Ireland veterans. Even the compromise of asking for written evidence was voted down, which was a disappointing approach from the Government.

Operation Banner was the longest continuous operation for our armed forces in Northern Ireland, running from 1969 to 2007. During that time, 1,441 members of the armed forces lost their lives in the service of their country in Northern Ireland. It sadly began in 1971 with the death of a member of the Royal Artillery Regiment, Robert Curtis, who was 20 years old and is buried in the West Road Cemetery in Newcastle, and it ended with Lance Bombardier Stephen Restorick, 23, when he was shot by a sniper at Bessbrook in County Armagh in February 1997.

Those two men are the bookends of the individuals who lost their lives, but many of those individuals serving in Northern Ireland had joined the armed forces mainly from communities such as the one I grew up in, from areas that they had left because of unemployment. They proudly served their country and were asked to take part in an operation that was vital for the security of our country, which exposed them to risk not only in Northern Ireland, but on the UK mainland, as we saw with the tragedies of the bomb attacks and deaths of service personnel. They paid a huge price—not only those who died, but those who served—and to a large extent they are the forgotten veterans.

We rightly honour the veterans of overseas campaigns who have lost their lives or suffered injury, but Northern Ireland and Operation Banner were slightly different. Because the operation took place in the UK, there is a tendency to think that somehow it is politically embarrassing for those individuals to be recognised, and because it went on for so long and did not retain public interest once it had ended, they were not kept in the headlines. There needs to be more research and focus on those individuals and on giving them recognition.

My amendment calls for a report to be commissioned by the Secretary of State specifically into the effects of Operation Banner on those individuals. Many will now be somewhere in their late 70s and possibly early 80s. While I accept that many will have gone on, as many members of the armed forces do, to successful civilian careers, the veterans I have spoken to over the years, and the individuals I knew growing up who had served in Northern Ireland, have suffered. There is a lack of research on that, although I commend recent reports from the Forces in Mind Trust, Queen's University Belfast and Ulster University, which were very good and specifically looked at Northern Ireland veterans.

There are two sides to this: there are the Northern Ireland veterans who are now resident in the UK, but I know from a number of visits I have made to Northern Ireland that there is also an ongoing problem with mental health support for those who served and live still in Northern Ireland. Some of the issues in the summary of the report that came out in 2017 were quite interesting.

One such issue was that those veterans felt there was a lack of trust, and another was a desire—quite rightly, I think—for some kind of public recognition for their service. I accept that they were awarded medals but, in the context of the broader question, because of the

[Mr Kevan Jones]

political nature of the Northern Ireland conflict, that recognition has not been given them. Also, in sections of certain communities, there is a social stigma against certain individuals who served in Northern Ireland. We need to do research and have the data and evidence to support the individuals who served. They were ordinary men, mainly, although there were also women. They came from communities across the UK, many in northern towns, and they served their country.

Added to that, we have the ongoing uncertainty on prosecutions, with 12 individuals still being investigated for crimes that allegedly took place throughout their service in Northern Ireland, some dating back over 50 years. In many cases, they have been investigated on numerous occasions. Obviously, a case that has been highlighted recently is that of Dennis Hutchings, who is 79 years of age. What strikes me about all the cases is that the individuals who are facing the torment—and I mean torment—of a prosecution hanging over their heads are mainly from the lower ranks.

I accept that things were done in Northern Ireland throughout the campaign that we would look back on and not agree with; the Army, and the way in which the armed forces operate, has changed radically in those 50 years, but the idea that young servicemen who were serving their country should be the target now of prosecution when those who made the decisions higher up, including politicians and those in higher ranks in the armed forces, were not held to account in any way for those actions is not acceptable.

I know that the Prime Minister and the Minister have said that legislation will be introduced to deal with those prosecutions, but it is like tomorrow; it never comes. The Prime Minister promised it. It was promised in the last Conservative manifesto. It was also promised in the Overseas Operations (Service Personnel and Veterans) Bill. Nothing came forward. The Minister then said that it would be in this Bill, but clearly it is not. It has now been parcelled off. I understand it is now said not to be a MOD matter, but a matter for the Northern Ireland Office.

I take a very clear view on this issue, and it is already there in law. Is it in the public interest to persecute and chase down individuals for incidents that happened, in some cases—such as Dennis's—50 years ago, when they have been investigated on several occasions? That cannot be a good and right way of treating people who were doing their duty by their country in horrendously difficult circumstances and keeping us all safe. At the end of the day, that is what they were there to do.

Veterans now think that the promises that have been made by the Government are pretty hollow, and unless legislation is introduced very quickly some individuals will face the courts. The terrible thing is the uncertainty hanging over those individuals—that at any time they could get a knock at the door and be asked to account for actions that took place in some cases, such as Dennis Hutchings's, 50 years ago. That cannot be right.

As part of the efforts to highlight the plight of veterans, I welcome the Forces in Mind Trust research that has been done already, but we need the MOD, if it is really committed to these individuals, to do a wider piece of work looking at the effects of service in Northern Ireland, and to not forget those individuals, who were doing their duty by their country. I accept that a lot of things in this Armed Forces Bill might be problematic, but it is the only time we have as parliamentarians every five years to address issues that affect not only the veterans community, but members of our armed forces. I think if we were to do this, it would send a clear message that we are not forgetting these individuals and are trying not only to do the research, but to put in place policies that actually help them.

I plead with the Government to stop promising things that they are not going to deliver. If they are not going to deliver on the prosecutions, they should just say so. I think it is pretty dishonest to have a situation whereby these individuals are being promised something, including by the Prime Minister, that is not yet being achieved.

10 am

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): It is a pleasure to follow my right hon. Friend the Member for North Durham. He is not only a fellow north-east MP, but a highly regarded Member of this House and an expert on these issues, having served not only as an armed forces Minister, but on every one of these Bills since he was elected in 2001. I am therefore very proud to serve on this Committee alongside him.

I rise to speak to new clause 15, which would mean the Secretary of State had to place a duty on all public services to ask new service users a question about whether the respondent is a veteran, has previously served in the armed forces or is a reservist. I know that some services do this already, but this new clause would ensure that all public services ask the question and record the answer. I will come on to reporting when we discuss new clause 14.

Since taking on the role of shadow Minister for Veterans last year, I have heard that veterans and reservists are, more often than not, not asked about their service history and may not feel that it is relevant to the service they are accessing. They could therefore access a public service without anyone ever knowing of their service history. While this may be fine on some occasions, on others it could be a huge barrier to a veteran or reservist receiving the services they really need. That is why the Opposition tabled new clause 15.

In written evidence, the Local Government Association recognised the challenge of identifying veterans in their communities, and went on to say:

> "More information about the number of veterans in our communities would help councils better plan their local services to make sure we have the right services in place."

This new clause would therefore ensure that the majority of veterans and reservists are captured by public services when they access one for the first time. This will, I hope, improve the experiences of veterans and reservists, and allow public services to tailor their offering to the veteran and reservist population in their local area.

I know that some people may not identify themselves as a veteran, perhaps thinking that that term refers to someone older or from one of the world wars or someone having seen active service, which is why the new clause includes asking if the person has previously served in the armed forces. I hope that the Minister will consider this new clause, which will help improve the experience of veterans and reservists when accessing public services

for the first time and assist public services in tailoring their offer to the local population. As I mentioned, I will raise reporting when we come to new clause 14.

Johnny Mercer: I will address new clauses 7 and 15 together. I enjoyed the contributions.

There are some serious points here about the recognition of veterans—particularly our Northern Ireland veterans—which I have worked very hard on over the last couple of years. There is no tiered system of veterans. We are as proud of our Northern Ireland veterans as we are of those who served in Iraq and Afghanistan. Operation Banner was a deeply challenging environment. When I came to this House, I came here with a mandate to improve veterans' care and the experiences of those who serve. There is perhaps no greater symptom of the betrayal of our veterans by Governments over the past 40 years than prosecuting or going after those who served in Northern Ireland when no new evidence exists and it is simply a question of the politics having changed. There is no other country in the world that endures these issues among its veteran population. The more people who speak on this matter and who become aware of it, the more that the individuals going through these processes will feel support.

The Prime Minister has made commitments to end this disgrace. I have made commitments to end this disgrace. Those commitments stand. It is an incredibly difficult environment and space in which to operate. At no stage have I just cast this matter off to the Northern Ireland Office, as has been alleged by my right hon. Friend the Member for North Durham. I work on this every day in the Department. Unlike my predecessors, I will achieve a result for those people who served in Northern Ireland. We will slowly make progress towards that.

Let me turn to the matter of welfare for those who supported on Op Banner. The creation of the Office for Veterans' Affairs in 2019 is a marker of this Government's commitment to her veterans. That never existed before; in previous Governments, under previous Ministers, there was never an Office for Veterans' Affairs that took responsibility for these issues. We continue to demonstrate our commitment to supporting veterans and making the United Kingdom the best place in the world to be a veteran.

