

# **Annual Report** 2009







"Sometimes it can take more courage to pick up a pen than a rifle."



### Our aim

To ensure all Service men and women and their families have confidence in the complaints system and are treated properly, by:

- monitoring individual complaints
- holding the Services to account for fairness, effectiveness and efficiency in their operation of the complaints system
- working with the Services and MOD to see that lessons are implemented swiftly and effectively
- accounting publicly to Ministers and Parliament.

### Our values

- independence of judgement
- fairness and justice
- integrity
- transparency and accountability
- respect for diversity
- proportionality
- outcome focus
- humanity.









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Dear Secretary of State,

I am pleased to provide you with my Annual Report for 2009. As last year, this report details the work of my office and the exercise of my statutory functions. It also provides my assessment of the efficiency, effectiveness and fairness of the Service complaints system.

My team and I are acutely aware of the impact on individuals of a complaints system that is not fair, timely and effective. Behind the statistics in this report are Servicemen and women who work in often difficult and dangerous environments. Daily news broadcasts have made us all aware this year of the challenges faced by those who serve and the demands placed on them. Where problems arise it is only right that these are sorted out quickly and properly.

This year's report details both the progress made in developing the Service complaints system and the areas where further progress is necessary. You warned me that some recommendations would not be delivered much before the end of 2010. The new data recording system is not due to be in place until October 2010 and I urge that it should not be allowed to slip.

Some of the improvements I recommended are contingent upon that system. I am pleased that this has not stopped the Services making progress on others. My assessment of their progress is shown in Chapter 3.

Timeliness remains a serious problem. Although there has been a concerted effort to reduce the numbers of pre-2008 cases still in the system, complaints are dealt with too slowly and many of the complaints made in 2008 remained unresolved at the end of 2009. Delay not only causes inefficiency, it is unfair to complainants

and those complained about. It also affects operational effectiveness, as shown throughout this report. Action has been taken over the year to put in place for 2010 improvements designed to tackle these severe delays. I welcome these initiatives and will be monitoring their impact.

I have grave concerns about complaints of bullying, harassment and discrimination, where the adverse impact on all parties of delay and poor handling is especially acute. I am also concerned that the new Service Complaint Panel system is largely untested. Chapter 4 discusses these and other challenges I believe must be addressed before I can be satisfied that the Service complaints system is working efficiently, effectively and fairly.

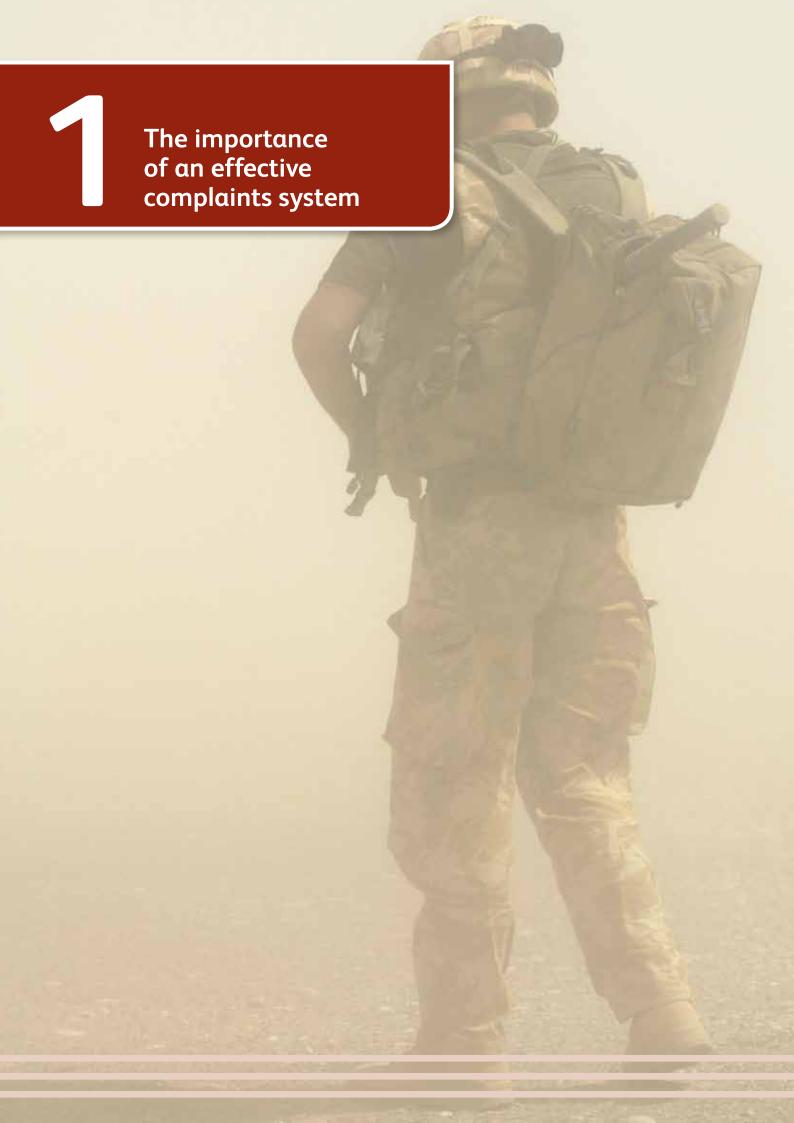
Nevertheless, there are some positive indications of an increasing confidence in the complaints system and a possible trend towards reductions in improper treatment. Evidence of progress against the baselines I set last year is integrated throughout the report. Accordingly, I recommend that Services continue with the actions they are already taking. Chapter 4 and 5 make a small number of recommendations for further action for both my own office and the Services for 2010.

Finally I would like to thank all those who have made me so welcome during my numerous visits to military units, as well as my team and all those who have worked hard in trying to deliver a Service complaints system that the Armed Forces deserve.

Susan Atturs

Dr Susan Atkins

Service Complaints Commissioner for the Armed Forces



#### This chapter explains:

- why an effective complaints system is important
- why an effective complaints system improves the operational efficiency of the Armed Forces.

### What are the benefits of an effective complaints procedure?

Ensuring that people's complaints are treated fairly, efficiently and effectively is an important aspect of any well-run organisation. The Armed Forces are no exception.

However, the Armed Forces are unique in their responsibilities, structure and culture. Service personnel work at the will of their employer in highly challenging, ever-changing and often very dangerous environments. Working on operations abroad, at sea, in the air or at home in the UK, they face pressures unparalleled in the civilian world. If they face bullying or unfair treatment, they cannot walk away from their duties.

That is why, in response to recommendations for a Service Complaints Commissioner, the Armed Forces emphasised the need to retain the handling of complaints, as an integral part of their duty of care to personnel. It is also why the existence of a fair, efficient and effective complaints procedure is perhaps even more important within the Armed Forces than elsewhere.

Service personnel and their families must be able to trust that the authorities will listen to their concerns and take their complaints seriously. They must feel that they can trust the system and speak in confidence without fear of recriminations. Having a fair and effective complaints procedure in place ensures that individual problems can be aired, and resolved, in a safe and non-disruptive fashion.

However, the importance of having an effective complaints procedure goes beyond delivering individual justice. It also has a significant impact upon the operational effectiveness of the Royal Navy, Army, and Royal Air Force. In the Services, people are the most valuable asset and as such recruiting and retaining the right people are key organisational objectives.<sup>1</sup>

# Impact of Service complaints on morale, recruitment and retention

Each of the three Services has a statement of ethos or values and standards that emphasises the rights of all personnel to be treated with respect. For each Service, this is an important part of their moral code.

<sup>1</sup> See for example three key objectives for the RAF set out in the Air Member for Personnel's Statement of Intent:

<sup>1.</sup> full manning through improved retention as a result of better personal engagement, tauter personnel policies and targeted and timely recruitment;

<sup>2.</sup> increased robustness, physically and mentally; and,

<sup>3.</sup> better appreciated personnel, achieved by enhanced through-life development and more responsive career management.

Ensuring that the complaints procedure is effective and fair can have a positive impact on morale and on recruitment and retention levels.

"We would like to thank the CO and everyone else concerned for the support they have given our son over the past few weeks. We would also like to thank yourselves for all your help, without you we believe our son would have been discharged from [his Service]. This was something he never wanted."<sup>2</sup>

Many leave the Armed Forces every year and a number do so due to bullying and harassment. The MOD Sexual Harassment surveys show that a high percentage of those who are subject to such treatment consider leaving as a result – 56% according to the most recent survey.

These views are echoed in cases seen by my office, where personnel have felt they have no choice but to leave the forces. In a number of cases, that decision has been influenced by the poor way their complaint has been handled.

"No-one has any idea of the deep and lasting damage such a protracted, badly handled and alienating experience can have on an individual's sense of loyalty, commitment, motivation,

self esteem, professional pride, personal and family life and overall sense of being valued and belonging in an organisation, after so many years of loyal and dedicated service... I intend that my remaining time in the [Service] will be as short as possible when this is all over."

Failure to handle bullying and harassment effectively leads to the departure of valuable personnel and represents not only a loss of motivated and valuable professionals, but also a waste of training hours and valuable resources. Training new personnel is a hugely expensive and time-consuming process. The Services will always have a regular turnover but it makes sense to minimise avoidable losses, particularly in the current operational and economic climate.

"I have now started my civilian life and to be perfectly honest I just want to put it to bed now and move forward. Having experienced the Phase Two training environment as a class I NCO I can honestly say I would not recommend to any young person today to join [up], having been threatened with violence by a member of the training staff."

There is inevitably a cost in terms of personnel time dealing with complaints. Even in the short term, investment in those resources can be worthwhile. In 2009, Service Chiefs have re-iterated the importance of dealing with complaints as an integral part of command. General Sir David Richards, then Commander in Chief Land Forces, instructed the Army to treat the handling of complaints as a command issue:

"I would be grateful if you can ensure that this message percolates to every corner of your command: and in a manner that leaves all of our officers and soldiers in no doubt of the Service complaints process and the SCC's role in it. I am particularly keen to ensure that individuals making a complaint are treated decently and fairly; and that this is understood by all. The Service complaints process is not a 'whingers charter'; it is part of the business of command."

He has also issued instructions to ensure that COs take more responsibility to deal with complaints that come to them. COs must now mention upheld complaints in the appraisal reports of transgressors and, should a CO fail to handle a complaint properly, this will be reflected in his or her own appraisal report.

The Royal Navy is incorporating these messages in their Personnel Functional Standards and a 2010 version of the Leadership Challenge for the Naval Service. As well as providing information about the role of the SCC, the Naval Services' Personnel Functional Standards clearly state:

"In any leadership position, the receipt of a Representation<sup>3</sup> or Service Complaint "on your watch" should not be regarded as a sign of failure. Taking a positive and confident approach to ensure that Representations and Complaints are handled properly will be recognised as a sign of a successful, mature and capable manager. Individual performance appraisal assessments are to reflect capability and behaviour in this regard."

All those in the Naval chain of command will be held to account against these standards.



The SCC at the Naval Service Commanding Officers Designate Course, HMS Collingwood, October 2009

<sup>3</sup> Representations are the means by which Service personnel can raise issues of concern regarding their welfare, the welfare of others or make suggestions connected with the Service.

The Air Marshall Personnel made similar points in his Update on Service Complaints sent to all Station Commanders, emphasising that:

"Early and clear intervention is key to achieving good resolution and will also assist us in continuously improving how we look after our people."

These welcome messages bring the Services into line with what is standard practice in most large organisations. I shall be monitoring their impact.

### The contribution of the Service Complaints Commissioner to operational effectiveness

The way complaints are dealt with ultimately reflects the culture of the Armed Forces as a whole. People are more likely to join the Armed Forces, operate effectively, and are less likely to leave if they are treated fairly and with respect.

As Service Complaints Commissioner, my role is to ensure that all Service personnel are treated properly and fairly, not just when they make a complaint but day in, day out in their Service lives. This is my contribution to help ensure the Armed Forces operate efficiently and effectively.





#### This chapter explains:

- my statutory role overseeing the complaints process
- the exercise of my referral powers, in relation to individual complaints
- my work with the MOD and Services on improving the Service complaints system and its impact
- progress against my 2009 objectives.

#### Statutory role

The office of the SCC was established to increase confidence in the Armed Forces' internal complaints system. My statutory role is to oversee the efficiency, effectiveness and fairness of the new Service complaints system (see table 1). This role has two parts:

- To provide an alternative way to make a complaint for Service men and women who, for whatever reason, do not have the confidence to do so directly to their chain of command: and
- To make an annual report to Ministers and Parliament on the efficiency, effectiveness and fairness of the Service complaints system.

In order to be within scope of my powers, any complaint to my office must be about a matter that could be a Service complaint – i.e. a complaint made by a Serviceman or woman as to how they have been wronged in their Service life. Legislation provides that where I refer an allegation of any sort of improper behaviour to the chain of command, they are required to keep me informed.

Whilst I can send other types of allegation to the chain of command and ask to be informed, they are not obliged to do so. This reflects the purpose and context behind the setting up of the SCC's role to help ensure that no-one suffers from bullying, harassment, discrimination or other improper behaviour.

In my first annual report I concluded that many did not have confidence in the Service complaints system, and with good cause.<sup>4</sup> I outlined criteria by which I would judge the efficiency, effectiveness and fairness of the system (see table 1) and made 17 recommendations for improvements.

Increasingly, the role of external scrutiny bodies is being understood not simply as one of accountability but also of improvement. The scrutiny provided by the SCC should strengthen the internal Service complaints system.

Because of the link between complaints and operational effectiveness, my aim as Commissioner is focused firmly on the impact of a complaint both on the individuals concerned and the Service more generally. In the context of the problems that prompted calls for independent oversight,<sup>5</sup> the Service complaints system will be effective if it results in less bullying and harassment.

<sup>4</sup> The Service Complaints Commissioner for the Armed Forces, Annual Report 2008.

A Review of the Circumstances Surrounding the Deaths of Four Soldiers at Princess Royal Barracks, Deepcut between 1995 and 2002, Nicholas Blake QC (TSO: HC795; 2006); Duty of Care, Third Report of Session 2004–05, House of Commons Defence Committee (TSO: HC63–I; 2005).

**Table 1:** Criteria for determining efficiency and effectiveness of the Service complaints system.

Efficiency	Effectiveness
Complaints well focussed and not able to be resolved in other ways	Good communication with all parties
Complaints resolved in a timely manner	Reduction in the gap between the levels of reported incidents of bullying, harassment and discrimination and the levels of recorded complaints
The majority of complaints resolved at level one	Quality outcomes – action taken to improve the operation of the organisation as a result of a complaint
More complex "policy" complaints dealt with at an appropriate level as expeditiously as possible	
Resources released as a result invested in improving efficiency of the system	

The Services need to learn from complaints and create a virtuous circle by which Service personnel feel able to tell their chain of command when problems arise, confident in the knowledge that action will be taken to prevent the same happening to others. To help achieve a reduction in improper behaviour, I set three year goals to close the gap between the incidence of bullying and harassment, as reported in the annual confidential surveys, and complaints about such treatment.

My first annual report outlined a range of information about the reported levels of bullying, harassment and other improper behaviour; benchmarks against which future performance will be measured. Progress in 2009 towards the longer term objective of reducing the gap between the reports of bullying and harassment and levels of Service complaints is provided in the next chapter.

# Complaints to the SCC in 2009 – the exercise of the SCC's referral powers

289 people, both Service personnel and their friends and families, contacted my office about a potential Service complaint, an increase of 50 %. This significant rise suggests that awareness of my office is increasing,<sup>6</sup> but it does not necessarily mean that Service personnel have less confidence in the complaints system. Indeed given low levels of complaints compared to reports in confidential surveys of unacceptable treatment, it might suggest the opposite.

#### Numbers and types of complaints

Compared to last year, there have been significantly fewer contacts about matters that were outside my scope. The overwhelming majority, 270, have been allegations or complaints that could be the subject of a Service complaint.

<sup>6</sup> See also paragraph 10.14 (main results) 2008 AFCAS for levels of awareness of the SCC role amongst service personnel.

A higher percentage of complaints in 2009 have been about improper behaviour, prescribed under the Armed Forces Act 2006 as falling within the powers of the SCC (called 'prescribed behaviour' in guidance and in this report). These are the allegations the SCC can refer to the chain of command and require the chain of command to keep the Commissioner informed of progress.7 Although the percentage varies between Services, overall 63% of complaints (i.e. initial contacts within scope) have been about prescribed behaviour, compared to 56% in 2008. Of these 168 potential complaints of prescribed behaviour, I referred 109 (65%) to the relevant Commanding or Superior Officers.

This year I have sent 37 other complaints to the chain of command, which was proportionately fewer than in 2008 (47 % compared to 61 % in 2008). This was intentional. I had secured the agreement of the Service Chiefs that I would refer a larger number of non-prescribed complaints in my first year than I would subsequently. This was intended to spread understanding about the new system and to instil confidence about the role and impact of the SCC. Experience from other jurisdictions had suggested that if the SCC became trusted to deal with less sensitive complaints, there would be more confidence in referring more serious complaints in future years. This strategic approach seems to have been justified.

Where I have received non-prescribed complaints, I have sent them to the chain of command when I perceived the issue they raised was one of concern amongst the Services, Ministers, Parliament or the general public. Examples have included the discrepancies between the joining instructions given to trainees and their actual clothing requirements, which led to unnecessary expenditure by their families; failures of communication between doctors and the chain of command; and the alleged loss of medical records hindering treatment for a soldier injured on operations.<sup>8</sup>

In the majority of cases, I have simply asked to be told of the outcome. However I have asked COs to let me know if the complaint also exposed any systemic weakness and of any consequent action taken to improve matters. I have also explained to complainants that they can contact me if they have concerns at any point about how their complaint is being handled.



