

Annual Report 2013

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Our aim

To ensure all Servicemen and Servicewomen 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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Message from the Commissioner

Dear Secretary of State,

As I submit my report at the end of my second term as the first Service Complaints Commissioner (SCC), I am able to look back at the six years I have served in this role with mixed feelings. It has been a privilege to help the men and women of the Armed Forces, who I hold in the highest regard. It remains a source of much regret to me that I have not been able, within the powers I have been given, to ensure that Service personnel are treated fairly throughout their Service careers, including when they make a complaint.

For the sixth year I am unable to give you and Parliament an assurance that the Service complaints system is working efficiently, effectively or fairly. I am concerned that the goals I set for the end of 2013 have not been achieved, despite additional resources being deployed by the Services. As I have reported previously, the current system is not efficient or sustainable. Nor do I believe that it is working effectively. I am concerned particularly about the apparent increase in bullying and harassment of personnel in the Army, as well as in complaints about such treatment. Whether or not the increase in complaints reflects a growing confidence about speaking out or fully represents the scale of such improper treatment, the Army must now use the Service complaints system effectively to make their zero tolerance policy work in practice. Three case studies in this report give good examples of decisive action in this regard.

Delay remains the principle reason for unfairness in the system, in the Army and RAF particularly. Problems remain in the monitoring, handling and recording of Service complaints and this report, like previous reports, contains case studies that show how a slow, ineffective and unfair system can exacerbate the wrong complained about, including damage to mental health.

Sadly I am unable to provide an assurance that the data contained in this report provided by the Army and RAF is reliable. I am including an explanation (at Appendix 5) from the RAF as to why the information they provided for last year's Annual Report was incorrect. They and I apologise for unwittingly

providing incorrect data. The third internal audit, by Defence Internal Audit, which was planned for 2013/14, needs to take place during 2014.

More positively, the new red and yellow flag reporting system I proposed and which has been in place since the beginning of 2013, has led the Services to accept that too many Service complaints take far too long to be resolved and that the Service complaints system has to be simplified. They have also accepted that there are real benefits to the Services and their personnel for the powers of the SCC to be strengthened.

Over the last year other national organisations, such as the NHS, the BBC and the Police Service, and the wider public have come to understand the importance of having an effective complaints system in which there is full confidence and which highlights unacceptable behaviour and systemic weakness. There has also been public concern about unacceptable treatment of Service personnel during their Service and questions about the effectiveness of the current systems, including the Service complaints system and my powers, to tackle and prevent that treatment.

In its Report on the Work of the Service Complaints Commissioner, published in February 2013, the House of Commons Defence Committee gave wholehearted endorsement to my call for those powers to be that of an Ombudsman. I made detailed proposals for such a role in April 2013, which form the basis of the proposal for an Ombudsman you announced in March this year. I welcomed that announcement which will provide a system that is significantly better for Service personnel.

I also welcomed your intention to introduce legislation as soon as possible. Having agreed proposals for change, these now need to be implemented without further delay. I believe that these changes will promote a new approach to complaints which will enable the Service complaint system to work efficiently, effectively and fairly in the future. The powers of the Ombudsman to expose improper handling of complaints are critical in this regard.

I firmly believe that the changes to be introduced by legislation will enable the Service complaints system to work much more efficiently; but in order for those savings to be realised, the Ombudsman's office must be adequately resourced. I regret to say that this has not always been the case during the six years of my tenure.

2014 will be a year of challenges for my office as much as for the Services. I have entitled this report "The Challenges Ahead". As well as providing an assessment of the Services' performance against the three year goals I set at the start of 2011, it also looks forward to the challenges each of the Services face in the foreseeable future, not least with the draw down from Afghanistan, an increased Army Reserve, changes flowing from the New Employment Model and to Service pensions. Such changes inevitably create the conditions for problems to occur. How the Services use the Service complaints system to create confidence to raise any problems, spot potential risks and maintain effective commitment of personnel, will be a test of Service leadership.

At the end of my second term in office, I want to thank everyone who has worked for and with me over the last 6 years. It has been a privilege to assist the thousands of Servicemen, Servicewomen and their families, who felt I gave them the confidence to speak out when things had gone wrong in their Service life. I am very sorry that I did not have the powers to ensure that all their cases were dealt with in a timely or proper way. Their experiences have however led to improvements to the system which should benefit others in future.

A handwritten signature in black ink that reads "Susan Atkins". The script is cursive and fluid.

Dr Susan Atkins

Service Complaints Commissioner

Overall Assessment

1. **For the sixth year running, the SCC is not able to give Ministers and Parliament an assurance that the Service complaint system is working efficiently, effectively or fairly.** None of the goals the SCC set to be achieved by the end of 2013 have been met, despite additional resources being deployed by the Services. Delay remains the principle reason for unfairness, particularly in the Army and RAF.

The work of the SCC

2. **In 2013 the numbers of people contacting the SCC quadrupled since the SCC's office was set up in 2008.** Of the 725 people contacting the SCC, nearly a fifth raised matters that could not be the subject of a Service complaint and were therefore not within the SCC's remit. This included members of the public wishing to complain about the behaviour of Service personnel and alleged abuse via social media.
3. **The numbers of contacts from Service personnel about matters that could be a Service complaint increased only slightly. The majority of contacts continued to be from Army personnel and about some sort of improper behaviour, which includes bullying, harassment or discrimination.** Potential Service complaints from Army personnel increased and those from Naval and RAF personnel decreased. A higher percentage of potential Service complaints were not pursued by complainants than in previous years, so the number of complaints the SCC referred to the Service chain of command was lower than in 2012. Allegations of some sort of improper behaviour increased to nearly two thirds of referrals. The rate of referrals of allegations made by Servicewomen about some sort of improper behaviour is higher than their representation in the Armed Forces.
4. **The system of flagging with the SCC those Service complaints that have been in the system for over 24 weeks (red flags) or are likely to take over 24 weeks to resolve (yellow flags) has proved a much more resource efficient method for the SCC's office to monitor the handling of cases.** It has also been pivotal in increasing awareness, particularly at senior levels in the Services, that the Service complaints system is not working properly.

The working of the Service complaints system

5. **Only the Naval Service has provided confidence in the accuracy of the data they have provided about Service complaints.** This is consistent with the findings of the audit by the Defence Internal Audit (DIA) in 2012. The data provided by the Army for 2013 contains a number of gaps and inconsistencies. The RAF has explained and apologised for errors in the data they provided for the SCC's Annual Report 2012 and assessed the data for the 2013 report to be at least 70% accurate, with greater confidence in some of the baseline data.
6. **From 2012 the Services have provided data disaggregated by gender. In 2013 for the first time they have provided some data disaggregated by ethnicity.** Female and minority ethnic personnel in all Services make a higher percentage of Service complaints than their representation in their Services. Female personnel are more likely to complain where their representation in the workforce is higher (i.e. in the RAF and the Navy) but data suggests that ethnic minority personnel are less likely to complain the better they are represented in the Service (i.e. in the Army). The reasons for these differences are unclear and need to be explored by the Services.

In the Naval Service

7. **Despite almost a doubling in the number of new Service complaints in 2013, the Navy has built on its strong 2012 performance.** Most of the increase was accounted for by an eight fold increase in complaints about pay, pensions and allowances. Service complaints about bullying, harassment and discrimination account for only 9% of all complaints. Three quarters of all new Service complaints brought in 2013 were resolved by the end of the year, nearly all at Level 1 and within 24 weeks.
8. **Overall the Navy resolved 78% of new 2013 Service complaints within 24 weeks. This is the best performance of the three Services.** The main cause of delay in relation to Naval Service complaints is reported to be lack of resources.
9. **Whilst the ability of Commanding Officers to resolve complaints at Level 1 during 2013 may be linked to the types of complaints brought, nevertheless it appears that the culture change,**

focussed on resolution, timely handling and good communication, pioneered at Navy HQ at Level 2 in 2011 and 2012, has now been embedded with Commanding Officers.

In the Army

10. **The Army saw a 12% increase in new Service complaints in 2013, a higher rate of increase than previously. The Army worked on more Service complaints during the year and appears to have closed more complaints at all levels. However only 26% of Service complaints made in 2013 were closed during the year: 16% were closed because the chain of command made a decision on the complaint: 10% because the complaint was withdrawn or resolved informally.**
11. **The Army met the target of resolution of complaints within 24 weeks in only 25% of cases.**
12. **Service complaints about bullying, harassment and discrimination account for 43% of all Army allegations, compared to 9% of all allegations made in the Naval Service and 38% in the RAF. Service complaints of bullying, harassment and discrimination made in the Army in 2013 increased significantly. The numbers of complaints of harassment and discrimination were over six and four times respectively than those made in 2012. Complaints about bullying also increased by a third. Whilst these types of complaints are made disproportionately by female personnel, the Army has not recorded different types of harassment and discrimination on JPA. This significantly undermines their ability to explore if there are particular problems being experienced by minority groups and must be addressed.**
13. **The Army has shown that the current Service complaints system does not enable it to resolve Service complaints, (the majority of which on the basis of previous years' data it upholds in whole or in part), within a reasonable time period.** Given the increase in both instances of bullying, harassment and discrimination recorded by Army personnel in the Armed Forces Continuous Attitude Survey and the increase in Service complaints about such treatment recorded in 2013, this is extremely serious. A failure to deal with those complaints as effectively and quickly as possible would be a fundamental breach of duty of care and of the Armed Forces Covenant.

In the RAF

14. **The data for 2013 is provided by the RAF with limited assurance as to its accuracy.** The RAF, from 1 April 2014, will be auditing the use of the JPA data recording system on a monthly basis to provide assurance, identify issues and take remedial action. The RAF has already taken some action to improve data recording practices.
15. 121 new Service complaints are shown as being made by RAF personnel in 2013, a fall from the corrected total of 187 for 2012. The RAF closed just over a third of all Service complaints worked on at Level 1 during 2013 but had nearly twice the numbers of new complaints still open at the end of the year. Just over a fifth of Service complaints worked on at Level 2 were decided at that level during the year, leaving just under 80% open. The closure rate at Level 3 was best, with just over half of all complaints resolved.
16. **Only 29% of all new Service complaints made in 2013 were resolved during the year but only 23% were resolved within the 24 week deadline. This is the lowest performance of all three Services.** At the end of 2013, over 5 times as many RAF Service complaints remained open as remained opened in the Navy. Having over a third of Services complaints that are at least a year old, still languishing at unit level, is not the sign of an efficient, effective or fair system.
17. **The RAF face some very real challenges, which they have taken steps to address, in relation to the consistent and reliable recording of complaint data, tackling current backlogs and getting on the front foot with new Service complaints.**

Progress against the three year goals

18. **None of the Services has met the timeliness target, although the Navy has almost achieved this in the context of a doubling of new Service complaints.** Complaints about bullying and harassment appear to take longer to investigate, which is why the MOD accepted the SCC's recommendation for dedicated Harassment Investigation Officers (HIOs) for such complaints across Defence. The MOD has undertaken a Review of the effectiveness of the new Fee Earning HIO (FEHIO) scheme against timeliness targets. In the vast majority of cases where they are used, it appears to take longer than 21 weeks for an FEHIO to be appointed, to complete and report on

an investigation, making it difficult for the Services to meet the 24 week time target in such cases. The MOD should consider setting quality indicators with a view to enabling Service complaints to be investigated and decided fairly within a reasonable time.

19. **The previous downward trend in incidences of bullying, harassment and discrimination reported in the Armed Forces Continuous Attitude Survey (AFCAS) appears to have been reversed.** Levels of bullying harassment and discrimination are reported to be lowest in the Royal Navy and Royal Marines. The level of bullying, harassment and discrimination reported by Officers in the RAF has gone up slightly in 2013 but has gone down for Other Ranks. Levels of bullying, harassment and discrimination are highest in the Army and Army personnel reported an increase in terms of incidence. However the proportion of those in who made a formal complaint about it continued to fall in the Army and the rate reported by Army personnel is the lowest of all three Services. This appears to be inconsistent with increases in Service complaints about bullying, harassment and discrimination reported by the Army, although AFCAS reflects what occurred mainly in 2012 and the Service complaints data covers the calendar year 2013.
20. **The data suggest that the Army does have a problem with bullying, harassment and discrimination and that there has been an increase in the occurrence of improper behaviour not simply an increase in complaints about such behaviour.** Because of the way the Army collected Service complaints data, it is difficult both to spot the trends over time and to identify if there are particular groups of soldiers who are complaining about harassment or discrimination. The Army should give a higher priority to action on this subject and take a holistic approach, including in this work lessons arising from Service complaints, Employment Tribunal decisions, Service Inquiries and other reports, such as Coroner's Inquests.
21. **As in 2012, the SCC has no evidence that complaints that are subject to the specialist complaints systems are being dealt with in a more timely manner.**
22. The SCC has in previous Annual Reports highlighted the significant omission of the Service police from the oversight by the Independent Police Complaints Commission (IPCC) or its

equivalent bodies in Scotland and Northern Ireland. Until this gap is closed, complaints about the Service police should, as a minimum, continue to be dealt with under the Service complaint system and the provision with regard to improper treatment should remain as in the current legislation. Complaints about the actions of Service police will fall under the remit of the Ombudsman under the proposed changes to the Service complaints system. This is an important step forward but is not a substitute for IPCC oversight.

23. **Awareness and understanding of the Service Complaints Commissioner amongst Service personnel has continued to rise.** In 2013, the AFCAS survey showed that in every Service, over two thirds of Service personnel understood the SCC role at least to some extent, with over 86% of Officers doing so.
24. **In February 2013 the House of Commons Defence Committee concluded that the role of the SCC was an integral part of honouring the Armed Forces Covenants' commitment to the duty of care of the Armed Forces and the opportunity to seek redress when they have been treated inappropriately or unfairly. They commented positively on the work of the SCC over the previous 5 years.** However they noted evidence presented to them of a loss of confidence by some Service personnel in the SCC because of the lack of power to intervene effectively to ensure that they were treated properly when they made a Service complaint, a concern shared by the SCC. They were also concerned at the level of resources provided for the SCC. For those reasons, they recommended that the SCC role should be changed to that of an Armed Forces Ombudsman. Similar views are also expressed by Service personnel, Service families and others.

Changes to the Service complaints system and the role of the Service Complaints Commissioner

25. Throughout the last six years, the Service Complaints Commissioner has sought to ensure that Service Personnel, who are prepared to lay down their lives for their country, are treated fairly throughout their career, including when they make a complaint. In her Annual Report 2010 she concluded that the powers she had as Service Complaints Commissioner were not sufficient to achieve this and that the role should be made into an Ombudsman. In 2013 this recommendation

was wholeheartedly endorsed by the House of Commons Defence Committee.

26. Following the Secretary of State for Defence's announcement in March 2014, discussions between the Office of the Service Complaints Commissioner, the Ministry of Defence and the three Services are now focused on delivering a new 'Service Complaints Ombudsman'.
27. **The proposed role of the Service Complaints Ombudsman, together with a simpler internal complaints process, should bring substantial improvements to the fairness of the complaints system, the time it takes for complaints to be resolved and increase the level of confidence Service personnel have in the process.** A better complaints system will also help the Services to see where they need to make changes in their organisations, taking action to reduce the number of future complaints by addressing underlying issues and improve operational effectiveness. Because the proposed system will be simpler and quicker it should also cost less than the current system. Maintaining the momentum towards these important changes is critical.
28. Therefore, at the end of her second term, the SCC is optimistic that, although the system is still failing, the means to a more effective, efficient and fair system have been agreed and once implemented will offer Service personnel the reliable means of redress that they deserve.

2013 Recommendations

Recommendation 13.1 – The third DIA audit of the Services' use of JPA, recommendation 12.1 in the SCC's Annual Report 2012, should take place in the calendar year 2014. That audit should also consider the concerns raised by the SCC in her Annual Report 2012, including the potential for non-recording of Service complaints later resolved informally and pressure to record as withdrawn complaints which were resolved and closed.

Recommendation 13.2 – The Services should provide information to the SCC annually from 2014 onwards on types of complaints by ethnicity.

Recommendation 13.3 – In view of the small numbers of women and ethnic minority personnel asked to complete the Armed Forces Continuous Attitude Survey, MOD and the Services should consult with Defence Statistics as to how to enrich the data collected (for example by a booster sampling on section 4 of the AFCAS or by way of a separate survey) so as to be able to get a better picture of incidence of bullying, harassment and discrimination across minority groups in the Services, to compare with diversity sensitive information on Service complaints.

Recommendation 13.4 – There should be a standard template for informal resolution, for all three Services, which records the matter complained about, the action which has been taken to resolve the complaint informally, any action which the CO has taken or is going to take and states the right of the complainant to make a formal complaint within a specified time if that action has not been taken.

Recommendation 13.5 – As part of its assurance and monitoring, the RAF should consider changes in patterns and types of complaints, so as to be able to assess and inform the SCC of the impact of changes it has made to the handling of Service complaints. As empowerment of the chain of command is perceived to be part of the solution to a more effective and efficient handling of Service complaints, the RAF should share its findings with the other Services.

Recommendation 13.6 – The Army should give a higher priority to its work in understanding and eliminating bullying, harassment and discrimination and should take a holistic approach similar to that undertaken by the Australian Defence Force.

Recommendation 13.7 – The red and yellow flag system should remain in place to monitor performance against time targets whilst a complaint is live.

This chapter sets out a number of case studies which illustrate the types of Service complaints brought by Service personnel and overseen by the Service Complaints Commissioner.

Some have been handled well. Others have been subject to unreasonable delay, which has exacerbated the harm done by the original wrong. A common theme is that decisive and speedier action can not only help prevent a re-occurrence of similar problems in future but may start to change the culture to stop more severe problems arising. Lessons from these case studies are drawn on in the later chapters of this report.

Case Study A

Unlawful punishment of a trainee recruit

A former Infantry recruit trainee contacted the SCC in March 2012 after being discharged from training as unsuitable for Army Service (UFAS). He had made a complaint during his training about the improper way he felt he had been treated by some Instructors but nothing had come of it. The SCC referred his allegations of bullying and his former Commanding Officer appointed a Harassment Investigating Officer (HIO) to investigate the Service complaint he subsequently made.

Because of the passage of time (the Service complaint was made 10 months after he had left the Army and the HIO report was made 10 months later), a key witness and one of the Instructors about whom a complaint had been made had left the Army and could not be interviewed. The CO therefore made a decision on the evidence of other witnesses who were available. The CO decided on the balance of probabilities that the recruit trainee had not been singled out as he had alleged, had not been bullied or threatened with violence. However he was satisfied that it was more likely than not that he had been made to adopt a 'plank' position by a Junior Non-Commissioned Officer (JNCO) who had then used his foot to push him face down onto the floor. He also upheld the allegation that a JNCO had told him subsequently to take off his uniform as he 'did not deserve to wear it'. Witnesses had partially corroborated both allegations.

The CO noted that in his first 6 weeks of training the recruit trainee had had problems but that his motivation and application deteriorated rapidly

following the 'plank' incident. That this had had a profound effect on him was corroborated by welfare interviews he had had at the time. The CO saw a connection between the incident and the decline in performance and motivation. He decided that as he had given the recruit trainee the benefit of the doubt with regards to the plank incident, and the grounds for his UFAS discharge were dependent on an unlawful punishment for which he had wrongly been subjected, the grounds of his discharge should be categorised as released from Army Service (RFAS).

In bringing his Service complaint the recruit trainee had wanted an investigation into his complaint, action taken to try to stop this from happening again to anyone else and for the grounds of his discharge to be changed, allowing him to re-apply and re-start training. On the last point, the CO recommended that he wait until 2 years from the date of discharge, to enable him to gain the necessary physical and emotional maturity.

In relation to prevention for the future, the CO made a clear statement that the 'plank incident' constituted an illegal punishment, and that he had taken action to ensure that his permanent staff had a clear understanding of corrective training and punishments that are approved and that staff who award illegal punishments would be subject to unit investigations and dealt with either through administrative or disciplinary actions.

The CO noted that controls were in place to reduce the chances of an illegal punishment being awarded and that wider understanding amongst trainees of the informal complaints process had underpinned this mechanism. The CO also noted that improved

direction had been given, emphasising the correct process and determination of discharges.

SCC Comment: Although the CO took decisive action eventually, it is regrettable that this occurred only once the SCC was involved and nearly two years after the illegal punishment was inflicted. An effective zero tolerance policy requires low level bullying to be challenged and stopped in order to prevent more serious incidents.

Recruit trainees are some of the most vulnerable Service personnel which is why care is taken to solicit their views in the Recruit Trainee Survey (RTS) on how they were treated. The Deepcut Review into the circumstances surrounding the death of four trainees at an Army Training establishment led directly to the setting up of the SCC. The RTS will, in future, ask questions about awareness of the SCC, which should increase confidence to make a complaint as this trainee did.

Case study B

Harassment and improper treatment of a female trainee

A female private soldier at a Phase 2 training establishment approached the SCC in late 2012. She had suffered an injury during training and subsequently was referred to attend rehabilitation before she could continue her training. She felt that she was being singled out for fault by a Warrant Officer, was being ridiculed and undermined by him in front of others and was being pressured to unwillingly apply for Discharge as of right. She was receiving conflicting advice as to her position on returning to her training course or whether she would be discharged in the then near future.

Following referral by the SCC, the private soldier was interviewed by the Commanding Officer and assured that she was to remain on the training course whilst her complaint of improper treatment and harassment was investigated. She was provided with an Assisting Officer to give her support and guide her through the process.

Within 2 months of the Service complaint being made (an attempt at mediation having failed), the

CO gave his decision. He started with an apology for the time it had taken to resolve the complaint but explained he had undertaken a detailed examination of the issues she had raised as she had specifically asked for action to ensure that no trainee in future would be treated in the same way.

The CO identified 3 ways in which the private soldier had been let down. Although a remedial action plan had been put in place for her physical injury, no similar plan had been provided to help her address the shortcomings in self-confidence, presence and bearing which had been identified by training staff. For the future, the training establishment would agree a training and development plan with every Phase 2 trainee removed from training to ensure that those areas where they were struggling were addressed.

Secondly, the CO recognised that too many people had become involved in her case, and that the confused and conflicting advice she received must have affected her morale and motivation to succeed. As corrective action, the CO had made it clear that only 2 staff (the OC and Sgt in charge of those removed from training) had the responsibility for communicating with such trainees, taking advice from others as necessary. Similar clarity had been given with regards to those taking and communicating decisions as to termination of training course/ discharge.