In the strategy for our veterans, the Government committed to improve the collection and analysis of data on veterans' needs and experiences to inform future policy. I accept that we have poor data on veterans. If we had changed that—perhaps 10 years ago—we would be in a far better position now to calibrate programmes and understand the nuanced challenges in the transition from service life into the community. But we did not do that 10 years ago. We are doing it now. The first money that came into the Office for Veterans' Affairs went into data and studies to try to understand the scale of the problem, so that we can implement evidence-based policies that genuinely affect and improve the lives of our veterans.

We are going to publish an annual veterans report, which will set out the progress made each year on delivering these objectives so that we can be held to account. As part of this data strategy that will improve collection and analysis of information across a wide range of topics—including veterans' health and wellbeing; mental health; the frequency of the tragedy that is suicide; employment; housing; and relationships—we are working with stakeholders, other Departments and the devolved Administrations to understand what data already exists, where there are gaps in knowledge and how the gaps could be mitigated, including, where relevant, by adding new veteran markers to datasets. That is happening.

The 2021 census in England and Wales also represented a key opportunity. Using the expertise of the Office for National Statistics, we will be able to use anonymised data provided by the census to better understand the veteran population in England and Wales as a whole, and the huge range of topics affecting their lives, including their health and wellbeing.

New clause 15 seeks to

"place a duty on all public services to include a question on whether the respondent is a veteran, has previously served in the Armed Forces or is a reservist to all new service users."

This would place an undue and unnecessary burden on public bodies. In keeping with the initial action plan of the January 2020 UK Government's strategy for our veterans and the New Decade, New Approach agreement, my Department is currently conducting a review of welfare services provided to all veterans living in Northern Ireland.

The Ulster Defence Regiment and the Royal Irish Regiment (Home Service) Aftercare Service was established in 2007 to provide welfare support for Op Banner veterans and their families from within an established service delivery network. My Department recognises that the delivery of veterans' welfare support in Northern Ireland has grown in a specific way. However, I can provide assurance that a review of the aftercare service has commenced and will establish the potential of the aftercare service to support better our veterans UK-wide in the welfare structure. For that reason, it is imperative that, before further commitments are made, the review is allowed to conclude and bring forward its recommendations on long-term service delivery for veterans in Northern Ireland.

To support our veterans living in Northern Ireland further, we have, for the first time, appointed a Northern Ireland Veterans Commissioner to act as an independent voice and point of contact to support and enhance outcomes for all veterans. I hope that, following those assurances, the right hon. Member for North Durham will agree not to press the new clause.

Mr Jones: I accept that the Minister does not see veterans in tiers, but he should read the Forces in Mind Trust's research on the way in which Northern Ireland veterans are perceived by the public. I do not accept that somehow because people served in Northern Ireland they are less of a veteran than those who served in any other sphere. I agree with the Minister that they should be treated similarly, but they are a unique group of individuals who need more attention.

The Minister talks about the aftercare service in Northern Ireland. I have visited that service and accept that it is good, but most Northern Ireland veterans do not live in Northern Ireland. I certainly commend the aftercare service's work with not only veterans, but their families on the ongoing psychological problems that

[Mr Kevan Jones]

many family members experience. However, in terms of progress and getting the research, although the Minister says that the Office for Veterans' Affairs was a first, I am sorry, but it was not. The last Labour Government started the Veterans Agency and had a veterans Minister. I could go on at length about what was put in place for veterans. It is all right for him to champion the new Office for Veterans' Affairs, but he is cutting its budget at present, which cannot be right.

This area does need more research. Those facing prosecutions do not receive the recognition they deserve. I think that, in the way in which they are being dealt with, they are going through torture. In addition, other Northern Ireland veterans who are not currently being pursued for prosecutions fear that they may well be in future. That must be an awful feeling for those individuals who, if they committed a crime, it was serving bravely their Queen and country and being asked to do a very difficult job on behalf of us all. That is totally unacceptable.

Given the concentration on these veterans, commissioning the report would give a clear indication that we are taking them seriously. I understand what the Minister says about his commitment to the issue of Northern Ireland prosecutions, but frankly those are words that we have heard from both him and the Prime Minister. What the veterans need now is firm action. Without that, they will continue to feel let down. I would therefore like to press the new clause to a vote to ensure that the MOD does the research and gives the recognition and support to those brave servicemen and women who served on behalf of our country in Operation Banner.

Johnny Mercer: I recognise what happened last time on the Armed Forces Bill. My hon. Friend the Member for North Durham attempts to leverage this in and follows it up with a press release to make out that he is standing up for Northern Ireland veterans. I want to place on the record that, yes, I am the first veterans Minister and this is the first Prime Minister to commit to end this intolerable process for our veterans. There was a time when I stood alone on this issue and although I welcome his support now, people are not as forgetful or as dim as he would like to think. He was the armed forces Minister. He was in Government for a considerable period of time when absolutely nothing was done on this issue.

Mr Jones: That is not true and the Minister knows it.

10.15 am

Johnny Mercer: This issue has been put on the political spectrum by myself and by this Prime Minister. We will bring forward legislation to protect these people. I will not accept lessons from people for whom I served—right? I was a veteran when the right hon. Gentleman was a Minister in the Department and I know exactly what it was like, so—

Mr Jones: The Minister should be proud of what the last Labour Government did; we did not cut armed forces numbers.

Johnny Mercer: It is a total joke, because I would not be here if veteran support was as good as the right hon. Gentleman likes to think. So he can push the new clause to a vote, he can do his press release, but ultimately he will never change anything unless he actually contributes—

Mr Jones: Well, I think that if the Minister looked at my record and the record of the last Labour Government in office, we did—*[Interruption.]*

The Chair: Order. Can I ask whether it is Kevan Jones's intention to proceed with pressing the new clause to a vote?

Johnny Mercer: Of course it is—he has got his press release ready to go.

Mr Jones: Can I just respond to that, Chair? No, I do not do press releases on this. And if the Minister actually cares to look and do some research instead of doing his lazy thing of just reading out civil service briefs, he might know that I have been committed to this issue for a long time. And in terms of the last Labour Government—

Johnny Mercer: Why didn't you do anything about it?

The Chair: Order.

Mr Jones: If the Minister wants a lesson in the long list of things that both I and my predecessors did in the last Labour Government for veterans, I shall send it to him.

The Chair: Order. Mr Jones, thank you; Minister, thank you.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 4]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

Johnny Mercer: On a point of order, Mr Sunderland. I seek your guidance on what I should do as the Minister when I am sat here and facts are presented to the Committee that are fundamentally untrue. The officials from the Department have just come back to me on the continuity of education allowance, which the hon. Member for Glasgow North West raised. The allegation is that it is predominantly used by officers, but the figures do not show that. I have informed her that that is the case, but

she still does not wish to correct the record. What do you suggest that I do when dealing with misinformation on this scale?

Mr Jones: Know your subject, rather than just read the brief out.

Johnny Mercer: There seems to be some distortion on the line, Mr Sunderland. I can't quite hear you.

The Chair: Thank you for the point of order. My response is quite clear on this. First, Minister, you have the right to respond on all the amendments and new clauses that we are discussing. The second part of my advice is that if you are not happy with being interjected on, or if a statement that is incorrect is made after you have spoken, you have the right to make a point of order.

Johnny Mercer: Further to that point of order, Mr Sunderland. Is there any way to reduce the heckling from the right hon. Member for Darlington North so that I can get through my speech without this persistent barrack-room heckling?

The Chair: Thank you once again, Minister. I urge all Members to stay on mute unless they are formally requested to speak or wish to intervene.

Johnny Mercer: Thank you.

New Clause 8

TERMS AND CONDITIONS OF SERVICE

"(1) The Armed Forces Act 2006 is amended as follows.

(2) Section 343A, after subsection (5) insert—

'(5A) An armed forces covenant report must include—

(a) a comparison of the terms and conditions of service for service people with other public sector employees, and

(b) an assessment as to whether service personnel face no financial disadvantage through their employment.'"—*(Mr Jones.)*

This new clause will ensure that the principles of the Armed Forces Covenant extend to matters relating to the financial disadvantages subjected to UK serving personnel and veterans, as a result of their time in the Armed Forces.

Brought up, and read the First time.

Mr Jones: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 10—*Due regard given to service personnel—*

"(1) When preparing policy, public bodies must have regard to those matters to which the Secretary of State is to have regard in preparing an Armed Force covenant report, under section 359A (2A) of the Armed Forces Act 2006.

(2) In preparing policy, public bodies must consider whether the making of special provision for service people or descriptions of service people would be justified.

(3) The Secretary of State must lay 12 months following the day on which this Act is passed, and every 12 months thereafter, a report which sets out how decisions made by the relevant Departments have taken due regard to the Armed Forces Covenant into account."

This new clause will ensure the Government fully enshrines the Armed Forces Covenant into law. It clarifies the duty to have 'due regard', meaning public bodies and ministers must consider the same issues that the Secretary of State does in preparing the Armed Forces Covenant Annual Report.

New clause 14—*Statistics to be reported as part of the Armed Forces Covenant Report—*

"(1) The Armed Forces 2006 is amended as follows.