<sup>7</sup> The full list of prescribed behaviour is: bullying, harassment, discrimination (including victimisation), dishonesty, bias or other improper behaviour.

<sup>8</sup> These cases reflect concerns raised by Ofsted and the Healthcare Commission externally and by Service organisations internally.

# Case study A – Action taken following a complaint to remedy a systemic weakness

Master Airman A made a complaint through me that, on two exercises, different squadrons of the RAF were deployed on different sets of allowances. As well as being financially disadvantaged, the helicopter squadron was felt to have been shown up to be 'poor cousins' of the fast jet squadrons. Another complaint on the same issue had been made directly to the chain of command. The DO upheld that complaint and all members of the helicopter squadron were then allowed to claim retrospectively for the monies owed to them.

The investigation into the issue, however, revealed that the nub of the matter was not the differential treatment between different parts of the Air Force, even though that was how it appeared to those on exercise. The problem had been caused by the way in which the rules about whether the exercise was to take place under 'field conditions' had been applied; and by weaknesses in communication in the chain of command. This issue was not a one-off and would continue to need attention.

The helicopter environment straddles the worlds of both the Air Force (living on a well supported base) and the Army (living in tents). They operate in diverse situations, sometimes in conditions where the nature of the terrain is not clear cut. The application of the rules as to whether the working environment is 'field conditions' impacts on single and married personnel differently so that, however it is called, there will be winners and losers. Critical to success, both in terms of avoiding complaints and more importantly not allowing distractions during the exercise itself, is a careful pre-deployment assessment of operating conditions and good management of expectations.

The CO therefore made a recommendation that the application of 'field conditions' rules should be carefully thought through by Joint Helicopter Command for future exercises, which was accepted. The complaints had also highlighted the importance of future leaders being accomplished communicators. The action he was taking to improve mentoring of future leaders would contribute to this goal.

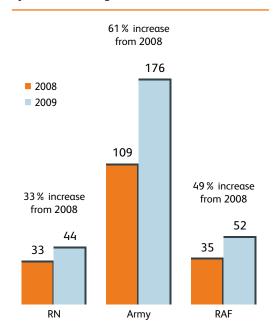
#### Complaints by Service

As in 2008, the distribution of complaints to the SCC broadly followed the relative size of the three Services, although there are notable differences between the Services. Overall, the level of complaints increased by 50%, but the increase from the Army was higher, at 61%. Complaints from the Naval Services have increased by 33% and from the Royal Air Force by 49%. Complaints from these two Services are roughly in proportion to their size.

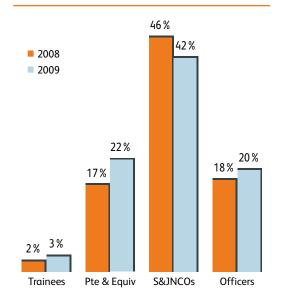
I received very few complaints from, or on behalf of, Royal Marines and the numbers seem disproportionally lower than the Royal Navy rate of contacts. The Armed Forces Continuous Attitude Survey (AFCAS) suggests that Royal Marines have the lowest levels of awareness of the Service complaints system generally and are least likely to know how to complain about unacceptable behaviour.<sup>9</sup>

<sup>9</sup> See table B10.9 (technical report) in 2008 AFCAS.

**Figure 1:** Number of complaints received by SCC by Service showing rate of increase from 2008.



**Figure 2:** Percentage of total complaints to the SCC by rank and showing changes in patterns from 2009.



## Complaints by rank of complainants

Although there has been an increase in the numbers of complaints in 2009, those numbers are still relatively small in absolute terms and even smaller when broken down by rank. Although this section gives information about increases and shifts in patterns of complaints since 2008, care needs to be taken not to read more significance into the figures than their absolute size allows.

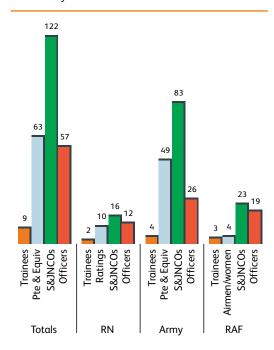
In 2008, the majority of the complaints (46%) came from Warrant Officers and Non-Commissioned Officers, (NCOs) – shown collectively as NCOs – followed by privates and equivalents (17%) and officers (18%), although there were differences in those who complained in each Service. This year, the overall pattern has been similar (42% from WOs and NCOs, 22% from privates and equivalents and 20% from officers) but differences between the Services remain, as shown in figure 3.12

<sup>10</sup> See figures 4 and 7a-d, pp. 40, 42-43, SCC Annual Report 2008.

<sup>11</sup> The missing percentages reflect those for whom the rank or Service was unknown.

<sup>12</sup> The difference between figures 1 and 3 is caused by cases where service was known, but not rank.

**Figure 3:** Numbers of complaints to the SCC in 2009 by rank and Service.



Overall, the largest rate of increase was from privates and equivalents. This is heavily influenced by the almost threefold increase in complaints from privates and trainees in the Army.

Figure 4: Total complaints by rank, 2008.

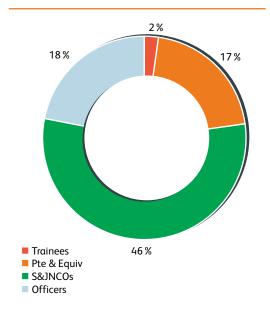


Figure 5: Total complaints by rank, 2009.

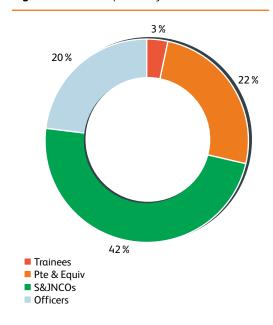


Table B.10.29 in the 2008 AFCAS shows an increase in the numbers of privates and equivalents, especially in the Army, who reported that they had made a complaint when they were being bullied or harassed. This general increase in willingness to complain may be one reason for more contacts to my office. Although parents or other family members are often the first contact, I only refer a matter if the Service person is content for me to do so.

In a number of instances, particularly concerning allegations of serious bullying of privates and equivalents, I have spoken to the CO directly and emphasised the need to ensure the safety and wellbeing of the complainant whilst the matter is investigated. In others we have sought urgent assurance about the safety of the complainant and the need to liaise with their family. It seems that, as shown by the quote on page 8, in these instances parents do feel that the involvement of the SCC has made a difference.

In my 2008 report I said I would continue to monitor complaints from officers. The overall rate of increase in complainants contacting the SCC this year is lowest from officers, although the numbers of complaints from RAF officers has doubled. Comments from officers on visits and in connection with cases suggest that officers do feel a need for external advice on whether to make a complaint, as the perceived cost to their career of doing so seems particularly high. They are concerned not to lose perspective when in the middle of difficult situations that affect them closely. I will continue to monitor this aspect of the complaints system, not least because of the leadership role that officers play.

#### **Naval Services**

The number of complaints received from or on behalf of ratings and trainees was the same as those received from officers (12 from each category). This was less than the number received from WOs and NCOs (16 complaints), from whom the least were received during 2008. The numbers of complaints received from WOs and NCOs more than doubled in 2009, but I do not have an explanation for this change.

#### **Army**

WOs and NCOs remain the category from whom most complaints have been received. There were more complaints from or on behalf of privates and equivalents, than from officers but levels of complaints from privates and equivalents are still relatively low compared to their numbers in the Service. Compared to 2008, the number of such complaints increased almost threefold.

This would seem to reflect the concerted efforts by the Army to improve awareness of the SCC, particularly at training establishments. These include incorporating information in induction material and presentations. It may also be a consequence of my visits to training bases and efforts to target other ranks specifically, as well as increasing confidence in the system. The results of the 2008 Recruit Trainee Survey (RTS) indicated increased awareness amongst trainees at Army Phase One and Two establishments about how to complain, bringing their level of awareness much closer to that of trainees in the other Services.13 However the same survey also showed a drop in the percentages of those who made a formal complaint when they believed they were treated badly.14 I will monitor this carefully next year to see if this marks a trend.

A number of complaints from parents suggest one particular area of risk is the transition from Phase Two training establishments to the first posting. This is supported by findings of an internal Army Review during 2009 of the handling of complaints of bullying and harassment.

"On leaving training, we were told that new arrivals can face what seems to them to be an alien environment in their new units. In many cases, this new environment, at junior levels for both officers and soldiers, does not embrace and enact the Values and Standards in the same way as the training environment. We found that, whilst young people had been changed from civilians into trained soldiers, they were joining an environment that was left unchanged by the Army's

<sup>13</sup> See para 107–110 and figure 37 (Phase One) and para 311–312 and figures 133–134 (Phase Two), 2008 RTS.

<sup>14</sup> In the 2007 RTS 14% of Phase One trainees and 16% of Phase Two trainees who said they had been treated badly had made a complaint. In the 2008 survey this had dropped to 9% and 8% respectively.

current efforts to become genuinely diverse and inclusive. Some likened this drastic change, experienced by new soldiers between the end of training and entry into the wider Army, to "falling off the edge of a cliff"."15

I would encourage all in the Army to continue their efforts to manage this transition effectively; including rolling out mentoring schemes already in place in some regiments and ensuring junior soldiers know how to complain when things go wrong. The 2008 RTS showed the previously upward trend of trainees who had made a complaint when treated badly has reversed. There is no room for complacency.

#### **Royal Air Force**

The pattern of distribution of complaints by rank of the complainant remained the same as 2008, with comparatively few from aircraftsmen and women. The higher numbers of complaints from RAF officers and NCOs may reflect the higher proportions of these ranks compared to the other two Services. However, it may also be down to some initial problems in disseminating information about the SCC. I would encourage the RAF to ensure information about the SCC does reach all trainees and is an integral part of induction presentations.

I received over twice as many complaints from RAF officers this year, which may be a reflection of my higher profile as a result of eight visits to RAF stations, good working relationship with the RAF Families Federation and a number of other RAF engagements, including speaking on the RAF Future Commanders course.<sup>16</sup>

#### Complaints by type

There has been an increase of 81% in complaints about prescribed behaviour, compared to 50% in total complaints. They constituted 67% of all complaints from Army personnel to the SCC compared to 53% in 2008, and 55% for both the Royal Navy and RAF (compared to 48% and 60% respectively).

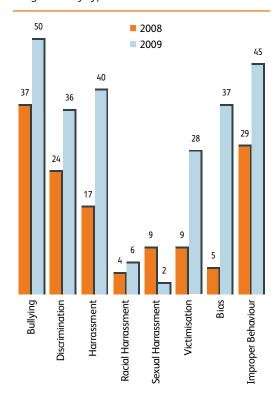
A complaint to the SCC may contain one or more allegations. We record the two that appear to be the main allegations and for which I am satisfied there is some supporting information. We have been more careful than in 2008 to distinguish allegations of discrimination based on unlawful grounds and allegations of other discrimination, which are now recorded as bias.

Even with that caveat, it appears that much of the increase in prescribed behaviour complaints has been from harassment, discrimination and bias, as can be seen in figure 6. Allegations of harassment have more than doubled, those of bias and discrimination are up 50% and those of victimisation are over three times the 2008 numbers. This pattern is slightly different to that reported by Service units in their returns on formal complaints of bullying, harassment and discrimination made directly to units (see figure 8 at page 58, where there appears to be a recent decrease in complaints of harassment).

<sup>15</sup> Para 3.45 of the Watts-Andrews Inquiry Report commissioned by the Chief of the General Staff. "Professional Army, Diverse Army. Forging the Link", 2009.

<sup>16</sup> A full list of my visits and speaking engagements can be found in Appendix Two.

**Figure 6:** Distribution of prescribed behaviour allegations by type of behaviour.



There are still more allegations of bullying and improper behaviour in 2009 than in other categories (as in 2008) but the rate of increase has not been as high (35 % and 55 %respectively). The level of complaints of racial harassment has gone up by 50 %, but remains small. The numbers of complaints of sexual harassment has dropped, a trend also noted in the Service returns until the last 6 months (see figures 8 on page 58). These statistics raise the question as to whether the incidence of overt sexual harassment has reduced or whether fewer women have been prepared to make such complaints. The MOD Sexual Harassment survey suggests the former may be the case but action taken following complaints referred by me, such as that described on page 27, may also be having an impact.

It would be wrong to infer that the increase in more serious complaints reflects an increase in serious incidents within our Armed Forces. Instead, in my view, this shows an increased confidence that the complaints made through the SCC will be handled in a respectful and considered manner.

Whilst I am pleased to see signs of increasing confidence in the system, the fact that I am now responsible for overseeing a growing number of harassment, bullying and discrimination cases means I am all too aware of the continuing shortfalls in how they are handled by the chain of command. This is discussed in Chapter 4.

#### Diversity of complainants

As in 2008, the majority of complaints were made by Servicemen. There has been a noticeable decline in the percentage of complaints made by women to the SCC, although complaints from women in the Royal Navy increased. With the exception of the Royal Navy the rate of complaints from women appears to be closer in 2009 to their representation in the Services.

**Table 2:** Percentage of complaints to SCC by service and gender.

Service	2008	2009
Royal Navy		
Male	82%	82%
Female	15% <sup>17</sup>	18%
Army		
Male	85%	92%
Female	15%	8%
RAF		
Male	83%	88%
Female	17%	12%

<sup>17</sup> The gap is due to a small number of complaints in 2008 for which the gender was not known.

As last year, the majority of complaints received from or on behalf of women were allegations of prescribed behaviour, with 52% of female Service personnel complaining about harassment or sexual harassment. The MOD 2009 Sexual Harassment survey suggests that more women recognise certain types of behaviour as unacceptable and contrary to their Services' values and standards than in the past.

There were gender differences in the types of complaints made to the SCC. Service men made allegations about bullying or bias most frequently and least about racial or sexual harassment, with 29% of Servicemen complaining about bullying. Servicewomen made more complaints about harassment and bullying and fewest about racial harassment or victimisation. 13% of Servicemen who made a complaint of prescribed behaviour also complained of victimisation, compared to 9% of Servicewomen.

We do not seek information on the ethnic origin of those who contact the SCC. However this information is made available by the complainant as part of the complaint in some cases. We believe that the number of complaints to the SCC from, or on behalf of, black and minority ethnic Service personnel almost doubled, up from 12 complaints to 23 in 2009.

Information in AFCAS and RTS suggests a higher incidence of bullying, harassment and discrimination reported by minority ethnic personnel. The RTS suggested that fewer ethnic minority personnel know how to make a Service complaint and that they have lower levels of confidence in the system. <sup>18</sup> I have recommended to all Defence Training establishments <sup>19</sup> that they need to focus effort on improving levels of awareness of how to use the Service complaints system amongst this group.

Information about the gender (and ethnic) breakdown of all Service complaints will only be possible with the introduction of the new Joint Personnel Administration (JPA) module. It should then be possible to consider whether the pattern of those who contact the SCC is the same or different to those who make complaints directly to the chain of command and consider the reasons for any difference.

We have had a few complaints from individuals who mentioned their sexual orientation but only three of those made allegations on these grounds. We received one complaint of religious discrimination.

### Closure of complaints received by SCC in 2009

Six of the 109 complaints of prescribed behaviour I had referred to the chain of command had been closed – just under 6%. Of these, three had been upheld in whole or in part, one was rejected and two were withdrawn.

<sup>18</sup> See paras 10.6, 10.9 and 10.12, 2008 AFCAS and para 108, 113 and 115 (Phase One) and para 312, 319 and 378 (Phase Two), 2008 RTS.

<sup>19</sup> DITC Conference on Continuous Improvement, November 2009.

Four of the 37 other complaints (11%) I asked to be kept informed about had closed: one had been upheld, two rejected and one withdrawn.

The average length of time for completed 2009 prescribed behaviour complaints referred to the Services was 50 working days. The average time for other complaints was shorter, 33 working days. As is shown above, the percentage of other complaints concluded within the year was higher than complaints of prescribed behaviour, reflecting the 2008 position.

The vast majority are ongoing and are still awaiting a level one decision. Any assessment as to whether 2009 complaints were handled more speedily than in 2008, or whether the oversight of the SCC affects the timely handling of a Service complaint, will therefore need to await the next annual report.

#### Update on 2008 cases

Of the 79 complaints of prescribed behaviour I referred in 2008, 32 (40%) have been closed and 47 remain in the system (of which 20 still await a level one decision). Of the 32 closed cases, 17 were upheld in whole or in part, six were rejected and nine were withdrawn by the complainant (for reasons unknown).

Of the 45 other complaints sent to the Services, 13 have been closed and 32 are still in the system. Of the 13 closed other complaints, seven were upheld in whole or in part, three were rejected and three withdrawn by the complainant (for reasons unknown).

In general, non-prescribed complaints were resolved slightly faster: from date of referral to date of notification of closure the average time for closed cases was 65 working days compared to 70 working days for prescribed behaviour cases.

These averages are around half those reported by the Army as the average time at level one, and around the same for the RAF, (see table 9 on page 41).<sup>20</sup> Even so the average is still three months. Assuming that these cases are likely to fall into the category of more simple complaints, this seems too long.

However I am very concerned that the majority of 2008 cases are still outstanding, and will have been in the system for at least a year. Thus, whilst much progress has already been made, there is still a need for significant improvement.

#### Malicious and vexatious complaints

I have been asked by the Services for my views on how many complaints were 'legitimate', and what proportion could be considered to be malicious or vexatious. Although the numbers of completed cases I have overseen is relatively small, nevertheless it does seem relevant in this context that over half of all such complaints in 2008 and half of 2009 closed prescribed behaviour complaints have been at least partly upheld.

The fact that a complaint is not upheld does not mean that it was not reasonable for the complainant to raise that complaint. Moreover it is not my role to decide whether a complaint is malicious or vexatious. That judgement can only be made by the person deciding the complaint after a proper investigation, and the majority of referred complaints of prescribed behaviour are still outstanding. A number of complex cases, involving multiple complaints, which might be viewed as vexatious, appear to be caused, at least in part, by poor handling of the complaint at the outset.