The CO had also taken action to improve management so as to ensure that, where it was necessary for comments and advice about performance and standards to be given, it was done in an acceptable way. This action included briefing for new members of permanent staff and so that all instructors understood from day one what is acceptable and what is not.

The private soldier successfully completed her training with the full support of the CO and OC. She commented that the SCC's referral was very important. "The support and encouragement I received following your involvement was exemplary. I was able to access appropriate interventions that had previously been a barrier. Without the Commissioner's intervention I would have been discharged from the Armed Forces".

SCC Comment: The CO is to be commended for the way he handled this complaint and for his understanding of the impact of poor treatment on motivation and performance. Not everyone learns in the same way and educators have observed that girls may have a more passive style than boys. Requiring any improvement plan to articulate and specify what changes in behaviour are required, as is used by the Royal Marines at their Commando Training Centre, is a practical measure which can prevent potentially bullying behaviour and support all trainees to succeed, whatever their gender, ethnicity or background.

Case study C

Clear statement of the differences between bullying and robust management

An Officer made a Service Complaint through the SCC in 2010 regarding his treatment over a period of nine months by his Commanding Officer (CO) that he alleged amounted to bullying and harassment. He said he had been subjected to unreasonable demands, aggressive micro-management, undermining behaviour, public humiliation, verbal abuse and improper use of Administrative Action (the equivalent of disciplinary action in the civilian world). He stated that he had been overloaded without appropriate direction, resources or public support and subjected to sudden and unreasonable outbursts of temper, including being sworn and shouted at by his CO. This had adversely affected his health, his family and also his ability to do his job effectively. It took over three and a half years for the complaint to be investigated and decided at the first level, during which time the CO had left the Army voluntarily and the officer had moved posts, including undertaking a six month operational tour.

Eventually the complaint was passed to a senior officer who had the power of redress to act as the Prescribed Officer, (PO). The PO upheld the officer's complaint, stating that it was well founded and that he had been wronged.

The PO also made some clear statements about what was and was not acceptable behaviour. He reiterated the definition of bullying in JSP 763, the

MOD's guidance on dealing with such complaints: "Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate or injure the recipient." In this case, witnesses had commented on the behaviour of the CO towards the officer, including a constant barrage of questions, disrespectful behaviour, on most occasions in front of them and others, plus the shock felt by subordinates at this treatment.

The PO said that the following amounted to bullying:

- The use of offensive language designed to undermine a subordinate in front of others.
- Intimidation by the CO swearing at a subordinate in telling him to get out of his office.
- Criticising an individual for keeping a record of improper treatment, which is standard advice to anyone who feels they are being bullied.
- Attempting to force a decision as to whether to make a complaint
- Threatening to remove the officer from his post for submitting a Service complaint.

The PO again quoted from JSP 763: "Though most people will agree on extreme cases of bullying, behaviour that is considered bullying by one person may be viewed as, for example, 'firm management' or 'robust leadership' by another." The PO considered that the CO believed his behaviour fell into the latter category and was used in order to improve performance. However, the PO concluded that the CO had overstepped the threshold and erred into bullying.

The PO also concluded that the order by the CO to the officer not to take his concerns up the chain of command was an illegal order and was part of the reason the dysfunctional working relationship between them was not resolved.

By way of redress, the PO ordered that the record of an incorrectly-served Formal Interview, together with the officer's Appraisal Report for that period (which contained sufficient bias as to be unfair) be removed

SCC comment: This case is important for the very clear statements about behaviour which some personnel, at all ranks in the Armed Forces would not perceive to be unacceptable and use as a means to engender high performance. The SCC's post bag includes complaints from personnel from the most junior to starred ranks (Brigadier and equivalents and above), about similar treatment. COs set the tone in any unit, with a risk that such behaviour at the top leads to similar behaviour, or more extreme behaviour by others, being regarded as acceptable and going unchallenged.

One of the most disturbing elements of this case was the order by the CO for the Officer not to raise his concerns up the chain of command and also threats of adverse consequences if he made a Service complaint. It was precisely this inability of Service personnel to make complaints when they were being abused that led Sir Nicholas Blake in his Deepcut Review Report to recommend that there should be an Ombudsman and which led to the setting up of the SCC's office. The PO's decision is an unequivocal statement of the right of a Serviceman or Servicewoman to contact the SCC, to make a Service complaint, to make a record of ill-treatment so as to provide evidence to support any such complaint and not to be threatened or victimised for doing so.

Despite this, it is totally unacceptable that it took over three and a half years for a decision to be made on this case.

Management practice in civilian employment recognises that alleged unfair treatment of an employee, which affects their performance and career prospects, needs to be investigated and addressed speedily in the interest of fairness to the individuals concerned and also for the good of the organisation itself. This case marks recognition that certain types of behaviour to improve individuals' performance are not acceptable. However the next step is recognition by the Army that delay in investigating and tackling such behaviour also risks damaging organisational performance more broadly. For that reason, amongst many, tackling and making the Army's zero tolerance policy on bullying a reality in practice must be given a higher priority.

from his file, so as not to unfairly prejudice his chances at future Promotion Boards.

Case study D

Person complained about – subject of isolation, prejudice and assumption – compensation

In 2009 a complaint was submitted by a WO Instructor concerning the actions of one of her students and the way the situation was subsequently dealt with by her chain of command. The WO had referred the student to the Training Management Board because the student was not performing to the required standard. The student then made a complaint of bullying, harassment and discrimination against the WO, and, on investigation, the accusations were found to be unsubstantiated. The student was however re-instated.

The WO was not interviewed until after the student was reinstated and was advised that when the student recommenced his training, her relationship with him would be monitored for 3 months. The WO felt this was akin to a formal warning, but without due process. Whilst on leave she was contacted by her CO and told that a replacement WO had been appointed. When she returned to work the replacement was sitting at her desk and her possessions had been moved to a spare office, in effect removal from post without explanation.

These actions were felt by the WO to place her in an untenable situation and with no choice but to terminate her contract. This had a detrimental effect not only on her family but on her finances. The SCC referred and took oversight of the complaint.

In submitting a Service complaint the WO sought redress in a number of areas including further investigation of her complaint, review of policy, protocol and training for those investigating harassment complaints. The WO also wanted monetary compensation for the loss of 1 year's salary and pension and a review and an explanation for her removal from post.

The WO's complaint took 15 months to be decided at Level 1, partly because it was passed around different chains of command around before a Deciding Officer

was appointed. The Deciding Officer did not believe on the balance of probability that the behaviour by the chain of command was maliciously intended. He did acknowledge that insufficient support was given to the WO and that her feelings and position were not sufficiently appreciated.

The WO sought a review by a higher authority. In 2013 (3½ years after the Service complaint was made) a Service Complaint Panel (SCP) with an Independent Panel member, decided that there were a number of serious failings and evidence of gross carelessness by the chain of command which amounted to improper treatment. The SCP focussed on whether the complainant was wronged by the handling of the SC rather than culpability of the chain of command.

The SCP found that the complainant was not well supported by her chain of command throughout the process. In contrast to the supportive treatment of the student, the WO, whose actions had been essentially vindicated, was subject to unnecessary and inappropriate management action which must have been humiliating. The SCP felt that this action was improper, unwarranted and amounted to a wrong. The SCP also felt that this insensitive, negligent and improper treatment triggered the complainant's decision to terminate her service early.

As redress they decided that the WO should be compensated for the loss of a year's salary and loss of pension entitlement. The panel also apologised to the WO for the excessive additional delay in obtaining financial approval for the compensation award. They identified two opportunities for learning.

A review should be taken of policies and training protocols regarding the investigation of complaints to include the lessons arising from the complaint about the support needed from the chain of command for a respondent.

Secondly, as a result of this and another case, the Defence Council changed its practice in relation to cases for which compensation may be payable. Such cases are now dealt with in two stages, with a pause after the decision on merits. This enables Service Boards and Service Complaints Panels to provide a decision on a Service complaint, whilst the necessary

procedures and consents are obtained for an award of significant financial compensation.

At the end of the process the WO felt that the decision and redress awarded would never reflect the way she was treated and the humiliation she had suffered which had remained with her for nearly 4 years. The frequent change in personnel investigating and/or deciding her case, which had meant she had to explain her case, her situation and the effects it had had on her life on at least 6 occasions, had exacerbated the damage done to her. She had had a superb Assisting Officer and had found contact with the SCC's caseworker to be invaluable. Nevertheless she would recommend a single point of contact in each Brigade through the course of a complaint, to avoid delay and frequent re-opening of wounds. This might also avoid the understandable difficulty a Deciding Officer experienced when a complaint was made about someone with whom he or she worked closely.

She said, "I do not doubt that my case has led to lessons learned and I only hope that this serves those who have truly been wronged not to accept initial findings and to believe that Service personnel are always afforded a voice and the support they deserve."

SCC Comment: During 2013 the SCC has continued to receive complaints from individuals about the poor handling of Service complaints about them. Delay and lack of support causes stress and injustice for all parties to a Service complaint.

Action has been taken on the two lessons identified in this case.

Firstly, at the beginning of 2014, the Army issued an amendment to Land Forces Standing Orders (LFSO) 3358 highlighting the potential unintended impact a complaint can have on a complainant, person complained about or someone connected to a complaint. There is now a requirement on any Officer determining a complaint to seek to address these matters to the extent that he or she is able or to report the matters to an authority who can address them.

The same LFSO requires an Officer deciding a complaint to communicate the outcome as soon as possible to all parties. The LFSO also directs what an Officer should do if he or she believes that future action should be taken, either in relation to the person who has been held to have caused the wrong, or to prevent a similar wrong occurring in future.

Secondly, the two stage process, for deciding compensation after a decision that someone has been wronged and that wrong cannot be redressed in any other way, which has been applied in a number of cases since this particular complaint, has helped reduce delay, increase confidence in the system and enabled justice to be done more swiftly.

Case study E

Improper treatment of an Officer who stood up for the Values and Standards of the Service

After one month an Officer was removed from a training course to be an instructor as being unsuitable for this particular type of employment. She believed the main reason was because she had challenged those teaching the course about their lack of understanding of equality and diversity policy and practice. The removal was to be without prejudice and her professional and personal qualities as an officer were said to be without question. The Officer contested the removal as being without foundation and was put into “holding” employment awaiting the decision as to whether the removal was to be upheld.

It took nearly eight months for the decision to be made, which was that the removal, without prejudice, was not supported. The Officer was offered the option to return to the course but decided not to do so, because she did not feel it was in her best interests to go back to an environment and individuals who had wronged her so badly. She requested an alternative appropriate posting, which she ultimately received, where the new chain of command had not been informed of any of the events of the previous year.

Unfortunately she later discovered that her personal records had not only been wrongly annotated with “posted with sanction”, i.e. that her removal had been as a result of wrong-doing, but that her record had not been updated/corrected. Had this gone unnoticed it could have affected her future career. The Service’s HQ did remove the item and apologised for the mistake, which they believed had tested the system. The Officer hoped that the Service had taken action to improve processes to prevent a similar mistake blighting others careers in future.

Because of the outcome with regards to her case and that she had been told that there would be an improvement of the system, the Officer decided not to pursue a Service complaint. However she commented,

“I think Dr Atkins hit the nail firmly on the head with her (2012) Report on the handling of complaints by the Armed Forces, in that the system is not working efficiently or fairly. Even more needs to be done to ensure the processes are being correctly implemented within the Armed Forces. I firmly believe that, had I not had the relevant experience and an understanding of what is and isn’t policy, with an ability to argue my case, that my career would have been even more adversely affected.”

She praised her colleagues and chain of command in the “holding” post who believed in her, supported her and understood Equality and Diversity policy. Their support was invaluable during what was a very difficult time.

Case study F

Loss of career and opportunity to serve in the Reserve

A former Marine (Mne) contacted my office in October 2010 having been discharged from Royal Marine (RM) training the previous year and after two unsuccessful appeals for reinstatement. The Ex-Mne had been medically discharged from training due to a non-mechanical back injury and declared permanently unfit for Naval Service. This precluded any applications to re-join the regular Royal Marines, Royal Navy or a Reserve Service. Since his discharge, he had seen three different medical professionals who all agreed that he did not have, nor had ever had, the

condition diagnosed. The Ex-Mne believed that he had been discharged on insufficient evidence whilst still subject to Service Law. He also believed that when he appealed, the evidence he put forward was not looked at properly and that the alleged misdiagnosis had not been addressed.

The SCC referred his allegation of wrongful treatment to the Commanding Officer at Training Centre Royal Marines and asked to be informed of progress on the Ex-Mne's complaint. She flagged up potential systematic weaknesses and asked to be kept informed of any findings or preventative action on such points.

The Ex-Mne's complaint was referred to Level 2 by the Commanding Officer as he did not believe that he had the authority to overrule the discharge decision. In November 2012 the Superior Officer (SO) rejected the complaint. He said that the medical evidence that the Ex-Mne presented, whilst appropriate in civilian employment, did not take place during a period of occupational loading. Neither did it recognise the level of biomechanical or cardiovascular fitness required to complete Commando training. The SO did, however, state that his decision did not preclude the Ex-Mne from applying to the other Services.

The complaint was then appealed at Level 3 and partially upheld by a Service Complaints Panel (SCP) in 2013. They agreed that the original decision to discharge the complainant was justifiable and reasonable in the circumstances. However, they also decided that labelling the Ex-Mne as permanently unfit for Naval Service (PUNS) on the basis of failing one occupational loading test when he was 17, was wrong. Had a different decision been made to give him appropriate rehabilitative training and support he might have successfully passed such a test. Moreover, 4 years had passed during which time he appeared to have kept up a good level of fitness. The PUNS label could and should have been qualified to recognise the potential remedial nature of the condition given his level of physical maturity.

The SCP also directed Captain of Naval Recruiting to facilitate the Ex-Mne's application to re-join the Naval Service, including the Royal Marines, if he wished to do so. His Service medical records should also be updated with a contemporaneous corrective medical note. This has been done.

The Ex-Mne decided to re-join the Reserves as he was in the final 18 months of a degree course and told the SCC that he will make a decision about whether he will join the Regulars after his studies are complete.

Case study G

Loss of promotion and decisive action to remove unfairness

An Officer made a complaint in 2012 about not being promoted, having been ranked very highly in order of merit by a promotion selection board in early 2011. The Officer had been selected to attend the Advanced Command and Staff Course (ACSC) at the Defence Academy, Shrivenham – a one year's course for officers identified as having potential for promotion to senior ranks in the future. When considering whether to accept the ACSC place, the Officer had not been aware of new rules, introduced in 2011, which meant that anyone unavailable for posting (by attendance at ACSC) would not be promoted. As a result, the Officer had been bypassed by officers who had ranked lower in the order of merit list.

The redress sought was for the Service to honour the Officer's position on the list and right of seniority; and that any future significant policy changes should be promulgated in a more transparent, timely and appropriate manner. The Officer also wanted the Service to be held to account for any disadvantage caused by failure to inform individuals properly of significant policy changes.

The Officer contacted the SCC six months after the Service complaint had been made out of concern about the length of time it was taking the Service to resolve it. Having been bypassed for promotion, every year that passed would exacerbate the alleged wrong. Although it was recognised by the Service that the Officer's Commanding Officer (CO) did not have the authority to provide redress, nevertheless the Service complaint procedure required the CO to undertake the investigation, which included making enquiries of the relevant personnel department and personnel who had since been assigned to a posting abroad. The Service complaint was only referred to higher authority over eight months after it had been made,

and was decided by a Superior Officer over three months later.

The Superior Officer agreed the Officer had been wronged because of the Service's failure to provide the relevant information before a decision on who would attend ACSC had to be made. He directed that the seniority date be adjusted to what it would have been had the Officer been posted during 2011/12 and that a review be carried out to consider the implications for future ACSC cohorts.

He also directed the team responsible for providing information on personnel policy changes to ensure that communication about such changes should be both transparent and timely.

In response to the SCC's enquiries following up on action taken, the Service confirmed that as a result of this Service complaint, the template of the ACSC offer letter had been amended for 2013 and the same will apply for 2014. Individuals are now advised in writing of the policy and the implications for them, so that in providing a written response accepting their ACSC place, they are informed and also acknowledge their understanding of the policy.

In addition, a broader policy review has now been completed and changes made. Individuals who accept a place on the ACSC, and who would then, under the old policy, have been "leap-frogged" by an individual lower down the promotion Merit Order list, will now be offered substantive promotion on the same date as the person below them – provided that the individual on ACSC would have been suitable for the post into which that person would have been promoted. This policy is now being implemented.

SCC comment: It is still not easy for Service personnel to make a Service complaint and, as the Armed Forces Continuous Attitude Survey (AFCAS)¹ shows, there is still fear, at all ranks, of the adverse work and career consequences of doing so. Yet many personnel who approach the SCC do so because they want to prevent others being wronged in a similar way in future.

This is a case of good moral leadership by the Officer in speaking up against unfairness.

As this case shows, delay can be a major reason for unfairness, if the opportunity to rectify the wrong is delayed. Too often delay means that justice has been denied. A lack of progress can also heighten concerns about possible adverse consequences of bringing a complaint and weaken confidence in the chain of command, which is essential to Service life. The 24 week time target introduced in 2013, plus the SCC's proposals for simplifying the Service complaints system and strengthening the SCC's powers with regard to individuals' cases, will help improve the handling of cases such as this.

Case study H

Failure to correct pay errors, investigate causes or apologise in a timely fashion

Following a period of Quarterly Reporting in 2006, the Suspended Incremental Progression (SIP), which was applied to an Officer's pay account, was not removed as it should have been done and as had been directed by the relevant and authorised Senior Officer. As a result the Officer's pay was incorrect. He queried this in 2009 and was assured (wrongly) that his pay was correct. In autumn 2010 the true position was realised and the Naval authorities recognised the mistake. The Officer made an informal complaint and sought to get the matter investigated so he could be provided with an explanation as to what had gone wrong, so that those who had made mistakes were held to account as appropriate and to prevent similar problems arising in the future.

The Officer then deployed in December 2010, returning June 2011 and yet still no corrective action had been taken. It was only when the Officer went in person to the Pay Office in June 2011 that his pay was corrected with the click of a mouse. The back pay appeared in his account in July 2011.

He therefore made a formal Service complaint in June 2011 which was only decided nearly 2 years later in

¹ Armed Forces Continuous Attitude Survey 2013, Table B4.46, published by Defence Statistics.

March 2013. His complaint was upheld and an apology given for the time it had taken to correct his pay and for the inconvenience and stress this may have caused.

The Officer's requests for an explanation and for compensation for loss of interest were denied. He had been provided, as he had requested, a clear and comprehensive breakdown in pay since 2006, setting out what he had been paid, what he should have been paid and how the corrections had been applied for each pay statement. It was left however to the Officer to sort out with HM Revenue and Customs the tax implications consequently arising from receiving 4 years' worth of back pay in one month.

The Officer felt that his Service complaint had not been investigated as it should have been and that he had not received an explanation as to why it took nearly a year to correct his pay after the mistake had been recognised. He also felt that any progress that had resulted were due to his actions. He did receive a letter of apology but felt the lack of explanation as to what had gone wrong meant that the letter was of no value.

The lack of evidence behind the assertion that lessons had been learnt gave him little confidence that similar problems could not arise in future. He commented "it is hard to describe the insult and disappointment I am feeling when I have waited so long for such a conclusion. I could have been given the same letter after only 2 days for what it is worth and would have been spared having this blight on my life, which in total lasted more than 3 years. The Service complaints process has been an enormous drain on me and I am wholly disillusioned with it."

Case study I

Inter-action between the Housing complaint system and the Service complaints system – delay causing injustice

A married Serviceman contacted the SCC in Summer 2011 with a complaint about the difficulties he had encountered trying to get suitable Services Family Accommodation (SFA). He had been posted to a new

unit in September and was looking to move the family the week before the start of the school year.

He rejected the first house offered to him by Defence Infrastructure Organisation (DIO), the organisation to whom Service accommodation had been contracted. This was because it was located in the middle of the camp near to social facilities and a previous resident had been moved because of high levels of noise and danger to children posed by traffic. He believed his application had not been given proper attention but his complaint was the inflexibility shown thereafter.

He was put on a waiting list for other accommodation but informed that, under MOD policy, the DIO was not obliged to house Service families within a time limit after a first refusal deemed by the DIO to be for personal reasons. He was not allowed to stay in his existing family accommodation and commute. Nor would DIO give any promise of whether the house he had rejected would now be available before the start of the school term.

As he had no official offer of accommodation the children's primary school allocation had been delayed and he had been told the children were unlikely to get a school locally. As a result he made a Service complaint seeking an allocation of suitable family accommodation at his new posting and a review of the MOD Policy and Guidance to allow for reasonable consideration of personal circumstances and to stop DIO unreasonably forcing Service personnel to accept the first offer, however unsuitable.

He also said he believed that despite their best efforts, he experienced a total failure of the local chain of command, welfare organisation and his MP to successfully intervene with DIO. He sought the establishment of an external Ombudsman that can rule on contentious issues between Service families and the DIO. He also wanted a Service Review of existing chain of command and welfare avenues to re-appraise their effectiveness in these circumstances.

As any Service complaint he made would be stayed whilst his Housing complaint progressed through the special to type Housing complaints process, he waited until the completion of the DIO Stage 3 appeal. DIO did not meet their deadline and did not decide his complaint until the end of January 2012. The

Serviceman lodged a Service complaint in March 2012 which was not decided until February 2013 – nearly 1½ years after the Serviceman had expected to move to a new family home. The Deciding Officer apologised for the lack of sensitivity displayed by DIO staff and reiterated the assurance given by DIO that the lessons would be put to good use for the future.

Nothing could be done to change the governance and management arrangements, e.g. to enable the chain of command to influence DIO in support of the welfare of those under their command. However, the review carried out by DIO and the investigation of his complaint by the Independent Housing Review Panel had led to a review of MOD Policy and Guidance (JSP 464) to consider timescales for those Service personnel who reject the offer of Service Families Accommodation (SFA), and a review of the allocations Service. As a result the policy was to be changed on second offers from summer 2013. A centralised Housing Allocation Service Centre and self-preference system for applying for SFA had been introduced.

The Serviceman gave a cautious welcome to the proposed changes in policy and sincerely hoped it would benefit Service families in future. He had also heard from other families that the overdue reform of the allocations process had made a considerable improvement to the process. However, he believed the Housing complaint process was deeply flawed. For these reasons he believed that there was a need for an impartial and suitable empowered Ombudsman.

SCC Comment: The changes announced to the Service Complaints System and changing the role of the SCC to that of an Ombudsman should enable complaints about pay and housing to be dealt with more speedily.