(2) Section 343A, after subsection (5) insert—

'(5A) An armed forces covenant report must include the number of—

(a) veterans (or families of veterans) who have contacted the Office of Veteran Affairs or Veterans UK each year and an overview of the most commonly mentioned reasons for contact;

(b) veterans who have applied for a Veterans Railcard;

(c) veterans who have applied to the Civil Service Interviews Scheme, and the proportion of these who have been successful in a job offer;

(d) veterans in the street homeless population; and

(e) veterans who have died by suicide.'"

This new clause, with NC15, will improve the Government's collection and reporting of data on veterans in the Armed Forces Covenant Annual Report. It also places a duty on all public services to establish whether all new users are a veteran.

Mr Jones: First, may I put on the record for the Minister that my constituency is not Darlington North but North Durham, which I am proud to have represented for the past 20 years? Can I also just give him some advice? If he actually read around the subject and understood it, rather than just reading out the civil service brief, he might be able to think on his feet and answer the points. It is called preparation for Bill Committees—I am not sure he does a great deal of that.

New clause 8 gets to an issue that was raised earlier by the hon. Member for Glasgow North West—the ability of the armed forces to make representations on their terms and conditions of employment. That ability is limited, and the first issue that I will raise is pay. We have already heard about their limited ability to raise issues in other areas, but it is down to the Armed Forces Pay Review Body to look at the way in which the armed forces are remunerated. I accept that it is not a straightforward situation, due to not just the different ranks and responsibilities, but the complexity. The three services are not always easy to understand.

Because the armed forces cannot make representations on their own pay, they rely on the Armed Forces Pay Review Body to do that intensive work. Anyone who cares to read its annual reports—sadly, I do—knows that it does an excellent job of trying to gauge opinion across the armed forces, and it has comparators with other sectors. I accept there is not a complete read-across to other, civilian areas, because, for example, there are issues around abatements of pensions and other things, but the Armed Forces Pay Review Body is expert in being able to do these things.

There was not a problem until 2010, because it was assumed that no Government would not accept the pay review body's recommendations. We are talking about standing up for our armed forces, and I was proud to be a member of a Government who accepted those recommendations in full. However, that changed in

[Mr Kevan Jones]

2010, when the coalition Government, and then the current Conservative Government, did not accept the pay recommendations. The MOD might accept them, but they are not implemented in terms of the Treasury recommendations. In 2010, an Army private was paid £17,014 per annum. Average inflation has been 2.7% over the period since then, which means a private should receive £22,338 today. However, a private earns only £20,400 today—an almost 10% cut in privates' pay since 2010.

On Second Reading, the hon. Member for Brecon and Radnorshire (Fay Jones) said that the Tory party is the party that stands up for the armed forces. I can imagine the hue and cry there would have been if I had recommended that armed forces pay should be cut in such a way when I was a Minister in the Ministry of Defence. This just shows how hollow those words are. One of the important things about a pay review body is the fact that it is independent. Clearly, in 2013, Downing Street did not like the recommendations from Alasdair Smith, who was then the chairman and whom the Government failed to reappoint, because he wanted to go beyond the 1% basic rise that had been recommended.

The Government cannot pick and choose when service personnel are treated as public servants. The wage cap in the public sector was argued for on the basis of austerity, but I would argue that members of the armed forces should be treated separately, because they have an independent body that looks at their pay. As has been raised already, they do not have the ability to make recommendations or to take any actions.

New Clause 8 is designed to ensure that the covenant report includes comparisons with the terms and conditions of service in the public sector. Many of those may well be issues that are raised by the pay review body, but I would certainly like to see that emphasis, so that we can judge what the Government are doing.

As I say, we have had a coalition Government and a Conservative Government who have cut armed forces pay, but they also made people compulsorily redundant in the early 2010s. Again, if I had recommended that as Minister for the Armed Forces, the newspaper headlines and Conservative Members would have said that it was an outrage. However, it has gone through very quietly, like the issue of armed forces pay. New clause 8 would ensure that armed forces pay is on the agenda and we have the ability to ensure that Governments of whichever colour do not renege—which this Government have done, and which the coalition Government did—on armed forces pay.

The Chair: Before I call Stephen Morgan to speak to new clause 10 and then Sharon Hodgson to speak to new clause 14, I remind Members that this sitting is being broadcast live. Members should therefore refrain from arguing in public. I remind everyone that they must formally intervene and then stay on mute when they are not speaking.

10.30 am

Stephen Morgan: New clause 10, taken together with amendments 3 to 6, is designed to ensure that the Government fulfil their commitment to fully enshrine the armed forces covenant into law, and that it is delivered to all service personnel, veterans and their families. As I previously noted on amendments 3 to 6, the Bill as drafted attempts to absolve central Government of the responsibility to deliver the armed forces covenant. Instead, it places the burden on cash-strapped local authorities and other public bodies, and provides no new resources with which to deliver it.

The new clause would strengthen the duty of due regard. It would build a conscious commitment to all aspects of the covenant into the framework of Government public policy, and mandate Ministers to provide evidence of where they have done that. Serving personnel, veterans and their families access a great range of services from across Government Departments, local authorities and other public bodies, but the Royal British Legion has pointed out that policy areas in which members of the armed forces community experience difficulty are often ultimately the responsibility of national Government or based on national guidance provided to other delivery partners.

Placing the burden entirely on local authorities and other public bodies conveniently leaves out the responsibilities that the Government have to veterans in areas such as pensions, compensation and even social care, where central Government set the policy that is delivered by local authorities. It also means that serving personnel who rely on the MOD for most services are not currently included in scope. At the moment, the Bill does little to reinforce and support the welfare of those who are actively serving. After a year in which they have been bolstering our frontline efforts to tackle coronavirus, in addition to carrying out continued deployments overseas, nothing is more illustrative of the low ambition with which the Government have approached the Bill.

The operation of the new clause is similar to that of the Well-being of Future Generations (Wales) Act 2015, which ensures that relevant new legislation and guidance pass a climate change litmus test. Why would we not require the same standards for our armed forces communities? The covenant contains laudable commitments that should be delivered to those who have served our country with courage and distinction, but for many in service communities it is a well-meaning but nebulous document that cannot be relied on to make any tangible difference to their day-to-day lives, as we have heard from witnesses and seen in successive reports. A practical example is the debate around priority care for veterans. That is guaranteed by the covenant, but as Cobseo pointed out in the armed forces covenant annual report, it is implemented in an inconsistent manner, and its ambiguity can cause problems on the ground.

We know that the statutory guidance that will give meaning to the legislation will not be published in full until Royal Assent. That means that politicians, service charities and, most importantly, service communities will not understand whether the Bill actually delivers until it has passed. Why are the Government happy to take that chance? The new clause is an antidote to the ambiguity and fragmentation of the current system of covenant delivery. It consciously builds the concept of "no disadvantage" into policy making across public bodies and offers an opportunity to give actionable meaning to the laudable but sometimes ambiguous

commitments in the covenant. Taken together withother proposals, it will clarify the promises in the covenant and ensure that all aspects are deliverable in practice for service personnel, veterans and their families.

Mrs Hodgson: It is a pleasure to follow my right hon. Friend the Member for North Durham and my hon. Friend the Member for Portsmouth South. I rise to speak to new clause 14, which calls on the Government to record and then report the following: first, the number of veterans, or families of veterans, who have contacted the Office for Veterans' Affairs or Veterans UK each year, with an overview of the most commonly mentioned reasons for that contact; secondly, the number of veterans who have applied for a veterans' railcard, as well as the number of veterans who have applied to the civil service interview scheme, and the proportion who have been successful; thirdly, the number of veterans in the street homeless population; and, finally, the number of veterans who have died by suicide.

I know that the Minister is working on all those areas, but the reality is that without the data we cannot establish what more may need to be done. He is right to celebrate having the veterans' question on the census for the first time. I look forward to seeing the data published as a result of that. He also often celebrates the veterans' railcard and the civil service interview scheme, which is why we are keen to hear how they are doing. I have tabled some written questions to find out, and it looks like both are going really well.

New clause 14 relates to my previous speech on public services asking if someone is a veteran or reservist. Such a measure would improve services and help government—at a local and national level—to make policies to address shortfalls. For example, in July to September 2020, 460 households were reported as having additional support needs due to a member having served in the armed forces. But not all local authorities ask, or consistently record and report this data.

We have only a small insight into the number of veterans represented in the street homeless population in London. In 2019-20, 376 people seen sleeping rough in London were recorded as having served in the armed forces; 129 of them were UK nationals. That is an increase from 2018-19, when 322 people seen sleeping rough in London—115 of whom were UK nationals—were recorded as having served in the armed forces. But, again, not all rough sleepers are assessed on their armed forces history, so we cannot say for certain whether these trends reflect what is happening in the whole population of rough sleepers.