I received a number of complaints from those about whom a complaint had been made. A few alleged that the original complaint against them was malicious but even then most complainants centred on the poor way the chain of command handled the initial investigation and had treated them. For all these reasons I have no evidence that there are frequent instances of malicious or vexatious complaints.

This is not to say that this might not be an issue and I am aware of concerns in the Services about the risk of malicious allegations. Care needs to be taken to ensure that any measures to prevent such complaints, on which I would expect to be consulted, do not deter other complaints. Action to triage complaints, together with measures to produce more expert investigation resources and deal with cases more speedily, should help to identify potentially malicious complaints much more quickly.

# Working with the MOD and Services to improve the Service complaints system

Following their acceptance of all my 2008 recommendations, I have worked closely with the MOD and the Services as they prepared their implementation plans. Some of this work has been specifically linked to increasing awareness of responsibilities under the Service complaints system; some focussed on addressing issues that give rise to complaints.

I am increasingly being approached by all ranks and Services to discuss a range of personnel issues outside the investigation of specific complaints. The value of using complaints as an indicator of what is happening within the Services, coupled with the views of an informed outsider, is increasingly being recognised. The Second Sea Lord, at a Tri-Service Conference, noted:

"The role of the SCC and the chain of command in Service complaints is different and we each understand where the line lies. But she has made us look at complaints in a different way and realise their valuable contribution to our aim of continuous improvement."



### Increasing awareness and confident handling of Service complaints

All the Services have extended a standing engagement for me to take part in the training courses for Commanding Officers designate (in the Army and Royal Navy) or those identified as Future Commanders (in the RAF). I have also given a presentation to the Staff Course at Shrivenham, COs and key staff of all Service training establishments, the Army's Training and Recruiting Staff and the Army's Equality and Diversity Advisers. I also spoke at the annual conference of the Armed Forces Lesbian, Gay, Bi- and Transsexual Forum.

In these speaking engagements I aim to go beyond talking about basic responsibilities and focus on how best to handle complaints, the use of complaints as an integral part of command and the link with operational effectiveness.

The Service Complaints Commissioner has an important role to play in strengthening the formal command structure. Through my visits to bases and my meetings with various personnel, I am able to pass on useful information to COs about what is happening across the three Services and to share best practice.

For example, following a visit to his Unit, I was called by one CO about a suspected suicide, seeking advice on whether he had missed any action based on best practice. I was able to go through the lessons from the Deepcut Report, highlighting the importance of informing everyone at that unit to look out for, and alert the chain of command to, any sign that such a death may have affected other vulnerable individuals.

Insights gathered on my visits to various bases have allowed me to gain a greater understanding into the issues affecting personnel from all ranks and Services, enabling me to identify potential areas for concern and confirm information provided by other sources. My regular informal meetings with the Deputy Chief of Defence Staff (Personnel) and with the Principal Personnel Officers of the three Services, and their staff, have informed their development of personnel initiatives.

### Reducing the levels of bullying, harassment and discrimination

As in 2008, I presented a report on my work to the MOD Diversity Committee. The MOD and Services have continued work with the Equality and Human Rights Commission (EHRC) on the better implementation of Defence diversity policies. The then-Secretary of State invited me, as an independent party, to his meeting with the EHRC and I have been consulted by the MOD, the Services and the EHRC on subsequent action. I have also been consulted by Professor Charlotte Rayner, as part of the Review she undertook for the MOD of progress on the Armed Forces' Diversity Action plan.

I was asked to contribute to the Watts-Andrews Inquiry, which investigated the link between a professional army and a diverse army, and to peer review their report. I have met the Army Board to discuss the next steps on their Equality and Diversity action plan. The Army has taken forward some of my suggestions and is consulting me on the development of others.

My independence, and my distance from the chain of command, means that I am willing and able to challenge weaknesses and poor practices where I find them. In doing so I provide an outside perspective about what constitutes acceptable behaviour in the working environment.

For example, on a visit to an operational unit in 2008 I had expressed surprise that women were working in front of provocative posters stuck to the wall. The chain of command confirmed this was contrary to Service policy and ordered them to be removed. I was later told that the men had not realised that their female colleagues had felt unable to raise their concerns and were mortified that they might have caused offence. In 2009 I received a number of complaints about a particularly offensive poster allegedly used in training. When I saw this for myself, I wrote to the Adjutant General. An instruction was sent to all Commanders reminding them of Army policy on the display of offensive and pornographic material and requiring them to ensure that no offensive material was being used in training or displayed in public places.

"We need to ensure that all our people understand that we, and they, will be called to account if we continue to fail to live up to the standards of decency that we espouse. The Service Complaints Commissioner is rightly on our case on this issue and will be looking for our commanders to eliminate offensive cultures and images from our working practices."<sup>21</sup>

#### Informal action on complaints

Some potential complainants are initially reluctant to proceed when they realise that the SCC does not have any powers to investigate the matter independently. Occasionally, my office has been able to help broker satisfactory resolutions to potentially complicated situations, sometimes without the need for a formal, written Service complaint. In other cases, the involvement of my office and a meeting with the CO has given the individual the confidence to make a complaint.

Last year I recommended that all COs should meet with complainants before they submit their formal complaint. These face-to-face meetings can go a long way to help resolve potential complaints.

In other instances I have been contacted by welfare organisations connected with the Services about individuals who have come to them for assistance. Contacting the CO in these cases has led to potential complaints being resolved relatively quickly, something that is especially important when the complaint is about peer bullying and the individual in question has gone absent without leave (AWOL) as a result.

The Army has this year introduced nine specially trained WOs to handle cases of soldiers who go AWOL. By establishing the root causes behind their decisions to go AWOL, the WOs can work with the soldier, their families, their COs to ensure the soldier's return.

### Identifying areas of weakness or potential risk

One significant challenge is the identification of 'hotspot' areas, where there are repeated allegations of prescribed behaviour or mishandling of complaints. This is a piece of work that both the Defence Select Committee and the Services Chiefs have indicated would be of great value. I have raised with the Surgeon General, the Head of the Defence Medical Services (DMS) my concern at the numbers of complaints of bullying, harassment and other unacceptable behaviour in DMS, who provide vital support to operations and are carrying significant staffing pressures.

Given the additional infrastructure that will be provided by the JPA system in 2010, and the additional staff resources provided by the MOD, I plan to review and refine our records in 2010/11 to begin work on this area. I would hope to have in place by 2011 an automated case management system, without which my office's ability to be efficient and effective in this area will be severely hampered.

In order to help identify potential 'hotspots', as well as ensuring I am kept aware of the wider personnel environment, the MOD and the Services have started to inform me of any undetermined non-combat deaths. I have been told of 24 such deaths between December 2008 and December 2009. I have also been informed of some suspected attempted suicides and a number of serious incidents or complaints of bullying that were not referred through me.

This process also lets me help COs consider whether there is any indication of any improper behaviour by others in the lead-up to the incident, thereby helping to ensure that the lessons from the Deepcut Report continue to be implemented. I recognise the limits to my role, but where I can spot any issues that I believe could affect confidence in handling by the Services, I will highlight them.

For example, in the case of three apparently unconnected non-combat deaths on operations the Service police accepted my recommendation of an external independent review of their enquiry, similar to a 28 day review as set out in the ACPO Murder Manual.

When a death occurs in the UK, it is investigated by the civilian police force under protocols agreed after the Deepcut Report. This gives families recourse to the relevant police complaints oversight body if they are unhappy with any aspect of the police investigation. However, any death that occurs abroad, including on bases in Germany and Cyprus, is investigated by the relevant Service police force, meaning there is no independent oversight, although there will often be an independent review by a Coroner's Court.

I am pleased that sections 12 and 13 of the Coroners and Justice Act 2009 provides that, where the body of a Serviceman or woman (or certain civilians attached to the Services) is repatriated to Scotland following death on Service overseas, a Fatal Accident Inquiry may be held in Scotland, (or in certain circumstances, a Coroner's Inquest in England and Wales). This closes a gap identified in the Deepcut Review in relation to Service personnel from Scotland and about which I wrote to Ministers after contact from affected families.

Nevertheless, there have been calls from some quarters, including parents and the All-Party Parliamentary Group on Army Deaths, for the SCC to be able to oversee (and potentially investigate) any complaints made by the families of those who have died. To do so would change the nature of the SCC's role, as I have no power to investigate such complaints, as well as requiring a change to the Service complaints system, which is, in essence, an employment-related grievance system. Because the right to make a Service complaint is not transferable to a family, relatives cannot use the Service complaints system once a member of the Armed Forces has died.

In 2008, I invited contact from those who felt that there was a real need for this gap to be addressed and I re-iterate that call.

### Progress against objectives for the SCC

The tables below list the objectives I set for the SCC at the beginning of 2008 and a report of progress against each. Whilst it is for others to make an assessment of the effectiveness of the SCC and my office, for the sake of consistency I have shown my assessment using the same traffic light measure as used to measure the Services' progress in the next

chapter. A green box represents an objective that has been met, an amber box represents an objective where has been some progress and a red box denotes the objective has not been met.

We have met three of the eight objectives I set for my office in the 2008 annual report, and significant progress has been made against four other objectives but the scale and delivery of resources has caused some challenges.

#### 1. Customer service

Unanticipated difficulties in recruiting staff, together with the slow completion of 2008 cases and an increase in new cases, meant a worsening in the standard of service we provided to complainants.

In a number of cases, we had to ask the chain of command to accept complaints outside the three month time limit because of delays caused by volume of work in my office. They did so and no complainant was disadvantaged. However I am acutely conscious that any delay causes stress to all involved. The appointment of a temporary dedicated caseworker at the end of March enabled us to rectify this position and the subsequent arrival of a permanent caseworker and an audit officer in October put the office on a firmer basis.

**Table 3:** Objectives for the Service Complaints Commissioner.

	Delivery
1. Improve customer service and develop feedback and measurement systems	
2. Develop case management and knowledge management system	
3. Develop communications to expand reach	
4. Monitor implementation of DIA recommendations on JPA system	
5. Develop and implement audit of non-SCC cases	
6. Maintain profile and contacts to influence system improvements	
7. Start to measure improvements in Services and set objectives for 2010	
8. Deliver second annual report on time	

## The Office of the Service Complaints Commissioner

- The Service Complaints Commissioner (0.6)
- Head of Casework
- 1x Audit Manager (from October 2009)
- 1x Caseworker (from October 2009)
- 1x temporary Caseworker (from March to January 2010)
- 1 Executive Assistant

The SCC is also provided with independent support on communications and legal advice. A financial statement is shown at Appendix three.

The MOD has given permission to bring forward the recruitment of a much needed second caseworker and agreement has also been given to continue recruiting my staff in competition across the civil service. Having staff with a diverse background and experience, which I hope to maintain, has increased the effectiveness and efficiency of my office.

#### 2. Case management

Despite stretched resources, my staff reviewed and refined the initial case management processes we put in place in 2008. We are confident we now have in place good business processes, which could form the basis of an automated case management system. This would bring considerable benefits, not least in knowledge management and the intelligence-led approach to which I, and Service Chiefs, aspire.

My bid for resources for such a system was put in abeyance by the MOD but I have been invited to make a business case in 2010. Without such a system it will be difficult to ensure good customer service as our caseload increases.

#### 3. Communications

The 2008 AFCAS reported that 67% of officers and 43% of other ranks across the Services were aware of the SCC – although not as many were clear as to my exact role. Of those that were aware, 40% of officers and 33% of other ranks said that they knew fully how the SCC could help with a complaint, 54% of officers and 60% of other ranks said they knew to some extent. As with knowledge about the complaints system in general, knowledge about the SCC was lowest in the Royal Marines.<sup>22</sup> These are encouraging results.

We have worked to increase awareness of the SCC role. An advert for the SCC was first broadcast by the British Forces Broadcasting Service (BFBS) in May to coincide with my visit to British Forces Germany. Feedback on subsequent visits, and from my postbag, indicates that this was an effective method of reaching those on board ships and boats, as well as those overseas who would otherwise not have contacted my office. I have also been interviewed for the launch of Army TV, whilst leaflets and posters targeted specifically at young recruits were sent to training facilities. Information about the SCC has also been incorporated into Service material provided to recruits.

I have continued my visits to units, including trips to Northern Ireland, Scotland and Germany. I have continued to meet those organisations and agencies who provide welfare support to Service personnel and their families, including SSAFA, Forces Pensions Society and the Royal British Legion. Coupled with my standard speaking engagements, these visits broaden my knowledge of Service life and promote the key SCC message about the use of complaints as an integral part of operational effectiveness.

#### 4. Joint personnel administration system

I have held the MOD and Services to account for implementation of the DIA recommendations on JPA system improvement. They completed their review and revision of the Service complaints and equality and diversity modules in the first quarter of 2009 and incorporated the management information fields I requested.

However, the Service Personnel Board (SPB) informed me in July that priority had to be given to the annual revision of the pay modules and roll out will not be achieved until October 2010. In the meantime, two Services have extended their management information at level one, to support their own oversight of complaint handling at the lowest levels. The Services acknowledge some uncertainty about the reliability of this data and JPA remains a standing item on the agenda for my meetings with the SPB.

#### 5. Audit

With support from MOD internal auditors, we have developed and consulted Services about an audit methodology and we are now undertaking a number of pilot audits on completed cases. The methodology builds on the measures of efficiency, effectiveness and fairness I set out in 2008.

The purpose of the audits is to provide a comprehensive and systematic test of the complaints system and to help identify areas for improvement. The audit officer will have access to the whole complaint file, including the investigation reports and internal paperwork that I do not normally see. This will allow me to make an independent assessment of the quality of investigations.

#### 6. Profile

My office has worked hard to maintain the profile of the SCC. I have met new Ministers, the Chief of the Defence Staff, the new Vice Chief of Defence Staff, the Service Chiefs, the Permanent Secretary and their colleagues. I meet the Deputy Chief of Defence Staff (Personnel) and the three Principal Personnel Officers on a regular basis. I have also attended key Boards and committees, including all three Service Boards and the MOD Equality and Diversity Committee. As individuals in top Service positions change, my office secures an introductory meeting.

Following the publication of the 2008 Annual Report I appeared before the Defence Select Committee<sup>23</sup> and accepted an invitation to speak to the House of Lords Defence Group. There was also an adjournment debate in the House of Commons.<sup>24</sup>

<sup>23</sup> Service Complaints Commissioner for the Armed Forces: the first year, House of Commons Defence Committee (TSO: HC277; 2009); Commissioner for the Armed Forces: the first year: Government Response to the Committee's Eighth Report of Session 2008–09 (TSO: HC985; 2009).

<sup>24</sup> Westminster Hall Debate, House of Commons, 22 April 2009 (Hansard 73WH).

More widely, I spoke at the first International Conference for Ombudspersons for the Armed Forces held in Berlin in May and was able to share and learn from international colleagues. Although the British system is unique, many of the aims, challenges and methods of working are common.<sup>25</sup> As an associate member of the British and Irish Ombudsmen's Association, I also participated in their bi-annual conference in May.

#### 7. Service improvement

We have also started to measure improvements within the Services. My staff and I have met the Service Secretariats to discuss their progress and the development of their management systems. I was consulted on the creation of interim timeliness targets and contributed to a dashboard reporting tool for one Service Board. However the effective measurement

of improvement will only be possible with the implementation of a reliable complaint recording tool (JPA), good management information software and an automated case management system in the SCC office.

## Progress towards the SCC's three year goals<sup>26</sup>

### Playing an effective part in assuring the proper treatment of service personnel

Whilst there are indications that all Services, Ministers and Parliament believe that my office has made a strong early impression, it is still too soon to accurately assess the progress we have made so far. This objective will be reviewed in 2010, at the end of the office's first three year term, through a mix of quantitative and qualitative research.



The First International Conference for Ombudspersons for the Armed Forces Berlin, May 2009

<sup>25</sup> See the paper prepared for that conference on the basis of questionnaire responses from participants: "Ombudsman Institutions for the Armed Forces: A Comparative perspective". Hans Born and Aidan Wills; Geneva Centre for the Democratic Control of Armed Forces. See also Ch 22 of the Handbook on Human Rights and Fundamental freedoms of Armed Forces personnel published in 2008 by the Geneva Centre for the Democratic Control of Armed Forces and Organisation for Security and Operation in Europe.

<sup>26</sup> For more information on the SCC's three year goals, see page 76.



#### This chapter sets out:

- the Services' complaints statistics for 2009
- the progress made by the MOD and the Services against the objectives set out in the 2008 annual report
- the Services' equality and diversity statistics
- my assessment of the efficiency, effectiveness and fairness of the Service complaints system.

All 17 recommendations in my 2008 Annual Report to improve the efficiency and effectiveness of the Service complaints system were acknowledged and accepted.<sup>27</sup>

I also set objectives for the Services in 2009 to assist them in making progress towards achieving the three year objectives agreed at the beginning of 2008. This chapter assesses the progress made towards meeting these objectives and implementing these recommendations.

## Numbers and types of Service complaints in 2009

The 2009 statistics provided by the three Services of complaints by level and outcome are shown in table 4. Following my first report, the RAF took action to collect level one data and this has given their Secretariat oversight of the complaints being handled by COs at level one. The Royal Navy are waiting until JPA is in place to have these statistics. Their Equality and Diversity statistics are collected manually and are included in the information provided in table 10. Information about numbers and outcomes for the other Services and the Navy at level two and three is shown

in table 4 a–c. Although there appear to be some differences between Services (e.g. in outcome patterns at level two) it would be unwise to draw any conclusions whilst there are concerns about the completeness of the data and in the absence of a more detailed analysis of cases by type. Both should be resolved with the introduction of JPA modules in 2010.