As part of the Service Complaints Commissioner's statutory duty to report on the exercise of her referral function and on the workings of the Service complaints system, this chapter includes:

- an overview of the numbers and types of complaints made to the Service Complaints Commissioner and referred to the Services in 2013; and
- the work of the Service Complaints Commissioner in sharing best practice and encouraging improvement.

Complaints to the SCC in 2013

The office of the Service Complaints Commissioner (SCC) was set up in 2008 to give Service personnel the confidence to speak out when they believed they had been wronged in their Service life. Anyone can contact the SCC on behalf of a Serviceman or Servicewoman if they do not have the confidence to contact the SCC themselves. The SCC cannot investigate the complaint but has discretion to pass the complaint to that person's Commanding Officer (CO) or higher up the chain of the command if the complaint is about or implicates the CO. The SCC can refer a complaint even if a Service complaint is already in the system.

If the complaint made to the SCC involves any sort of allegations of improper behaviour, she can refer the allegations under her statutory powers, which imposes a legal obligation on the chain of command, up to and including the Defence Council, to keep her informed on the handling of any Service complaint made as a result. The types of improper behaviour which attract these powers are prescribed in regulations made under the Armed Forces Act 2006. These referrals are therefore known as prescribed behaviour referrals. Referrals about other types of complaints are therefore known as non-prescribed referrals. The SCC can ask the chain of command to keep her informed of progress and/or outcome.

The SCC has discretion as to whether to refer any complaint made to her. As the SCC has a duty to report annually on the efficiency, effectiveness and fairness of the Service complaints system, she considers very carefully any allegation to her that she believes may not be accepted by the chain of command because it occurred many years earlier or is an excluded matter. If she considers that there are likely to be no just and equitable reasons for the chain of command to accept

the complaint as a Service complaint out of time, she can exercise her discretion not to refer the complaint. This does not preclude the individuals seeking to make a Service complaint directly to the Service.

Following the publication of the Annual Report 2012, the MOD and Services have been considering a number of proposals for change to the Service complaints system put forward by the SCC. These include retaining the referral process but adding the ability of complainants, whose complaints are not accepted by the Services, for whatever reason, to appeal that rejection to the independent SCC. This is similar to the recommendation originally made in the SCC's 2010 Annual Report, Recommendation 10.17, but extended to include complaints rejected as concerning subject matter excluded under the Armed Forces Act 2006 as well as those rejected as out of time. Such a power of review by the SCC would close the gap in relation to the lack of appeal from former Service personnel about out of time decisions, which the SCC has highlighted previously.

Numbers of people contacting the SCC

In 2013 the numbers of people contacting the SCC quadrupled since the SCC's office was set up in 2008. 725 people contacted the SCC's office during 2013, a 12% increase since 2012. This compares to 646 in 2012, 527 in 2011 and 434 in 2010. Of those 725 people contacting the SCC, 140 (19%) raised matters that could not be the subject of a Service complaint and were therefore not within the SCC's remit. This was a higher percentage than 2012.

As in previous years many of the contacts were from members of the public wishing to complain about the behaviour of Service personnel. In 2013 nearly half of such contacts fell into this category with around a fifth concerning alleged abuse via social media. Other

complaints were about difficulties being experienced by family members including spouses accompanying Service personnel on postings overseas, who wished to make a complaint about how they had been treated by the Service or Service personnel. They felt strongly that the remit of the SCC should also cover them in their particular circumstance. A small number of complaints were made about the recruitment process – both into the regular and reserve Service. Some were contacts from the families of Service personnel who had died concerning how they had been treated during their Service.

Where appropriate the SCC referred those contacting her to the MOD complaints system or passed the complaint to the relevant part of the Services.

Numbers of potential Service complaints

There were 581 contacts about matters that could become Service complaints, referred to in this report as potential Service complaints. (Four additional contacts provided too little information to determine whether they were potential Service complaints or not).

This is only a slight increase since 2012 (572). Potential complaints to the SCC from Army personnel increased; those from Naval Service and Royal Air Force personnel decreased. The Armed Forces Continuous Attitude Survey (AFCAS)² shows that Army personnel have the highest levels of awareness and understanding of the SCC's role.



Patterns of potential Service complaints by rank, Service and type of complaint

Figure 1 gives the numbers of contacts about potential Service complaints in 2013 by Service.

As in previous years, the majority of contacts about matters that could be the subject of a Service complaint were from or on behalf of Army personnel. Of those 581 potential Service complaints, nearly three quarters (429) were made by or on behalf of Army personnel, (up from two thirds in 2012). Less than 10% (56) were made by or on behalf of Naval personnel (down from 15% in 2012) and 12% (71) from or about RAF personnel, (down from 17% in 2012).

Figure 1: The rate of increase in potential Service complaints to the SCC by Service over the last six years

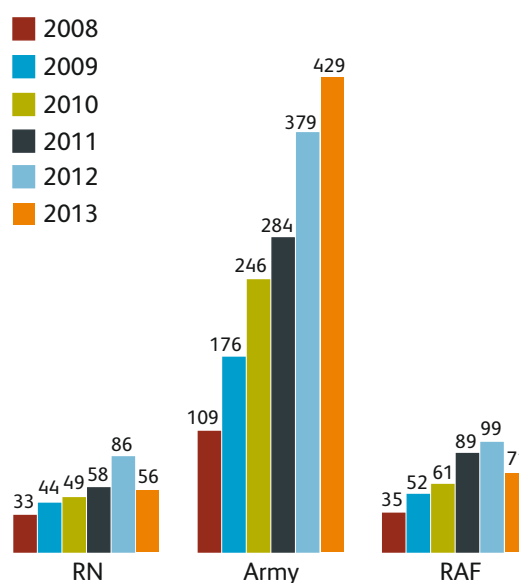


Figure 2 shows that, as in previous years, overall the majority of contacts about potential Service complaints came from Non-Commissioned Officers (NCOs) and Warrant Officers (WOs). Just over half of contacts were from or on behalf of NCOs, a fifth from or on behalf of Commissioned Officers and a quarter from or on behalf of private soldiers and equivalents. (Insufficient information was provided in 29 potential Service complaint cases to determine the rank of the individual concerned).

2 Armed Forces Continuous Attitude Survey 2013, Table B4.51, published by Defence Statistics.

Figure 2: Percentage of Potential Service complaints to the SCC by rank showing changes in pattern since 2008

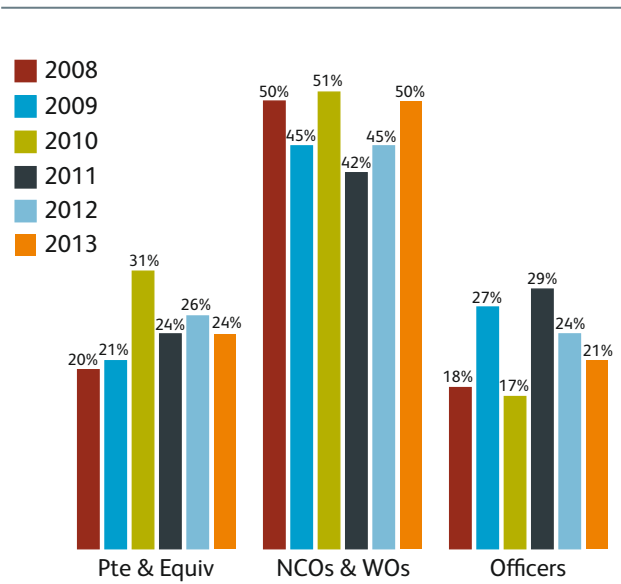
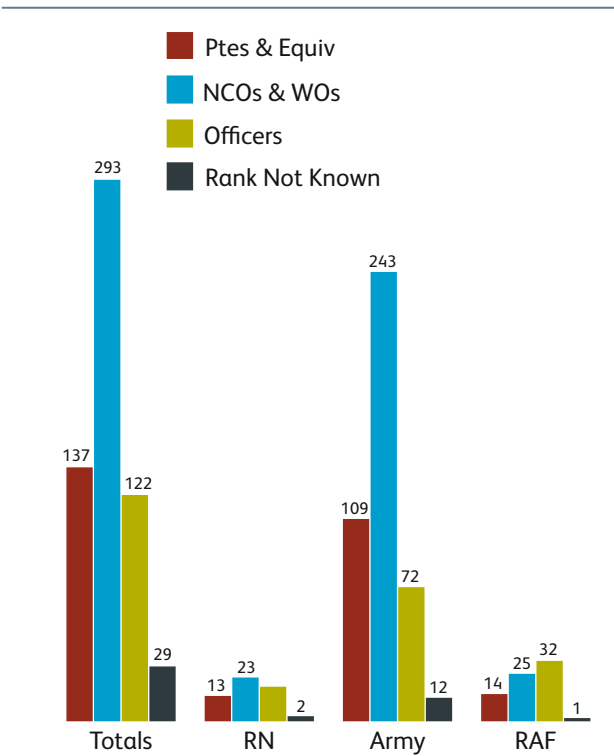


Figure 3 shows that this broad pattern holds across the Naval Service and the Army, whilst in 2013 more complaints were received from Commissioned Officers in the RAF than from NCOs.³ (The RAF has disproportionately more Commissioned Officers than the other two Services). There were more contacts from Naval Commissioned Officers than from Able Seamen and Marines (equivalent to private soldiers). Contacts from Commissioned Officers were lowest in the Army (16.5% of all Army personnel contacting the SCC with a potential Service complaint) and highest in the RAF at 45%. 32% of contacts from Naval Service personnel were from Commissioned Officers.



Figure 3: Number of Potential Service complaints to SCC by rank and Service in 2013



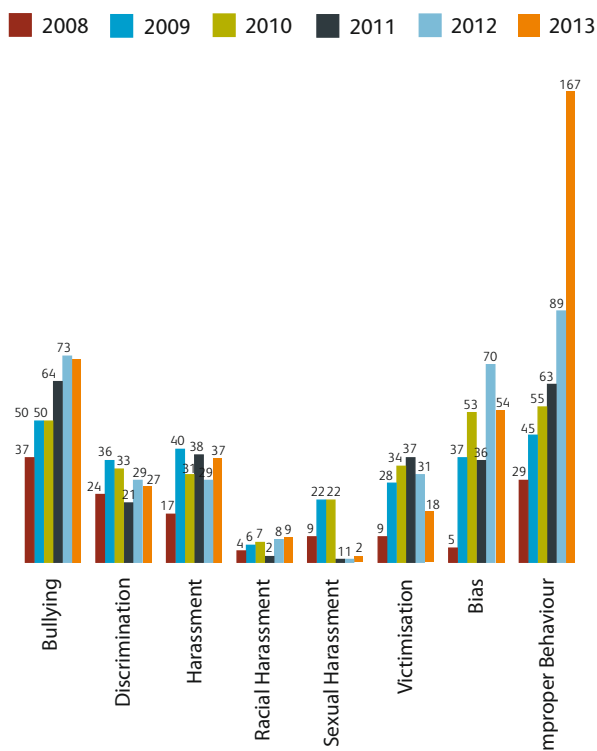
The role of the SCC was established following the Deepcut Review report and where the SCC refers any allegation of any type of improper behaviour, the SCC has a right to be kept informed of progress on a Service complaint.

The types of improper behaviour for which the SCC must be kept informed are prescribed in Regulations. They are therefore known as ‘Prescribed Behaviour’ referrals and are set out in Figure 4.

Figure 4 shows the trends in relation to allegations of different types of improper behaviour made to the SCC over the last 6 years. Whilst there are variations in many of the categories (which are to be expected with such small numbers) the main categories remain allegations of bullying and improper behaviour. The category of Service complaint is determined by the Service and the CO when he or she has received the completed Service complaint on the required form (known as the Annex F form) and usually with the benefit of an interview with the complainant. There may therefore be differences between the grounds for referral or a more specific categorisation of what the SCC judges to be an allegation of improper behaviour. The levels of increases in 2013 are in line with the increased numbers of Service complaints about bullying and harassment, especially in the Army.

³ This category includes all NCOs and Warrant Officers (WOs) from Lance Corporal and equivalents to WO1.

Figure 4: Potential Service complaints to the SCC by types of prescribed behaviour⁴



Referrals – potential complaints referred by type and Service

Of the 581 contacts to the SCC in 2013 about matters that could be the subject of a Service complaint (i.e. potential Service complaints), 120 were not pursued by the Service person before the SCC made a decision to refer. In a few cases, this was because the matter was resolved by the Service. In others the complainant decided not to pursue as a Service complaint but to seek an alternative method of resolution. Some complainants did not want the chain of command to investigate and decided not to pursue when told that the SCC could not investigate independently. In around a third of cases the complainant failed to respond to the SCC's acknowledgment and request for further information and/or consent to refer. There are no discernible patterns to such cases. The percentage of potential Service complaints not pursued is however higher than in 2012, (21% compared to 13%).

In 34 cases the SCC made a positive decision to exercise her discretion not to refer the matter either because there appeared to be no allegation of wrong done during a Service life, or the matter complained of appeared to be severely out of time, with insufficient

evidence of grounds on which the chain of command could decide there were just and equitable reason for accepting nevertheless. This is a slightly higher percentage than in 2012 (6% compared to 4%).

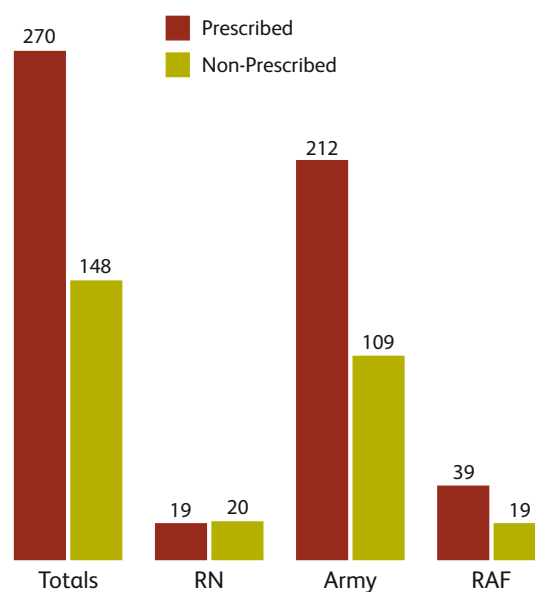
A further 9 potential Service complaints were awaiting further information and/or consent to refer when this Annual Report was being prepared for publication.

Figure 5 shows that of the 581 potential Service complaints made to the SCC in 2013, 418 were referred. This is a lower proportion than in 2012 (72% compared to 85%) but in line with previous years.

Of the 418 potential Service complaints referred, 270 were about prescribed behaviour and 148 about non prescribed matters. This represents an increase in referrals about prescribed matters since 2012 (65% compared to 56%) and a decrease in non-prescribed matters.

The SCC made around twice as many referrals of allegations of prescribed behaviour than non-prescribed behaviour in the Army and the RAF. Referrals of Naval Service potential Service complaints are nearly evenly split between prescribed and non-prescribed categories. In previous years the consistent pattern has been for more prescribed than non-prescribed referrals from Army complainants. The position with regard to the other two Services has not been consistent.

Figure 5: Total SCC referrals (prescribed and non-prescribed behaviour complaints) by Service



⁴ A complaint to the SCC may contain one or more allegations. The SCC record a maximum of two allegations per complaint.

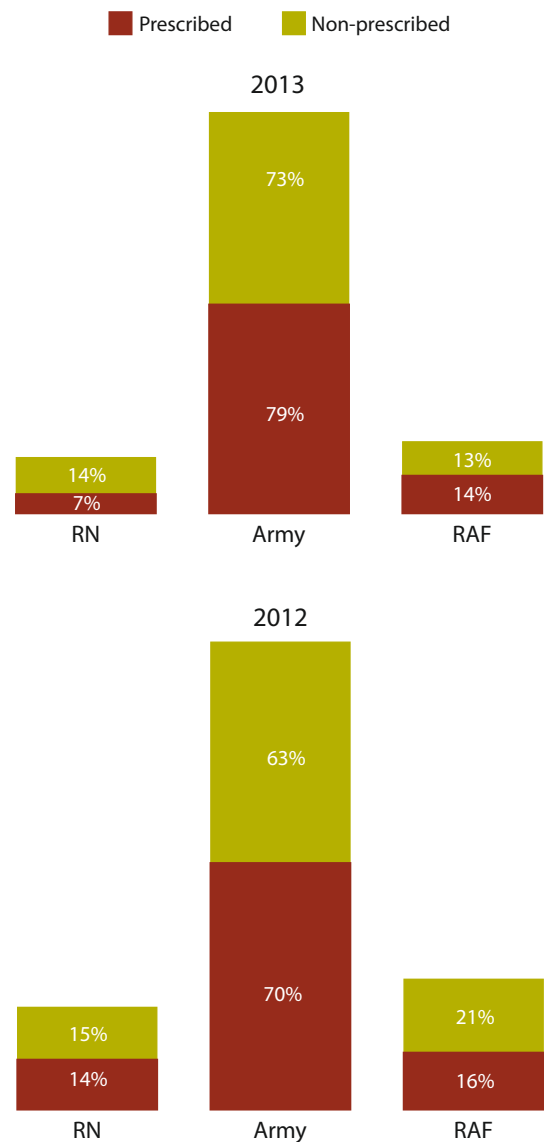
As shown in Figure 6 the majority of referrals about prescribed behaviour are from Army personnel and their percentage share has increased to 78% from 70% in 2012. The percentage share has remained roughly the same for referrals of prescribed behaviour allegations from RAF personnel but halved from Naval personnel.

The distribution of such referrals across the three Services has remained much the same with a small increase from Army complainants and a slight decrease from RAF complaints. Referrals from all three Services with regard to non-prescribed matters have fallen. Types of non-prescribed complaints included:

- problems in aggregating periods of Service for pension and early departure payment purposes,
- problems experienced by reservists serving alongside regular soldiers, because of a lack of understanding by the chain of command about how different rules applied or how reservists had different expectations about how they should be treated, for example based on standard management practices in civilian workplaces,
- problems raised by those experiencing physical or mental health difficulties,
- complaints by soldiers discharged following a failure at a compulsory drug test linked to sports supplements and /or slimming products in an effort to improve their fitness,
- complaints about the handling of an existing Service complaint due to delay, lack of information and updates, problems finding an Assisting Officer (AO). Lack of continuity is still a problem especially in the Army, and
- problems with the availability/continuity of Harassment Investigating Officers (HIOs).



Figure 6: The distribution of types of referrals across the Services in 2012 and 2013



Gender

In 2013, 79 contacts to the SCC about potential Service complaints were made by or on behalf of Servicewomen (14%). This is consistent with the percentage in 2012, (13%), and is higher than Servicewomen's representation in the Armed Forces, which at 1 April 2013 stood at 9.7%, also unchanged since 2012. 50 (63%) of those contacts were about prescribed behaviour, of which the most (36) came from Army personnel and the fewest (2) from Naval personnel. Unlike in previous years, in 2013 Naval Servicewomen approached the SCC more often about non prescribed matters than with allegations of prescribed behaviour, although they made a higher percentage of Service complaints (accounting for

Table 1: Percentage of potential Service complaints by Service and Gender 2008-2013

	2008	2009	2010	2011	2012	2013
RN						
Male	82%	82%	71%	87%	79%	86%
Female	15%	18%	29%	13%	17%	14%
Army						
Male	85%	92%	86%	86%	88%	88%
Female	15%	8%	14%	14%	11%	12%
RAF						
Male	83%	88%	82%	89%	85%	73%
Female	17%	12%	18%	11%	14%	27%

Table 2: Numbers and Percentage of Referrals by SCC by Service, Gender and category 2013

Service	Total		Prescribed Behaviour		Non-Prescribed	
	Number	%	Number	%	Number	%
Total Services			270		149	
Male	356	85%	224	83%	132	89%
Female	63	15%	46	17%	17	11%
RN						
Male	33	85%	17	89%	16	80%
Female	6	15%	2	11%	4	20%
Army						
Male	282	87%	181	85%	101	92%
Female	40	13%	31	15%	9	8%
RAF						
Male	41	88%	26	66%	15	73%
Female	17	29%	13	33%	4	21%

nearly half of Service complaints about improper treatment). This suggests a possible increase in confidence in the Navy to handle their complaints properly without SCC oversight. RAF Servicewomen made a disproportionately higher use of the SCC's oversight, possibly indicating the opposite. Gender differences by Service are analysed in the next chapter.

Although the numbers remain very low, indeed, in 2013 the SCC received a few allegations of serious sexual harassment that she referred to the Service concerned. Allegations of poor treatment in relation to a previous complaint of this kind were also given as the reason for approaching the SCC with a different complaint rather than making it directly to the chain of command. After a visit to the Service Prosecuting Authority to discuss this subject the SCC wrote to Ministers, suggesting a

re-consideration of the omission of sexual assaults, short of rape or penetration from the list given at Schedule 2 of the Armed Forces Act 2006. Were sexual assaults to be included, a Commanding Officer would have to ensure that the Service Police were aware of the allegation. If following investigation, the Service Police considered that there was sufficient evidence to charge a sexual assault, they would refer the case to the SPA for the Director of Service Prosecutions to decide whether and what charges to bring. However, if following investigation the Service Police considered that there was insufficient evidence, they would have to consult the Director of the SPA before deciding not to charge and also before deciding to refer the case back to the CO to deal with. The SCC understands that the MOD is considering this suggestion.

The SCC also participated in a desk top review by the Army of the handling of Service complaints which raise issues of a potentially criminal nature and are suspended until the end of the Service justice process. Some such cases involve allegations of sexual assault (of both Servicemen and Servicewomen) as well as violence and may be linked to initiation ceremonies which, although banned, occur in some units.

Overall the SCC referred a higher percentage of allegations about prescribed behaviour from female personnel than their representation in their Services.

Closure Rate and continuing cases

Of the 418 cases referred by the SCC to the Services in 2013 that were closed by the end of the year: 52 were resolved informally or were not pursued by the complainant, 17 were withdrawn before a formal



The SCC presents to the RAF Future Commanders Study Period, Joint Command and Staff College, Shrivenham, November 2013

decision was made, 2 were ruled out of time, 1 was upheld and 5 were not upheld.

Table 3 shows the number of SCC cases which were still open at the end of 2013 by year.