Similarly, we do not know the scale of veterans' suicide. I know that this is a complex issue that the MOD is working on, alongside a further study by Professor Nav Kapur from the University of Manchester, who is looking into the causes of veteran suicide. However, if coroners were mandated to record the service history of the person who has died by suicide, we would be a step closer to understanding the scale of veteran suicide and whether being a veteran played any part in a suicide, as it is not always a contributing factor. New clause 14 seeks to measure the scale of the issue so that we can understand and address it.

I hope that the Minister will see merit in recording and reporting this data to better improve our understanding of veterans' lives and the challenges they face, and therefore to improve the Government's response to the issue.

Johnny Mercer: These new clauses, as I understand them, are linked by a desire to broaden the kinds of issues that the Government are required to report on annually to Parliament in respect of delivery against the armed forces covenant. I will take each new clause in turn and explain why the Government do not believe that proposed additional reporting obligations will work.

New clause 8 would require the armed forces covenant annual report to include comparative data on the terms and conditions of service personnel versus other public sector employees, and an assessment of whether service personnel experience financial disadvantage because of their service. I assure the right hon. Member for North Durham that the Government are committed to ensuring that the terms and conditions of service personnel remain attractive and competitive, and that service personnel do not face financial disadvantage.

The overall remuneration package for service personnel ensures that they are compensated for the additional costs of service life. Whether based in the UK or deployed overseas, service personnel receive additional pay enhancements that recognise the unique challenges of service life, and they are further rewarded with annual pay increments, recognising their development and commitment. On top of that, service personnel continue to be rewarded with one of the most generous non-contributory pension schemes in the country.

I recognise the importance of ensuring that terms and conditions are reviewed regularly. That is the role of the independent Armed Forces Pay Review Body, which we have talked about already this morning. It provides advice to the Prime Minister and the Secretary of State on the remuneration of service personnel, and its remit compels it to consider the need for armed forces pay to be broadly comparable with pay levels in civilian life. The Armed Forces Pay Review Body already submits an annual report on its work to the Prime Minister and the Secretary of State, who then present it to Parliament for the Government to respond to. The recommendations of the AFPRB have always been accepted by the Government. We therefore consider that the additional reporting requirement proposed by this new clause would not provide to Parliament any information that is not already received in the annual AFPRB report.

I move on to new clause 10. I interpret subsections (1) and (2) as requiring all public bodies, particularly Government Departments and Ministers, to have due regard to the principle of the covenant when making policy. If my interpretation is correct, I refer my right hon. Friend the Member for North Durham to answers that I have given elsewhere about extending the scope of the duty to include central Government Departments. Broadly, central Government are already held to account in our delivery of the covenant by the statutory requirement to report annually to Parliament on progress against the covenant. I reiterate that this will remain a legal obligation.

Clause 3 would appear to require the Secretary of State to report annually to Parliament on how other Government Departments have demonstrated due regard

[Johnny Mercer]

to the covenant principles when making policy. Quite apart from the fact that that would impose a disproportionately large administrative burden on Departments—especially the MOD in having to write such a report—the Government consider that the salient information required by Parliament to monitor Government Departments' progress in delivering the covenant is already contained in the covenant annual report.

Finally, new clause 14 would require the covenant annual report to include new statistics on veterans in several areas, including the number of veterans contacting the Office for Veterans' Affairs and Veterans UK each year. The Government absolutely recognise the importance of measuring the progress we are making in delivering support for veterans and remain committed to continuous improvement. In terms of both the number and quality of the metrics reported against annually in the covenant report to Parliament, the OVA is working across Government to develop a framework of measures to track progress against the outcomes set out in the strategy for our veterans. We already intend to publish an annual veterans report, setting out our progress in delivering against our objectives. We anticipate that that would also include statistics reflecting the key initiatives, such as the veterans railcard, which my hon. Friend the Member for Washington and Sunderland West mentioned.

In the light of our plans for an annual veterans report, the Government are of the view that these additional reporting requirements for the covenant and the report are not necessary. I hope that, following these assurances, Members will agree to withdraw, or will not press, their new clauses.

Mr Jones: The Minister says that the Government are committed to armed forces personnel facing no financial disadvantage, but they will if the Government accept the Armed Forces Pay Review Body's recommendations but do not actually implement them. It is important to notice that although the armed forces do have good pensions—they are an outlier in that respect—armed forces personnel do pay for them, because those pensions are taken into account when service pay is calculated by the Armed Forces Pay Review Body.

I would accept what the Minister says, and we would have no problem with this, if we had a Government who implemented the Armed Forces Pay Review Body's recommendations, but we have not; since 2010 we have had a Government who have not implemented those. I will therefore press the new clause to a vote, because I think an extra level of reporting is needed to show that armed forces personnel are not being disadvantaged in this case by a Government who do not implement the recommendations of the Armed Forces Pay Review Body.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 5]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

New Clause 11

HOUSING REPORT

"(1) No later than 12 months following the day on which this Act is passed, and every 12 months thereafter, the Secretary of State must publish a report on what constitutes minimum standards for Armed Forces accommodation.

(2) The report should also include—

(a) number of service personnel currently living in accommodation considered to be below minimum standard, and

(b) the geographical spread of the accommodation deemed to be below minimum standard for Armed Forces accommodation.

(3) The first report published must include an analysis of establishing a housing charter, which would place a duty on the Ministry of Defence to produce a housing charter guaranteeing a common, minimum standard across all service accommodation."—*(Stephen Morgan.)*

This new clause will require the Government to report annually on the standard of service accommodation, including the number living in accommodation below minimum standard and its geographical spread, and produce a Service Housing Charter to set and enforce a common, minimum standard across all service accommodation.

Brought up, and read the First time.

10.45 am

Stephen Morgan: I beg to move, That the clause be read a Second time.

This clause is designed to take long-overdue comprehensive action to tackle the low standard of accommodation that our service personnel face. It will require the Government to report annually on the standard of service accommodation, including the number below minimum standards and where they are located. It will also place a duty on Ministers to provide a service housing charter, which will set and enforce a common minimum standard across all service housing.

As I have said when speaking to previous amendments, as currently drafted the duty to have due regard does not apply to Government Departments. This means that service accommodation, which is the responsibility of the MOD, is not currently included in the Bill. This new clause seeks to change that, and to respond to the widespread concerns raised repeatedly by service charities, service personnel, the Select Committee on Defence and the National Audit Office.

According to the armed forces continuous attitude survey, 40% of tri-service personnel live in single living accommodation, and 31% live in service families accommodation. A third of both these groups are dissatisfied with the overall quality of their accommodation. Roughly half of both these groups are dissatisfied with the response to maintenance requests, and a further 45% of personnel are dissatisfied with the quality of that work. This has been reinforced by the recent NAO report on SLA, which detailed a £1.5 billion backlog of repairs and an appalling prevalence of issues with heating

and hot water. Even the chief operating officer of the Defence Infrastructure Organisation has conceded that the current quality-grading system for single living accommodation is complex. Yet it finds that 36% of personnel live in grade 4 or below, which is the lowest of the categories, and there is no minimum standard. Problems with heating and hot water are widespread.

The Government have committed funds to the modernisation programme, which is welcome, but it will take significant time to come to fruition. In the meantime, it is essential that we have a transparent picture of standards for which Ministers and civil servants are accountable. When we look at service family accommodation, it is the fix-on-fail contracts that cause so much trouble. Although Ministers say that Amey is meeting its key performance indicators, I suggest that these need to be reviewed, as the reality for service families is very different.

Last week, I spoke to naval families living in SFA in Portsmouth. They described huge waits for maintenance appointments and botched jobs that exacerbate problems and leave homes in shameful states of repair. I understand that service family accommodation is subject to a decent homes standard, but this in itself should be reviewed and the Government should aspire to far better for our service personnel.

Although the provision of service accommodation is split, with some being provided directly by the MOD and the rest being outsourced, it does not prevent a clear minimum standard from being applied across the board. This is simply a question of creating the homes fit for heroes that our service personnel deserve, and it should be a top priority.

It also poses a fundamental risk to recruitment, retention and morale. The 2020 armed forces continuous attitude survey found that 29% of personnel say that accommodation actively increases their propensity to leave. The Committee was due to visit service housing as part of its consideration of the Bill, but the Secretary of State mysteriously vetoed it at the last minute. Perhaps he was embarrassed by the unacceptable standards that our service personnel too often endure.

I would like to ask the Minister some very specific questions, and I look forward to his answers today. How does he justify the omission of the MOD among those responsible for having due regard to the covenant? Does he acknowledge the need for greater transparency on the overall quality of service accommodation? Will he undertake a review of Amey's KPIs, and how will the Government incentivise a move from fix-on-fail? Will he consider establishing a minimum standard across all service accommodation?

Tonia Antoniazzi: I thank my hon. Friend the Member for Portsmouth South for so clearly setting out the arguments for this new clause. For years, service personnel have had to put up with accommodation that is not up to scratch, and this Bill would have been a perfect opportunity to make some real, positive changes to rectify that.

When we heard from David Brewer and Tim Redfern a couple of weeks ago they were very keen to promote their successes but, as we all know and as recent surveys have shown, nearly half of our service personnel remain dissatisfied with their living arrangements.