The SCC and her Executive Assistant visit RAF Lossiemouth, September 2009

<sup>27</sup> Written Ministerial Statement by the Minister of State, Ministry of Defence, House of Commons, 7 July 2009 (Hansard 39WS); Commissioner for the Armed Forces: the first year: Government Response to the Committee's Eighth Report of Session 2008–09 (TSO: HC985; 2009).

**Table 4 a–c:** Numbers of Service complaints by Service and level and showing outcome.

Royal Navy service complaints 1/01/09 – 31/12/09							
	Numbers received	Upheld	Partially Upheld	Not upheld	Withdrawn	Ongoing	Claims to ET
Level one <sup>28</sup>	82	N/S <sup>29</sup>	N/S	N/S	N/S		N/S
Level two	64 <sup>30</sup>	5	4	13	11	13	3
Level three Total	19				3		
Service Board <sup>31</sup>	0	3	3	4	0	N/S	N/S
SCP with Independent Member		0	0	1	0	N/S	N/S
SCP		0	1	5	3	N/S	N/S

I also asked the Services for information on the numbers of complaints I referred that were already in the system (table 5). The RAF appears to have the highest numbers of such cases. At present it is too soon to say whether such referrals have had an impact, for example in bolstering confidence of complainants in the system.

	Army service complaints 1/01/09 – 31/12/09						
	Numbers received	Upheld	Partially Upheld	Not upheld	Withdrawn	Not taken to next level	Taken to next level
Level 1	123	34	1	10	17	64	7
Level 2	24	8	0	3	1	3	7
Level 3 Total	35						
Service Board		2				0	
SCP with Independent Member						N/S	N/S
SCP	2	N/S	N/S	N/S	N/S	N/S	N/S

<sup>28</sup> The Royal Navy has not collected information on non-E&D complaints and will not be able to provide detailed information at level one until the new JPA module is in place. This figure is taken from manual returns received and comprises 37 non-E&D complaints and 45 (five of which are carried over from 2008) E&D complaints reported manually by units.

<sup>29</sup> N/S means not supplied.

<sup>30</sup> Four complaints at level two were referred back to level one for further staffing.

<sup>31</sup> All pre-2008 cases submitted under the previous complaints process.

Royal Air Force service complaints 1/01/09 – 31/12/09							
	Numbers received	Upheld	Partially upheld	Not upheld	Withdrawn	Not taken to next level	Taken to next level
Level 1	92	7	10	27	10	37	7
Level 2	62	5	11	16	5	28	1
Level 3 Total	15						
Service Board		0	0	0	0	0	0
SCP with Independent Member		0	1	11	0	N/S	N/S
SCP		0	0	1	0	N/S	N/S

**Table 5:** Number of complaints referred by the SCC that were already in the complaints system.

	Royal Navy	Army	RAF
Level 1	N/S	23	33
Level 2	6	2	18
Level 3	3	5	27

The Services have provided information on the support given to complainants by Assisting Officers (AOs). AOs should be offered in all complaints, although a complainant does not have to accept. The information in table 6 shows that the take up in the RAF is high, but the picture in the Army is more mixed. AOs are appointed in around half of Service complaint cases but for a high percentage of cases this information is not known, particularly at higher levels. The Royal Navy has the highest percentage of 'not knowns', possibly because of the nature of their deployed duty. They have, however, taken action to ensure that an AO is offered as part of the standard letter when complaints go to or are made at level two.

My case bag would suggest that there are some problems with the continuity of AOs, particularly when a case takes a long time to complete, mainly because of the turnaround of personnel. However I would like Service Secretariats as part of their oversight duties to keep checking that complainants and those complained about are supported throughout.

**Table 6 a–c:** Percentage of Assisting Officers appointed at each level of total numbers of complaints submitted by Service.

Table 6 a: Royal Navy									
No. of AOs at each level	Appointed	Not appointed	Not known	AO declined					
Level 1	N/S	N/S	N/S	N/S					
Level 2 <sup>32</sup>	33%	6%	55%	6%					
Level 3	0	0	95%	5%					

Tαble 6 b: Army									
No. of AOs at each level	Appointed	Not appointed	Not known	AO declined					
Level 1	61%	3%	28%	8%					
Level 2	43%	N/S	52%	N/S					
Level 3	N/S	N/S	95%	5%					

Table 6 c: RAF									
% of AOs at each level	Appointed	Not appointed	Not known	AO declined					
Level 1	85%	4%	0	11					
Level 2	85%	2%	0	13					
Level 3	100%	0	0	0					

Table 7 shows that for all Services, complaints about terms and conditions of Service – promotions, appraisals and dismissals – are the most numerous category but bullying and harassment are the next most populous category, followed by pay, pensions and allowances. The RAF appears to have more medical and dental complaints.



The SCC talks to personnel at RAF Kinloss, October 2009

**Table 7:** Numbers and types of complaints by Service.

	(info	oyal Nav ormation ole at lev	not		Army		Royal Air Force			
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3	
Terms & conditions of Service	N/S	49	9	73	12	29	43	25	5	
Harassment	17	4	2	15	1	4	6	16	10	
Sexual Harassment	13	0	0	3	0	0	0	0	0	
Racial Harassment	4	0	0	1	0	0	1	0	0	
Religious Harassment	0	0	0	N/S	N/S	N/S	N/S	N/S	N/S	
Pay, pensions & allowances	N/S	4	0	11	0	11	5	10	0	
Discrimination	0	1	1	2	0	1	7	1	0	
Sexual discrimination	1	1	0	0	0	0	2	1	0	
Racial discrimination	0	0	0	4	0	0	0	0	0	
Religious discrimination	0	0	0	N/S	N/S	N/S	N/S	N/S	N/S	
Bullying	12	2	3	13	1	3	11	5	0	
Improper behaviour	N/S	0	1	8	0	0	0	0	0	
Victimisation	N/S	1	2	5	0	1	0	0	0	
Medical & Dental	N/S	2	1	6	0	1	17	4	0	
Misc	3	N/S	N/S	18	2	8	N/S	N/S	N/S	

#### Progress by the MOD and Services following the SCC's 2008 annual report

The tables below list the objectives set for the MOD and the Services and the recommendations made by the SCC last year. Each has been considered individually and delivery measured against it.

Within the tables a green box represents an objective/recommendation that has been met, an amber box represents an objective/recommendation against which some progress has been made and a red box an objective not met. There has been progress on all. A red status is given to those where I set a time limit for completion in 2009, because of the priority I accorded them.

A number of recommendations were for the MOD and/or Services to review particular issues and take any necessary action. In all these cases, the review has taken place. Where I have shown the progress to be at amber it is because action is not yet fully implemented or because the evidence from cases and visits to the Services suggest that there are still problems. In a number of cases the Services themselves are taking action, e.g. to improve their procedures for identifying and fast-tracking complaints about policy. I expect to see a great deal of progress on these recommendations in 2010. I have updated a number of recommendations for the forthcoming year, in the light of progress this year.

**Table 8:** Recommendations for the MOD and Services

	Delivery
1. TIMELINESS AND COMMUNICATION	
Services to set targets for 2009 for percentage of cases at each level completed within JSP deadlines, review performance against targets, take any necessary action and set targets for 2010.	
Services to review use of specialist equality investigation teams to ensure efficient and effective handling of cases and to capture and implement lessons learned. The Army should also share with other Services the results of the review they have planned for early 2009.	
COs and SOs to ensure that effective communication is made with both the complainant and the person complained about, including progress reports every 30 days (for those complaints not decided within that deadline). Both should be provided with written copies of a reasoned decision.	
2. OWNERSHIP AND MORE PROACTIVE MANAGEMENT AT THE HEART OF COMMA ACTION TO DISMANTLE BARRIERS TO ACCESS	AND AND
The requirement on COs to review monthly E&D complaints (including bullying allegations) should be extended to all formal Service complaints.	

MOD/Services recommendations	Delivery
Following the JPA upgrade, COs should also be required to provide electronic reports to Service HQ twice yearly on complaints made, upheld or not upheld and action taken as a result. <sup>33</sup>	
All COs should personally meet any Service man or woman who wishes to make a formal complaint to explain how to make a complaint, find out what they want to happen as a result, ensure they are provided with an Assisting Officer, ensure they are kept updated on the progress of the complaint and explain the decision on the complaint with reasons. The Services and SCC should monitor the impact.	
All Services should take action to tackle the perception that having complaints made on a CO's watch is a sign of failure. Services need to send a signal from the top that the failure is not having a complaint made, but failing to take action to improve matters where a complaint discloses issues that need improvement.	
The current guidance on separating parties to a complaint should be reviewed as part of the MOD review of JSP 763 and 831 to ensure that it is implemented in accordance with best employment law practice and ensures fairness and confidence in the system.	
3. NEED TO FOCUS ON ORGANISATIONAL IMPROVEMENT AS WELL AS INDIVIDUA	L REDRESS
The MOD and Services should meet the timetable they have set following the Defence Internal Audit Report to improve the Service complaint recording system. This will enable accurate and meaningful management information to be available to Commanding Officers, Service Boards, HQs and the SCC.	
The Services should also develop a system for identifying trends, capturing lessons and monitoring implementation, similar to that developed by DITC following reports by the Defence Committee, the Deepcut Review and by Ofsted.	
4. LACK OF KNOWLEDGE OF SCC ROLE	
The Services and the SCC to take further action over the next year to reduce the numbers of Service men and women who do not know or are unsure about how to make a complaint and the role of the SCC.	
The SCC should be provided promptly with sufficient resources to ensure good customer service to individuals and the Services.	
5. INCONSISTENCY OF PRACTICE AND LACK OF EXPERTISE	
Service Secretariats to be resourced to monitor operation of the Service Complaints System effectively, to identify where the chain of command is less familiar with the process and to provide assistance or take remedial action as necessary.	
The review of guidance on the handling of complaints to explore how best to eliminate the confusion that arises by having two sets of guidance for E&D and other complaints.	

MOD/Services recommendations	Delivery
6. DIFFICULTIES WITH COMPLAINTS THAT CROSS COMMAND BOUNDARIES	
As part of their monitoring role, Service Secretariats should review the handling of complaints which arise outside of the scope of the chain of command and feed any lessons arising into the MOD's review of JSP 831.	
7. NEED TO GEAR THE COMPLAINTS SYSTEM AROUND LOWEST APPROPRIATE LEVE	ELS
Service Secretariats to provide and monitor statistics on numbers of cases decided at each level; to review complaints taken to levels two and three to identify which cases could have been decided at level one, and the reasons why they were not; and to implement lessons learned.	
As part of the Review of JSP 831, Service Secretariats and the MOD to review procedures for identifying and fast tracking complaints which cannot be resolved at level one, for whatever reason, and to consider what further action needs to be taken, if any, on complaints in mixed Service/Service and civilian environments.	

## 1. Timeliness and communication

"Like the Service Complaints Commissioner, the Panel found that many people were reluctant to complain – not least because they consider it to be unprofessional – and that the complaints system is not to be entirely trusted. We found the formal complaints process to be too slow to be respected. The system of investigation is cumbersome and internally inconsistent. Unacceptable delay is common. The result is that the ability to achieve satisfactory resolution of a complaint (which includes the calling to account of the perpetrators) is diminished and the prospect of litigation increased. This undermines the operational effectiveness of those involved and undermines trust in the Army as an employer."

Para 1.18 of the Watts-Andrews Inquiry commissioned by the Chief of the General Staff October 2009 (emphasis added)

#### **Timeliness targets**

On taking up office, I identified a lack of timeliness as a key concern and a clear barrier to full confidence in the complaints system. My first report explained how the chronic delays in the system impacted deleteriously on efficiency and effectiveness.

Delay may also cause unfairness: in 2009, the European Court of Human Rights commented on the "significant periods of inactivity" and "inordinate delay" in handling a Service complaint made by a UK soldier before 2008.<sup>34</sup> The Court found that there had been a violation of Article six of the European Convention of Human Rights – the right to a fair and public hearing within a reasonable time.

<sup>34</sup> Crompton v the UK 42509105 [2009] ECHR 1659.



The SCC and Head of Casework visit the Army's new Service Complaints Wing, December 2009.

One complainant, who had worked in a part of the Services which carried heavy shortages of personnel and made her complaint in 2007, told my office:

"I am at the stage now where I feel that the complaints system is a complete waste of time and resources. Many of the incidents that took place were over two years ago and even I have difficulty recalling some of the details. Two of the respondents have already left the Service, one without making a statement. I find it incredible that this is the standard we have to expect from the MOD."

She left the Service because of the poor way her complaint was being handled.

Although interim targets have now been developed for the timely handling of Service complaints at all three levels, these were not agreed until November 2009 and have only been effective from 1 January 2010.<sup>35</sup>

#### These new targets are:

- Level one: 80% of non-complex cases to be completed within 60 days; 80% complex or multiple complaints to be completed within 120 days.
- Level two: 80% of non-complex cases to be completed within 30 days; 80% complex or multiple complaints to be completed within 60 days.
- Level three: 70% of all types of cases to be completed within 70 working days.<sup>36</sup>

These are interim targets and the MOD and Services have agreed to review them in September 2010, with a view to setting new targets for 2011.

However, the evidence suggests that they will be stretching for the Services. Very few complaints of prescribed behaviour are currently completed at level one within six months and a significant number take over a year. A significant number of Army complaints have been at level three for at least two years. The current average length of time taken for cases at each level by the Services is shown in table 9.

<sup>35</sup> A DIN was published in December 2009 and the targets will be included in the revised JSPs 831 and 763 to be re-issued in January 2010.

<sup>36</sup> The time taken to resolve complaints at level three starts when the case is referred to that level and ends when the complainant is notified of the decision. However, the clock will be suspended between the completion of preparation of the Board's papers and the date when the Board or Service Complaint Panel meets.

**Table 9:** Average time in working days to resolve cases at each level – average times for 2nd half of 2009 shown in brackets.

	RN	Army	RAF
Time taken from receipt of complaint by the chain of command to decision at level one	N/S	137 (130)	66 (67)
Time taken from request for review at next level to decision at level two	71	132 (130)	97 (76)
Time taken from request for review at next level to decision at level three	86 (18)	134 (100)	152 (79)
Total time taken from receipt of complaint by chain of command to final resolution	303 (209)	314 (360)	113 (74)

**Table 10:** Numbers of cases completed within time bands.

	Within 30 working days		Within 60 working days		Within 90 working days			Over 90 working days				
Service	RN	Α	RAF	RN	Α	RAF	RN	Α	RAF	RN	Α	RAF
Time taken from receipt of complaint by the chain of command to decision at level one	N/S	17	16	N/S	9	13	N/S	15	4	N/S	82	11
Time taken from request for review at next level to decision at level two	13	0	9	4	1	6	3	4	1	6	11	13
Time taken from request for review at next level to decision at level three	2	N/S	N/S	0	N/S	N/S	0	N/S	12	1	N/S	1

The total mean for the year disguises the improvements that have been made in the second half of the year, particularly by the Royal Navy and RAF, as they have closed their long standing complaints. That the 30 working day deadline is being reached in some, albeit a minority, of complaints should give Services encouragement that this can be achieved. They should now review these cases to incorporate lessons learned into the initiatives they are developing to reduce delay.

It does appear that requesting data on timeliness and to set targets is having some effect. Nevertheless, my recommendation that the Services should have targets for 2009 was not met and the targets that have been set for 2010 are a start. I am also concerned that the inclusion of multiple complaints in the type two case category (with a target completion time of 120 working days) may fail to tackle what can be the root cause of multiple complaints, such as a failure to grip the complaint properly at the outset.

They are also targets viewed from the perspective of those who administer a process and not from the individuals who are involved in a complaint. Judging by comments in my case load and made on visits, six months (120 working days) is too long:

"I do understand the intricacies behind the investigation taking so long but it has been hanging over my head now for over a year and I have attached my withdrawal letter for your

#### kind attention and express my gratitude for your help in this unfortunate matter."

Others have talked about the isolation they experience. The longer an investigation takes, the more likely it is that a complainant will make secondary complaints, including those of victimisation. I remain of the view that early action is key to preventing complaints becoming complex.

Timely handling remains the key challenge for the Services. It is a key reason for my assessment that the Service complaints system is not operating efficiently, effectively or fairly.

I reiterate the targets set out in my three year objectives, and recommend a focus on improving timely handling and the setting of recording systems to measure the percentage of cases that are completed within 30 working days at levels one and two and 60 working days at level three.

Services should review lessons from performance against both the interim targets and the three year targets in setting revised targets for 2011 and in sharing best practice across the Services.

Delays can be caused by a number of factors, including poor management of the parties; a lack of experience and understanding by the chain of command as to how to handle formal complaints; a failure to identify potentially serious or complex complaints at the outset; a lack of availability of specialist investigators; and a lack of confidence by both parties which results in an escalation of the number of witnesses and hardening of attitudes.

The delay caused in 2008 by this dynamic and the limited availability of specialist investigators had a knock-on effect into 2009. The resources available to investigate complaints is a particular area of concern.

#### Review of equality investigation teams

The Army Inspectorate has reviewed the Army's equal opportunities investigation team and consulted me as part of that review. The Army has incorporated that team into the new Service Complaints Wing (SCW), has broadened the staffing to include members of the Royal Military Police (RMP) who are not part of the Specialist Investigation Branch and has set new terms of reference. That the Service Complaints Investigation Team (SCIT) now works under the SCW chain of command should make investigations more efficient and effective.

However I remain concerned about the exclusive use of police officers as investigators, as noted in my 2008 report.<sup>37</sup> The Army Inspectorate has recently recommended, amongst other improvements, that the new SCIT should include civilian investigators and that the Army Inspectorate should report to the SCC on their monitoring of SCIT performance. I support all the Inspectorate's recommendations.