Table 3: SCC complaints still open by year received

Year	Open Cases ⁵
2008	7
2009	30
2010	43
2011	100
2012	249
2013	356
Total	783

The work of the SCC in monitoring delay and the proper handling of Service complaints

In 2012 the MOD and Services accepted the timeliness target of 24 weeks proposed by the SCC in her Annual Report 2010 and also her proposal for a scheme for monitoring Services' performance against that target. From 1 January 2013 the Services made bi-monthly returns of all Service complaints for which there was an SCC referral which had been in the Service complaint system for over 24 weeks (red flags) or which were likely to take longer than 24 weeks to resolve (yellow flags). During the first half of the year the SCC's office worked with the Services and MOD in developing the monitoring system and reports and in validating the data. From 1 July the red and yellow flag reports were extended to include all Service complaints made on or after 1 January 2013, including those for which the SCC had not made a referral. The SCC proposed that this system should be used as an alternative to the 6 weekly progress reports the Services were providing to the SCC's office on individual cases as these were frequently late or lacked any useful information. The flag reports identify the causes for delay in each case on the logs, the action being taken and chart progress on the case since the previous flag.

The red and yellow flags have proved a much more resource efficient method for the SCC's office to

5 Figures include cases that have not yet been referred.

monitor the handling of cases and to provide information on which the SCC can discuss patterns and trends in her quarterly meetings with the Services' Principal Personnel Officers.⁶ They have also provided the Services' own Secretariats with information to identify problems, e.g. inactivity by units, investigators or parties to a complaint, the suspension of Service complaints due to investigations by Service police or under a specialist complaint procedure; or delays in the provision of legal or other advice. This near real time monitoring has been pivotal in increasing awareness, particularly at senior levels in the Services, that the Service complaint system is not working properly.

Data on the Services' performance over the year against the 24 week target and the numbers of pre 2013 Service complaints still in the system is provided in the next chapter.

Part of the agreement with the Services' following the MOD Review in 2012 was that the SCC would have the ability to make a report to the Secretary of State under s. 339(4) Armed Forces Act 2006, if she believed that a case under her oversight provided evidence that the system was not working properly. Under this power, the SCC has raised queries of the Services about the handling of a number of Service complaints, including the potentially wrongful closure of a complaint and the wrong test being applied to the decision to reject a complaint as out of time. The SCC has also queried the absence of reasons and omission of information on how to request a review by a higher authority from decision letters. The SCC has been satisfied with the answers and actions taken by the Services and as a result has not made a report to the Secretary of State. However there remain cases on which the SCC would have wished to make enquiries but was prevented from doing so because of a lack of resources.

The work of the SCC in sharing best practice and encouraging improvement

Leadership

Since 2009 the SCC has participated in each of the Services' training courses for those about to assume command (Navy and Army Commanding Officers Designate courses) or being prepared for command (RAF Future Commanders Study Period). She also addresses the Advanced Command and Staff Course at the Joint Services Command and Staff College annually.

The SCC discusses good practice on the handling of Service complaints and good management and leadership, which is key to success. Her aim is to give confidence to Commanding Officers, not simply to treat their people properly and well when things go wrong, but also to enable them to take action to prevent wrong occurring in future. The major root cause of most Service complaints is poor communication and poor management.

Since 2009 the SCC has also been invited to lead a session annually at the Continuous Training events organised for Naval Lawyers. The SCC has valued these sessions which appear to have been useful to the Naval Service in developing their resolution focussed approach to Service complaints, the results of which are reported in the next chapter. In 2013 the SCC addressed the conference of Army Legal Service Lawyers but was most unfortunately prevented by illness from attending the 2013 conferences of Naval and RAF lawyers.

As part of sharing of good practice, the SCC attended the Air Force Board in July and the Service Personnel Board in September. She has had meetings with the Minister for Defence Personnel Welfare and Veterans, with the heads of all three Services and the Vice Chief of Defence Staff. She also met the Chief of Defence Personnel and the Principal Personnel Officers for the three Services on a quarterly basis.

In 2013 the SCC was consulted on and contributed to the development of a new Defence Medical Services complaint procedure. She was also invited to give a key note speech to the Defence Mental Health Practitioners Conference on stigma, drawing lessons from her work overseeing Service complaints. The SCC aimed to increase awareness of the dynamics that can be set up in relation to those who are from a minority group in the Services or who are physically or mentally unfit, because of their Service. The SCC also discussed the anxieties such personnel can experience in deciding whether to speak out when they have been wronged and the gulf in understanding between complainants and those deciding their complaints that belong and feel at ease in the Service (majority) culture. The sense of betrayal and isolation experienced by such complainants is very real and is often exacerbated for many by delay and poor handling of their Service complaint. The SCC is grateful particularly to those

⁶ Second Sea Lord, Adjutant General and Air Member for Personnel and Capability.

injured, physically and mentally ill personnel who have shared their experiences with her.

Since her first Annual Report, the SCC has focussed on diversity and the value of Service complaints in supporting a culture in the Armed Forces that values each member of the Forces and in identifying systemic barriers. The SCC has continued that work, identifying systemic barriers in the handling of complaints about sexual harassment and sexual assaults, participating in the review undertaken by the Army into the handling of complaints about serious bullying and contributing to the MOD's development of an integrated Diversity and Inclusion strategy, covering both Military and Civilian personnel. The SCC also met the leaders of the Servicewomen's Networks in the Navy and the Army and attended the first conference of the Naval Servicewomen's Network Conference in May 2013.

The SCC has continued to play a key role in the International Conference of Armed Forces Ombudsmen Institutions, (ICOAF). She co-hosted with the Centre for Democratic Control of Armed Forces, (DCAF), a seminar on Gender in July 2013, to which British female Service personnel made a significant contribution. She also led and spoke on that theme at the 5th ICOAF conference in Oslo in October. The SCC invited the Australian Sex

Discrimination Commissioner, Elizabeth Broderick, who has worked closely with the Australian Defence Force on embedding Values and Standards and proper treatment of female Service personnel, to that Conference and was pleased that Ms Broderick was able to meet a number of Service Chiefs in London to share with them the lessons from her work on gender.

During 2013 the SCC was invited to be a speaker and chair sessions at a number of conferences designed to assist developing democracies in the development of oversight of Armed Forces. These included speaking at a DCAF Conference for the Assembly of Kosovo held in Ljubljana, Slovenia and a Conference on The Role of Ombudsmen in Protecting Human Rights of Armed Forces Personnel, organised by OSCE (the Organisation for Security and Cooperation in Europe) and ODIHR (the Office for Democratic Institutions and Human Rights), in Vienna. She also provided a case study and contributed to a handbook on oversight bodies prepared by the OSCE. The UK experience and the SCC's practically focussed advice on setting up and developing an institution best suited constitutionally and culturally to national circumstances is much valued.

The report of the inquiry conducted by Defence Committee of the House of Commons into the work of



The SCC and other participants at the 5th International Conference for Ombuds Institutions for the Armed Forces visit the Norwegian Parliament

the SCC was published in February 2013. The Committee also recognised the significant contribution of the Commissioner and her office. They endorsed the recommendations she had made in her Annual Report 2012 and called for the role of the SCC to be strengthened and changed to that of an Ombudsman.

A list of her visits throughout the UK and overseas and other invitations and key meetings in 2013 are shown at Appendix 7.

The challenges ahead

The office of the SCC faces a number of significant challenges, including the handover to the second SCC, preparations for transition to an Ombudsman role, communication of the changes to Service personnel, the wider Service community and interested public, and an increasing workload.

The SCC, and the House of Commons Defence Committee, recommended that the new SCC post should be full time. The current SCC worked over 4 days a week in 2013, reducing the numbers of visits to Services to cope with the increased caseload within the part-time constraints of her appointment. The post of SCC was advertised as part-time. Time is therefore likely to remain a challenge for the SCC. It will be even more

essential that the SCC's staff can be recruited from across the public service, to safeguard the SCC's independence.



The SCC meets members of the Navy Commanding Officer Designate Course, HMS Collingwood, October 2013

This chapter provides:

- an overview of Service Complaints in 2013;
- statistics disaggregated by gender and ethnicity;
- reports on the working of the Service complaints system in the Naval Service, the Army and the Royal Air Force; and
- comparison where appropriate between the performance of the three Services.

Reliability of the Service complaint data and the need for a third audit by Defence Internal Audit (DIA)

Following recommendations by the SCC in her Annual Reports and a consequent audit by the Defence Internal Audit (DIA), a new module for recording Service complaints on the MOD Joint Personnel Administration (JPA) system was developed and introduced from 1 January 2011. The Naval Service adopted this JPA module immediately. A second DIA audit in 2012 found inconsistent and unreliable use of JPA for recording Service complaints, in the Army and RAF. The Navy practices were found to be accurate. Details of the DIA's findings were given in the SCC's Annual Report 2012, pages 28-9.

The Army and RAF agreed to move to the new JPA module for recording all new Service complaints from 1 January 2013 and the Army also engaged in a back recording exercise of all extant Service complaints made before that date.

DIA had found that a lack of effective oversight of individual Service complaints contributed to delay. The move to JPA should have promoted greater efficiency (with huge savings in time taken to access management data through a linked management data retrieval system) and greater effectiveness. The ability to monitor patterns and trends would enable Service Secretariats to identify any systemic weaknesses, both in the management of Service complaints and matters about which complaints were being made.

DIA in its second audit was unable to place reliance on the integrity of the data being held on JPA or being collated by the MOD in relation to the review it undertook in 2011 and 2012 of the Service complaints system. The data reported by the SCC in her Annual Report 2012 was presented with that caveat.

The SCC specifically asked the Services to provide an assurance as to the accuracy of the data they have provided. That assurance has been given by the Navy. In the course of preparation of data for the SCC's Annual Report 2013, the RAF discovered grave errors in the data it had provided the SCC for her 2012 report. The Principal Personnel Officer of the RAF, Air Marshal North, has written to the SCC explaining what went wrong, what action has been taken to prevent future occurrence and apologising for the mistake. That letter is produced in full at Annex 5. Air Marshal North has specifically stated that he has only 70-90% confidence in the data provided by the RAF for this Annual Report.

It is disappointing that the error in accuracy of data reported by the RAF was not identified sooner given the scale of the mistake, which had suggested that RAF complaints had more than doubled in 2012. The explanation provided for this reported increase was challenged by my office but did not lead the RAF to uncover the error until they compiled their data for this Annual Report. This underlines the need for effective audit and assurance of the reporting and monitoring arrangements used by the Services to ensure that the SCC is given reliable data to inform its analysis in future. It also adds to the weight of evidence that the existing Service complaint system is deeply flawed.

In the Annual Report 2012, the SCC recommended a third DIA audit to check whether the deficiencies identified in the second audit had been rectified. The third audit agreed by the MOD in response for the financial year 2013/14 has not yet taken place. The data which follows is therefore caveated. This needs to be rectified for 2014.

Recommendation 13.1

The third DIA audit of the Services' use of JPA, recommendation 12.1 in the SCC's Annual Report 2012, should take place in the calendar year 2014. That audit should also consider the concerns raised by the SCC in her Annual Report 2012, including the potential for non-recording Service complaints later resolved informally and pressure to record as withdrawn complaints which were decided and closed.

Gender

Following a recommendation in the SCC's Annual Report 2011, the Services have provided a breakdown of Service complaints by gender. Since 2008 the SCC has presented gender disaggregated data on cases dealt with by her office and has noted a higher percentage of Servicewomen contacting her than their numerical representation in the Services; and that they were more likely to do so with complaints of prescribed behaviour than Servicemen, whose complaints more often concerned non-prescribed matters.

From 2012, it has been possible to see whether a similar pattern applies in the making of Service complaints (whether or not made with the benefit of an SCC referral); and to assess whether the confidence oversight by the SCC brings is sought more often by one gender.

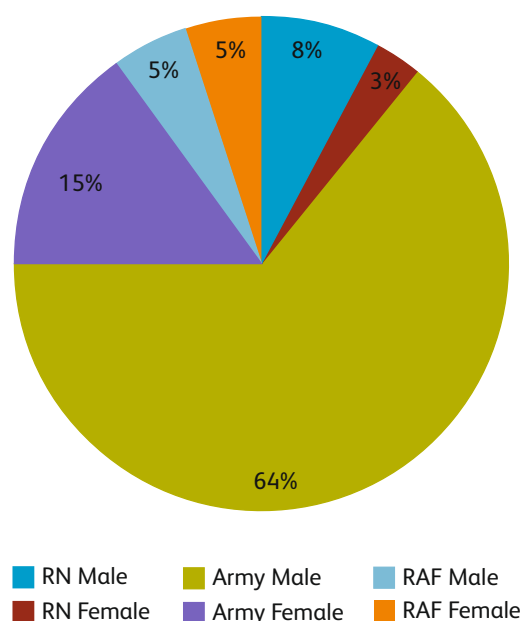
MOD published by Defence Statistics data shows that, as in 2012, 9.7% of the UK's Regular Armed Forces in 2013 were women; 12.6% of Officers and 9.1% of Other Ranks (ORs). That overall distribution has increased slightly for Officers, (due to increases in all three Services) since 2012. A slight reduction in female Naval ORs is compensated by a slight increase in Army ORs.⁷

Female representation overall is lowest in the Army (8.4%). 9.1% of Naval personnel is female. Women are excluded from serving in the Royal Marines although they may serve in the Royal Marines band. Female representation remains highest in the RAF, with women making up 13.9% of the RAF and with the appointment of two female Air Vice Marshals in 2013, the first female 2 starred ranks in the UK Armed Forces.

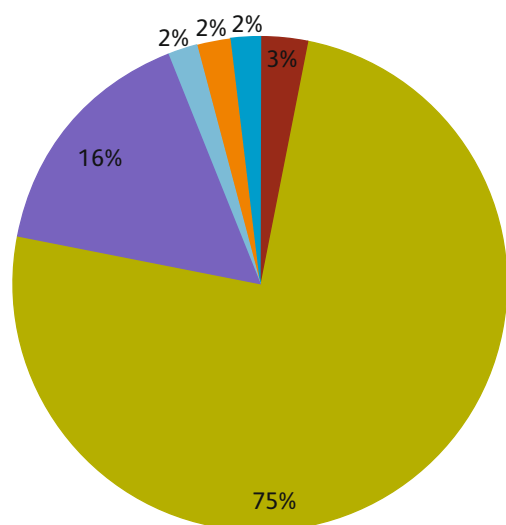
In all three Services, Service complaints from female personnel about improper treatment make up a higher percentage than their representation in their Services. This was most marked in the Naval Service and the RAF.

However, it does not necessarily follow that female personnel in the Army are treated better than in the other Services. If the numbers of complaints about prescribed behaviour by women were in proportion to the size of the Services, (and the Navy and RAF appear to be in about the right ratios) the numbers of such complaints brought by female Army personnel would be expected to be roughly 3 times those of the Navy. They are over 5 times, as shown in figures 7, 8 and 9. It appears that bullying, harassment and discrimination are affected more by Service than gender.

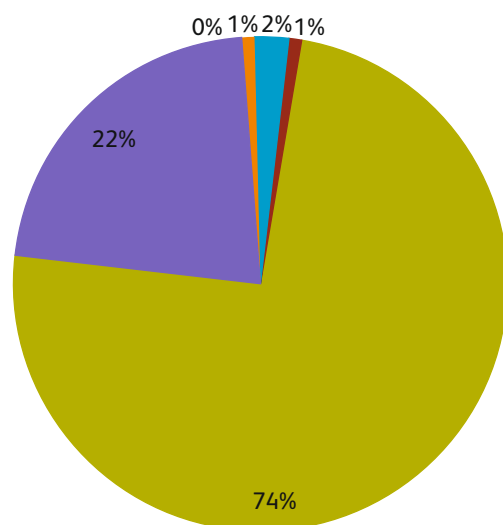
Figure 7: Bullying Complaints by Service and Gender



⁷ Ministry of Defence Annual Personnel Report 2013, published by Defence Statistics.

Figure 8: Harrassment Complaints by Service and Gender

■ RN Male ■ Army Male ■ RAF Male
■ RN Female ■ Army Female ■ RAF Female

Figure 9: Discrimination Complaints by Service and Gender

■ RN Male ■ Army Male ■ RAF Male
■ RN Female ■ Army Female ■ RAF Female

Table 4: Female personnel as a % of each rank in the Regular UK Armed Forces as at 1 April 2013⁸

	All Services		Navy		Army		RAF	
Female	9.7%		9.1%		8.4%		13.9%	
	Officers	ORs	Officers	ORs	Officers	ORs	Officers	ORs
Female	12.6	9.1	9.9	8.8	11.8	7.9	16.3	13.2

Table 5: Percentage of Service complaints made in 2013 at Level 1 by Service and Gender and category

Service	Total		Prescribed Behaviour		Non-Prescribed	
	Number	%	Number ⁹	%	Number	%
RN						
Male	265	75%	19	59%	294	91%
Female	88	25%	13	41%	30	9%
Army						
Male	513	88%	281	80%	421	90%
Female	73	12%	70	20%	49	10%
RAF						
Male	93	76%	30	65%	63	84%
Female	28	23%	16	35%	12	16%

⁸ Ministry of Defence Annual Personnel Report 2013, published by Defence Statistics.

⁹ The Naval Service and Army have recorded the category of allegations made in a complaint. A Service complaint may contain more than one category of complaint. The total numbers of prescribed behaviour complaints exceeds the total number of Service complaints.

The level of allegations of improper behaviour (including bullying and harassment) made by Servicemen is even higher for Army personnel, over 14 times as high. In the absence of further research, it is difficult to draw any gender specific conclusions.

The sexual harassment survey being undertaken in the Army between March and April 2014 should shed some light on that aspect of unacceptable behaviour. This Service complaints data suggests the Army needs also to undertake a similar survey of all personnel about experiences of bullying. That survey should also record data on bullying by gender, ethnicity, sexual orientation and religion. That survey could also be used to test any differences in understanding as to what constitutes bullying and any differences between the majority and minority groups in levels of confidence and willingness to raise a complaint.

From Tables 5, 6 and 7 it would appear that Servicewomen and Service personnel from an ethnic minority background are more likely to make a complaint than their representation in their Service. Female personnel are more likely to complain where their representation in the workforce is higher (i.e. in the RAF and Navy) but ethnic minority personnel are less likely to complain the better they are represented in the Service (i.e. in the Army). The reasons for these differences are unclear and need to be explored by the Services.

Ethnicity

For the first time and following a recommendation by the SCC in the 2012 Annual Report, the Services have provided a breakdown of new 2013 Service complaints by ethnicity. Table 6 and 7 show that minority ethnic personnel in all Services make Service complaints more

frequently than their representation in their Service but that this is most marked in the Navy and RAF, which have a lower percentage of minority ethnic personnel than the Army. This effect may therefore be associated with small numbers. A breakdown of Service complaints by ethnicity from 2014 would provide some insight into any differences in patterns between ethnic groups with regards to the problems they complain about.

As the AFCAS survey data is not disaggregated by ethnicity (again due to low numbers) it is difficult to assess whether a higher level of Service complaints represents a higher incidence of alleged bullying, harassment or discrimination. The Recruit Trainee Surveys indicate that this may be so and also contain some evidence of reluctance amongst female and minority ethnic personnel to answer these questions.

Recommendation 13.2

The Services should provide information to the SCC annually from 2014 on types of Service complaints made by ethnicity.

Recommendation 13.3

In view of the small numbers of women and ethnic minority personnel asked to complete the Armed Forces Continuous Attitude Survey, MOD and the Services should consult with Defence Statistics as to how to enrich the data collected (for example by a booster sampling on section 4 of the AFCAS or by way of a separate survey) so as to be able to get a better picture of incidence of bullying, harassment and discrimination across minority groups in the Services, to compare with diversity sensitive information on Service complaints.

Table 6: Black and Minority Ethnic (BME) personnel as a % of each rank in the Regular forces at 1 April 2013¹⁰

	All Services		Navy		Army		RAF	
BME all ranks	7.1%		3.5%		10.2%		2.0%	
	Officers	OR	Officers	OR	Officers	OR	Officers	OR
BME	2.4	8.1	1.8	3.9	2.7	11.4	2.3	2.0

¹⁰ Ministry of Defence Annual Personnel Report 2013, published by Defence Statistics.

Table 7: Percentage of new Service complaints made in 2013 by Service and Ethnicity

Service	Total	
	Number	%
RN		
White	302	86%
BME ¹¹ – Total	9	2%
Asian/Asian British	1	*
Black/Black British	6	2%
Mixed	0	*
Other	2	*
Not Known	42	12%
Army		
White	497	85%
BME – Total	81	13.5%
Asian/Asian British	24	4%
Black/Black British	46	8%
Mixed	9	1.5%
Other	2	*
Not Known	8	1.4%
RAF		
White	108	89%
BME – Total	8	6.5%
Asian/Asian British	2	1.6%
Black/Black British	1	0.8%
Mixed	1	0.8%
Other	4	3.3%
Not Known	5	4%

Assisting Officers

The SCC has commented in previous Annual Reports on the importance of complainants (and those complained about) having access to competent Assisting Officers (AO), for reasons of both efficiency

and fairness. In 2012 she made three recommendations with regard to Assisting Officers:

- Recommendation 12.4 – that MOD and Services should find a resource efficient way to provide complete data on Assisting Officers for 2013
- Recommendation 12.5 that the third DIA audit should check the timing of the offer of an AO, to ensure that AOs are offered before a complainant formalises a Service complaint
- Recommendation 12.6 that the role of AO should be reviewed as recommended in 2011, with the provision of better guidance and/or training.

These recommendations were accepted by the MOD, who confirmed that the capability to record this data on JPA exists. The MOD would include material specific to the role of the AO in communication to be sent out in summer 2013. This has not yet happened. One complainant made the following comment after the eventual resolution of the complaints.¹²

“I am in no doubt that making a Service complaint is taboo and it is my observation that the chain of command or any Assisting Officer assigned are not sufficiently trained or independent enough to deal with any complaint properly.”

From her oversight of complaints the SCC is aware that problems remain with access to AOs, many complainants in the Army especially continuing to be offered an AO only after they have submitted a Service complaint. This may be evidence of an attempt at Unit level to dissuade soldiers and Officers with problems from making a complaint. If so it is counter-productive, as a poorly constructed or confused Service complaint can waste a huge amount of time and scarce resources. Too often such an approach results in the complainant being asked to re-write their complaint, provoking distrust that the chain of command are trying to prevent the individual from raising their concerns or that the matter is being swept under the carpet. Problems also arise if there is no-one who is able to act as an AO, if the AO is posted or leaves the Service before the complaint is resolved.