I am sure we have all heard from constituents about acceptable housing, so today I would like to hear from the Minister about how exactly he is going to improve conditions for those who serve and their families. The state of accommodation has a big impact on the retention of staff. When more than a quarter of personnel are saying that accommodation is one reason for leaving the services, we know something just is not right. The loss of experienced, trained service personnel is not cost-effective, nor does it contribute to the state of readiness of our armed forces. Clarity and transparency are vital to improving conditions for our tri-service personnel, and I will be supporting the introduction of new clause 11 as it would go some way towards improving the current situation.

Johnny Mercer: My hon. Friend the Member for Portsmouth South seeks to place an obligation on the Ministry of Defence to commission an annual report to evaluate what constitutes the minimum quality standards for service accommodation and how many service personnel reside in accommodation that does not meet those criteria.

Our armed forces personnel are the heart of everything we do. As a condition of service and in recognition of their inherently mobile lifestyle, frequently remote bases and terms of service, regular service personnel are provided with high-quality, subsidised accommodation. Defence already operates a quality standard for all service family accommodation properties and is in the process of developing accommodation standards for single living accommodation. The Department has made a commitment to service personnel and their families to provide decent living standards through the service family accommodation customer service charter. The charter formally commits the Department to improve the condition and standard of the service family accommodation estate, sustaining improved levels of maintenance and repair performance and enhancing the customer service delivery that they receive from Amey Defence Services.

Defence has invested £1.2 billion over the last decade on construction and upgrades of our single living accommodation, and we continue to invest in a range of new build and renovation projects. My Department currently plans to invest a further £1.5 billion in single living accommodation, new build and upgrade projects over the next 10 to 12 years. That is more money going into SLA. As part of the wider £200 million upgrade programme for service family accommodation and single living accommodation that was announced by the Chancellor and the Secretary of State for Defence in July 2020, an additional £78 million will be invested in single living accommodation and transit accommodation by 2022.

With regard to applying a minimum standard of accommodation, I am pleased to report that service family accommodation already adheres to the decent homes standard, as defined by the Ministry of Housing, Communities and Local Government. Currently, 96.9% of SFA properties meet or exceed the standard, with work ongoing to modernise internal features across the estate. The standard of available housing is monitored on a monthly basis, and housing that does not meet the decent homes standard is not allocated to service personnel. The decent homes standard is currently being reviewed

[Johnny Mercer]

by MHCLG, and I look forward to considering the findings of the review and the impact that has on defence.

Work is ongoing through the SLA expert group to define an agreed minimum standard for SLA premises across all services. This work will also be supported by the roll-out of the SLA management information system, which will enable an evidence-based approach to the application of future funding through the analysis and exploitation of veracious accommodation data. The system has proved to be both complex and multifaceted, but it is now on track to go live in September 2021.

We conduct the armed forces continuous attitude survey annually, and it allows service personnel the opportunity to provide feedback on all aspects of service life, including accommodation. The results of the survey are used to identify particular aspects of the service accommodation package that require improvement. The publication of the defence accommodation strategy by the end of 2021 will formalise the Department's vision for our standards for such accommodation to meet the lived experience and expectations of our personnel now and in the future.

Given the scale of ongoing work to improve the standard of accommodation offered to service personnel, backed by significant investment in infrastructure and the existing procedures to monitor standards, it would be premature to require the Department to report on standards and produce a charter at this stage. The review of the decent homes standard is currently ongoing in MHCLG and is due to report in summer 2022. Following those assurances, I hope my hon. Friend will agree to withdraw the motion.

Stephen Morgan: This is perhaps the most fundamental standards issue. I posed a number of questions to the Minister, and it is regrettable that he has not answered those today. The Bill is a missed opportunity to tackle this issue, which the Government need to take further action on. I beg to ask leave to withdraw the motion, but we may return to it on Report.

Clause, by leave, withdrawn.

New Clause 12

MENTAL HEALTH REPORT

"(1) No later than 12 months following the day on which this Act is passed, and every 12 months thereafter, the Secretary of State must publish a report which must include—

(a) a definition of what constitutes 'priority care' as set out in Armed Forces Covenant and how the Secretary of State is working to ensure that it is being provided, and

(b) a review of waiting time targets for service personnel and veterans accessing mental health support.

(2) The first report published under this section must also include a resource plan to meet current Transition, Intervention and Liaison Service waiting time targets for the offer of an appointment in England and set new targets for mental health recovery through the veterans mental health pathway."—*(Mrs Hodgson.)*

This new clause would require the Government to produce a definition of 'priority care' to help primary care clinicians deliver the commitments in the Armed Forces Covenant, conduct a review of mental health waiting time targets for service personnel and veterans, and produce a resource plan to meet current waiting time targets.

Brought up, and read the First time.

Question put, That the clause be read a Second Time.

The Committee divided: Ayes 7, Noes 8.

Division No. 6]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

New Clause 13

INDEFINITE LEAVE TO REMAIN PAYMENTS BY COMMONWEALTH MEMBERS OF ARMED FORCES

"(1) The Immigration Act 2014 is amended as follows.

(2) In section 68 (10), after 'regulations' insert 'must make exceptions in respect of any person with citizenship of a Commonwealth country (other than the United Kingdom) who is serving, or has recently served, in the UK armed forces, such exceptions to include capping the fee for any such person applying for indefinite leave to remain at no more than the actual administrative cost of processing that application, and'."—*(Stephen Morgan.)*

This new clause will ensure that Commonwealth veterans applying for UK citizenship following their service will only pay the unit cost of an application for Indefinite Leave to Remain.

Brought up, and read the First time.

11 am

Stephen Morgan: I beg to move, That the clause be read a Second time.

The new clause is designed to address the frankly extortionate visa fees that Commonwealth veterans face to remain in the country that they fought for following their service. This is a long-standing and shameful practice, and I am pleased that Labour is bringing forward a solution. The clause proposes to ensure that Commonwealth veterans pay only the unit cost of an indefinite leave to remain application, currently set at £243.

It is a source of immense pride that those from across the world have served in our armed forces—from the 1.3 million Indians who volunteered to join the British Army in the first world war, to those who took part in operational tours of Iraq and Afghanistan. Today, more than 6,000 personnel serve in the forces from overseas, many from the Commonwealth. Alongside servicemen and women from this country, they continue to make extraordinary sacrifices and display incredible bravery, risking their lives overseas and more recently bolstering our frontline response to the coronavirus crisis, but the Government are shamefully letting them down.

Following four years of service, Commonwealth service personnel earn the right to live in Britain, but in recent years the Government have increased the fees for service personnel to apply. A service leaver with a partner and

two children will be presented with a bill of almost £10,000 to continue to live in the UK after they have served. That is an increase from just £155 in 2003. To add further insult, they are given just 48 days following the discharge in which to pay it. That is dishonourable, unfair and certainly no way to repay the bravery and sacrifice of Commonwealth service personnel.

This is not just a moral argument about appropriately recognising their service; it is an issue of basic humanity. Those eye-watering fees represent a huge part of applicants' wages, and many are not expecting them. The Royal British Legion, which has campaigned strongly on this issue for several years, suggests that around 300 Commonwealth personnel leave service and are faced with those fees. The fees leave Commonwealth veterans facing huge uncertainty and financial hardship, and feeling abandoned by the country that they have served.

Citizenship for Soldiers is doing fantastic work, as we heard in an evidence session, to advocate for those affected by this injustice. One of the claimants it represents, a 12-year veteran of the Iraq and Afghanistan campaigns, was given a bill in the region of £30,000 following an emergency operation, after he was deemed ineligible for free NHS care. As the Royal British Legion has pointed out, without leave to remain, Commonwealth veterans are cut off from being able to access employment or state support. That often leads veterans reliant on their families or charitable funds, or facing repatriation to their country of origin.

That is a breach of not only the armed forces covenant but the moral obligation that this country has to them. Successive armed forces covenant annual reports have pointed that out. The Royal British Legion and other service charities have explicitly called for this injustice to end. It should bring shame to us all. I know that many on the Committee sympathise with the new cause—including you, Mr Sunderland—and I hope that we will find the courage to support the amendment when it comes to a vote. Even the Minister has repeatedly said that this is an injustice, yet the Bill misses a crucial opportunity to end it.

Commonwealth veterans have already paid for their citizenship once, through their service to our country. I hope that colleagues from across the political spectrum will support Labour's new clause to ensure that no one has to pay twice.

Johnny Mercer: Let us be absolutely clear: Labour has done absolutely nothing on this issue since visa fees came in, and it offers nothing for our armed forces, so we should drop the doe-eyed "Labour care about humanity" stuff. Only one Government have come in and promised to do something on visa fees, and that is this Government, not one before. I am proud of that. We will provide a pathway to residency and we are looking to start a public consultation on that in the next month.

The Government highly value the service of all members of the armed forces, including Commonwealth nationals and Gurkhas from Nepal, who have a long and distinguished history of service to the UK both here and overseas. Commonwealth citizens and Gurkhas who have served at least four years or have been medically discharged as a result of their service can choose to settle in the UK after their service and pay the relevant fee.