I recommend that the Services widen the background of investigators in these specialist teams, who should all receive specialist training in these types of investigations from external experts. The Royal Navy and RAF have not undertaken a specific review of their E&D Investigation teams but assure me that each case is reviewed on completion. I am aware that some of my cases are concerned about the quality of investigations. I look forward to seeing the results of these complaints reviews and any lessons learned appearing in the lessons learned log. I re-iterate the recommendation made last year that the Army shares its experience with the other two Services.

A number of cases have come to my attention where the lack of sufficient specialist resources caused delay and other problems. In these cases the CO had decided that a specialist investigation was needed to ensure an efficient, effective and fair result. However as none were available, those COs looked to find a trained Harassment Investigation Officer (HIO). In most of these cases an HIO was found after a delay of many months. In a few, none could be found and the CO turned to untrained staff.

Delays in starting the investigations in these cases had a detrimental impact on all concerned, including the HIOs, whose task was made more difficult as a result. In one case the CO expressed concern about the potentially detrimental impact of the demands on the HIO's day job, as they undertake bullying and harassment investigations on top of their normal duties. When I raised concerns, the MOD informed me of the gap between the Services' demand for training places and the available resources. I therefore recommended a cost-benefit analysis of the current model and alternative models, taking into account the full cost of

the current system, including the impact on operational effectiveness. The MOD has now set up a short-term project that will report in 2010. In the interim, the Army is planning on arranging for all regimental education officers to be trained as HIOs, as well as implementing twinning arrangements with co-located units in an attempt to increase their availability.

#### A one-stop shop?

As part of the project undertaken with the EHRC and the joint EHRC/MOD expert working panel, the Army looked at the experience of other organisations that had faced similar problems. They were interested in the impact having a one-stop shop had had on the numbers of complaints of bullying and harassment and the speed with which they were dealt with. As well as having the potential for enabling the overwhelming majority of complaints of bullying or harassment to be dealt with within two months (40 working days), the Army concluded that there might be additional benefits. Soldiers had reported facing difficulties in finding the right people to talk to when they were considering whether to make such a complaint as well as sometimes coming under pressure to drop their plans before making a formal complaint.

The Army is now considering implementation of a similar system and its applicability to all Services, which I have encouraged. I recommend that any changes should be introduced in an integrated fashion.

I recommend that the MOD and Services reconsider the system for investigating complaints of bullying and harassment in 2010, in the light of this study and other projects currently being undertaken by the Services.

#### Communication

Regular and clear communication can help mitigate the adverse impact on complainants and those complained about, where there are unavoidable delays. This can be illustrated by the comments of one complainant, who was struck by the atypical way one HIO dealt with the complaint and carried out his duties in an exemplary fashion. She felt he was the only person who established and maintained good and consistent communication with her and treated her with compassion and respect:

"I was particularly appreciative and grateful for the exemplary and considerate trouble you took personally to keep me so regularly updated – it made a massive difference to an otherwise deeply unpleasant and stressful 15 months for me."

Service Secretariats assure me that they remind COs about the need to keep complainants, and those complained about, informed on progress, but I still receive complaints that this is not happening.

The record of Services keeping me updated also suggests that communication is an issue, as their performance has worsened. In 2008, Services met the initial 10 working day deadline in 56% of referrals.<sup>38</sup> This dropped to 29% in 2009. The first 30 working day update was received on time in 29% of referrals (down from 53%) and the second update in 13% of referrals (32% in 2008).

Gaps in Secretariats' staffing have caused them some difficulties in their ability to ensure all parties are kept informed. Those gaps have now filled but it is important to ensure that these resource levels are maintained.

The Royal Navy has made a bid for extra resources and the RAF will move towards a unified Secretariat structure in 2010. As the Army's new Service Complaints Wing is rolled out, they should have the means for monitoring good communication by the chain of command. Only when the new JPA module is in place will all the Services have an efficient way of monitoring compliance.

In 2008 I found that a number of DOs failed to provide the complainant (or me) with reasoned decisions. It appears that reasoned decisions are increasingly being given, although my office is not always sent a copy automatically.

# 2. Ownership and proactive complaint management at the heart of command

Ministers and the Services accepted that COs should review all formal complaints on a monthly basis, in the same way they examine equality and discrimination cases. The Royal Navy considered how to communicate this change at its third Continuous Improvement seminar in November 2009 and they are to trial asking COs to report other complaints. The Army is to roll out this requirement in summer 2010. The RAF will also raise the issue in a comprehensive communication to station commanders about Service complaints.



My recommendation that COs provide twice yearly electronic reports to Service HQ was felt to be superfluous as the new JPA module would enable Secretariats to access directly information on level one complaint cases. The gap identified by the internal auditors – a lack of an independent check as to whether COs were recording Service complaints on JPA – seems to remain. The Army and RAF are seeking to address this by requiring all COs to inform Secretariats as soon as a formal complaint is made. I will review the progress across all Services next year.

## 3. Organisational improvement and individual redress

The MOD and Services have completed the review of business processes and a request was made in March 2009 for new JPA modules for Service complaints. As these new modules will not be delivered until October 2010, all actions dependent upon them are therefore deferred, including the statistics on the operation of the complaints system I set as an objective for the Services for 2009.

The need for standardised information about the nature and handling of Service complaints remains as pressing as ever. Until the new data recording system is in place it will be difficult for the Services to identify trends. The failure to use collected data to improve delivery of services has been picked up by other external bodies.<sup>39</sup> There is a need to ensure that the Services use intelligence to inform their approach to people management in the same way they do operational practice. In some instances, as demonstrated by Ofsted and the Healthcare Commission, their failure to do this is because they are not following the systems that are in place.

The MOD has decided to use an existing 'lessons learned' system to capture lessons from a range of sources. Between them, the Services and MOD have identified 13 lessons from Service complaints cases to date, of which seven cover actions to improve the complaints system itself and one concerns the re-organisation of Secretariat support to the chain of command. These lessons will be incorporated into a revised guidance to be issued early in 2010.

However, my proposal to amalgamate the two sets of existing guidance on all Service complaints (JSP 831) and on bullying and harassment (JSP 763), which had been strongly supported by the Army, has been considered but rejected by the MOD, mainly because JSP 763 encompasses the process for handling complaints involving civilians. The MOD has sought to clarify how the two sets of guidance should be used and the revisions, due to be published in January 2010, include better cross-referencing and integrated flow diagrams. The new guidance also sets out expectations of complainants and third parties. I shall keep this aspect under review.

The Royal Navy identified five lessons to improve the efficiency and effectiveness of personnel policy (table 11).



39 See Defence Medical Services: A review of the clinical governance of the Defence Medical Services in the UK and overseas, Healthcare Commission (Commission for Healthcare Audit and Inspection; 2009) and The quality of welfare and duty of care for recruits and trainees in the Armed Forces, Ofsted (Ofsted, 2009).

**Table 11:** Issues identified by the Royal Navy that affect the efficiency and effectiveness of personnel policy and management.

Issue	Action	Benefit
Transparency in the Branch transfer consideration of a potential compulsory withdrawal from training.	To define the Branch Transfer process with a view to publicising it in an appropriate RN Book of Reference (BR).	Transparency will improve confidence in the process.
Defining the point of discharge for being unsuitable during training.	Discharge regulations reviewed. A change to regulations has been issued through a DIN.	Improve fairness and effectiveness through consistent implementation of discharge regulations.
High standard of prescribing practice and adoption of care plans where appropriate to improve the quality of medical treatment and limit the deleterious impact on future career plans/deployment of naval personnel.	Director RN Medical Services reviewed the process and issued revised instructions to all ships and units.	Improve fairness and effectiveness of medical treatment through application of standards.
Clarifying the entitlement and access to terminal leave entitlement for those female personnel who become pregnant having applied for discharge.	Review terminal leave regulations or provide guidance on interpretation of these regulations.	Improve fairness through consistent application of policy.
Support to victims and witnesses during court martial proceedings.	The Naval Secretary will conduct a review of the process.	To be determined

My office has seen evidence that similar problems exist throughout the Armed Forces and I encourage all Services to follow this example. Services should use the lessons identified as an alert to review their existing complaints and ensure that all lessons identified by those deciding complaints are being captured. Some of these lessons are applicable across the Services and would benefit from a wider dissemination, such as the difficulties faced by Service personnel seeking to transfer, within and across Services.



### Case study B – Lessons learned from poor handling of application to transfer

Officer B had joined his Service under the special arrangements made for the recruitment of doctors, lawyers and other professionals. As a professionally qualified officer, he attended a much shorter course than the standard year's training for potential Officers. He later applied to transfer from his professional post to a generalist officer post within his Service.

Having done a short trial attachment, the new chain of command supported his application. The appropriate selection board approved his application, subject to confirmation of terms and conditions of service and any additional training requirements. Officer A was sent a welcome letter, an assignment order and a reporting date. However, that assignment order was pre-emptive. Almost eight months later, his application having been through six more hurdles, (each supporting his application subject to the approval of the next person or Board), he was told that his transfer would not proceed.

The matter was investigated by the Service's central personnel unit, who secured a review of the decision and identified four lessons in relation to good administration and communication. Delay, and the fact that Officer A believed his application had been successful, were critical to a decision in his favour. Lessons were drawn to the attention of those handling intra-Service transfer applications.

I have started discussions with both the MOD and the Services on how best to measure the impact of the complaints system. I have also asked the Service Secretariats to identify key people targets, such as retention targets, and consider how information about Service complaints could help them to achieve these.

As in 2008, a number of COs have understood the link between individual complaints and organisational improvement. At one speaking engagement I was pleased to get third party endorsement of the impact a CO's action had had on ensuring that weaknesses in the discharge process had not been repeated in subsequent cases.

## Case study C – Lessons learned from a complaint about weaknesses in the discharge process

Private C wrote to the Commissioner describing what he considered to be his badly handled discharge from an overseas Regiment. Although he had applied for discharge, he was unaware that his request had been formally approved. He was therefore surprised to be told on a Monday that his Service had been terminated the previous Friday and he was required to vacate his living quarters and the barracks immediately.

Due to the short notice given, the normal discharge arrangements, such as resettlement and departure interviews did not take place, nor was he given any formal discharge paperwork. In addition, he had no time to make any personal arrangements, such as securing alternative employment and accommodation. The DO upheld the complaint, and procedures were reviewed and revised so that future personnel would not suffer the same fate. In addition, the CO undertook to write a letter of apology to the individual for any distress suffered.

One Service took action to ensure that lessons were learned to the benefit of personnel across all Services in the case of a complaint about treatment in a tri-Service establishment.

### Case study D – Lessons learned in a tri-Service environment

Mr D, a commissioned officer, made two complaints: one about policy on the exercise of a buy-out option after the completion of the standard 12 month notice period for military personnel (in place for operational reasons); and the other about an irregularity in an end of course report, which was felt to impact on his future career prospects.

The first complaint was rejected by the Service up to and including level three. However the second complaint was upheld and action was taken on the level three recommendations. These were for the Service Secretariat to prevent any disadvantage to the individual complainant by ensuring that his personal file contained the correct assessment and noted that his complaint about his report had been upheld; and to review the end of year reports on all attendees from that Service on that particular course over two years, so as to ensure against any disadvantage arising more widely.

In addition, the Service flagged up their concerns and the broader lessons learned with the educational institution, which issued directions to prevent a repeat of any disadvantage to tri-Service personal in future.

I have been encouraged by the commitment of those at the top of all three Services to remove barriers encountered by some when they make a complaint and the perception that a complaint made on a CO's watch is a sign of failure. Paragraphs to this effect have been added to both sets of guidance (JSP831 and 763), as well as individual Service communication to the chain of command.

I understand from my case bag that more COs are meeting complainants in person and that this is having a beneficial effect, although this good practice is not yet universal. Once the new JPA module is in operation, it will be possible to identify where this is not happening and where Services need to focus their attention.

# 4. Knowledge of the service complaints system and the SCC's role

The Services and the SCC hold a joint responsibility to ensure that personnel know how to use the complaints system. Progess has been made to reduce the number of Service personnel who do not know or are unsure of how to make a complaint. The MOD and Services have agreed to use the AFCAS and RTS as a baseline against which to measure progress, and we will meet in Spring 2010 to discuss what more needs to be done.

The most recent AFCAS and RTS show increases in all Services, particularly in the Army but also indicate a much lower level of awareness in the Royal Marines, including at officer level.<sup>40</sup> I call on the Royal Navy to consider how this discrepancy can be addressed.



The SCC meets personnel at HMNB Clyde, November 2009

<sup>40 39%</sup> of Royal Marine officers and 74% of other ranks had not heard of the SCC – see para 10.14 and table B.10.10, 2008 AFCAS.

# 5. Inconsistency of practice, lack of expertise and cross command complaints

In 2009, the Advisory, Conciliation and Arbitration Service (ACAS) published a Code of Best Practice on the handling of cases of discipline and grievance, the civilian equivalent of Service complaints, which emphasised the need for consistency in order to ensure fair treatment. The new Service complaints system aims to achieve consistency of practice.

The Army has invested substantial resources in the establishment of the SCW, with the allocation of a caseworker and lawyer to advise on the progress of each case from the outset, in order to improve their consistency in implementing the system and remedy gaps in expertise.

The other Services have also reviewed the composition and working practices of their Secretariats, with a view to providing more joined-up support for the chain of command. The Royal Navy has investigated how they can ensure their COs have the confidence to handle all complaints and apply the right procedures. The RAF has established a database to enable their Secretariat to get visibility of all complaints. They have also reviewed their processes to provide COs with legal and expert advice at the outset and to improve on timeliness.



## 6. Difficulties that cross command boundaries

My caseload suggests that there are still concerns about consistency of practice in joint Service environments and where complaints cross command or Services. The MOD has reviewed the situation but decided no changes to the guidance are necessary on this point. The Service Secretariats are to continue to monitor cross working complaints and I will look to their lessons learned log for any actions to close perceived gaps.

# 7. Need to gear the complaints system around lowest appropriate levels

The Services have all accepted the need to concentrate on tackling complaints at the very start of the process, as opposed to waiting until they have escalated to level three. The RAF and Royal Navy have concentrated on eliminating the backlog of cases that were at this level during the course of the year.

At the end of 2009, only four pre-2008 RAF cases were outstanding at level three, which are expected to be completed by the end of April 2010. The Royal Navy have no pre-2008 cases. Both Services should now be able to re-focus their attentions on complaints much earlier in the system, which should ensure that they are dealt with more efficiently.

The Royal Navy also identified a number of lessons through a series of continuous improvement events on the new Service complaints system held throughout the second half of 2009 and which will continue into 2010. These include the need for guidance on complaints about discrimination and victimisation, which, if they involve complaints about policy, may start at level three.

The Army still has 44 pre-2008 complaints cases still awaiting consideration by the Army Board and 33 post-2008 at level three. They have taken steps to release more time to hear these cases, but they will not be cleared before 2011. The Army has recognised that it is inefficient to require Generals to resolve cases that could have been completed by COs and the SCW will focus on solving complaints 'right first time'. They have started to use SCPs (two in 2009) and are also starting to triage complaints, so that any complaint that cannot be solved by the CO is elevated to the appropriate level as quickly as possible.



The SCC at DCAE Cosford, November 2009

Table 12: Objectives for MOD and Services

Only when the new JPA modules are introduced will it be possible to determine the impact of these improvements. Over time, I would expect to see more cases resolved at level one and taken no further. The combination of my oversight and my audit process should provide an assessment of the fairness of such decisions, to ensure that no pressure is placed on complainants to not exercise their rights of appeal. With those assurances, an increase in acceptance of decisions to partially uphold or reject complaints should indicate an improvement in the effectiveness of the complaints system and the confidence of Service personnel.

## Objectives for the MOD and services

The objectives I set for the MOD and Services were linked to the recommendations I made for action during 2009 and were designed to support them in achieving the three year goals I set at the beginning of 2008. Progress on the first three objectives depended on the delivery of the JPA modules.

	Delivery
Implement DIA recommendations and deliver an improved JPA module within the year.	
Set targets for increased awareness, confidence and reduction of gap between reported levels of bullying, harassment and discrimination and levels of complaints.	
Provision of statistics at all levels.	
Monitor the implementation of Service Complaints System by chain of command and feed findings into the Reviews of JSP 831 and 763 and into other Service personnel policy improvements.	
Develop a lessons learned and implementation monitoring system.	
Start to consider, in consultation with the Service Complaints Commissioner, how best to measure impact.	

My assessment is that no progress has been made on the first three objectives. This chapter has outlined the progress taken on the next three objectives. The MOD has based its review of guidance on practice and has put in place a lessons learned system which now needs to be used and monitored. Progress on this and others is ongoing. These objectives will remain in place for 2010.

## Progress towards three year objectives

The three year targets were designed to encourage the MOD and Services to be in a position at the end of 2010 to achieve the targets in the following year – e.g. the overwhelming majority of Service complaints should be completed within 30 working days by December 2010. Achievement against these targets would be measured in 2011.

This chapter has provided information on the first five three year objectives. The next section provides information on progress towards objective 6 (see table 14).

# Objective 6: Closing the gap between reported levels of unacceptable behaviour and recorded complaints

#### Reported levels of unacceptable behaviour

In the 2008 Annual Report I provided statistics from two MOD surveys, AFCAS and RTS, about levels of perceived bullying, harassment and discrimination and about willingness to complain, against which to measure change in future years.