The RAF appears to have taken on board concerns raised by the SCC in the past and now reports the

11 Black and Minority Ethnic

12 MOD response to the SCC's 2012 Annual Report dated July 2013.

Table 8: Percentage of all complaints worked on during 2013 where an Assisting Officer was:

	Navy	Army ¹³	RAF
Appointed	16.5%	n/s*	73.3%
Not appointed	4.0%	n/s*	9.6%
Of which AO not offered	1.0 %	n/s*	3.4%
Of which AO declined	3.0 %	n/s*	6.2%
New case (less than 10 days old)	0	n/s*	2.1%
Not Known	79.5%	n/s*	15.1%

*not supplied

appointment of an AO in the majority of cases. It is of concern that the position with regard to the Naval Service appears to have worsened, with the Navy not being able to inform the SCC whether AOs have been offered or appointed in nearly 80% of cases, up from 50% in 2012. The Army, which has provided data on AOs for previous reports, has been unable to provide this information for 2013 as it has not been recorded on JPA. In its response to the SCC's 2012 Annual Report the MOD confirmed that this information could be recorded on JPA and was going to work with Service Personnel and Veterans Agency (SPVA) (the policy owners of JPA) and the Services to ensure that JPA was used for this purpose. The SCC repeats the recommendations made in previous reports, Recommendation 11.4, 12.4, 12.5 and 12.6.

Growing dissatisfaction with the Service complaints system

The Armed Forces Continuous Attitude Survey (AFCAS) asks views on the complaints system of those who made a Service complaint about bullying, harassment or discrimination during the previous year. AFCAS 2013¹⁴ shows that for those who made a complaint, satisfaction levels are decreasing and dissatisfaction is increasing in relation to objectivity and fairness with which the complaint was handled, with how individuals are kept informed, with support given by Assisting Officers and with the time taken.¹⁵

The views of those who have made a complaint appear to be coming much more polarised – with movement from both satisfaction levels and those who were neutral into the dissatisfied camp.

Dissatisfaction has increased in relation to:

- time being taken (66% dissatisfied and 26% satisfied – a change from 46% dissatisfied and 39% satisfied in 2012)
- being kept informed (62% dissatisfied and 27% satisfied – a change from 32% dissatisfied and 49% satisfied in 2012) and
- the support given by the Assisting Officer (53% dissatisfied and 36% satisfied – a change from 25% dissatisfied and 54% satisfied in 2012).

Although in 2013, 65% were dissatisfied with the outcome of their complaint – an increase from 49% in 2012 – the percentage who were satisfied remained the same, 29%. Again it is the reductions in the levels of those who were neutral, (down from 21% in 2012 to 6% in 2013), which appear to have increased dissatisfaction. A similar although less marked phenomenon can be seen in reports relating to views about the objectivity and fairness with which complaints are handled. Rates of dissatisfaction grew from 39% to 58% and rates of satisfaction and neutrality reduced from 39% to 30% and 22% to 12% respectively. This can have a negative impact on levels of appeal and/or on commitment to the Services.

The figures support what the SCC has observed over the last 6 years. That dealing with complaints in a timely way, keeping individuals well supported and informed throughout the process, can affect satisfaction and acceptance of the outcome, and trust in the chain of command. Conversely that delay and failure to keep individuals informed creates a downward spiral of trust and ability to deal with all Service complaints in a timely, fair and effective way.

¹³ The Army is the only Service that has not provided data for the appointment of AOs in 2013. It must be able to do so in future.

¹⁴ Armed Forces Continuous Attitude Survey 2013, published by Defence Statistics.

¹⁵ As the numbers who have experienced improper behaviour and made a Service complaint are so small, AFCAS does not break down responses by Service. It is therefore not possible to see if there are differences in satisfaction levels between Services.

The Naval Service

Reliability of Data

The information provided by the Naval Service to the SCC has been complete, although the SCC is concerned about the percentage of “not known” recorded about the appointment of an Assisting Officer.

In the audit conducted by Defence Internal Audit in 2012 of the Services’ use of the JPA module for recording Service complaints data, DIA was satisfied that the Navy’s data was accurate and reliable.

On that basis the SCC stated in her Annual Report 2012 that, from the data presented that year, the Navy appeared in a strong position to meet the 24 week target in 2013. The data presented below shows that despite almost a doubling in the number of new Service complaints in 2013, the Navy has built on its strong 2012 performance. As discussed in Chapter 5, whilst it has not quite met the target of 90% of new Service complaints resolved within 24 weeks, it has almost done so. It is the only Service to get anywhere near that target.¹⁶

Service complaints made and dealt with in 2013

In 2013 the numbers of Service complaints made in the Naval Services almost doubled – 353 compared to 181 in 2012. This contrasts with a fall in complaints from or on behalf of Naval personnel to the SCC. It is also the opposite pattern to that reported in 2012, when more Naval personnel had contacted the SCC than in 2011 but the overall number of Service complaints had fallen. This may in part be due to the awareness campaigns the Royal Navy and Royal Marines conducted in 2012 about the SCC. However it may also indicate growing confidence of raising a complaint with the chain of command directly.

Types of Complaints

The categories of Service complaints made in 2013 are shown in the table at Appendix 3. The majority of Service complaints made in the Naval Service are not made about prescribed behaviour. Service complaints about bullying, harassment and discrimination account for only 9% of all complaints.

Most of the increase in numbers of new Service complaints was accounted for by an eight fold increase

Table 9a: Service complaints in 2013 – Navy

Navy	New complaints	Numbers worked on during year	Awaiting decision	Withdrawn/ informally resolved before decision	Upheld	Partially upheld	Not upheld	Taken to next level
Level 1	353	428	40 ¹⁷	99	107	17	88	34
Level 2		115	73	4	18	13	27	13
Level 3 Total		37	16	0	4	5	12	0
Of which Service Board				0	0	0	0	
Of which SCP with Independent member				0	0	2	4	
Of which SCP				0	4	3	8	
Petitions to the Sovereign								0
Claims to ET								7

¹⁶ See page 52.

¹⁷ 82 Level 1 decisions were referred to a higher authority as the Deciding Officer was unable to grant redress. These are included in the Level 2 figures.

in complaints about pay, pensions and allowances (168 in this category compared to 20 in 2012). (See the table at Appendix 3). It appears that the majority of the increase in this category was caused by complaints about a lack of ability to aggregate two separate periods of service for pensions and Early Departure Payment (EDP) purposes. At the end of October there were 27 Naval Service complaints about early departure payments which had been in the system or were likely to be in the system for over 24 weeks. As a result of a policy decision, which enabled those who were still serving on or after 16 December 2013 to aggregate their periods of Service, this number had dropped to 4 by the end of 2013. Those still open were complaints brought by personnel who had left the Naval Services, whose complaints had been stayed awaiting a decision on these types of cases.

There were smaller increases in three categories, Bullying, (where the numbers of Service complaints increased from 11 to 19), Terms and Conditions of Service and Other. The numbers of complaints about medical and dental treatment fell (Appendix 3).



Resolution of Service complaints – Outcome and Appeals

As a result of the increase in new cases, the Navy dealt with more than twice the numbers of Service complaints at Level 1 in 2013 than in 2012. Despite this, the numbers awaiting a decision at the end of the year had reduced. 40 cases were awaiting decision compared to 59 the previous year. As shown in Table 9a, nearly a third of cases which were closed at Level 1 were resolved before formal decision, either because they were informally resolved or withdrawn.

This represents a significant efficiency saving. If complainants are satisfied with the informal resolution, it also marks a significant effectiveness and fairness saving.

As shown in Table 10a, more than a half of Level 1 cases which were formally decided (51%) were upheld in full, and a further 8% upheld in part. This is a marked increase on 2012 figures of 9% and 17% respectively. The proportion of Service complaints decided which were not upheld fell from 67% in 2012 to 29% in 2013.

Although more cases were referred to Level 2 in 2013 because the Commanding Officer did not have the authority to provide redress, (88 compared to 51 in 2012) the numbers of cases being appealed after Level 1 decision dropped markedly from 91 in 2012 to 51 in 2013.

The Navy dealt with almost the same numbers of Service complaints at Level 2 during 2013 as 2012, but had more cases awaiting decision at the end of the year (73 cases compared to 5 in 2012). Far fewer cases appeared to have been withdrawn or informally resolved at this level but this appears to be because of prompt action and increased informal resolution by Commanding Officers at Level 1. Level 2 decided only

Table 10a: Cases upheld or partially upheld as a percentage of all cases decided during 2013 by Service and Level

	Navy		% of not upheld & Partially upheld appealed
	Upheld	Upheld & Partially upheld	
Level 1	51% ¹⁸	59%	32%
Level 2	31%	54%	33%
Level 3	19%	43%	N/A

¹⁸ These include a large number of EDP complaints as resolved at Level 1 after a decision had been made on the policy. .

Table 11a: Complaints submitted before 1/1/13 still awaiting decision at the end of 2013.

	From 2008	From 2009	From 2010	From 2011	From 2012	Total
Level 1	0	0	0	1	3	4
Level 2	0	0	0	3	13	16
Level 3	0	0	0	3	7	10

Table 12a: Performance of Naval Service in resolving Service complaints made in 2013 within 24 weeks

	Totals	Level 1	Level 2	Level 3
New Service complaints 2013	353			
Service complaints decided	265	244	20	1
Service complaints decided under 24 weeks	246	230	16	0
Service complaints decided after 24 weeks	19	14	4	1
Service complaints still undecided after 24 weeks	49	12	30	7
Complaints decided in under 24 weeks as a % off all complaints that could have been decided within 24 weeks	78%	95%	40%	13%

3 fewer cases than in 2012, so the numbers awaiting decision seem to be accounted for by the increased numbers of Service complaints being made.

The percentages of cases upheld and partially upheld at Level 2 (which will include those not decided at Level 1 because of a lack of authority to provide redress) was slightly lower than in 2012, 31% and 23% compared to 41% and 15%. The percentage of complaints not upheld or partially upheld which were appealed to Level 3 was slightly higher 33% compared to 29% in 2012.

The percentage of Service complaints upheld and partially upheld at Level 3 was higher in 2013 than in 2012 – 19% and 24% compared to 11% and 11%. The differences may be simply due to the particular facts of the cases considered. However the Navy should consider whether there are any factors that could be addressed to avoid the need for complainants to appeal Level 2 decisions. This is a matter of sustainability as well as fairness. The aim should be to resolve complaints at the lowest appropriate level. Resolution of cases at lower levels frees up resources to

handle cases that can only be resolved at the higher levels.

At the end of the year, of Service complaints which had been worked on during the year, there were 73 complaints at Level 2 and 16 complaints at Level 3 awaiting a decision. This is higher than in 2012 and 2011. As shown in Table 11a some of these cases have been in the system since 2011.

The Services have made bi-monthly reports to the SCC during the year on Service complaints which have been in the system for more than 24 weeks or are likely to do so. The major cause of delay in relation to Naval Service complaints is reported to be a lack of resources.

Timeliness and Delay

The MOD and Services agreed to implement for 2013, the 24 week target for resolution the SCC had set as a three year goal to be achieved by the end of 2013.

Table 12a shows the numbers of cases which were resolved in the Navy within 24 weeks. The 24 week target applied to resolution at any level and was

designed to promote good and effective handling at the lowest appropriate level. In the Navy, the majority of Service complaints were resolved at Level 1, either informally or by a formal decision, upholding or partially upholding the complaint. Although around a quarter of Service complaints were referred to a higher authority because Level 1 did not have the authority to redress the complaint, this appears to have happened in a timely manner.

Three quarters of all new Service complaints brought in 2013 were resolved by the end of the year, 92% at Level 1. Nearly all Level 1 cases were resolved within 24 weeks. Only 12 Level 1 Service complaints remained undecided over 24 weeks at the end of the year. Even at Level 2, the majority (75%) of Service complaints which had been decided were resolved within 24 weeks after their complaint had first been made but more cases remained undecided after 24 weeks than had been decided.

In determining whether the Services have met the 24 week target, the SCC has calculated the number of

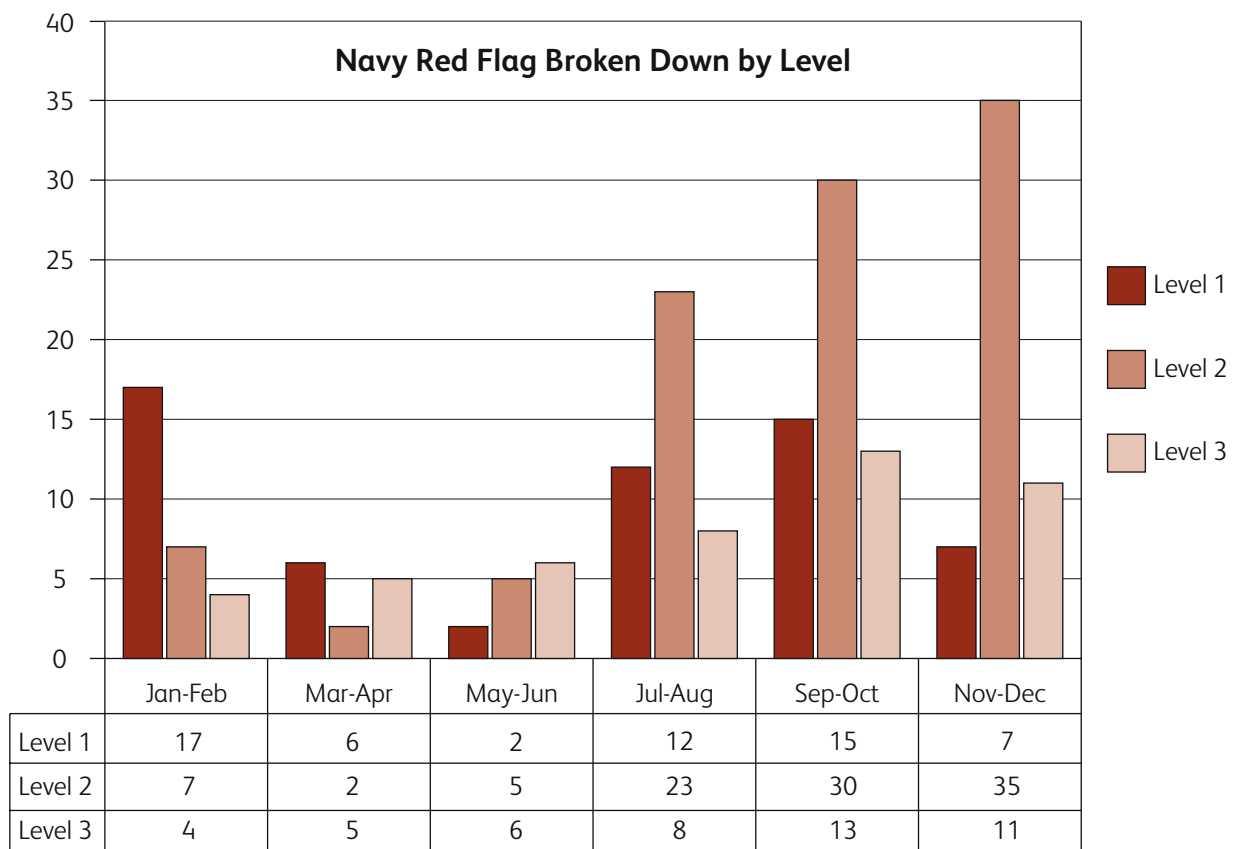
complaints resolved within 24 weeks as a percentage of all cases decided plus all cases still undecided after 24 weeks. Overall therefore the Navy resolved 78% of new 2013 Service complaints within 24 weeks. This is the best performance of the three Services and was made in the context of almost a doubling of the numbers of new Service complaints.

An explanation of the red and yellow flag system and overall assessment of its working is given in Chapter 5. Table 13a shows the performance of the Naval Service in relation to the red flagged cases over 2013.

There was a reduction in cases which had been in the Service complaints system for over 24 weeks at Levels 1 and 3 but an increase of those which had been delayed at Level 2. The most frequent reason given for not progressing Level 2 cases more speedily is lack of resources.

The numbers of yellow flagged cases dropped markedly in the final report of 2013 from the Navy. This appears to be the result of the policy decision on aggregation of

Table 13a: Naval Service Red Flags¹⁹



¹⁹ Figures from January to June cover only Service complaints referred by the SCC, whatever the year in which they were made. Figures from July include also all Service complaints made after 1/1/13, even if not subject to a referral by the SCC.

separate periods of Service, which allowed 17 of the 18 yellow flagged cases reported in October to be closed. (6 of 9 red flagged cases brought about the same subject were also closed).

Whilst the ability of Commanding Officers to resolve complaints at Level 1 during 2013 may be linked to the types of complaints brought, nevertheless it appears that the culture change, focused on resolution, timely handling and good communication, pioneered at Navy HQ at Level 2 in 2011 and 2012, has now been embedded with Commanding Officers.

Good and timely handling can have a positive impact on morale and is less likely to lead to appeals, especially in cases where not every aspect of the complaint has been decided in the individual's favour. Feedback from one complainant typified the impact of this approach:

“Overall, the complaint was upheld in my favour and as a result there were a number of recommendations made to (*my unit*). As the complainant I cannot ask for more: I was treated fairly and the truth was uncovered. I can also confirm that all of the correct actions were taken on JPA in the aftermath of the complaint”

Nevertheless, the numbers of Service complaints in the system since 2011 at all three levels and the numbers left undecided at Level 2 particularly are of concern. The longer the delay in resolution, the more complex complaints tend to become. Delay can also have an adverse effect on the morale and commitment of a complainant (and person complained about) to the Service.

At the end of 2012 the Navy saw the challenge ahead as being one of sustainability. It appears that this is still an issue and the older, more complex complaint cases need to be resolved, for the Navy to benefit fully from its new approach.

The Navy has put in place additional scrutiny of handling of complaints at Level 1, with a view to providing targeted assistance to those units struggling to meet timelines. Their focus is on resolution of problems, identifying quick wins and support for decision makers appears to have proved its value.

Challenges Ahead

The performance of the Naval Service in tackling and preventing bullying, harassment, discrimination and other improper behaviour is discussed in chapter 4. As with the other Services, the Naval Service is facing changes over the next few years which may give rise to Service complaints. Some of these changes affect all three Services, such as the introduction of a new pension scheme from 2015 and the New Employment Model. Although many of these changes are designed to improve Service life and may result in fewer mistakes which give rise to Service complaints, for example, a simplification of the rules about allowances and pay rates, nevertheless any change has the potential for concern.

Challenges which are specific to the Naval Service include:

- Smaller Navy – recruitment, retention, sustainability
- Introduction of women into the submarine fleet
- Introduction of new ships and aircraft
- Two Service personnel families/combining family life and sea going commitments
- Draw down from Afghanistan
- Consequences of over 12 years of operations – especially with regard to mental health.

The Navy has led the Services in timely handling and resolution of Service complaints, in identifying lessons learned from such cases and taking action to tackle the causes of similar complaints in the future. The



proposed simplification of the Service complaints system and increased role of the SCC should assist the Navy in its approach, by giving further confidence to those bringing complaints, and to those having complaints made about them that the system is working fairly and in a timely fashion. The changes should also empower those deciding cases and ultimately put the Service complaints system on a more sustainable footing. Although there is still a relatively small backlog of older cases to be tackled, which may need more resources in the short term, the Navy appears to be in a good place to scan the horizon, spot the potential for problems arising and take action to minimise the numbers of Service complaints arising in future.

The Army

Reliability of Data

All Services should have moved to recording Service complaints on the JPA module from 1 January 2011. Only the Naval Service did so. Following the second DIA audit in 2012, which found that the data provided by the Army and the RAF could not be relied upon, the Army moved to recording data on JPA only from 1 January 2013.

The data provided by the Army for 2013 on Service complaints contains a number of gaps and inconsistencies. These are explained in the relevant sections in this report. As a result, the Army has not been able to provide confidence on the accuracy and reliability of the data provided. The SCC has also not been able to identify trends, for example, with regard to resolution and appeal rates.

The Army needs to resolve this problem for 2014, not least to ensure they are accountable to Ministers and Parliament for their performance. The lack of accurate data also hampers their desired aim to use Service complaint data, together with data on discipline and administrative action, plus information from Service Inquiries, to identify areas and units which have problems and which may affect operational performance.

It is to be particularly regretted that in attempting to capture information which they did not perceive could be captured on the JPA module, the Army misappropriated the field for recording complaints of indirect discrimination. The test of indirect discrimination is essentially where a policy, practice or

procedure, which applies to all, adversely affects a member of a minority group and cannot be objectively justified. Consideration of complaints of indirect discrimination is therefore potentially extremely valuable to organisations who are committed to diversity and inclusion.

Service Complaints made and dealt with in 2013

The Army saw a 12% increase in new Service complaints in 2013, 586 compared to 525 the previous year. This is a higher rate of increase than previously. The Army also worked on more Service complaints during the year, a 17% increase at Level 1 but a fivefold increase at Level 2. It appears that one reason for the increased numbers at Level 2 was the devolution of power from Army Board level (Level 3) to the Director Manning (Army) and Military Secretary to resolve some types of Service complaints at that level. As a result, the numbers dealt with at Level 3 reduced during 2013.

The Army also appears to have closed more complaints at all levels, although because of the way data has been recorded on JPA it is unclear as to whether a case has been resolved or simply closed at a particular level and passed up the chain of command. There are also a number of complaints which are recorded as decided at Levels 1 and 2, but the nature of the decision is not specified. The data presented at Table 9b cannot therefore be regarded as reliable with regards to outcome, satisfaction or appeal rate.



The SCC visits 2nd Battalion Princess of Wales Royal Regiment, Kings Troop Royal Horse Artillery and Central Volunteers Head Quarters, Royal Artillery, at Woolwich Barracks, December 2013

Table 9b: Service complaints in 2013 – Army

Army	New complaints	Numbers worked on during year	Awaiting decision	Withdrawn /informally resolved before decision	Upheld	Partially upheld	Not upheld	Taken to next level
Level 1	586	1086	513	162 ²⁰	35	26	106	182 ²¹
Level 2		178	64	6 ²²	12	3	13	53
Level 3 Total		167	121	1	11	14	50	1
Of which Service Board				1	1	2	18	1 ²³
Of which SCP with Independent member				0	5	12	21	
Of which SCP				0	5	0	11	
Petitions to the Sovereign	1							
Claims to ET	19							

There appears to have been an eightfold increase of cases withdrawn or informally resolved at Level 1 – 162 in 2013 compared to 19 in 2012. It is unclear as to how much of this increase is due to informal resolution and how much to individuals being persuaded to withdraw their complaint or complaints being recorded withdrawn rather than rejected as out of time. It would appear from the information given to the SCC by the Army for Table 12b, that there is still a significant rate of withdrawal of complaints, even though the SCC has stressed that the better practice is for closure by decision, which preserves appeal rights. Just under a third of all new Army Service complaints that were closed in 2013 were closed because of a withdrawal.