The time before discharge that such settlement applications can be submitted has recently been extended from 10 to 18 weeks. We recognise, however, that settlement fees place a financial burden on service personnel wishing to remain in the UK after their discharge, and we recognise the strength of feeling from service charities and the public about this issue. The Defence Secretary has met the Home Secretary to consider how we could offer greater flexibility in future. We will launch a public consultation in the next month. I urge all those with an interest in the issue to respond to that consultation so that we may correct this injustice.

It is right and proper that we seek views on any change to the immigration fees policy through public consultation. In the meantime, the MOD makes clear to Commonwealth and Gurkha recruits the process by which they and their families can attain settlement in the UK, and the costs involved. The MOD is also working with the Joining Forces credit union to provide financial education, savings packages and loan packages to help non-UK personnel pay for visa costs, should they wish to remain and settle in the UK after their service. I hope that, with those assurances, the hon. Member will agree not to press the new clause.

Stephen Morgan: We do not believe that is a satisfactory response from the Minister. Ministers from successive Conservative Governments have promised a solution on this forever and a day. Commonwealth veterans should not have to wait until some time never for a consultation to kick off.

Mr Jones: Does my hon. Friend agree that the Minister did not tell the Committee that since 2010 the fees charged have increased from £840 to £2,389, which has made a real difference in the burden? Those decisions were taken by the coalition and Conservative Governments.

Stephen Morgan: I thank my right hon. Friend for that intervention. He is absolutely right. I alluded to some of the figures in my speech. Regrettably, the Minister did not cover that in his response. That is why—

Johnny Mercer: I am happy to respond.

Stephen Morgan: I will carry on, because I am near to the end of my speech. I will not press the new clause for now, but I put Ministers on notice that we will return to this issue on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: Sharon Hodgson, do you wish to move new clause 14?

Mrs Hodgson: I would like to move new clause 14 formally, Mr Sunderland. I listened intently to what the Minister said. With regard to both new clause 14 and new clause 15, I know that he says it would be an undue burden to ask this question and record this information, but I really think it is very important and useful, and I cannot see how collecting it would be anything other than a help, rather than a burden. I would therefore like to test the will of the Committee on this new clause.

New Clause 14

STATISTICS TO BE REPORTED AS PART OF THE ARMED FORCES COVENANT REPORT

"(1) The Armed Forces 2006 is amended as follows.

(2) Section 343A, after subsection (5) insert—

'(5A) An armed forces covenant report must include the number of—

(a) veterans (or families of veterans) who have contacted the Office of Veteran Affairs or Veterans UK each year and an overview of the most commonly mentioned reasons for contact;

(b) veterans who have applied for a Veterans Railcard;

(c) veterans who have applied to the Civil Service Interviews Scheme, and the proportion of these who have been successful in a job offer;

(d) veterans in the street homeless population; and

(e) veterans who have died by suicide.'"—*(Mrs Hodgson.)*

This new clause, with NC15, will improve the Government's collection and reporting of data on veterans in the Armed Forces Covenant Annual Report. It also places a duty on all public services to establish whether all new users are a veteran.

Brought up, and read the First time.

Question put, That the clause be read a Second time

The Committee divided: Ayes 7, Noes 8.

Division No. 7]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

The Chair: I ask Sharon Hodgson to confirm whether she wishes to move new clause 15.

Mrs Hodgson: As with new clause 14, I really think that this duty would not be an undue burden on any of the authorities that would have to ask this question. It would definitely provide excellent information for measuring outcomes. Again, I would like to test the will of the Committee and push this new clause to a vote.

New Clause 15

DUTY TO REPORT

"The Secretary of State to place a duty on all public services to include a question on whether the respondent is a veteran, has previously served in the Armed Forces or is a reservist to all new service users."—*(Mrs Hodgson.)*

See explanatory statement for NC14.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 8]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

New Clause 16

QUARTERLY REPORTS ON FORCES STRENGTH

"(1) The Secretary of State must lay before Parliament reports on infantry battalion soldier strength, including the percentage of combat-ready soldiers per infantry battalion.

(2) The first report must be laid no later than 3 months after the day on which this Act is passed.

(3) A further report under this section must be laid no later than three months after the previous such report."—*(Stephen Morgan.)*

This new clause will place a duty on the Secretary of State to report to Parliament quarterly on infantry battalion soldier strength, including the percentage of battle-ready soldiers per infantry battalion.

Brought up, and read the First time.

11.15 am

Stephen Morgan: I beg to move, That the clause be read a Second time.

The new clause is designed to provide greater transparency on the strength of our fighting forces, following the Government's broken promises on armed forces cuts. It would place a responsibility on the Secretary of State to report to Parliament each quarter on the fighting strength of our armed forces, including on the number of battle-ready soldiers per infantry battalion.

As the Committee knows, the Prime Minister promised to end the era of retreat, and that no further cuts would be made to the Army. Instead, he has further eroded our fighting strength: 45,000 personnel have been cut since 2010, and the forces were 10,000 below target strength. Now the integrated review and the Command Paper have confirmed that the Army will be further reduced to just 72,500 by 2025—smaller than at any time since the 1700s. That has been compounded by a leaked MOD report suggesting that 32 to 33 infantry battalions are short of battle-ready personnel.

The Chief of the Defence Staff said in 2015 that the ability to yield a single war-fighting division was

"the standard whereby a credible army is judged".

Recently retired British generals have said that further cuts to the Army would mean that the UK is no longer taken seriously as a military power and would damage our relationship with the US and our position in NATO. The Royal United Services Institute recently reinforced that point, suggesting that the cuts mean that the UK can no longer be considered a tier 1 or full-spectrum military power.

These sweeping changes to our armed forces represent a huge gamble with our national security. Although the battlefield is undeniably changing, it remains to be seen whether the investments made in cyber, space and electronic warfare will be enough to keep us competitive on the world stage.

Government cuts to the conventional strength of our forces today, with the promise of jam tomorrow in the form of pioneering technology, are nothing new. Tory Ministers promised the same in the 2010 and 2015 reviews, but they failed to deliver. In 2010 they promised a future force by 2020, and in 2015 they promised a war-fighting division with a strike force by 2025. It is now being promised in 2030. A recent Defence Committee report on the Army's armoured vehicle capability says that the division will be "hopelessly under-equipped" and overmatched by adversaries.

While we wait to see whether the Government finally deliver a coherent strategy for our national security, it is vital that we have a clear understanding of our fighting strength. Successive Conservative Governments have talked up their commitment to our armed forces, but they have broken their promises at every turn. Our adversaries will exploit continuing holes in our capability, and Labour is determined to ensure that our country can protect itself properly now and in the future.

Mr Jones: I rise to support this new clause because, as my hon. Friend the Member for Portsmouth South has outlined, promises have been broken not just by this Government but since 2010. In the run-up to the 2010 general election, the Conservative party argued for a larger defence budget, an increase in numbers, more equipment, and a commitment to the armed forces of our country. Since then, we have not just seen the size of the Army reduced; we have seen cuts in numbers in the Royal Navy, including the Royal Marines, and in the Royal Air Force. Under the coalition, we had the terrible situation where brave members of our armed forces were made compulsorily redundant—again, something that was never promised in 2010. Certainly, if a Labour Government had implemented that policy, Members on the Tory Benches would have opposed it and would have been highly critical of the Government for doing so.

The overall size of our armed forces does matter, not only in terms of the Army being able to deploy individuals but to ensure that, for example, the Royal Navy has enough personnel to put ships to sea. We can have as much equipment as we want, but if we do not have the individual servicemen and servicewomen to support that equipment, it is useless. In the past few years, we have seen naval ships tied up because of a lack of trained strength, so it is important that we have this report annually and also that it talks about trained strength, because the Government do play fast and loose with the numbers.

It is not just a matter of the overall size, but what the overall capability is and how many members of the armed forces can actually deploy. There has been a decade of decline in the UK's armed forces, and although the Minister and others champion the idea that they are supporting members of the armed forces, they have been part of a Government that have not only cut pay—as we have already spoken about this morning—but cut the actual numbers of the armed forces.

Another aspect I would like to raise is the lack of opportunity this will mean for many young people in constituencies such as mine, who proudly join the armed services to not only serve their country, but ensure they can have a career that they can be proud of and take those skills back into civilian life. The cuts will have an impact in constituencies across the country that provide men and women for the armed forces, because there will be a lack of opportunities. A lot of negative things are said about service in the armed forces, but I see service as a positive thing, where the people joining not only contribute to the safety that we all take for granted but, more importantly, get great career opportunities and opportunities that they would never have in civilian life. Once they leave, that expertise helps those individuals, and also helps local communities such as mine in North Durham. These cuts will limit the opportunities for those people, which saddens me, and is something we should bear in mind.

Carol Monaghan: I want to say a few words in support of this new clause. Again, it should be really straightforward. I cannot see any reason why the Government would oppose it; it simply asks for a report on numbers.