#### **AFCAS 2008**

There appears to have been a significant drop in reports of bullying, harassment and discrimination since 2007: in 2008 6% of officers and 7% of other ranks reported experiencing bullying over the previous 12 months; 4% of officers and 7% of other ranks reported harassment; 10% of officers and 15% of other ranks reported discrimination<sup>41</sup> – although, with the exception of reports by women and personnel from an ethnic minority, most of this discrimination was not 'unlawful'.<sup>42</sup>

The 2008 findings by Service and rank show either the same levels of reported unacceptable behaviour, or decreases in such treatment (except for Royal Marine and Army officers in relation to bullying). There were reductions in the experience of bullying reported by RN other ranks (a 2% drop), RM other ranks (a 1% drop), Army other ranks (a 2% drop) and RAF other ranks (a 2% drop). There was a decrease in harassment experienced by all ranks and Services, except for Army officers, which stayed the same.

There was a fall in the levels of discrimination for all ranks and Services, except for Royal Navy and Army officers, which stayed the same. The rate of decrease was around 3 % (the RAF had a 1 % drop and the Army other ranks had a 5 % drop). This suggests that there is a move in the right direction, but the trend needs to be monitored.

<sup>41</sup> For 2008 AFCAS findings on bullying, see para 10.10–10.12 and tables B.10.28; for harassment see para 10.7–10.9 and tables B.10.20 – B.10.27; for discrimination see para 10.4–10.6 and tables B.10.12 – B.10.19.

<sup>42</sup> These categories in the Armed Forces are discrimination on the grounds of sex, sexual orientation, race, age and religion. The Armed Forces are currently exempt from the Disability Discrimination legislation.

I am concerned that the situation for women and ethnic minorities is not as encouraging. In 2008, between 8–10 % of female officers and 5–8 % of female other ranks reported harassment on the grounds of gender – 7% of females compared to less than 1% of males. Females were also twice more likely than males to say that they had been the subject of bullying – 12% compared to 6%. The difference in relation to discrimination was even more stark: 11% of females reported they had been the subject of discrimination in the last 12 months compared to 2% of males.

18% of those who believed themselves to belong to an ethnic minority reported being the subject of discrimination compared to 1% of those who did not. Similarly 9% of ethnic minority personnel reported harassment (compared to less than 1% of non-ethnic minority personnel). There was less of a gap in relation to bullying: 10% of ethnic minority personnel compared to 7% of non-ethnic minority personnel.

So although the trend towards reducing the levels of unacceptable behaviour is encouraging, nevertheless nearly two in ten ethnic minority Service personnel report discrimination and one in ten reports being harassed or bullied.

Over one in ten female personnel report being bullied or discriminated against and nearly one in ten female officers report being the subject of harassment. The 2008 AFCAS does not provide these findings by Service, but states that the bullying figures for women are similar by rank and Service.



The 2008 AFCAS shows a general improvement (and a 4% increase amongst other ranks) in awareness of the procedures for making a complaint about bullying, harassment and discrimination. The 2008 AFCAS also indicates a general improvement (although the sample size is too small to be clear) in those willing to make a complaint if they have experienced bullying harassment or discrimination, bringing the levels amongst other ranks up to those previously reported by recruit trainees in the RTS.<sup>43</sup>

#### RTS 200844

The findings of the RTS underline the need to monitor trends over a number of years. Whilst the levels of reported bullying, harassment and discrimination has fallen in all Services, there has been a drop in the percentages of trainees willing to make a formal complaint. There has also been a reverse in the balance between reports of such unacceptable behaviour from peers and from instructors.

The overwhelming majority of recruit trainees feel they are treated well, although there is a year-on-year increase in Army Phase Two establishments. However, the level of these reports is the same in the Army as in the RAF and they are both slightly lower than the equivalent Naval institutions.

<sup>43</sup> See para 10.13-10.15 in 2008 AFCAS.

<sup>44</sup> See para 116-170 (Phase One) and para 321-381 (Phase Two), 2008 RTS.

The levels of physical abuse, intimidation, humiliation, verbal abuse and sexual harassment fell across all Services at both Phase One and Two establishments. However, there appears to have been a shift in the proportion of unacceptable behaviour from staff, as this year there were more categories where the alleged poor treatment was reported to have been caused by staff than by other trainees, than the other way around.<sup>45</sup>

There were differences in levels of bad treatment by sex and by ethnicity. Women and non-white personnel reported higher levels of sexual and racial harassment, whilst male trainees reported higher levels of verbal abuse than female trainees. White trainees reported higher levels of humiliation.

Every member of the Armed Forces should be treated well and the Services are right to take extremely seriously the condition of vulnerable recruit trainees. I encourage the Services to sustain their efforts to ensure that all trainees are treated well and particularly to tackle any increase in poor treatment from staff.

However I would emphasise that the survey indicates that the levels of bad treatment are relatively low: for example only 10 in 1,000 Phase One recruit trainees report physical abuse; 24 in 1,000 report intimidation; 34 in 1,000 report humiliation; 31 in 1,000 report verbal abuse; 1 in 1,000 report sexual harassment and four in 1,000 report racial harassment. The level of such reports is even lower in Phase Two establishments, with the exception

of sexual harassment, which is two in 1,000. Whilst action needs to be taken to reduce this further, these figures should provide some re-assurance to parents and the public that poor treatment is the exception.

There has been an increase in the numbers of trainees who know how to make a complaint: 93% of all Phase One and 90% of Phase Two trainees knew how to, a year-on-year increase in those who say they know how to complain. The RTS reports slightly lower levels of awareness amongst men than women, amongst non-white trainees than white trainees and the lowest levels amongst 16–17 year olds. The high levels of awareness contrasts markedly with the levels of awareness in the wider Services - only 66% of other ranks according to AFCAS. Training establishments have shown what can be done and I encourage all Services to focus on raising awareness over the next year.

It is vital that the Services monitor the information in the AFCAS and RTS surveys and take any necessary action. I am pleased that the Army have incorporated review of this information as part of their Equality and Diversity action plan.

<sup>45</sup> In the RTS 2007 the levels of alleged bad treatment from staff had dropped markedly from the previous year and accounted for higher levels of bad treatment of Phase One trainees in only two categories (racial harassment and being picked on). In the 2008 RTS, alleged bad treatment by staff accounted for higher levels than such bad treatment by peers in all but one category (racial harassment) at Phase One and all but three categories at Phase Two (racial and sexual harassment and being picked on).

#### Recorded complaints

The Services have provided manual returns on complaints about bullying, harassment and unlawful discrimination since October 2006, as part of the MOD agreement with the then Equal Opportunities Commission (now the EHRC).<sup>46</sup>

Last year's report gave details of complaints for the six months to March 2008 as well as information about trends since October 2006.<sup>47</sup> The MOD have now aligned their data capture time frame with my reporting year. In order not to affect the historical trend analysis, figures 8 and 9 omit the period from April to June 2009. However the full information for the 12 months from January to December 2009 is shown in table 13.

**Table 13:** Bullying and harassment complaints by Service.

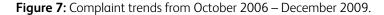
	Bullying and harassment complaints Jan 2009 – Dec 2009								009	
Type of Complaint	R	N	Ar	my	R	٩F	Purple	e TLBs	Tot	:als
	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal
Bullying	12	30	57	71	41	32	4	9	114	142
Harassment	17	72	65	60	27	45	5	6	114	183
Sexual Harassment	13	16	8	22	7	8	0	1	28	47
Sexual Discrimination	1	0	1	5	2	1	0	0	4	6
Racial Harassment	4	7	10	25	4	5	2	1	20	38
Racial Discrimination	0	2	13	2	0	1	0	0	13	5
Sexual Orientation Harassment	0	5	3	3	2	0	0	1	5	9
Sexual Orientation Discrimination	0	0	1	1	0	0	0	0	1	1
Religious Harassment	0	3	0	3	0	1	0	0	0	7
Religious Discrimination	0	0	4	2	0	0	0	0	4	2
Other	3	8	22	21	3	20	2	11	30	60
Totals	50	143	184	215	86	113	11	25	333	500
Totals complaints: 827										

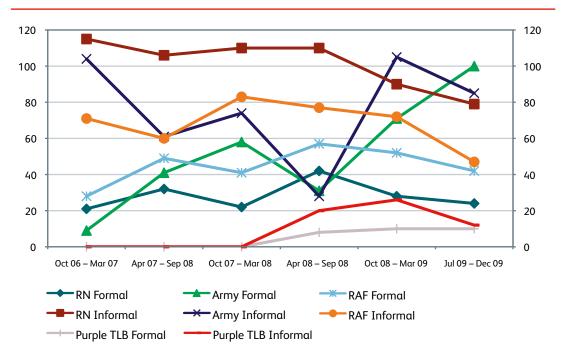
<sup>46</sup> These manual returns should be replaced by returns on JPA when the new modules are introduced in October 2010.

<sup>47</sup> pp 66-71, SCC Annual Report 2008.

This shows that complaints about bullying and harassment are still the most numerous types of complaints, with complaints of unlawful sexual or racial harassment being more numerous than complaints about discrimination. It also shows that more complaints about unacceptable behaviour are dealt with informally rather than formally – with the exception of complaints of bullying in the RAF and complaints of racial and religious discrimination across the Services, although the numbers in these last two categories are relatively small.

With the exception of the Army, where there has been a rise in complaints of bullying and harassment, the overall trend is for a reduction in complaints. The MOD believe the rise in Army complaints reflects more accurately the lived experience for Army personnel rather than indicating any particular diminishing of collective ethos or deterioration in the E&D climate. The complaint level across the Services is still below the level of routine complaints that the MOD/EHRC Expert Working Panel recommended should be expected from an organisation of its size.





The slight rise in Army and RAF cases recorded as 'other' may reflect the rise in awareness of E&D behaviour that is unacceptable. The MOD is undertaking further work to confirm whether the recording categories need amending. They believe the factors that may have increased the readiness to speak up include the carrying out and the promulgation of the Armed Forces' Sexual Harassment survey, the establishment of the Army's SCW, the SCC's communications campaign and the expansion of single Service E&D training programmes.

Figure 7 shows the trend in complaints from October 2006 to December 2009.

I commented last year on the reported levels of formal and informal Army complaints for the six months to September 2008, which appeared to be out of line with previous reporting periods and the other two Services.

Following investigation by the Army's E&D team, it appears that these figures were not accurate, and they have revised their plan. The target to halve the numbers of reported complaints has been replaced by three new requirements that:

- the complaints metric should be based on all formal and informal complaints
- all complaints are resolved at the lowest appropriate level
- the numbers of complaints should be consistent with AFCAS data.

The increase in formal complaints and decrease in informal complaints made by Army personnel, shown in figures 8 and 9, may also be a reflection of a change in the plan and recording practices. It may also be a reflection of the increased confidence being given to COs that a complaint on their command is not a sign of failure.

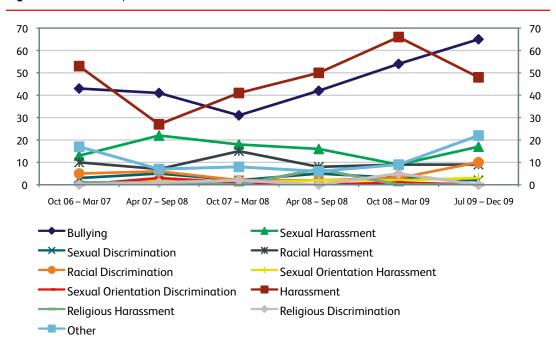
The RAF believe that the mediation they have spearheaded is reaping great rewards in terms of timeliness and satisfaction. It is interesting to note that both formal and informal complaints are reducing and that by December 2009 the gap between the two had reduced significantly. This is an area for more investigation, when the new JPA module is in use and AFCAS 2009 is published. Good evidence of the impact of mediation of complaints would be extremely useful across all Services, not least to dispel any concerns amongst complainants that an offer of mediation is an attempt to "sweep their complaint under the table".



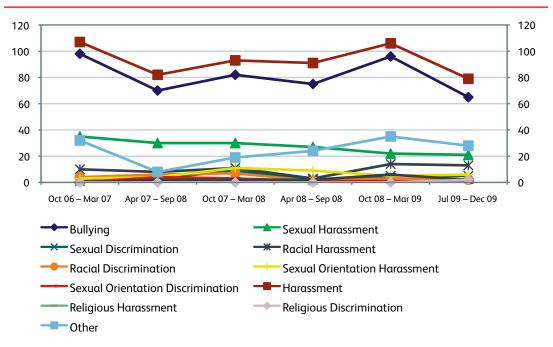
The SCC meets RAF personnel at RAF Cranwell.

The figures on the following page show the trends by type of complaint, dealt with formally (figure 8) and informally (figure 9).

Figure 8: Formal complaints from October 2006 – December 2009.



**Figure 9:** Informal complaints from October 2006 – December 2009.



These show an increase in the numbers of formal complaints about bullying and harassment. Although most of these complaints are still dealt with informally, the gap between formal and informal handling appears to be reducing. This may reflect recording practices but it may also reflect evidence in the MOD's Sexual Harassment survey, which shows that both Servicemen and women are more aware of the unacceptability of types of behaviour and now more likely to say this is wrong and not conducive to a productive working environment. It may also reflect the impact of the introduction of the SCC and the increased numbers of referrals that lead to a formal complaint.

The questions raised by these tables require a more detailed analysis of the data, particularly in light of the AFCAS findings of differences in the experiences of Service personnel who are female and from an ethnic minority. The MOD recognises that the current data collection process is time consuming and not as reliable as they would want. The Joint Commands or 'Purple TLBs' still report difficulties in collecting data and their low figures may be a reflection that data on their personnel are being captured by that individual's Service. The introduction of the new JPA module is expected to provide more reliable data and the opportunity for more complex interrogation of the data.

However, with that caveat, the trends reported in these figures do seem broadly to mirror trends in SCC cases as shown in Chapter 2 and it is encouraging that there may be a growing confidence in the Service complaints system.

If the trends about increased awareness, willingness to complain and reductions in the level of unacceptable treatment continue, the Services should be on track to reduce the gap between levels of reports of unacceptable behaviour and complaints.

# Conclusions on efficiency, effectiveness and fairness of the Service complaints system

It is clear that these messages outlined in my 2008 Annual Report have been accepted by the Service Chiefs and a number of initiatives have been started in order to deliver much-needed improvements to the current system.

However the failure to handle complaints in a timely manner remains a serious problem and impacts on efficiency, effectiveness and fairness. Delay impedes efficiency, mostly because it prompts additional complaints but also because it reduces the opportunities for resolution; effectiveness is compromised because delay erodes confidence in the chain of command, increases stress and affects retention. ACAS and the courts have emphasised the importance of timely handling as a key element of fairness.

Performance against other indicators of efficiency and effectiveness can only be measured after 2010, when there is in place a mechanism for reliable data recording and management information.

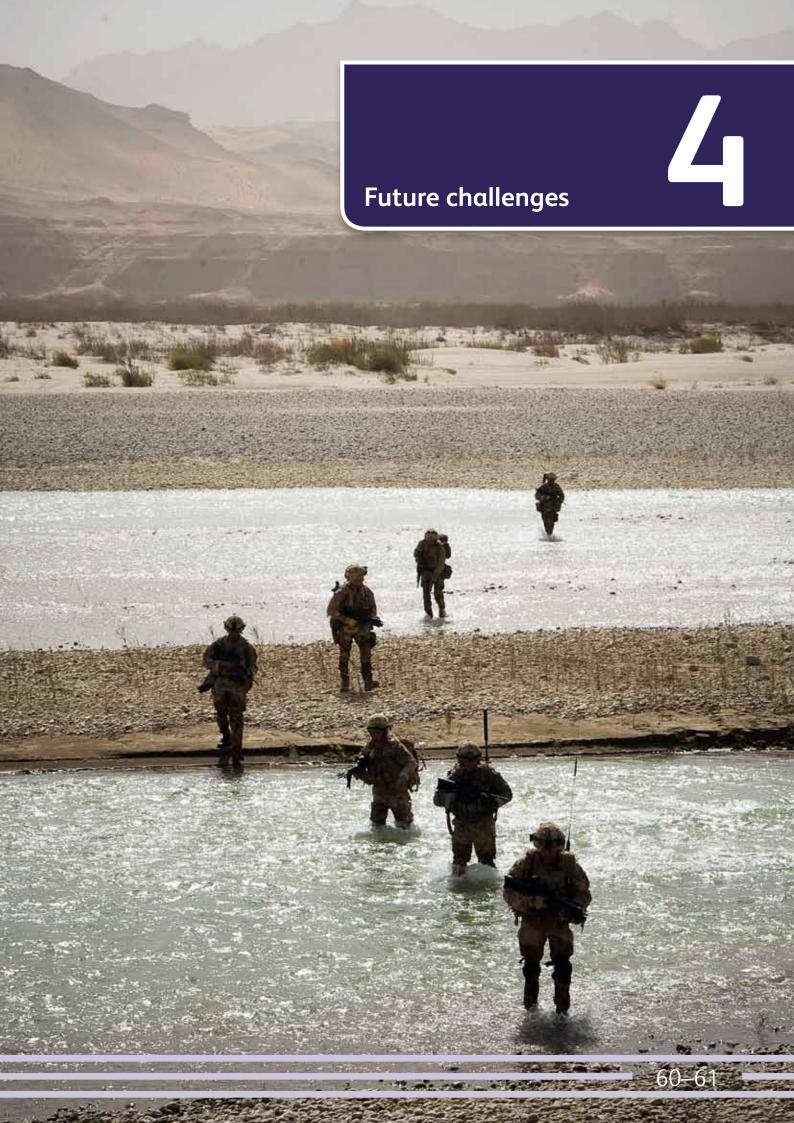
Although I am encouraged by the progress this year, it has not been as swift as I would have liked. It is crucial that momentum is maintained and that the Services sustain their commitment to these changes.

Despite significant action, I cannot yet give an assurance that the Service complaints system is yet working efficiently, effectively or fairly.