How much this practice emanates from a culture that complaints mean trouble or from a desire to forestall claims to an Employment Tribunal (ET)²⁴ on grounds of unlawful discrimination is unclear. This requires further investigation to ensure that Army personnel are being treated fairly and the Service complaints system is not being undermined.

From the SCC's oversight of referred complaints, it would seem that some, even serious, allegations of bullying, are being dealt with informally, rather than formally. It is of concern if this course of action is taken with the intention or with the effect of depriving a complainant of their right to ask for the CO's decision

20 The Army report an additional 45 cases as closed about which the type of resolution has not been specified.

21 117 complaints were referred to Level 2. 65 were referred directly to Level 3. However unlike the other two Services, the Army has recorded these as additional to the cases shown as decided – upheld, partially upheld or not upheld.

22 The Army report an additional 15 cases as closed about which the type of resolution has not been specified. Although this was questioned by the SCC the Army has not taken the necessary action to establish the resolution in these cases. Meaningful oversight by the Army's Service Complaints Wing requires this to be rectified.

23 Commissioned Officers, whose decision is made by a Service Board under delegated powers from the Defence Council, may exercise a right to petition the Queen. If they do so their complaint will be reviewed before advice is tendered on that petition. The Armed Forces Act 2006 withdrew that right for any cases decided by a Service Complaint Panel (SCP) at Level 3. All Service complaints at Level 3 in the Navy were decided by SCPs in 2013.

24 Service personnel, unlike other employees must have first made a complaint under the workplace grievance system (Service complaint in the Armed Forces) before they can make a claim to an ET. That complaint must not have been withdrawn. Unlike civilian employees there is no access to an ET for any matter except some categories of unlawful discrimination.

to be reviewed by a higher authority as is the case for decisions on formal Service complaints. The SCC is also aware of Army complainants who say they were given no option but to sign a closure certificate against their wishes, and others who said they signed on a promise by their chain of command to resolve the problem which has then not happened.

For this reason the SCC recommends that there should be a standard template for informal resolution, which records the matter complained about, the action which has been taken to resolve the complaint informally, any action which the CO has taken or is going to take and, if the action is still to be taken, states the right of the complainant to make a formal complaint within a specified time if that action has not been taken. This should be signed by the CO and complainant.

Such a template would also protect the rights of individuals complained about who have contacted the SCC during 2013, concerned about complainants who continue with a formal complaint, despite the action agreed at informal resolution having been carried out as agreed.



Recommendation 13.4

There should be a standard template for informal resolution, for all three Services, which records the matter complained about, the action which has been taken to resolve the complaint informally, any action which the CO has taken or is going to take and states the right of the complainant to make a formal complaint within a specified time if that action has not been taken.

Types of Service Complaints

The categories of Service complaints made in 2013 are shown in the table at Appendix 3. Service complaints about bullying, harassment and discrimination account for 43% of all allegations, compared to 9% of all allegations made in the Naval Service and 38% in the RAF.

Complaints of bullying, harassment and discrimination made in Service complaints in 2013 increased significantly. The numbers of complaints of harassment (118) and discrimination (66) were over six and four times more respectively than those made in 2012. Complaints about bullying also increased but not at the same rate. There were 133 new complaints of bullying in 2013 compared to 99 in 2012, up by a third. Nevertheless, bearing in mind that 586 new Service complaints were made in 2013, this suggests that a significant proportion of Service complaints included a complaint about bullying.²⁵

Although there were some variations, the gender distribution of those making the complaints did not differ significantly between the two years. It remains the case that complaints of improper treatment, such as bullying, harassment and discrimination are made more frequently by female personnel than their representation in the Army. The data provided does not suggest that more women made complaints of improper treatment in 2013 than they had done in 2012.

The Army has not recorded different types of harassment and discrimination on JPA. This significantly undermines their ability to explore if there are particular problems being experienced by minority groups and must be addressed.

²⁵ The Army has recorded all allegations made by category so that the number of allegations is greater than the number of Service complaints.

Table 10b: Cases upheld or partially upheld as a percentage of all cases decided during 2013 – Army²⁶

	Army		
	% Upheld	% Upheld & Partially upheld	% of not upheld & Partially upheld appealed
Level 1			
Level 2			
Level 3	15%	33%	N/A

There was an increase, although less marked than in the Navy, in complaints about pay, pensions and allowances (up from 40 to 105). Complaints about terms and conditions increased by 8%. Complaints about medical and dental services more than doubled.

Resolution of Complaint – outcome and appeals

Because of the inaccuracies in recording decisions on JPA it is not possible to make a reliable calculation as to the percentages of cases upheld, partially upheld or not upheld at Levels 1 and 2. The percentage of Service complaints upheld and partially upheld at Level 3 in 2013 is the same as in 2012, although fewer cases have been upheld in full (15% compared to 24% in 2012) and more cases are recorded as being partially upheld (19% compared to 11% in 2012).

Table 11b shows that there are 296 Service complaints that were at least one year old and were still awaiting decision at the end of 2013. The Army did reduce the numbers of older cases still open at the end of 2012. However, it is not consistent with a fair, efficient and effective system that there should be 128 Service complaints still open at Level 1 after a year, of which 36 are at least 2 years old. From the SCC's scrutiny of the reasons for Service complaints being delayed over 24 weeks, there are a small number which are delayed due to the request or lack of action of the complainant.

Delay is more commonly down to lack of action on the part of the Army or investigators being used by the Army chain of command. More needs to be done to manage such cases effectively.

The SCC's 2012 Annual Report showed 148 cases open at Level 3 at the end of 2012 (compared to 141 at the end of 2013) of which 17 had been in the system since 2008, 31 since 2009 and 42 since 2010. Over two thirds of those Level 3 Service complaints have now been decided. However over half the Level 3 cases are over 2 years old and any case being referred in 2014 to Level 3, either for want of authority by the chain of command or on appeal, still joins a queue of 125, with an annual closure rate of between 50 and 75.

Given the time it takes for Army cases to be decided at Level 3, (even those which by-pass Level 2) it remains of concern that a third of complainants have to wait to get to this level to get justice.

From the SCC's oversight, many of these complainants have left the Army before their case is upheld and for them (and others still in the Army), the time for effective redress has long passed. As a consequence the Defence Council has to consider financial compensation, which would otherwise have been avoided. Moreover, many of the complainants in this situation tell the SCC that no amount of money can

Table 11b: Complaints submitted before 1/1/13 still awaiting decision at the end of 2013 – Army

	From 2008	From 2009	From 2010	From 2011	From 2012	Total
Level 1	0	2	2	32	92	128
Level 2	0	0	3	11	28	42
Level 3	4	9	13	51	48	125
Total	4	11	18	94	168	295

²⁶ This table cannot be completed at Levels 1 and 2 because of the way the Army has recorded data on JPA.

Table 12b: Performance of Army in resolving Service complaints made in 2013 within 24 weeks

	Totals	Level 1	Level 2	Level 3
New Service complaints 2013	586			
Service complaints decided (or withdrawn)	153 (of which 58 were withdrawn)	139	10	4
Service complaints decided (or withdrawn) under 24 weeks	94 (of which 45 were withdrawn)	94	0	0
Service complaints decided (or withdrawn) after 24 weeks	59 (of which 13 were withdrawn)	45	10	4
Service complaints still undecided after 24 weeks	224	190	18	16
Complaints decided in under 24 weeks as a % off all complaints that could have been decided within 24 weeks	25%	29%	0%	0%

compensate them for the distress caused and exacerbated by unacceptable delay.

Timeliness and Delay

The Army has not met the target of 90% of new 2013 Service complaints being resolved (at whatever level) within 24 weeks.

Table 12b shows that only 26% of 2013 Service complaints were closed during the year and only 16% were closed because the chain of command made a decision on the complaint. Over 10% were closed because the complainant withdrew the complaint.

Table 12b also shows that the Army met the target of resolution of complaints within 24 weeks in only 25% of cases compared to 78% for the Navy. 224 of the cases which were made over 24 weeks before the end of the year remained open.

The red flag reports made to the SCC include not only new 2013 Service complaints which have been in the system for over 24 weeks but also Service complaints referred by the SCC before 1 January 2013.²⁷ As Table 13b shows, the numbers of red flags has increased steadily from July 2013, especially at Level 1. This suggests that the short review the Army conducted in 2013, with a view to handling their Service complaints in a smarter, fairer and more effective way, including learning from those COs who did decide Service

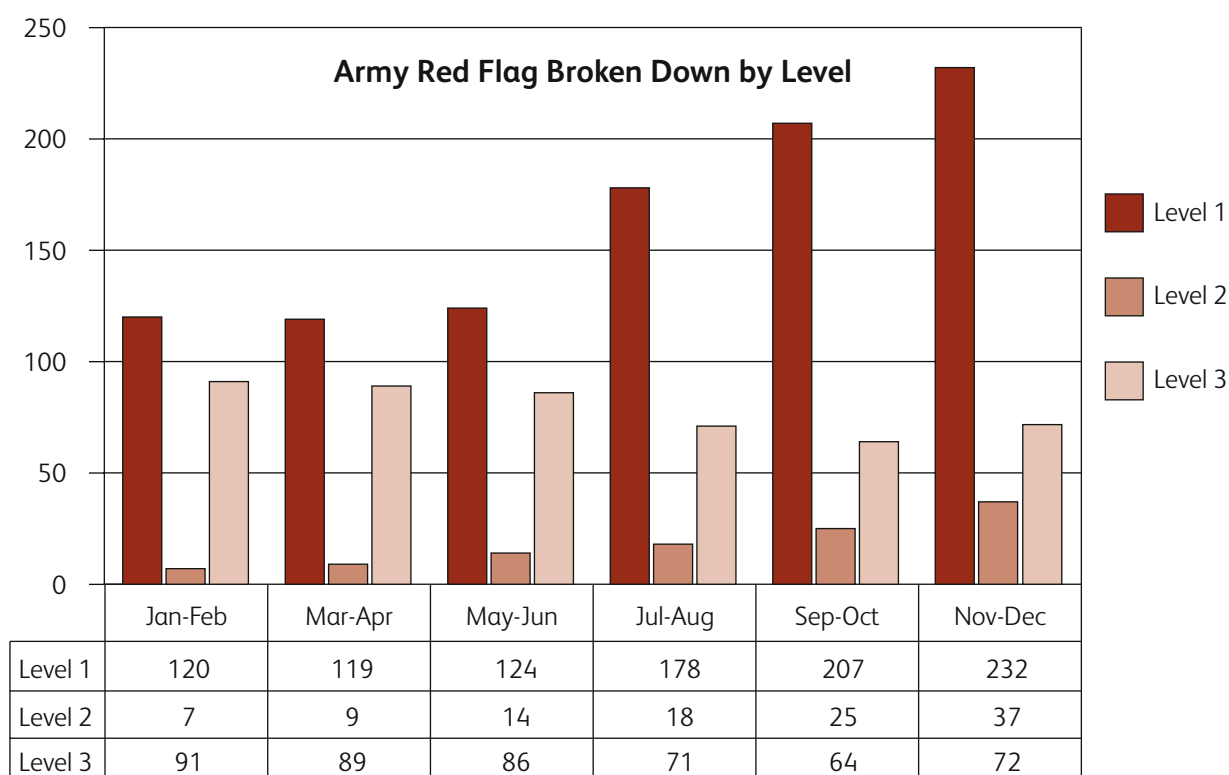
complaints in a more timely fashion, has not yet had much impact.

Yellow flagged Service complaints are those which are currently still under the 24 week time limit but are expected to take longer than 24 weeks to resolve. On top of the 341 red flagged Army Service complaints which had already been in the system for over 24 weeks at the end of 2013, there were another 191 cases which the Army had itself identified were expected to exceed that time target. In identifying yellow flag cases, and the reasons for possible delay, the Army is acting in exactly the way the SCC has proposed. The next step is for the Army's Service Complaints Wing to intervene with the chain of command in resolving those cases without the anticipated delay.

24 weeks was chosen by the SCC as representing a reasonable time in which workplace grievances should be resolved. She recognised that not all cases could be dealt with fairly and effectively in such a time, which is why the target for new Service complaints was 90% resolved within 24 weeks. The Army has shown that the current Service complaints system does not enable it to resolve Service complaints brought by its people, (the majority of which on the basis of previous years' data it upholds in whole or in part), within a reasonable time period. It cannot be said that the Service complaint

²⁷ This will not be all pre 2013 Service complaints. The red flag reports from January to June covered only SCC referred Service complaints. The reports from July also include new 2013 Service complaints.

Table 13b: Army Red Flags 2013



system is working efficiently, effectively or fairly within the Army.

Given the increase in instances of bullying, harassment and discrimination recorded by Army personnel in the Armed Forces Continuous Attitude Survey²⁸ and the increase in Service complaints about such treatment recorded in 2013, this is extremely serious. The rise in Service complaints is not of itself a bad thing. The more individuals speak out, the better the chances of the Army tackling such behaviour and demonstrating that it truly has a zero tolerance policy. The increase in Service complaints may be due to a number of factors, including better recording due to the use of JPA, an increased awareness about what constitutes bullying and an unwillingness to put up with it as before, increased awareness of the Army's Bullying and Harassment Helpline. If the increase is due to soldiers and Officers being more prepared to speak out, it is in the best interest of the Army to deal with those complaints as effectively and quickly as possible. A failure to do so would be a fundamental breach of duty of care and of the Armed Forces Covenant.

Challenges Ahead

The Army has an ambitious programme of reform – Army 2020 – which includes the withdrawal of Army bases from Germany and resettlement in the UK, a reduction in the size of the regular Army and a significant increase in the Army Reserve, and a switch to contingency from the expeditionary footing of recent years. Whilst some of these changes may bring significant benefits such as more stability, at least to some personnel, any change carries the potential for problems and consequently Service complaints. Some of the changes may give rise to more concerns than currently anticipated.

The SCC already receives a steady number of complaints from reservists (in all three Services), the roots of whose complaints lie in the lack of understanding by the regular chains of command as to how and why the regular rules, systems and procedures do not apply in the same way to reservists and in the different expectations about what constitutes acceptable management of those whose primary employment experience is shaped by the civilian sector. Such complaints are likely to increase as the numbers and use of reservists (particularly those who have not

28 Armed Forces Continuous Attitude Survey 2013, Table B4.34, published by Defence Statistics.

been regular soldiers) increase. These complaints may hold valuable lessons for a receptive Army. However, more will need to be done to ensure that those in the reservist chain of command are fully aware of the Service complaints system and that especial attention is paid to communication, reasonable time limits for those who are not in full time reservist postings and to the provision of good quality, accessible Assisting Officers.

The consequences of over 12 years of operations are also likely to affect the numbers and types of complaints being brought by Army personnel in the next few years. Increased levels of stress may also result in more complaints about bullying, harassment or other improper behaviour. Poor and delayed handling of Service complaints can exacerbate welfare, physical and mental health problems. A family member supporting a Service person in a long running Service complaint spoke movingly on the impact on the adverse impact on the Service person and the family.

“It would be so good if there were a support group for people making complaints – it’s a trauma in itself”

The Army therefore needs to improve its handling of Service complaints as part of its duty of care to all its personnel.

The Army specific challenges are in addition to the changes that will affect all Service personnel, for example, those stemming from the New Employment Model. It is therefore unlikely that the numbers of Service complaints brought by Army personnel will reduce significantly over the next few years. The Army, which is fully supportive of the changes to the system and SCC role which have been proposed, needs to take full advantage of the new way of working and sustain its commitment at all levels to handling Service complaints in a better way and to acting on any lessons identified.

The RAF

Reliability of Data

As a result of the additional resources the RAF has put in place since May 2013 to deal with Service complaints, including a restructured Service Complaints Team, the RAF discovered significant failures in how Service complaints and Service complaints data were

being processed. This included data provided by the RAF to the SCC for inclusion in the Annual Report 2012, which the SCC had queried as being out of line with complaints to the SCC. In a letter from the Air Member for Personnel and Capability, Air Marshal North, to the Service Complaints Commissioner, the RAF has explained what went wrong, why it went wrong and the action they are taking to ensure that the error will not re-occur. A copy of that letter is included in this report at Appendix 5. Air Marshal North has also apologised profusely and personally.

In essence, the RAF relied on its own personnel casework data recording systems, rather than the JPA Service complaints module. The RAF has now checked their 2012 Service complaints data on JPA and provided an overall total of 187 new 2012 cases rather than the figure of 284 provided last year. Because of the inconsistencies in use of JPA and the resources required, the SCC has not asked the RAF to recalibrate all the information provided in the Annual Report 2012. This means that limited trend analysis can be made on the 2013 data.

The data for 2013 is provided by the RAF with limited assurance as to its accuracy. The Air Member for Personnel and Capability assesses that the baseline data is at least 90% accurate but that the supplementary data, e.g. with regard to type of complaints made, where there is more scope for human error, is only about 70% complete.

The RAF is however not waiting for the DIA Internal Audit but from 1 April 2014 will be auditing the use of the system on a monthly basis to provide assurance,



The SCC visits Hillside Camp, Stanley, Falkland Islands, January 2013

Table 9c: Service complaints in 2013 – RAF

RAF	New complaints	Numbers worked on during year	Awaiting decision	Withdrawn /informally resolved before decision	Upheld	Partially upheld	Not upheld	Taken to next level
Level 1	121	351	235	48	12	13	43	9
Level 2		159	125	6	13	5	10	4
Level 3 Total		71	35	0	4	2	30	
Of which Service Board					0	0	2	
Of which SCP with Independent member					1	1	4	
Of which SCP					3	1	24	
Petitions to the Sovereign	0							
Claims to ET	7							

identify issues and take remedial action. The RAF has already taken action to educate stations in the correct use of JPA, is producing a JPA process guide (similar to that produced by the Navy for its users), and is including this topic in bespoke and specialist personnel training. Having a tri-Service guide may aid consistency across all Services.

Service Complaints made and dealt with in 2013

121 new Service complaints are shown in Table 9c as being made by RAF personnel in 2013, a fall from the corrected total of 187 for 2012.

The RAF closed just over a third of all Service complaints worked on at Level 1 during 2013 but had

nearly twice the numbers of new complaints still open at the end of the year. Just over a fifth of Service complaints worked on at Level 2 were decided at that level during the year, leaving just under 80% to be still open at the end of the year. The closure rate at Level 3 was best, with just over half of all complaints worked on being resolved. The RAF has focused on the longer standing cases. However 160 Service complaints that were first made before 2013 remained in the Service complaints system at the end of 2013, over 5 times as many as remained open in the Navy. Moreover the numbers that remained open appear to be over twice the numbers that were open at Level 1 and 6 times the number remaining open at Level 2 at the end of 2011. Having over a third of Services complaints that are at

Table 10c: Cases upheld or partially upheld as a percentage of all cases decided during 2013 by Service and Level – RAF

	RAF		% of not upheld & Partially upheld appealed
	% Upheld	% Upheld & Partially upheld	
Level 1	18%	37%	16%
Level 2	46%	64%	27%
Level 3	11%	17%	N/A

Table 11c: Complaints submitted before 1/1/13 still awaiting decision at the end of 2013 – RAF.

	From 2008	From 2009	From 2010	From 2011	From 2012	Total
Level 1	0	1	4	10	46	61
Level 2	0	0	4	22	30	56
Level 3	0	0	5	19	19	43
Total	0	1	13	51	95	160

least a year old, still languishing at unit level, is not the sign of an efficient, effective or fair system.

At the end of 2013, the RAF agreed to further increases in the Service Complaints Team, which is under new management, to get on top of this backlog.

Types of Complaints

The categories of Service complaints made in 2013 are shown in the table at Appendix 3. With the caveat above about accuracy of data, it appears that Service complaints about bullying, harassment and discrimination account for over a third (38%) of all complaints. It is not possible to compare that figure with 2012. The numbers of complaints about all types of improper behaviour appears to be in line with 2011 data,²⁹ although such complaints represented a lower proportion of all 2011 Service complaints because of higher numbers that year of complaints about terms and conditions of Service. It may be that the empowerment of CO's to resolve Appraisal reports from

2012 has had a beneficial impact on the numbers of Service complaints being made.

Recommendation 13.5

As part of its assurance and monitoring, the RAF should consider changes in patterns and types of complaints, so as to be able to assess and inform the SCC of the impact of changes it has made to the handling of Service complaints. As empowerment of the chain of command is perceived to be part of the solution to a more effective and efficient handling of Service complaints, the RAF should share its findings with the other Services.