Both Members who have already spoken to this new clause have talked about the impact of reduced numbers. We must be clear that despite moves towards cyber-warfare and different types of platform, ultimately reduced numbers threatens our capability. When we are looking at operating in very difficult circumstances, the Government should take seriously any threat to our capability.

We must also think about the impact on the remaining personnel, because the burden on them increases as the numbers decrease, with fewer personnel having to do more. That has an impact on their lives, including their family life and interactions with those outside the military. It can also threaten their ability to take leave; it will be a serious issue if they have leave entitlement but are not able to take leave because there are insufficient personnel to cover. People cannot continue like that; perhaps they can for short periods, but not over months and certainly not over years or indeed their entire service. We need to think carefully about this.

To make a general point, I am concerned that we are in a Bill Committee and we are supposed to be discussing new clauses and amendments, with the Government looking at adopting those that are considered reasonable, but it seems to me at the moment that they have not taken on board a single one. That calls into question what we are all doing on a Wednesday morning participating in such a Committee. So I seek some advice on this from the Chair: surely the Government should seriously consider new clauses and amendments, particularly where there is consensus.

Mr Richard Holden (North West Durham) (Con): I agree with some of the fine words from my friend and neighbour the right hon. Member for North Durham (Mr Jones), but it is incumbent upon those proposing changes or proposing more service personnel to explain how we would achieve that and what other programmes they would like to see cut or what taxes they would like to see rise in order to pay for it—if you will the ends, you've got to will the means to the ends.

Carol Monaghan: Will the hon. Gentleman give way?

Mr Holden: Not at this moment, no; I am making a very brief point.

I know what happened just after 2010, after the right hon. Member for North Durham left the MOD: a huge amount of programmes were massively over-budget and had to be axed at the last minute, at the cost of hundreds of millions of pounds in some cases.

Mr Jones: Will the hon. Gentleman give way?

Mr Holden: Not at this stage, thank you.

We must be realistic, especially as we are looking at totally new threats from across the globe; our adversaries are operating in the grey zone, and we need to look at ways to counter them. If Opposition Members are going to propose different things, they need to explain how we can achieve them.

Mr Jones: I thank the hon. Gentleman for giving way, but say to him that that did not stop the Conservative party in 2009 and the 2010 general election, when it proposed a larger Army and an increase in the Defence budget. Yet the first thing they did was cut it. The hon. Gentleman should practise what he preaches. I do not know whether he was an adviser in 2010, but statements on the record and in the manifesto were completely turned over when the Conservatives entered the coalition Government; the first thing they did was cut the size of the armed forces and make people compulsorily redundant.

Mr Holden: I thank the right hon. Member for his comments, but, as he will know, immediately after the general election there was that lovely note left on the Chief Secretary to the Treasury's desk by the outgoing Chief Secretary to the Treasury saying that there was no money left. He will also know that a lot of the programmes that had to be axed following the 2010 general election had gone massively over-budget, which was only discovered in later years, due to obfuscation by members of the outgoing Labour Government about the actual state of the programmes. So I just say that it would be particularly helpful if, rather than trying to put more and more on the never-never as the last Labour Government did and the Opposition are proposing today, they were honest, straightforward and realistic with the British people about the choices that have to be taken.

The Chair: Before I call the Minister, does any other Member wish to come in?

Carol Monaghan: I just wanted to make a point. The hon. Member for North West Durham seemed to suggest that we were asking for numbers to be increased. It is quite important that there is clarification on that point; we are actually asking for numbers to be maintained. That is different. This Government are looking to cut numbers.

Mr Holden: Will the hon. Lady give way?

Carol Monaghan: I am happy to give way to the hon. Member, although he would not give way to me.

Mr Holden: I would just like to make the point that if we are not going to reduce numbers, we have to reduce capability in other areas. I would be very interested to know from the SNP spokesperson whether she wants to maintain the status quo, which means not responding to changing threats around the world. What is her party's proposal?

11.30 am

Carol Monaghan: I do not think this is a Bill Committee to discuss the SNP's manifesto, but we have been quite bit clear throughout that funding has to be found. If hon. Members want to discuss the SNP's manifesto, we can get rid of Trident, which is an enormous and expensive vanity project, which, frankly, we cannot afford.

Johnny Mercer: I really welcome the comments from my hon. Friend the Member for North West Durham. He is right about the absolute disaster zone we were left with in 2010. My right hon. Friend the Member for North Durham obviously likes to remind us regularly of his experiences in the MOD, but the key would be to look at them in detail and to be more honest about them. Ultimately, people watching this do not really care what happened 10, 15 or 20 years ago. What they care about is sorting out these issues now and that is what this Government are looking to do.

We have to meet the threat as it is presented in the integrated review. We have had a good defence White Paper that looks at the new and emerging threats, and the way we want to change our integrated operating concept. It is a good review. I think that members of our armed forces would like to see people get behind that, rather than talking about issues that are quite significantly out of date.

The hon. Member for Portsmouth South seeks to place an obligation on the Defence Secretary to

"report to Parliament quarterly on infantry battalion soldier strength, including the percentage of battle-ready soldiers per infantry battalion."

The Government already publish on gov.uk quarterly service personnel statistics, containing detailed information on the strength, intake, outflow and gains to trained strength for the UK armed forces overall and specifically for each of the three services, including the Army. Providing a further breakdown of those figures to include infantry battalion soldier strength and the percentage of battle-ready soldiers per infantry battalion would be highly likely to prejudice the security of the armed forces for three clear reasons.

First, it would expose any extant or potential vulnerabilities and capability gaps within the force structure—a threat that will be exacerbated over the next four years as the Army reconfigures and readjusts in line with the outcomes of the integrated reviewed. Secondly, it would risk exposing any nascent and emerging capability plan. Thirdly, it could reveal the size and strength of sensitive capabilities to our adversaries.

As the hon. Member for Portsmouth South will understand, the safety and security of our service personnel and the effectiveness of our force are among my highest priorities. He will therefore understand that I am not willing to put the security of our personnel at risk in this manner. There is also a real concern that focusing

Parliament's attention disproportionately on infantry strength would serve only to undermine the guiding principle of our nation's future security.

As the Secretary of State wrote in his introduction to the defence Command Paper, it is essential that our future armed forces are

"integrated across all domains, joining up our people, equipment and information to increase their outputs and effectiveness."

It goes without saying that providing quarterly updates on infantry strength alone would place an uncontextualised and unhelpful emphasis on one part of a large and integrated whole force that we value highly. That is why our current reporting, which is made available to all, covers that whole force.

In the light of these very real concerns, I hope that the hon. Member will agree to withdraw the new clause.

Stephen Morgan: National security is the first duty of any Government. Following the publication of the integrated review and Command Paper, it is clear that this Government have not only broken their promises on fighting strength, but taken a significant gamble with our national security in the medium term. I will withdraw this clause for now, but reserve the right to return to it on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 17

REPORT ON DISMISSALS AND FORCED RESIGNATIONS FOR REASONS OF SEXUAL ORIENTATION OR GENDER IDENTITY

"(1) The Secretary of State must lay before Parliament reports on the number of people who have been dismissed or forced to resign from the Armed Forces due to their sexual orientation or gender identity, this includes—

(a) formal documentation citing sexuality as the reason for their dismissal; or

(b) there is evidence of sexuality or gender identity being a reason for their dismissal, though another reason is cited in formal documentation.

(c) in this section, 'sexuality or gender identity' includes perceived or self-identified sexuality or gender identity.

(2) The report shall include recommendation of the sort of compensation which may be appropriate, including but not limited to—

(a) the restoration of ranks,

(b) pensions, and

(c) other forms of financial compensation.

(3) The report shall include a review of those service personnel who as a result of their sexuality have criminal convictions for sex offences and/or who are on the Sex Offenders register.

(4) The report shall include discharges and forced resignations at least back to 1955.

(5) The first report must be laid no later than six months after the day on which this Act is passed."—*(Dan Carden.)*

This new clause requires the Government to conduct a comprehensive review of the number of people who were dismissed or forced to resign from the Armed Forces due to their sexuality and to make recommendations on appropriate forms of compensation.

Brought up, and read the First time.

Dan Carden: I beg to move, That the clause be read a Second time.

This new clause seeks to right an historical wrong. Twenty-one years ago, the ban on LGBT+ personnel serving in the armed forces was lifted. During the years of the ban, it inflicted staggering cruelty on those men and women who had stepped forward to serve their country. This is a hidden history of the British military, so let me reveal some of the sorry tale.

Between the mid-1950s and 1996, men and women—predominantly men—of our armed forces who were thought to be gay were arrested, searched and questioned by officers trained for wartime interrogation. In many cases, this went on for days before they were charged, often without legal counsel or support. On many occasions, arrest was based on little evidence. It has emerged that many heterosexual personnel were falsely accused by service police officers, losing careers and, in some cases, homes and families. After harrowing investigations, these men and women were led away to military hospitals where they were subjected to degrading and shameful medical inspections, conducted in accordance with confidential Defence Council Instructions, held by every unit of the armed forces.