The table below gives an indication of the likelihood of the Services being in such a position by the end of 2010, if they continue at the same speed of progress as they have to date. The next chapter sets out in more detail some of the challenges I believe the Services and I face. It is for others to assess the effectiveness of the SCC and my office

**Table 12:** Three year objectives

	Likelihood of Delivery by 2011
1. Complaint recording system used by all correctly and consistently with statistics that can be relied upon.	
2. 90% of complaints completed within JSP deadlines.	
3. Complainants, their representatives where appropriate and those complained of kept informed and provided with full reason for decision.	
4. Complainants dealt with correctly first time, quickly and effectively at the appropriate level to provide redress.	
5. Substantial and significant evidence of improvement in individual confidence in the system and of lessons implemented.	
6. Closing the gap between reported levels of unacceptable behaviour and recorded complaints.	
7. Service Complaints Commissioner judged by Services, Ministers and Parliament to be playing an effective part in assuring the proper treatment of Service personnel.	



#### This chapter outlines:

- the challenges the Services must address if they are to tackle delay and ensure the Service complaints system operates fairly
- the challenges in relation to complaints of unlawful discrimination
- the challenges concerning the suitability of the Service complaints system to handle particular types of complaint
- the gap between the expectations of complainants and the powers of the SCC.

In my 2008 report, I reviewed the new Service complaints system against the five elements drawn from the Principles of Good Complaint Handling published by the British and Irish Ombudsman Association, and concluded that, whilst it met those principles in design, there were deficiencies in implementation.<sup>48</sup>

Six of my 17 recommendations sought to address those deficiencies and progress on those recommendations was outlined in the last chapter. The experience of the last year has thrown up a number of other issues that must be addressed if the complaints system is to operate fairly.

## Tackling delay and ensuring fairness

#### Service Complaint Panels

One of the most important moves made by the Armed Forces to improve their complaints handling process was the introduction of the SCP. They can sit at level three to decide any complaint under delegated authority from the Defence Council. Where the complaint involves an allegation of bullying, harassment or discrimination, the Panel will also have a third independent member, and four

independent members were appointed by the Secretary of State in 2008. The SCPs contribute not just to the more efficient handling of Service complaints but also, by adding an independent element, to fairness.

The Royal Navy has held the largest number: 14 by the end of 2009 including two with an independent member, one of which was a case I had referred and was decided only at the beginning of 2010. The RAF has held four: two involved an independent member and these SCPs considered six complaints in each case – 11 were rejected and one partially upheld.

The Army has held two, without an independent member. They are aware of the need to make more use of SCPs and that to wait to do so until all pre-2008 complaints have been cleared by the Army Board would perpetuate the current unfairness caused by delay.

It remains a matter of grave concern that so few SCPs have been held and so little use has been made of independent members, two years after their introduction. The independent members of SCPs were introduced as an independent element in the actual decision making, rather than looking to the SCC to provide this.

Service personnel have raised with me concerns about the lack of seniority of Service SCP members compared to Service Board members, particularly when the person complained about is of equal rank to panel members. The way one particular panel (made up only of Service members) was conducted, without an oral hearing and with a lack of evidence to support a decision, has also been raised. In these circumstances, a complainant who is an officer no longer has the right that would have been available had the decision been made by a Service board to petition the Crown - in effect triggering a review of the level three decision. I have identified this issue as a matter for review as part of the audit of cases my office undertakes next year.

For all these reasons it is too early to make an assessment of the efficiency, effectiveness or fairness of the SCPs.

I recommend that all Services, but particularly the Army, improve their management of complaints in the system and identify more speedily suitable cases for decision by SCPs.

One issue flagged with me by the independent members on their appointment was the concern about a lack of framework to ensure consistent handling across the Services. I was helpfully briefed this year by one Service in relation to its proposals for such panels and provided with the opportunity to raise any concerns. I want the Services to develop consistent rules of procedure and use independent members to achieve the purpose behind their introduction. I will consult the independent members for their views on the Service complaints system in preparing next year's report.

I also recommend that the Service Secretariats review and share their experience of SCPs sitting with independent members, consulting and taking into full account the views of those Panel members, with a view to developing best practice and a consistent approach.

## Complaints of unlawful discrimination

My office has received complaints of discrimination covering a range of issues, such as posting practices for families where both parents are serving personnel and the weight given to recent operational experience over shore- or home-based posts in promotion decisions. 49 Concerns have also been raised by organisations who provide advice and support to the Service community about the numbers of problems connected with discrimination being raised with them. The MOD has confirmed that complaints about unlawful discrimination are not covered by JSP763 unless discriminatory behaviour complained about is alleged to include bullying or harassment.

There may be a need for more support to the chain of command in making decisions that could prevent complaints arising in the first place. Following one case I referred, which was upheld by a Superior Officer on the grounds of the time it took to respond to a request for temporary flexible working, the Service reviewed whether the complaint had exposed a gap in tri-Service policy on flexible working, and concluded that it had not. It was for COs to consider requests to facilitate family life within the constraints of military service and manage individual cases in the light of the existing guidance. Complaints may be a good way of identifying whether and where there are practical difficulties in applying this guidance.

<sup>49</sup> An employment tribunal has recently upheld as indirect sex discrimination a complaint about the weight given in promotion decisions to recent operational experience, in the context of an assurance given to former WRNS personnel that they would not be disadvantaged by opting for non-sea going Service.

The Royal Navy and RAF have undertaken projects with the joint EHRC/MOD expert working panel to understand the challenges facing women in the Services and to identify practical action needed to ensure that they have equal opportunities at work and are treated with respect. Whilst the cases I oversee make it clear that bullying, harassment and discrimination are not just challenges faced by women, the cases suggest that the system does not deal well with such complaints from women.

I have recommended that all those concerned with personnel and Service complaints issues read the 2009 MOD Sexual Harassment survey, a comprehensive piece of research covering a significant number of Servicemen and women. It shows very clearly that, whilst there is less tolerance of unacceptable behaviour, Servicemen and women still have different views about what constitutes unacceptable behaviour and its impact on team cohesion.

It also shows disparities between the sexes on the functions of banter, sexualised jokes and behaviour. Whilst similar proportions of men and women see this behaviour as part and parcel of the fun of Service life, more men than women see it as a team building mechanism. More women than men believe that it is undertaken to set them apart from their colleagues. As the overwhelming majority of officers at CO level and above are men, this difference of outlook may be affecting the way such complaints and complainants are perceived. If so, this is an issue of concern about fairness.

I recommend that all Services consider very carefully the findings of the 2009 MOD Sexual Harassment survey in the context of their handling of Service complaints; and that the RAF and Royal Navy also consider the findings in developing action following their projects with the EHRC and that they share that work with the Army.

#### Burden of proof

During the year I became aware of some inconsistencies in the cases I have overseen in the approach taken to the investigation of complaints of unlawful discrimination.

Such investigations may be divided into two elements: determining the facts of what happened and assessing whether any unfair treatment of the complainant came about as a result of unlawful discrimination. This may involve reaching a judgment about the reasons for particular behaviour. In some of the cases I have overseen, a two stage process has been applied. In one case a soldier came to me with a complaint of race discrimination because he had not been provided with, and could not think of, any alternative explanation, for what had happened to him. On investigation, the CO concluded that there was an alternative explanation and that failure to provide the soldier with the reason was a systemic weakness that had to be changed. In another case, a Service Board concluded that the events alleged did take place and started from the presumption that the cause was unlawful discrimination unless they were satisfied that there was evidence to support an alternative conclusion.

In other cases, the starting point appears to be that the reasons for the treatment are not connected with unlawful discrimination, unless there is evidence of discrimination. So where a female officer has been treated differently from male officers and to her detriment, the DO might decide the cause was poor management rather than prejudice against her because of her sex. If there is an inclination on the part of DOs to start with a presumption against discrimination, as some complainants believe is the case, it may be because the complainant has a very different perception of events than that of the majority (of which the DO is usually a part); or it may be because of a concern to ensure the person complained about is treated fairly and a confusion between the service complaint and the disciplinary systems.

The ACAS Guidance emphasises the need for employers to include a consideration of the employee's view point in investigating claims of harassment. ACAS also emphasises the need to distinguish between the grievance system (the Service complaints system) and discipline system (the discipline and administrative action systems).

The ACAS approach requires a clearer delineation between establishing facts and establishing blame. Although a decision on a complaint may lead to administrative action against the person complained about, the two aspects should be kept distinct. Otherwise there is a very real danger of backlash if Service personnel believe, erroneously, that once a complaint of unlawful discrimination or harassment is made against them it is for them to disprove it.

I received a number of complaints from those about whom a complaint of bullying or unlawful discrimination had been made. Some of these complainants believed that those deciding the complaint had jumped too swiftly to blame them, rather than deal with the complaint carefully and thoroughly.

The MOD is currently considering whether there is any need to change the internal guidance to DOs on this issue. If the guidance does require amendment, great care is required in the dissemination of the changes. However, it may be helpful for the guidance to spell out the need for DOs to consider the evidence before them carefully before discounting an unlawful ground as the probable cause.

The MOD and Services are already investigating the burden of proof issue and will review guidance in the light of that advice. The handling of any changes will require great care and clarity. I will continue to monitor developments in this area with interest.

## Failure to complete internal processes before an Employment Tribunal hearing

Not all complaints of harassment allege that the treatment they received was made on an unlawful ground. However, where they do, delay can cause particular problems. All of the 79 allegations of bullying, harassment and discrimination I referred in 2008 became Service complaints, but only 32 had been completed by the end of 2009.

Most of the cases still within the system were at level two or three, although one that I referred in January 2008 was still at level one. In that case the relevant Service Board has decided that the case should be heard first by an Employment Tribunal. Two further complaints referred by me in 2008 were heard and upheld (one in whole and one in large part) by an Employment Tribunal before the complaint was considered by the Service Board or a SCP. The problem is not confined to one Service or to these particular cases.

Whilst such an ordering of hearings may be thought beneficial to an individual complainant, for example if there is a more experienced understanding of what constitutes unlawful harassment or how it is to be proved, having an external decision before the end of the internal process is completed raises a number of issues of effectiveness and fairness.

Firstly, there is the additional financial cost, as well as additional stress, which impacts on the health and wellbeing of complainants and their families. Secondly, complainants feel pushed into taking what they perceive as a career-damaging act by the dismissive way their original complaint is treated. A number of complainants have emphasised that they had no desire to take a claim externally at the outset as they trusted the internal Service complaint system to deal with them fairly. However delay and mishandling at the outset meant that they felt forced to register a claim with an Employment Tribunal within the tribunal time limits - six months from the date of the last alleged unlawful discriminatory act. Thirdly, there is concern that having a complaint at a Tribunal changes the attitude towards and treatment of a complainant, as the Service focuses on defending itself, rather than establishing the facts of what happened. They feel this exacerbates the view of them as a troublemaker and jeopardises any fair determination by the Service Board after the Employment Tribunal.

As the ACAS Code on Grievance demands prompt handling and consistency on the part of the complainant as well as the employer, it does not seem to me that any system which cannot conclude its internal processes before an external hearing can be said to be fair. This is particularly so when the delay precludes the involvement of the independent member of the Service Complaint Panel, the element introduced as part of the safeguard for deciding such cases.

I recommend that as part of the review of the handling of complaints of bullying, harassment and discrimination, the MOD and Services review very carefully the value added by having three levels of decision. They should also develop proposals, in consultation with the SCC, to ensure a final internal decision is made within six months on all complaints on which a complaint could be made to an Employment Tribunal.

## Confidence in the fairness of the service complaints system

I was consulted as part of a review of the Armed Forces Diversity Action Plan. In order to reduce the levels of inappropriate conduct, it was crucial that all personnel were aware of the consequences of such behaviour. This observation was echoed in my discussions with the Army Board, who considered the findings of a recent internal audit by the Army of 15 still-serving officers, WOs and NCOs who had received administrative penalties following complaints against them of bullying or sexual or racial harassment. One had been promoted

subsequently, one had turned down promotion, one had been reduced in rank and only four had had any mention of their conduct on their confidential annual report. Many of the others continued to receive strong recommendations for promotion.

There are a number of similar examples appearing in my office's caseload. In some cases, Service personnel have made second complaints when they perceive that a penalty awarded against the person complained about has not been carried out and then allege that they have been the subject of victimisation for doing so. Other Service personnel, about whom a complaint was upheld, have come to me feeling aggrieved about the lack of proportionality of awards made against them or inconsistency of treatment between them and others involved in the case or similar situations.

Even though the 2008 AFCAS showed an increase in the percentages of individuals who had made a complaint, 35% of officers and 33% of other ranks had not complained because they thought nothing would be done. <sup>50</sup> This is understandable if any sanctions against unacceptable behaviour appear to have no impact.

Part of the cause of this perception appears to be the confusion between the complaints system and any subsequent disciplinary or management action. There may be cases where it would be right for an upheld complaint not to be followed by disciplinary consequences. It is also usual for disciplinary awards short of criminal sanction to be a confidential matter between the individual

and the employer, and organisations who let it be known that unacceptable behaviour will not be condoned do so in a way that respects the confidentiality of the parties. However it does appear that currently the Services are not showing that they are serious about tackling unacceptable behaviour or that, if a complaint is made about an individual, he or she will be treated fairly.

I recommend that the Services work together to review whether there is any systemic weakness in the systems of sanctions against unacceptable behaviour and explore options which increase transparency and fairness to all.

#### Inconsistency in handling

The Services appear to have inconsistent ways of handling complaints made about appraisals and bullying or harassment. One Service appears to consider the complaints about the appraisal report to be part and parcel of the alleged bullying or harassment and will consider them together, while the contested appraisal report is treated as valid and will be used for career purposes unless and until it is changed.

Another Service separates the complaints and considers the one about the appraisal first. In these cases the contested appraisal report is withheld and not used until a decision is made. Although this approach avoids the potential unfairness of reliance on an unfair report for critical career decisions, it could run the risk of a different type of unfairness – for example where an apparently reasonable comment takes on a different meaning in the context of upheld pattern of bullying.

The MOD has confirmed the policy that any contested appraisal report will remain extant until a DO directs that it should be changed. As it can take over a year for the complaint to be heard, this means someone may miss an opportunity to be considered for promotion based on a report that is overturned at a later date. By contrast, the promotion chances of an individual who is the subject of a complaint about unacceptable behaviour remain unaffected throughout the investigation. Whilst this may be an acceptable and fair policy position so long as complaints are dealt with promptly, the combination of the disparity in treatment between parties and the length of time taken to consider complaints, undermines confidence in the system.

The key issue appears to be timeliness of handling. As consistency is one of the hallmarks of fairness in the ACAS Code, I would recommend that the MOD and the Services reconsider the policy and practice on contested appraisals.

#### Justice system

In my last report, I raised concerns about the interplay between the Service justice system and the complaints system. During the investigation of a Service complaint, if there is a question of potentially criminal conduct, the case is suspended and handed over to the Service police. I expressed concerns last year about these delays and the risk a decision that there was no case to answer on one or more potentially criminal aspect of a complaint might undermine the fair treatment of a complaint that included other matters.

Of concern this year have been a number of cases where the Service police have been unable to investigate serious allegations of harm, referred to the chain of command through me, because of the age of the case and unavailability of witnesses.

On 31 October 2009 the Services Prosecution Authority (SPA), headed by Bruce Holder QC, came into force as did provisions of the Armed Forces Act 2006, which require any CO who suspects a criminal act has been committed to inform the Service police, who must in turn consult the SPA. These changes were introduced in part as a response to the Deepcut Review, to ensure that a decision not to prosecute did not rest solely with COs. It is too soon to assess the SPA's impact but any decisions of the Service police not to take forward complaints of serious harm similar to those referred to above should now be reviewed by the Authority.

I have established good working relations with the SPA, including giving a seminar to its lawyers in November, and I am encouraged by our discussions. I will continue to work with both the Services and the SPA to ensure that where any decision is taken not to prosecute on a matter that originated as a Service complaint, the case will return to the Service complaints system to be reviewed in its entirety against a different burden of proof.

#### Professional standards

My office has seen a number of complaints in the last two years about improper behaviour and professional standards, including allegations of attempts to pervert the course of justice, as well as complaints from personnel who allege they have been subjected to bullying and harassment after whistle-blowing attempts.

These are not limited to complaints about police. However in the context of the Deepcut Review and concerns that led to the setting up of the SCC, there are particular concerns about Service police. The Services' police forces are subject to some external review, by the Office of Surveillance Commissioners and Interception of Communications Commissioner, while the RMP and RAF police have been inspected on a voluntary basis by Her Majesty's Inspectorate of Constabulary (HMIC). The Royal Naval Police will be inspected by HMIC in the future.

There have been developments over the last few years to bring Service police in a closer working relationship with the civilian forces and the Provost Marshals of the RMP and RAF police are now members of the Association of Chief Police Officers (ACPO). However, they do not have full internal professional standards departments, although this is being considered. Where there are complaints about or from a member of the one of the Service police forces, these tend to be investigated internally or by one of the other Service police forces, as happened with the civilian police before the establishment of the Independent Police Complaints Commission. The Service police are the only police forces in the country not subject to external independent oversight, other than the SCC, in relation to complaints.51



Confidence in the Service police in the context of Service complaints is important in two ways. Firstly, because in complaints of serious harm, the matter may be passed to the Service police for criminal investigation. In a number of complaints made to me, the investigation of the complaint by the Service police and subsequently by the chain of command appears to have foundered because of unwillingness on the part of witnesses and, in some cases the complainant himself, to provide the necessary information. If a matter which starts as a Service complaint is not well handled by the police, it can be difficult for the chain of command to decide the matter as a Service complaint subsequently.

Secondly, where a death of a Serviceman or woman occurs outside the UK, any investigation into the circumstances of the death will be the responsibility of the Service police. Families who are dissatisfied have no recourse to independent review as they would do if a death occurs in the UK and is investigated by a civilian police force.