Resolution of Complaint – outcome and appeals

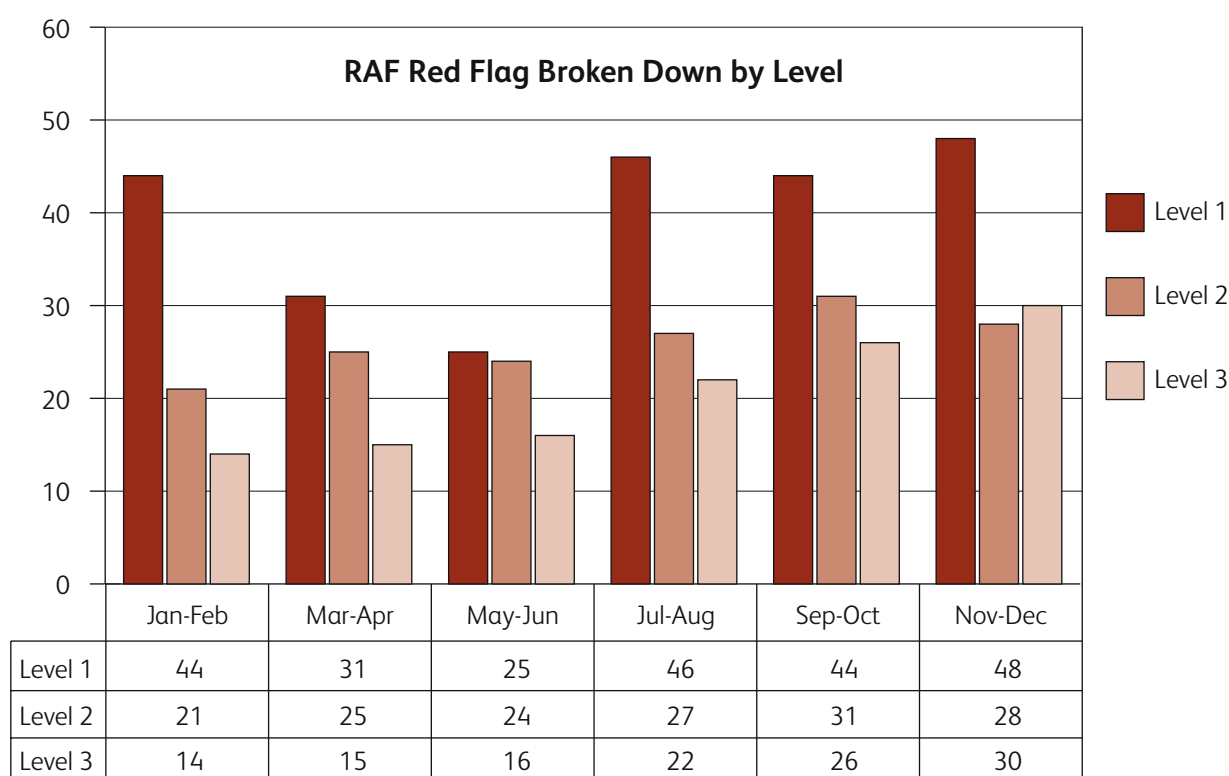
Because of the problems with RAF data in 2012 and Army data in 2013, it is difficult to draw many conclusions from the outcome and appeals data. Because of the low percentage of complaints being decided at Level 1, it is also hard to say whether lower levels of appeals (compared to pre 2012 patterns)

Table 12c: Performance of RAF resolving Service complaints made in 2013 within 24 weeks – RAF

	Totals	Level 1	Level 2	Level 3
New Service complaints 2013	121			
Service complaints resolved	35	30	5	0
Service complaints resolved under 24 weeks	20	18	2	0
Service complaints resolved after 24 weeks	15	12	3	0
Service complaints still undecided after 24 weeks	54	28	20	6
Complaints resolved in under 24 weeks as a % off all complaints that could have been decided within 24 weeks	22%	31%	8%	0

²⁹ See the table at Appendix 3 of the SCC's Annual Report 2011.

Table 13c: RAF Red Flags 2013



means more satisfied complainants in the RAF, possibly due to better handling and communication; or that the more difficult or contentious cases have still be to decided. Although the numbers decided are low, the higher rate of those upheld at Level 2 (compared to Level 1) may suggest that more attention should be given to attempting to resolve complaints at the first (unit) level, in the interest of efficiency and fairness.

Timeliness and Delay

As shown in Table 12c, over a quarter, (29%) of all new Service complaints made in 2013 were resolved during the year. Nearly two thirds of those which were resolved met the 24 week deadline. However at the end of the year 51 undecided Service complaints had been in the system for over 24 weeks. Therefore Service complaints which were resolved under 24 weeks represented only 23% of all Service complaints that could have been decided within 24 weeks.

A similar position is shown in the red flag reports to the SCC at the end of December 2013, which include not only new 2013 Service complaints which have been in the system for over 24 weeks but also Service complaints referred by the SCC before 1 January 2013.³⁰ As Table 13c shows the overall number of red flags has increased slightly but steadily from July 2013, but with fluctuations at Levels 1 and 2. The numbers of new (non-referred) Service complaints increased from 31 – 43 between August and December. The number of SCC referred complaints only reduced by 1 over that period.



³⁰ This will not be all pre-2013 Service complaints. The red flag reports from January to June covered only SCC referred Service complaints. The reports from July also include new 2013 Service complaints submitted since 1 January 2013 that have exceeded the 24 week time target.

However there appeared to be more progress on yellow flags. Yellow flagged Service complaints are those which are currently still under the 24 week time limit but are expected to take longer than 24 weeks to resolve.

Challenges Ahead

As with the other two Services the RAF faces a number of challenges ahead, including the introduction of the New Employment Model, a smaller Service and closures/consolidation of stations. The RAF has the highest proportion of female Service personnel and has two female Air Vice Marshals, the first of the three Services to appoint women to the two star rank posts. The RAF already faces the challenge of how to accommodate the interests of families with two serving spouses, and the interest of the Service. This issue was raised with the SCC on her visit to British Forces Falkland Islands in January 2013, when Officers asked for more dialogue with Appointers and more consultation with both spouses. The SCC raised the issue with the Principal Personnel Officers of all three Services. The RAF may be well placed to provide a lead in this regard.

The RAF faces some very real challenges in relation to the handling of Service complaints, the consistent and

reliable recording of complaint data, tackling current backlogs and getting on the front foot with new Service complaints. They acknowledge that the quality of decision making has not always been of a desired standard and corrective action has been taken after the SCC has made enquiries in relation to errors she has spotted in her oversight of cases. However, the new Service Complaints Team has consulted on best practice and is spearheading a proactive approach, for example, sharing of good practice between Station Commanders to encourage a resolution focus, similar to that now common in the Naval Service.

The numbers of Service complaints appears to be reducing as may the appeal rates, although with so few cases decided, this is difficult to assess with any certainty. The percentage of Service complaints upheld or partially upheld appears to be lower than the other two Services (as has been the case in previous years). This may be an area for further research.

The RAF is a strong supporter of the SCC's proposals for a simplified system and for the role of the SCC to be strengthened.



The SCC visits Hillside Camp, Stanley, Falkland Islands, January 2013

This chapter assesses the progress the Services have made in the last three years against the three year goals set by the SCC at the end of 2010.

Goals for the Service Complaints system by at the start of 2014

- 1 90% of all complaints from Service personnel completed in the internal system within 24 weeks
- 2 Significant and continued reductions in the anonymous reports of bullying, harassment, discrimination and victimisation in general and amongst the most vulnerable
- 3 Complaints for which there is a specialist complaints procedure, such as complaints about pay and allowances, housing, education and medical treatment, dealt with in a timely and fair manner
- 4 The SCC judged by Services, their families, Ministers and Parliament, to be playing an effective part in assuring the proper treatment of Service personnel

Goal 1: 90% of all complaints from Service personnel completed in the internal system within 24 weeks

Although the SCC set this as a goal for the Services in her Annual Report 2010 (published March 2011) it was only adopted by the MOD and Services to apply from 1 January 2013.

The 24 week target applied to resolution at whatever level was necessary, whether that was informal resolution within an individual's unit or, for example if it involved an issue of policy or the award of monetary compensation, a formal decision at Defence Council level. The aim was for those dealing with Service complaints to focus on the concerns of the Service person raising a problem, on resolution of a problem and less on the mechanics of the procedure.

24 weeks was selected for two main reasons:

- That 6 months was a reasonable time to resolve most workplace grievances, especially in an operational organisation that could ill afford individuals being distracted from their duties or the organisation tying up resources in valueless bureaucracy
- That unlike civilian employees, any Serviceman or Servicewoman who wishes to make a claim of unlawful discrimination to an Employment Tribunal (ET) must first bring a Service complaint and that the time limit for making a claim was 6 months

The SCC had overseen a number of Service complaints which had resulted in claims being made to (and won or settled at) an ET, out of frustration and loss of

confidence in the chain of command because of inaction and delay. Not only is it cheaper for the Services to have complaints resolved internally, it is also fairer to complainants to enable them to resolve problems internally without having to take an adversarial stance. The bringing of an ET claim appears to be perceived as a hostile act and makes it very difficult for a complainant to remain in Service or to continue without the risk of damage to their career.

None of the Services has met the timeliness target.

The Navy has come closest with Service complaints resolved within 24 weeks representing 78% of all complaints closed or outstanding having been in the system for over 24 weeks. The performance against this target is 25% for the Army and 23% for the RAF. The Navy achieved this despite a doubling in the number of new Service complaints in 2013. The majority of their complaints were resolved at first/unit level: 92% of service complaints resolved at that level were resolved within 24 weeks.

Further details of each Service's performance are given in Chapter 2.

Red and Yellow Flags

As a mechanism for strengthening the SCC's oversight of cases referred by her and to bolster the Service's management of Service complaints, in Autumn 2012 the SCC proposed a system of red and yellow flags against the 24 week target. A red flag would be raised against all Service complaints that had been in the system for over 24 weeks; a yellow flag would be raised

on a Service complaint which was assessed likely to go over the target.

The red flags enabled the Service Secretariats to see the reasons for a delay, to intervene as necessary and to track the impact of that action in the resolution of complaints. Yellow flags raised visibility of potentially complex or difficult cases at an early stage enabling the Service Secretariats and chain of command to take prompt action to minimise any delay.

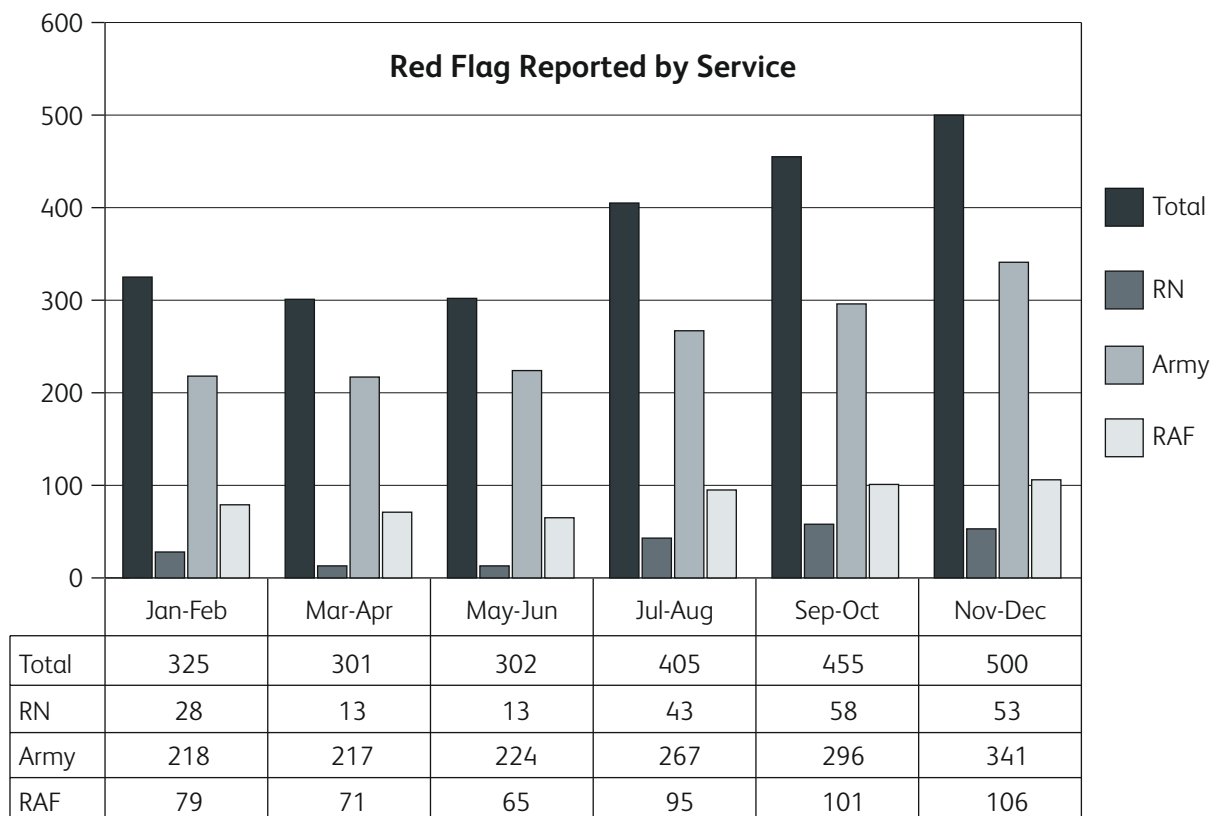
For the SCC, this risk based approach was a more cost effective way of exercising oversight and aimed to make best use of very limited resources. It was also in line with modern forms of oversight and regulation. Because the red flag reports give reasons for delay and track progress of delayed cases, the SCC has been able to take a proportionate response, focussing questions of the Services on cases of inaction. The SCC has also written to ask questions where reports appeared to show a Service complaint had not been dealt with properly.

The first three red and yellow flag reports covered only Service complaints which were the subject of a referral by the SCC. This enabled the SCC and Services to check records as to which cases were closed and which were open and in the Army especially, gave the Service Secretariat, (the Service Complaints Wing) a better grip on older cases. From July 2013, the Red flags have included also any new Service complaints made in 2013 which are over 24 weeks, whether or not referred by the SCC.

Table 14 shows the numbers of red flags raised during 2013. For the reason given above the most meaningful months for spotting patterns are July – December. Because the red flags for these months contain older SCC referred Service complaints, these figures do not correlate exactly with the figures provided in Tables 12a-c in Chapter 2 for the new 2013 Service complaints closed within 24 weeks.

In all three Services the majority of these Service complaints have been in the system for between 24 weeks and one year, although the Army has nearly as many over a year and this will be an underestimate

Table 14: Red flags reported by Services during 2013



of the true position as the red flag reports or older cases only capture SCC referred Service complaints.³¹ The November–December 2013 Red flag reports showed the average time for Navy, Army and RAF red flag cases to have been in the system as 306 days, 393 days and 363 days respectively.³² The main reasons given for delay vary between the Services. For the Navy, where most of the over 24 week complaints are at the appeal level, the most frequent cause of delay is one of resources; for the Army there is a much greater range of reasons but the most frequent are awaiting advice or action from someone else or inactivity by the unit or one of the parties; for the RAF the main reason is awaiting advice or action from others.

Table 15: Red flag reports November–December 2013 – Service complaints delayed by Service.

	24 Week – 12 Month	12-24 Month	24-36 Month	> 36 Month
Navy	45	7	0	1
Army	168	81	44	8
RAF	54	27	9	2
Total	267	115	53	11

HIO Review

In her Annual Report 2010 the SCC identified that a major cause of delay in the Service complaints system is the use of volunteer Harassment Investigation Officers (HIOs). These volunteer HIOs were selected normally from the complainant's Service and expected to undertake an investigation on top of their existing duties. Commanding Officers found it difficult to obtain HIOs and delays of up to a year from the date of complaint to the appointment of an HIO were not unknown. The SCC recommended that the appointment of specialist HIOs would be more cost efficient, effective and fair. After an internal review of the proposition in 2012, the MOD introduced a cadre of Fee Earning HIOs (FEHIOs) comprising suitably qualified ex-Service personnel and former civil servants, to investigate complaints of bullying and harassment made by Service personnel and MOD civil servants.

Following a recommendation in the SCC's Annual Report 2012 and a recommendation by the House of Commons Defence Committee³³ the MOD undertook a review of the scheme's performance. A copy of the Report of that Review is included at Appendix 6.

Unlike the previous volunteer arrangements, the FEHIO system set performance targets for the appointment of an FEHIO, the length of an investigation and preparation of a report to the Deciding Officer, with a view to reducing delay and costs. These were:

- Defence Business Services (DBS) to identify and appoint a FEHIO within normally 5, and no more than 10 working days of receiving a request;
- Investigations to be completed and a final report submitted within 30 working days of the FEHIO being appointed (Where an investigation extends beyond this period, e.g. unavailability of witnesses, the FEHIO is to report progress to the DO every 5 working days beyond the 30 working days timescale);
- The expected average duration of an investigation conducted by a FEHIO to be 11 working days, i.e. the number of days spent by the FEHIO working on the investigation, and for which they will be paid.

The Review found that in 2013

- The Army made most use of the FEHIOs (54%) followed by the RAF (38%);
- The majority (85%) of FEHIOs in Service complaint cases were appointed within 10 days with over half being appointed within 5 days;
- 32 of the 82 FEHIO investigations were completed by the end of the year, the average time to completion being 20 days (i.e. nearly twice the target);
- Very few investigations and reports were submitted within 50 working days, with 16 being submitted within 100 working days (20 weeks) a further 14 between 10 and 200 working days and 2 cases taking over 200 days.

Without a baseline for the previous volunteer system it is difficult to make any assessment as to the extent the FEHIOs are reducing delay. The 2013 performance appears to be an improvement on the 2012

31 Table 11a - c gives the numbers of all Service complaints by service submitted before 1/1/13 still in the system by year in which they were made and level at which they sat at the end of 2013.

32 There are 40 Army cases and 14 RAF cases where a referral date has not been provided, the result of which skews both sets of figures – the Army average in particular.

33 House of Commons Defence Committee – Eighth Report of Session 2012-13: The work of the Service Complaints Commissioner for the Armed Forces.

performance. However in the vast majority of cases where they are used, it appears to take longer than 21 weeks for an FEHIO to be appointed, to complete and report on an investigation, making it difficult for the Services to meet the 24 week time target in such cases.

Further work is underway or planned to develop training, quality and quality assurance of the FEHIO system. This work should also investigate the extent to which the Services are using their own volunteer HIOs and measure their use against the same performance metrics. The MOD should consider setting quality indicators with a view to enabling Service complaints to be investigated and decided fairly within a reasonable time. One complainant commented:

“My Service complaint is now well beyond the 24 weeks that it should be completed in. I daily pass on and uphold the values and standards that I believe in and am to uphold but these are fading as I do not believe these values and standards are upheld at all levels.”

Goal 2: Significant and continued reductions in the anonymous reports of bullying, harassment discrimination and victimisation in general and amongst the most vulnerable

One aim of a complaints system is to enable problems to be brought to light and action taken to prevent similar problems arising in future. The post of Service Complaints Commissioner arose out of the review of the circumstances surrounding the deaths of 4 young soldiers at a Phase 2 Army Training establishment – the Deepcut Review. The SCC has therefore been clear from her appointment that an effective Service complaints system that enjoyed the confidence of all Service personnel, especially the most vulnerable, should lead to a reduction in bullying, harassment and discrimination experienced by those who serve in the UK Armed Forces.

Data on the numbers and types of complaints made may not give an accurate indication of the levels of bullying and other improper behaviour, for a number of reasons. Two surveys ask Service personnel about their experience of improper behaviour. The Armed Forces Continuous Survey (AFCAS) asks a large sample of Service personnel annually about whether they have experienced bullying, harassment or discrimination in

the previous 12 months, if they reported it and, if not, the reasons for not doing so. The Recruit Trainee Survey (RTS) is given to all recruits at the end of their Phase 1 training and again at the end of their Phase 2 training. Both surveys are anonymous.

Since 2007 the MOD has also compiled data on the numbers of informal as well as formal complaints made by Service personnel about bullying, harassment and discrimination. The four sets of data, AFCAS and RTS about experiences of improper treatment, MOD data about informal complaints and Service complaints data about formal complaints, provide a picture of how Service personnel are being treated and trends over time.

AFCAS 2013

Just under 12,500 personnel returned completed AFCAS survey forms between January and May 2013. Because of their small representation in the Services, the levels of bullying and other improper treatment experienced by women and other minority personnel is not reported specifically by gender or ethnicity. However the data is reported by Service and by rank category (Officers and Other Ranks). It is also possible to see trends over time.

The findings in the AFCAS 2013 report are set out here by Service. In summary, levels of bullying, harassment and discrimination (improper treatment) are reported to be lowest in the Naval Service, specifically in the Marines. Levels of bullying, harassment and discrimination are highest in the Army and Army personnel reported an increase in terms of incidence. These increases are a reversal of a previous downward trend.

However the proportion of those who made a formal complaint about it continued to fall and the rate reported by Army personnel is the lowest of all the Services. This appears to be inconsistent with increases in Service complaints about bullying, harassment and discrimination reported by the Army, although AFCAS reflects what occurred mainly in 2012 and the Service complaints data covers the calendar year 2013. The level of bullying, harassment and discrimination reported by Officers in the RAF has gone up slightly in 2013 but has gone down for Other Ranks.

Recruit Trainee Survey 2012

The RTS report for 2012 was published after the SCC's Annual Report was laid in Parliament as will be the case for the 2013 Report. The data presented in this report is therefore taken from the 2012 report and is even less aligned to the 2013 reporting year on Service complaints than the AFCAS report. However it does give an indication of trends. The case studies A, B and E give an insight into the types of complaints made to the SCC from or on behalf of trainees and the action being taken by Services to stamp out bad practice with regard to punishments and duty of care.

The MOD agreed to the recommendation the SCC made in her Annual Report that a question about awareness of the SCC should be included in the Recruit Trainee Survey 2014.

Formal and informal complaints – Equality and Diversity (E & D)

Figures 7-9 show the trends in relation to equality and diversity complaints by Service since 2006/7 to 2013, formal and informal E&D complaints by category over that period and complaints by Service and category.

In 2013, because of the data capture methodology, the Army did not distinguish Service complaints of harassment or discrimination by the grounds alleged for that harassment or discrimination. Whilst the total numbers are included in figure 12 (E&D Complaint trends by Service), 66 Service complaints about discrimination are not included in figure 11. Figure 11 should therefore not be read as suggesting the Army had fewer complaints of sexual or racial harassment than previously or compared to the other Services. The Army must remedy this deficiency in recording practice for 2014 onwards.