At court martial, in the moments before those convicted were sent down, operational medals and good conduct badges were ripped from their uniforms. They typically served six months in prison for the military criminal offence of being homosexual. It is staggering that this continued until 1996, and that administrative dismissal of LGBT+ personnel continued for a further four years, until January 2000.

As these members of our armed forces walked from prison, they were dismissed in disgrace, with criminal records as sex offenders, which from 1967 had no civilian equivalent. As they left through the main gate, they were commonly given letters instructing them to never again use their military ranks or wear items of uniform, for example in remembrance at the Cenotaph. With dignity, they continued to obey those letters. Their names were erased from the retired lists of the Army, Royal Navy and Royal Air Force as though they had never existed. These once-proud members of our military were cast out of the armed forces family and outed to their own family and friends. They lost their homes and their financial stability. Their service record cards had the top corner clipped and were marked in red pen with the annotation, "Dismissed in disgrace", causing many a lifetime of employment issues.

In the past, in their moments of need, these personnel were shunned by military charities. I am pleased that has now changed. However, there has been no such remedy or reckoning from our Government or the Ministry of Defence. The Committee heard at first hand, from the charity Fighting with Pride, accounts of how those affected live today amidst the ashes of their former service careers. Our LGBT veterans are scattered across the United Kingdom, often away from military communities, living lives in stark contrast to those hoped for when they joined the forces. In the 21 years since the ban was lifted, nothing has been done to support those LGBT+ veterans. The impact endures amidst loneliness, isolation, shame and anger. As Canada, Germany, the United States and other nations prepare, assess and make reparations, putting right this shameful wrong is long overdue for the United Kingdom, which persisted with the ban for longer and implemented it more zealously than many others.

[Dan Carden]

The Minister, I know, has offered his apology, for which many are grateful, and he and I have talked about this issue, but does he not agree that this community of veterans, who were treated with unique cruelty, deserve an apology on behalf of the nation from the Prime Minister in Parliament? They must be supported on the pathway to royal pardons, restored to the retired list and have their medals returned. Prohibitions on their use of rank and wearing of berets at the Cenotaph must be revoked. They need resettlement support, which we offer to all other members of our armed forces, and they must be fairly compensated and have their pensions reviewed in recognition of their service and the hardships they faced, then and now.

Until that is done, this will remain a matter of national disgrace, and it will stand in the way of this Government's stated wish to be a global exemplar for both LGBT+ and veterans' communities. This amendment places a duty on the Ministry of Defence to find our LGBT+ veterans, find out how they have fared and make recommendations to Parliament about what must be done to right this wrong. Remedy must not take years, and the Government will need to work closely with community leaders.

Martin Docherty-Hughes: I congratulate the hon. Gentleman on tabling this new clause; if he does press it to a vote, both of us on the SNP Benches will support it in its entirety.

In setting out the premise for the hon. Gentleman's proposition, it is clear why there should be consensus on the many issues he has raised and that we should take this as an opportunity to move forward. Both the Opposition and the Government should fully support ensuring that the lived experience of the LGBT community, especially those who have been forced out of the armed forces, is reflected in our deliberations and seek to remedy as best as possible their lived experience at this time—especially if that requires investigations into their financial position, access to pensions or the ability, on Remembrance Sunday, to march with their comrades, wearing the badges that should never have been taken away from them. That, at least, is basic; the other issues that the hon. Gentleman has raised will require serious investigation and deliberation by the Government.

Johnny Mercer: Again, I pay tribute to the hon. Member for Liverpool, Walton for raising this issue and for the manner in which he has raised it. I have a series of things to read out about what we are doing, and I am sure he is aware of that, but I want to answer some of his points in turn.

I am clear, and so are the Secretary of State and the Prime Minister, that the experiences of those individuals that the hon. Gentleman mentions were totally unacceptable. The military got it wrong. The military are now better for recruiting from the whole of society, and I am very clear on that. I know people will be watching this today, and I will receive messages disagreeing with that—"You are saying that the military wasn't any good because they discriminated against homosexuals." The reality is that the wider the pool we pick from, when it comes to diversity, sexuality and things like that, the better and more professional our military are in reflecting the society from which they are drawn. I make no apology for that.

11.45 am

I reiterate the apology I gave last year to our LGBT community, because it concerns me. I have spent hours with veterans who were dismissed because of their sexuality, and I am heartbroken that their experiences in the military were so different from mine. It is very hard, 20 years on, to imagine the institution as it was then, but I am clear that their experiences were unacceptable and we have to do what we can to redress it.

We have made progress, as people will have seen. I was the first Minister to apologise for this, and we are reinstating medals. To be clear, every veteran is entitled to wear their beret and medals on Remembrance Day, and I would encourage them to do so.

There are deeply challenging issues on how we seek restorative justice retrospectively for those whose careers were cut short and whose lives were decimated. For a lot of people this continued beyond their time in service. I know of people who, even now, are disadvantaged by this policy, because they have to say why they left the military. I am absolutely determined that we find a mechanism of restorative justice for that cohort.

Carol Monaghan: Will the Minister give way?

Johnny Mercer: Not at this moment, no.

I cannot rewrite history, and I cannot promise every last penny that was lost out on because people did not achieve their long service and good conduct. There is no mechanism possible to make that happen. What I will do, and what we are doing at the moment as part of cross-Government activity involving the Cabinet Office, the Ministry of Defence, the Office for Veterans' Affairs and the Home Office, is find a mechanism, working with Fighting with Pride, Stonewall and others, to address the appalling injustice for this cohort of veterans.

I give a commitment today to write to the Prime Minister to ask him to reflect on my apology to the LGBT community last year, and to ask him to consider doing so at a national level. I know that will not correct it, but it will go some way towards alleviation. I saw the impact of my apology. It is easy for those who are not in that cohort to downplay an apology or not to want to do it, because of its ramifications, but apologies are important for the cohort that went through this experience. I will write to the Prime Minister on that issue today.

In light of those things, I do not want to duplicate the work that is going on at the moment, because I want to get a solution for all these people, like Fighting with Pride, with which I am in constant communication. With those reassurances, I hope the hon. Member for Liverpool, Walton will agree to withdraw his new clause and to work with me to get to a place where this cohort is properly looked after and some sort of restorative justice takes place, in line with what I have done already. I hope he has confidence in what I have done already and in my commitment to go much further in future.

Dan Carden: I thank the Minister for his considered response and for committing to write to the Prime Minister. I will withdraw the new clause at this time.

There is a long way to go in the Bill, and I look forward to working with the Minister. The fact that he is working with Fighting with Pride and Stonewall is very positive. This is an issue of such importance that I would like to see it dealt with on a cross-party basis, with some agreement, so that restorative justice is finally done for these servicemen and women. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Schedule 1

CONSTITUTION OF THE COURT MARTIAL

Amendment proposed: 1, in schedule 1, page 38, line 11, at end insert

"or lower ranks after a minimum service of 3 years".—*(Martin Docherty-Hughes.)*

This amendment would extend Common Law rights for people to be tried by a jury of their peers to be extended to those in the Armed Forces.

The Committee divided: Ayes 7, Noes 8.

Division No. 9]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

Schedule 1 agreed to.

Schedules 2 to 5 agreed to.

Mrs Hodgson: On a point of order, Mr Sunderland. I place on the record my thanks to you for the excellent way in which you have chaired the Committee over the last few weeks. I also thank the Clerks for their guidance and expertise, which has been much needed at times, and their colleagues in the House who have made virtual line-by-line scrutiny happen successfully for the very first time. As I have said, we are the pioneers, and I hope that we will have made the virtual Committee experience easier for those who may come after us.

I thank the Minister for Defence People and Veterans for giving evidence to the Committee and putting the Government's position on the record throughout. I also thank my Front-Bench colleague, my hon. Friend the Member for Portsmouth South, for his leadership on the Bill, and my hon. Friends the Members for Gower and for Liverpool, Walton for their support and work on the Committee. I especially thank my right hon. Friend the Member for North Durham for his unrivalled expertise, which has helped us to scrutinise the Bill properly.

I thank Government Members, who have been constructive throughout and made valuable contributions. I also thank Scottish National party Members for their excellent amendments and contributions throughout. I thank the staff in all of our offices, who have ensured that we have been fully briefed and prepared for the Bill, as well as the representatives of all the sector bodies, charities and lobby groups for their help in giving written and oral evidence as well as comprehensive briefings throughout.

We have somewhat raced through the Committee stage of the Bill. None the less, it has been very productive. I am sure we have laid the groundwork for our colleagues in the other place to pick up the Bill and improve it further. I hope that in later iterations the Government take on board the suggested amendments, some of which were excellent and would improve the Bill. I look forward to continuing our deliberations in the remaining stages in due course.

The Chair: Thank you very much indeed for those kind words. I echo all of them. If I may, I will add my own personal thanks to the Clerks, who have been fantastic in supporting me, the tech team and all Members. Thank you for making the Committee so successful.

That concludes our formal consideration of the Armed Forces Bill. The formal report to the House will not happen until the Committee has considered its special report, which will be done in private.

Bill to be reported, without amendment.

11.57 am

Committee rose.