A failure to deal effectively with complaints by members of the Service police carries the risk of damaging confidence in the police more widely.

<sup>51</sup> The Independent Police Complaints Commission for England and Wales is the complaints body for the MOD Police.

## Case study E – Delay in finding an HIO leading to withdrawal of serious complaint and lost opportunity to restore confidence

A/Sgt E who had volunteered to transfer to the Service police complained to the SCC of harassment by an instructor at the training establishment. He also complained of pressure put on him by the chain of command not to complain and a lack of support from platoon staff. He believed that he had been deliberately targeted because he had acted as a whistle-blower on an alleged instance of serious misconduct and breach of professional standards. As a result of the alleged treatment, he put in his notice to terminate his military Service. He had served nearly 10 years and before this had had every expectation that he would serve 22 years.

He returned to his regiment to serve out this notice and his CO dealt with his complaint. Although the cross-regiment nature of the complaint had the potential for some delay, within two months the CO had decided that

there should be an investigation under JSP763 and asked for an HIO to be appointed. No HIO was appointed initially but interviews were carried out by the training establishment and sent to the CO for consideration. After a further five months, the CO decided that there were still elements in relation to the complaint of harassment by the instructor that he felt warranted further investigation. He referred the complaint to a higher authority with a request for an HIO independent of the police chain of command to be appointed.

There were difficulties finding a suitably trained person to undertake the investigation. Eventually an HIO was appointed but not until after the complainant had started his resettlement leave – nearly nine months after he had made his complaint. Wishing to make a clean break, the complainant withdrew his complaint and left the Service without having had an opportunity to have his concerns about professional standards addressed.

The current Service complaints system, based on the chain of command, does not appear to be particularly well suited to handle complaints of this nature. I will continue to monitor these cases and continue discussion with the MOD and relevant parts of the Services with a view to deciding whether changes may need to be made in future.

#### Powers of the SCC

The Armed Forces Act 2006 requires the SCC to make an annual assessment of the fairness of the Service complaints system. It provides no power for the SCC to make a judgement on the fairness of the handling of individual Service complaints or on the outcome of such

complaints. During the year, a number of complainants and families have raised their concerns about the limits of my ability to ensure that they have been dealt with fairly.

Nevertheless, the oversight of the SCC increases in value if I can flag up concerns where I spot that things are going wrong. The Services have recently confirmed their support for this aspect of SCC oversight, particularly in the early stages of a case. This last year we have fulfilled that role on a number of cases, although the pressure of work and delays in staff arrivals meant that we were not able to do so as rigorously or effectively as I would have wished.

The Services are clear that I should not be involved in decision making on Service complaints. However, I believe that it is necessary to have a set of agreed criteria by which I can monitor the fair handling of complaints. I have therefore recommended to the SPB that the MOD and Services should develop a statement of principles of fairness.

This would be to enable me to review the handling of complaints against an agreed framework, which would also be used in our audit of completed cases. The Services and the MOD have accepted that recommendation.

With the adoption of this statement and a programme of completed audits, I should be in a better position next year to make a more definitive assessment of the fairness of the Service complaints system in the light of completed cases. I will also review the sufficiency of my powers to ensure that complainants and those complained about are treated fairly.

I recommend that the MOD and Services should develop a statement of principles of fairness, in consultation with me, as speedily as possible and disseminate this as part of the revised JSP Guidance.

I will review the fairness of the handling of cases against this framework, the actions taken to improve the fairness of the system and the sufficiency of the SCC powers during 2010 and publish my conclusions in my third Annual Report.





### This chapter summarises my conclusions and sets out:

- recommendations for action in 2010
- my objectives for 2010
- the 2010 objectives for the MOD and the Services.

# Conclusions and recommendations for 2010

There has been a big shift in awareness at the top of the MOD and Services, and amongst others directly concerned with the system, about the role of the Service complaints system and what needs to be done to deliver the message that harassment of any kind is completely unacceptable in the Armed Forces.

There has been progress on the recommendations I made in my last annual report, which should be acknowledged and welcomed. In some cases it has taken a considerable amount of time for action on these recommendations to get underway, so it is difficult to assess the true impact of changes being made.

Nevertheless, there is already evidence of changes in the cases I oversee. All Services have made efforts to reduce or eliminate their backlogs at level three and to shift the focus from getting a case right at the end of the process to getting it right first time.

However, timeliness is still a very great problem. Although the interim time targets the Services have set for 2010 are a step in the right direction, they are only the beginning. This is a key area for improvement for 2010 and goes to the heart of fairness, as well as efficiency and effectiveness.

I will be looking for evidence that complaints are being dealt with more quickly, as well as requiring the Services to set more challenging targets for 2011. Until I have more evidence that the three year goal of 90% of all complaints handled within 30 working days in the first instance is truly unrealistic, I will not change this as the ultimate objective.

The issue at stake is one of leadership at all levels. Following the publication of my first annual report, the then Vice Chief of Defence staff wrote to all Chiefs of Services:

"The ability to [make a complaint] is not seen as a challenge to the ethos and structure of the [Service]. It should be remembered that the reason a Service person has made a complaint is because, to a degree, they have lost faith in the system; part of our role as leaders is to restore that faith."

This report shows that, whilst there are some examples of complaints handled well, there is still a huge gap between this aspiration and the reality experienced by many personnel, which influences the effective operation of our Armed Forces.

I have outlined grave concerns in this report about the handling of complaints of bullying, harassment and discrimination. Some of the causes appear to stem from the sufficiency and deployment of resources. I am also concerned about the damage to health and welfare of all those who are involved in such cases, a significantly high number of which continue over a period of a year or more. I am encouraged by the work undertaken by the Services with the EHRC this year but, like them, wish to see more concrete results.

There are encouraging signs that some personnel are gaining more confidence in the Service complaints system and are increasingly willing to speak out. This is essential if the Services are to deliver the zero tolerance to which they subscribe, for operational as well as moral reasons. Both my case bag and the MOD's own research shows that this increase in confidence is fragile and not universal. Therefore there needs to be significant changes in the handling of these complaints over the next 12 months.

The response of the MOD and Services to my first annual report indicates that the role of the SCC can have a beneficial impact – largely on the system, although there is evidence that we have made a difference in some individual cases. It is to be regretted that, despite my oversight, nearly two thirds of the complaints I referred in 2008 were not completed a year later.

It is also pertinent that the impact of the other two independent elements introduced after the Deepcut Report is still largely untested. It is of the utmost concern that two years after the introduction of an independent element to SCPs only four such panels have been convened.

The MOD and Services have agreed to most of my proposals to increase the effectiveness of the SCC's office within current powers. I will review and report on the sufficiency of the SCC's powers in the annual report for 2010, as part of my overall assessment of the efficiency, effectiveness and fairness of the Service complaints system.

At the end of 2009, I conclude that, despite significant action by the MOD and Services, and although there are encouraging signs in relation to confidence in the system and reductions in unacceptable behaviour, I cannot give an assurance this year that the Service complaints system is yet working efficiently, effectively or fairly.

Of my 17 recommendations, action is underway on all. The guidance on separating parties has been reviewed but it is too early to say whether this continues to be a perceived problem. One recommendation, that COs provide six-monthly reports, will be superseded with the introduction of the new JPA module and so I am content for this to drop. With that exception, last year's recommendations stand. I have also made a number of additional recommendations this year, four of which relate to a new objective: to improve the handling of Service complaints of bullying, harassment and discrimination.



The SCC visiting RAF Honington, June 2009

MOD/Services recommendations	New/ Updated	Page Reference
1. TIMELINESS AND COMMUNICATION		
Services to review performance against targets set for 2010 for percentage of cases at each level completed within JSP deadlines, monitoring those completed within JSP deadlines and set targets for 2011.	updated	42
All Services should improve their management of Service complaints in the system and identify more speedily suitable cases for decision by Service Complaint Panels.	new	63
Services to review use of specialist equality investigation teams to ensure efficient and effective handling of cases and to capture and implement lessons learned. The Army should also share with other Services the impact of the new Service Complaints Wing and the proposals to speed up handling of complaints of bullying, harassment and discrimination.	updated	43
Services to widen the background of investigators in these teams and should ensure that all investigators receive specialist training in these types of investigations from external experts.	new	43
2. OWNERSHIP AND MORE PROACTIVE MANAGEMENT AT THE HEART OF COMMAND AND ACTION TO DISMANTLE BARRIERS TO ACCESS		
The impact of guidance on separating parties to a complaint should be monitored to ensure that it is implemented in accordance with best employment law practice and ensures fairness and confidence in the system.	updated	45
5. INCONSISTENCY OF PRACTICE AND LACK OF EXPERTISE		
MOD and Services should develop a statement of Principles of Fairness, in consultation with SCC, as speedily as possible and disseminate this as part of the revised JSP Guidance.	new	71
Services should work together to review whether there is any systemic weakness in the systems of sanctions against unacceptable behaviour and explore options which increase transparency and fairness to all.	new	66
MOD and Services should reconsider the policy and practice on the validity and use of a contested appraisal report, with a view to achieving consistency of practice across the Services and to minimise disadvantage to parties to a complaint of unacceptable behaviour in connection with that report.	new	68

MOD/Services recommendations	New/ Updated	Page Reference	
8. IMPROVE THE HANDLING OF COMPLAINTS OF BULLYING, HARASSMENT AND DISCRIMINATION			
MOD and Services should reconsider the system for investigating complaints of bullying, harassment and discrimination in 2010.	new	44	
As part of this review, MOD and Services should review very carefully the value added by having three levels of decision. They should develop proposals, in consultation with the SCC, for ensuring that a final internal decision is made within six months on all complaints on which a complaint could be made to an Employment Tribunal.	new	66	
Service Secretariats should review and share their experience of SCPs sitting with independent members, consulting and taking into full account the views of those Panel members, with a view to developing best practice and a consistent approach.	new	63	
MOD and Service should take appropriate action following their review of the guidance on the correct burden of proof and disseminate any changes very carefully and clearly.	new	65	
All Services should consider very carefully the findings of the MOD 2009 Sexual Harassment Survey in the context of their handling of Service Complaints. The RAF and Royal Navy should also consider the findings in developing action following their projects with the EHRC and share that work with the Army.	new	64	

For 2010 I have set a series of objectives for my office, the MOD and the Armed Forces. Action on the recommendations above will contribute to the achievement of these objectives.

## Objectives for the SCC in 2010

The key objectives for my office remain the same as for 2009, with one addition relating to the SCC's remit (shown in bold).

As 2010 represents the end of the SCC's first three year term, I will undertake a review of the powers allocated to the office, against the first three years of Service performance of the new Service complaints system. This review will also consider in greater detail progress against the three year objectives I set at the beginning of my term in office in 2008.

Improve customer Service and develop feedback and measurement systems.

Continue to develop case management and knowledge management system.

Continue to develop communications to increase percentage of Service personnel aware of the SCC.

Monitor implementation of DIA recommendations on JPA system and measure improvements in Services.

Undertake an audit of Service complaint cases.

Maintain profile and contacts to influence system improvements.

Review sufficiency of SCC's powers and confidence in the SCC role.

Deliver 2010 Annual Report on time.

Jointly with the MOD and Services I have a responsibility to ensure that Service personnel know how to make a Service complaint and know about the role of the Service Complaints Commissioner. Looking at the results in the 2008 AFCAS, and in particular the increase since 2007 in knowledge of where to get information about Service complaints, I have set my office a target to increase by a further 5% awareness of the role of the SCC and knowledge of the Service complaints system. I will encourage the Services to adopt these when we discuss their targets in early 2010.

## Objectives for the MOD/services in 2010

As none of the objectives I set for MOD and the Services in 2009 have been fully met, these should be continued for 2010. I have added a specific objective in relation to timeliness, given its key importance to the improvement of the efficiency, effectiveness and fairness of the system. I have also set a new objective for improving the handling of complaints of bullying, harassment and discrimination. The new objectives are shown in bold.

 $Implement\ DIA\ recommendations\ and\ deliver\ an\ improved\ JPA\ module\ within\ the\ year.$ 

Set targets for increased awareness, confidence and for reducing the gap between reported levels of bullying, harassment and discrimination and levels of complaints.

Provide statistics on timeliness and result of handling of complaints at all levels.

Ensure the interim 60 and 120 working days targets for completion of level 1 and level 2 complaints are met and that these targets are reviewed and tightened for 2011.

Improve the timely handling of bullying, harassment and discrimination cases and ensure that all appropriate cases complete the internal processes within 6 months and before deliberation by an Employment Tribunal.

Monitor the implementation of Service Complaints System by chain of command and feed findings into the Reviews of JSP 831 and 763 and into other Service personnel policy improvements.

Further develop the lessons learned and implementation monitoring system.

Start to consider, in consultation with the Service Complaints Commissioner, how best to measure impact.



### Appendix one

### Glossary

ACAS – Advisory, Conciliation and Arbitration Service

**ACPO** – The Association of Chief Police Officers

AFCAS – Armed Forces Continuous Attitude Survey

AO - Assisting Officer

APPG – All Party Parliamentary Group

**BFBS** – British Forces Broadcasting Service

**BIOA** – British and Irish Ombudsman Association

**CO** – Commanding Officer

DIA - Defence Internal Audit

**DIN** – Defence Instruction and Notice

**DITC** – Defence Individual Training Capability Team

DMS - Defence Medical Service

DO - Deciding Officer

EHRC – Equality and Human Rights Commission

**E&D** – Equality and Diversity

HIO - Harassment Investigation Officer

HMIC - Her Majesty's Inspectorate of Constabulary

JPA - Joint Personnel Administration

**MOD** – Ministry of Defence

Ofsted – Office for Standards in Education, Children's Services and Skills

Purple TLB - Tri-service Top Level Budget holder

**RTS** – Recruit Trainee Survey

**SCC** – Service Complaints Commissioner

**SCIT** – Service Complaints Investigation Team

**SCW** – Service Complaints Wing

**SPA** – Services Prosecution Authority

SSAFA – Soldiers, Sailors, Airmen and Families Association

## Appendix two

## Places visited by the Commissioner in 2009

#### **Royal Navy**

HMNB Portsmouth and Fleet HQ, January

HMS Illustrious, Portsmouth, January

Service Executive Committee of the Admiralty

Board, London, February

HMS Ark Royal, Portsmouth, July

University Royal Naval Units (URNUs),

Portsmouth, July

Royal Navy Commanding Officers' Designate

Course, HMS Collingwood, October

HMNB Clyde, Faslane, November

#### **Army**

British Forces Germany, Celle, Gutersloh and Hohne, **May** 

Headquarters Land Forces and Army Provost Marshall, Upavon, **July** 

Executive Army Committee Board (ECAB),

London, **September**Equality and Diversity Advisers Conference,

Larkhill, **October** 

Independent Advisory Panel Members (IAPs) for Harrogate, Bassingbourn, Pirbright and Winchester, London, **October** 

Commanding Officers' Designate Course,

Warminster, November

Headquarters 2nd Division, Edinburgh, December

Army Recruiting and Training Directorate Staff Leadership School, Pirbright, **December** Service Complaints Wing Upavon, **December** 

#### **Royal Air Force**

RAF Lyneham, February

RAF Aldergrove, June

Headquarters Air Command, June

RAF Honington, June

RAF Cranwell, September

RAF Kinloss, October

RAF Lossiemouth, September

RAF's Future Commanders' Study Period, Defence Academy, Shrivenham, **November** 

The Air Force Board Standing Committee, London, **November** 

#### **Tri-service visits**

Joint Services Command and Staff College, Intermediate Command and Staff Course (Land), Shrivenham, **June** 

Royal Navy, Royal Marines, Army and RAF Service Warrant Officers meeting HMS

Victory, Portsmouth, July

The Training, Education, Skills and Resettlement (TESR) 'Continuous

Improvement Seminar', London, November

Joint Equality and Diversity Training Centre JEDTC, Defence Academy

Shrivenham, **November** 

Service Prosecuting Authority, RAF

Uxbridge, November

Muslim Chaplain to HM Forces, Wellington Barracks, **November** 

DCAE Cosford. November

Tri-Service LGBT Equality Conference,

London, **December** 

#### Welfare organisations

SSAFA, London, April

Royal British Legion, London, June

Forces Pension Society, London, November

#### **Other**

British and Irish Ombudsman Association, Biennial Conference, University of Warwick, **May** 

International Conference of Ombudspersons for the Armed Forces, Berlin, **May** 

## List of invitations the commissioner accepted

Gender Equality Forum Dinner Debate, London, **January** 

RAFA Lords & Commons Branch Dinner, House of Lords, **February** 

Service Prosecuting Authority Inaugural Reception, RAF Uxbridge, **February** 

RAF Annual Reception, RAF High Wycombe (accepted but unable to attend), **June** 

SSAFA Art Exhibition, London, **July** 

Royal Air Force High Wycombe of Britain Dinner Night, **September** 

Annual Dinner of the Army Legal Service, Merton College, **September** 

Trafalgar Night Dinner onboard HMS Victory at the Invitation of the First Sea Lord and Second Sea Lord, Portsmouth, **October** 

The Annual Naval Legal Dinner held at the Defence College of Policing & Guarding, Southwick Park (formerly HMS DRYAD), **October** 

## Appendix three

#### Financial statement

Description	Cost (£,000)
SCC Salary <sup>52</sup>	72.6
Staff Support Staff	141.5
Accommodation and security	84.0
IT	3.5
External communications and media expertise	93.5
Annual Report Production	10.7
Independent Legal Advice	5.0
Internal Communications	1.5
Total	412.3



You can write to the Commissioner at:
The Service Complaints Commissioner
PO Box 61755

or email:

SCC@armedforcescomplaints.independent.gov.uk