Navy AFCAS

Overall 90% of Royal Navy and 97% of Royal Marine personnel do not report being subject to bullying, harassment or discrimination. In relation to the question "have you experienced such treatment", there was no overall change since 2011 in the responses from Royal Navy personnel. 8% of RN Officers and 11% of RN Other Ranks said they had experienced such treatment. There was an overall decrease amongst Royal Marines personnel reporting being the subject of such treatment since 2012 (3% down from 4%) although the responses of RM Officers was up from 3% to 4%. Of all

Figure 10: Informal E&D complaints by category over time

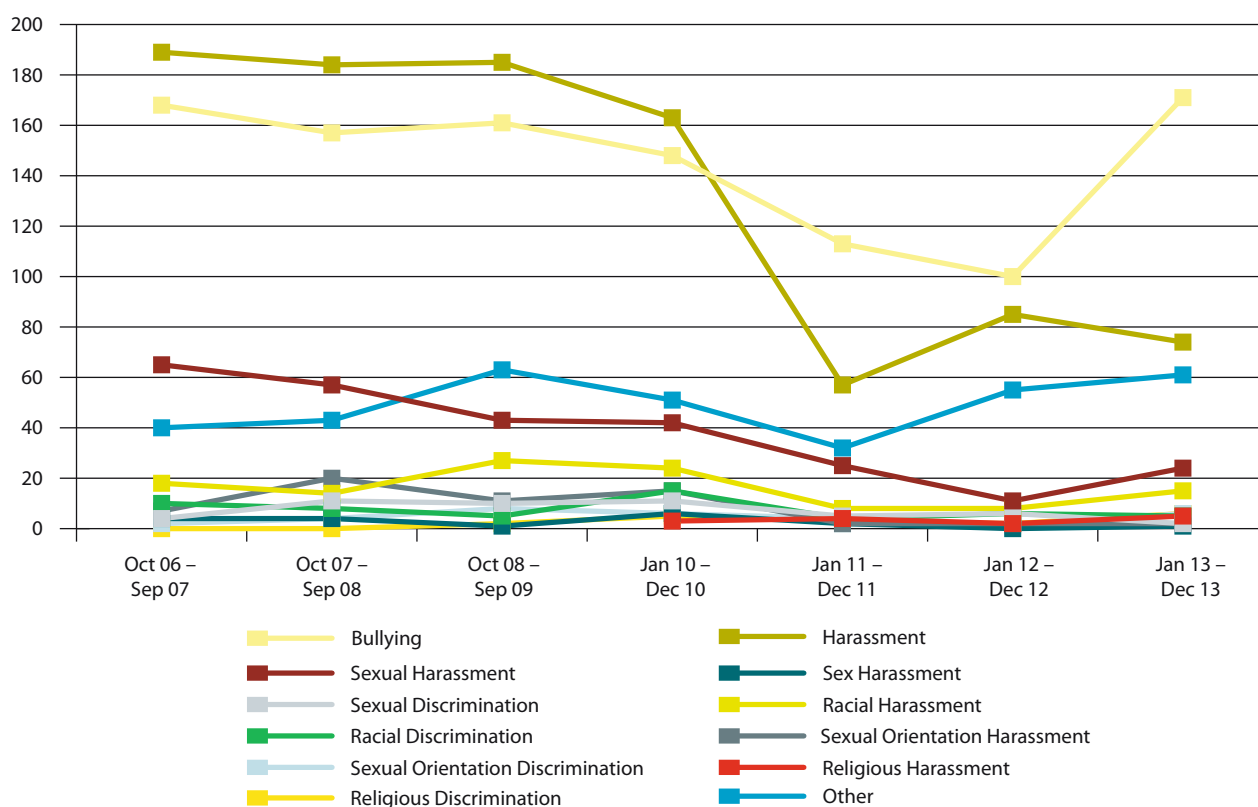
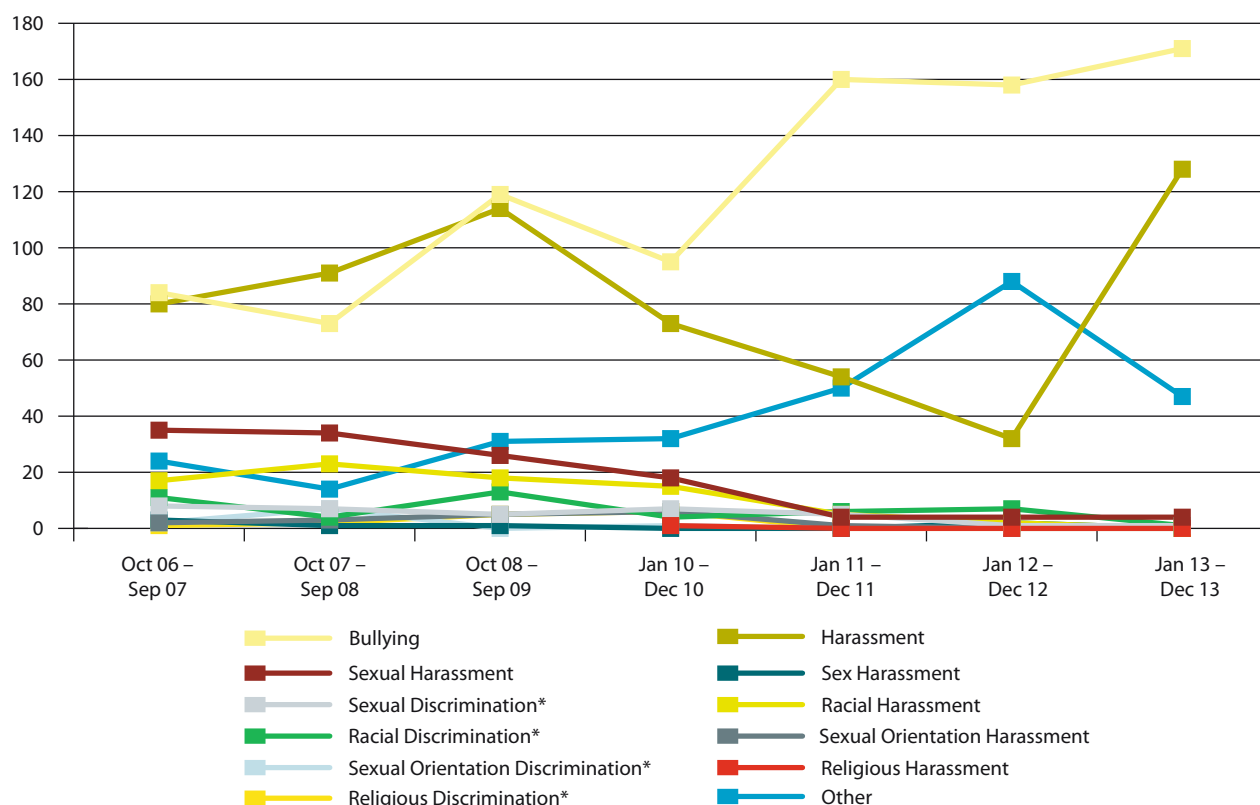
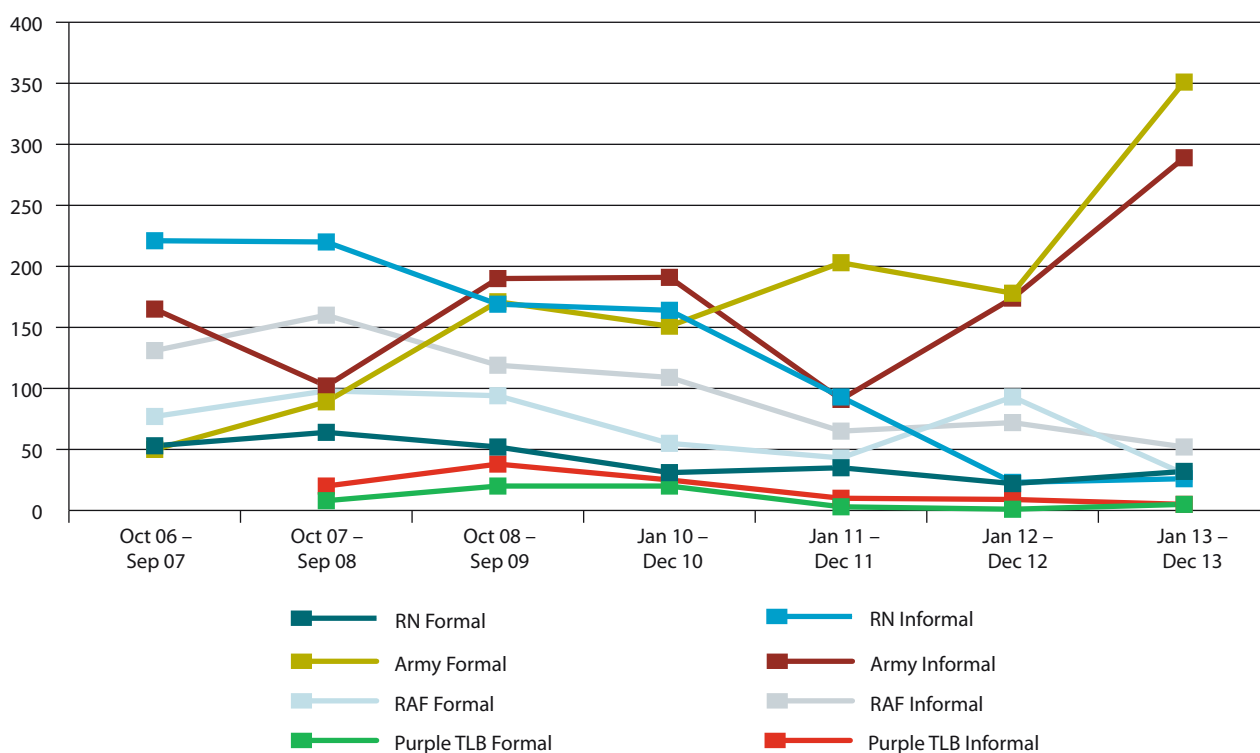


Figure 11: Formal E&D complaints by category over time**Formal and informal complaint data provided by the MOD and Services****Figure 12:** Service complaints by single Services over time

* The Army has reported 66 'Formal' complaints that they class as 'Discrimination'. They are unable to break this down in to the 4 separate categories of Discrimination. This table does not include those 66 complaints. They are however included in the "E&D Complaint Trends by Service" figure 12 above.

the Services, Royal Marine personnel were most likely to say they had not experienced any discrimination, harassment or bullying.

One in ten of Royal Navy personnel and of Royal Navy Other Ranks who had experienced such treatment had made a formal complaint about it, with a slightly lower rate (7%) amongst Officers. Only 8% of Royal Marines had made a formal complaint.

The main reasons stated by Royal Navy personnel for not making a formal complaint are that nothing would be done, adverse effect on career, and fear of recriminations from perpetrators, given by 53%, 51% and 32% respectively. Fear of recriminations has increased for both Officers and Other Ranks since 2007, both in the Royal Navy and Royal Marines. Amongst Royal Navy Officers there is an encouraging downward trend. Those who gave as a reason for not making a complaint that they thought it might adversely affect their career fell from 54% to 52%, although there is an increase in those who did not believe anything would be done if they made a formal complaint – given by 60% of individuals up from 51% in 2012 and 43% in 2007.

RTS 2012

91% of Phase 1 trainees and 89% of Phase 2 trainees said they were not treated badly or unfairly by staff at Navy training establishments, with 5% in both phases saying that they had been treated badly or unfairly. 2% of Phase 1 and 6% of Phase 2 recruits chose not to answer the question. Across all Services, ethnic minority recruits were more likely not to answer the question.

The three main categories of unfair treatment by staff recorded by Naval Service recruits were verbal abuse, made fun of or and humiliated and treated differently to others in Phase 1 and treated differently to others in Phase 2. The percentages of Phase 1 recruits ticking these boxes were however lower than the Army but higher than the RAF.

Naval recruits reported lower percentages of bad or unfair treatment by other recruits than by staff at Phase 1 but more by other recruits in terms of being made fun of or humiliated, verbally abused or picked on continually at Phase 2.

Sexual harassment was reported by less than 0.05% of recruits and there were no reports of racial harassment.

Formal and informal complaints

Figure 12 (E&D complaints trends by Service) shows that since 2006/7 the numbers of formal complaints made about bullying, harassment and discrimination in the Naval Service has fluctuated but that there has been a significant drop in informal complaints. Although the numbers of formal and informal complaints are up compared to the 2012 numbers, the informal complaints are just over a tenth of what they were in 2006/7 and around a third of the numbers in 2011.

Although the numbers of Service complaints about bullying increased in 2013, the figures are still low. The percentage of complaints about improper treatment (which made up 9% of all Service complaints) appears to be in line with the level of improper treatment reported by Naval personnel in the AFCAS surveys.

Conclusion

It does appear that the level of improper treatment is lower than other Services, particularly in the Royal Marines.

The Navy is not and should not be complacent, not least with significant changes to the submarine fleet and challenges which may arise from reductions in numbers. However the data and the SCC's postbag do not suggest that bullying and harassment is a particular issue in the Navy. As part of its commitment to diversity, the Navy established a Servicewomen's network in 2013. Initiatives such as this can help them identify potential barriers to diversity. An apparent increasing confidence amongst Naval personnel to use the Service complaints system can also be valuable in this regard.



Army AFCAS

In relation to the question “have you experienced bullying, harassment or discrimination over the last 12 months”, 11% of Army personnel said they had. This was an increase from 8% in 2012 and 2011 and higher than the 10% who reported they had experienced such behaviour in 2010.³⁴ This was a reversal of a downward trend and appears to be only amongst soldiers (it increased for other ranks from 8% in 2012 and 2011 to 12%). The level amongst Army Officers remained the same at 7%.

Increases are given in nearly all categories of bullying, harassment and discrimination by soldiers (Army Other Ranks), often a doubling or more. Whilst these figures should be treated with some caution, due to the low numbers involved, they do appear to show a consistent upward trend. Reports in AFCAS by soldiers of

discrimination for any reasons increased from 5.7% in 2012 to 8.3% in 2013. Those complaining about discrimination on grounds of gender or gender identity rose amongst soldiers from 1.0% to 1.9%, and on grounds of race, ethnicity colour or nationality from 1.4% to 2.7% and on grounds of social class from 1.3% to 2.0%. Discrimination on the grounds of religion amongst soldiers rose from 0.8% to 1.2%; sexual orientation from 0.3% to 0.8%, age 0.8% to 1.6%, pregnancy or maternity from 0.3% to 0.8% and disability from 1.4% to 1.7%. The only increases of a similar size in other Services were to be found amongst RAF Officers – where discrimination on the grounds of gender increased from 0.7% to 1.3% and amongst Royal Marine Officers where the reports of discrimination on the grounds of age increased from 1.6 to 2.8%. Otherwise the fluctuations (increases and decreases) were small or the levels of reporting did not differ.

Similar increases were found amongst soldiers in relation to harassment, up from 2.0% to 4.3%. The grounds for this increase in harassment were much more limited in range; race from 0.3% to 1.4%, social class from 0.2% to 1.3%, religion from 0.1% to 0.7% and sexual orientation from 0.1% to 1.0%

There were also increases amongst soldiers in reports of bullying 2.8% to 4.3%, with race the predominant reasons for the increase – up from 0.3% to 1.2%.

However there was a decrease in soldiers who had made a formal written complaint about this treatment – a downward trend from 10% in 2011 to 7% in 2013. Although the levels went up slightly in 2011 (from 9% in 2010) the levels of those who had made a formal written complaint is much lower than in 2007, before the Service Complaints system and SCC were introduced (down from 16% in 2007 and 18% in 2008) to 7% in 2013.

This may be linked to a downward trend in soldiers who are aware of where to get information about the Service complaints procedure (down from 87% who said they did know in 2010 to 81% in 2013.) But very few soldiers (14%) gave as a reason for not making a complaint that they did not know what to do. Awareness of the SCC has increased. In 2013 76% of soldiers said they understood at least to some extent



³⁴ AFCAS asked this consolidated question only from 2010 so that a comparison of trends before that date is not possible.

how the SCC can help – the highest level of awareness at other ranks across all three Services.

The only big change in reasons for not making a formal written report was that the individual considered the incident too minor to report. This reason was given by 23% of soldiers who did not make a formal complaint compared to 16% in 2012. However the three major reasons for not making a formal complaint remain not believing that anything would be done, that it might adversely affect one's career or workplace and recriminations from the perpetrators (given by 57%, 52% and 28% of soldiers who said they had been the subject of bullying, harassment or discrimination). These also remain the three top reasons given by Other Ranks across all Services for not making a formal complaint (55%, 52% and 29%) respectively.

As in the other Services, the Army chain of command holds the key to persuading more soldiers who are improperly treated to raise a complaint. It is within the powers of Commanders to persuade soldiers through action that something effective will be done if they make a formal complaint; to ensure that there will be no adverse consequences and to prevent recriminations. It is unclear how far the increase in Service complaints about improper behaviour reported in Appendix 3 is as a result of action taken by the Army, or is a result of other measures, such as recording on JPA.

The picture across AFCAS 2013 in other respects is much more mixed. Although fewer Army Officers had made a formal complaint when they felt they'd been mistreated (down to 6% from 10%), nevertheless there were encouraging signs when the reason for not making a complaint are analysed. For example the numbers of Army Officers who gave the view that nothing would be done as the reasons for not making a formal complaint fell from 60% to 39%. There are indications of a possible lessening of stigma for doing so – e.g. reductions in Army Officers giving the reason for of not wanting to go through the complaints procedure (down from 26% to 17% in 2012) and from being discouraged to do so (down from 16% to 14%), although this is still higher than in earlier years.

RTS 2012

86% of Phase 1 trainees and 89% of Phase 2 trainees said they were not treated badly or unfairly by staff at Army training establishments, with 8% of Phase 1 and

5% of Phase 2 recruits saying that they had been treated badly or unfairly. 6% of Phase 1 and Phase 2 recruits chose not to answer the question. Across all Services, minority ethnic recruits were more likely not to answer the question.

The three main categories of unfair treatment by staff were verbal abuse, made fun of and humiliated, intimidated (e.g. threatened) and verbal abuse in both Phase 1 and in Phase 2. The inclusion of intimidation by staff, reported by 1.6 % of Phase 1 and 0.9% of Phase 2 percentages of Phase 1 recruits is different from the Navy (1% and 0.4% respectively) and the RAF (0.4% in both phases). Physical abuse by staff is also reported more frequently by Army Phase 1 recruits than by Navy, RAF or Army Phase 2 recruits.

Unlike the Navy, Army recruits reported higher levels of bad or unfair treatment by other recruits, with the exception of being made fun of, at phase 2. The three main categories of bad or unfair treatment by other recruits were the same as for treatment by staff, although the percentages at Phase 1 were around double, with the exception of intimidation.

Sexual harassment was reported by less than 0.1% of Phase 1 recruits (by staff) and reports of racial harassment by 0.2% of Phase 1 recruits (by other trainees). 0.1 % of Phase 2 recruits reported racial harassment by other trainees. It should be noted however that women and minority ethnic recruits had higher levels of non-completion of these questions.

Formal and informal complaints

Figure 12 shows a large increase in both formal and informal complaints about bullying, harassment and discrimination. Formal complaints almost doubled to 351 from 178 in 2012 and informal complaints went up by over a third to 289 from 174 in 2012.

The Army set up a bullying and harassment helpline in 2010 with the aim of encouraging those who were treated improperly to speak out. The expectation was that many of the complaints raised would be resolved informally. In 2013 60 of the 174 complaints received by the helpline were resolved at the lowest level, more than previous years. The SCC frequently refers those who contact her office to contact the helpline in addition to referring the complaint to the chain of command. The helpline also sometimes suggest that soldiers who contact them should get in touch with the

SCC, because of the circumstances of the matters alleged. It appears that more complaints are being dealt with formally than informally. The Army makes most use of the FEHIOs.

Because of the way the Army collected Service complaints data, the figures for harassment and discrimination are not broken down by type in 2013. Therefore it is difficult both to spot the trends over time and to identify if there are particular groups of soldiers who are complaining about harassment or discrimination. The information on informal complaints however suggests that bullying and general harassment is the main problem, although the levels of informal complaints about sexual, racial and religious harassment and discrimination are out of line and much higher than the other two Services.

The increased level of complaints mirrors the increase in incidents of improper behaviour reported in the AFCAS survey.

Conclusion

The data and the types of complaints made to the SCC suggest that the Army does have a problem with bullying, harassment and discrimination and that there has been an increase in improper behaviour not simply an increase in complaints about such behaviour. The nature of the work done by the Army and the types of people the Army needs may have an impact on its culture. Nevertheless the Army says it has a zero tolerance of bullying, harassment and discrimination. That is not everyone's experience and the complaints made to the SCC and overseen by her indicates that this is not the policy adopted by everyone in the Army.

The Army has undertaken a number of initiatives to understand more about the extent of the problem and how best to deal with it, including review of handling of complaints of serious bullying recommended by the SCC and a sexual harassment survey of all female Army personnel and 10% of male Army personnel in 2014, mirroring the sexual harassment surveys undertaken by the MOD in 2007 – 2009. Other Armies and Defence Forces are also taking action on this subject and

reviewing how best to ensure a zero tolerance policy is effective in practice and to understand more about the potential impact of recent campaigns. The Australian Government and Chief of Defence Force commissioned a series of studies in 2011 entitled 'Pathways to Change looking at a range of issues including the use of alcohol, the treatment of women, claims of historic abuse, personal conduct, use of social media and Management of Complaints'.³⁵ The data in this report, the cases overseen by the SCC and the work she has done with the Army over the last few years lead her to recommend a much higher priority (and a similar holistic approach) is given to action on this subject.

The Army should also include in this work lessons arising from Service complaints, Employment Tribunal decisions, Service Inquiries and other reports, such as Coroners Inquests.

Recommendation 13.6

The Army should give a higher priority to its work in understanding and eliminating bullying, harassment and discrimination and should take a holistic approach similar to that undertaken by the Australian Defence Force.

RAF

In relation to the question "have you experienced such behaviour", 92% of RAF personnel said they had not been subject to bullying, harassment or discrimination, with reports from Officers that they had increasing from 9% to 10% but those from RAF Other Ranks going down from 9% to 8%. This represents a steady downward trend from 11% in 2010.

There were similar decreases amongst RAF Officers in those who believed that making a complaint might adversely affect their career – down from 64% to 48%. It seems that amongst Officers the message that making a complaint will not adversely affect one's career is getting through, although the level of concern remains high. The RAF should continue to demonstrate this message, that they do take complaints seriously

35 The Reviews into aspects of Defence and Australian Defence Force Culture 2011 consisted of 'The use of Alcohol in the Australian Defence Force' by the Independent Advisory Panel on Alcohol; 'The Review into the Treatment of Women in the Australian Defence Force' by Elizabeth Broderick, Sex Discrimination Commissioner at the Australian Human Rights Commission; 'Review of Allegations of Sexual and Other Abuse in Defence – Facing the problems of the past' by Dr Gary A Rumble, Ms Melanie McKean and Professor Dennis Pearce AO; 'Beyond compliance: Professionalism, Trust and Capability in the Australian Profession of Arms' Major General C.W. Orme AM, CSC; 'Review of the Management of Incidents and Complaints in Defence including Civil and Military Jurisdiction' by the Inspector-General Australian Defence Force. Review of Social Media and Defence by George Patterson Y & R.

and, if there is found to be bullying, harassment or discrimination, that they will take effective action.

RTS 2012

91% of Phase 1 trainees and 92% of Phase 2 trainees said they were not treated badly or unfairly by staff at RAF training establishments, with 4% in both phases saying that they had been treated badly or unfairly. Across all Services, minority ethnic recruits were more likely not to answer the question. However fewer RAF recruits report bad or unfair treatment.

The four main categories of unfair treatment by staff were being treated differently to other recruits, verbal abuse, made fun of and humiliated and picked on continually in Phase 1 (the last three each reported by 0.7% of recruits) and treated differently to others in Phase 2. The percentages of Phase 1 recruits ticking these boxes were however lower than the Army and the Navy.

RAF recruits reported higher percentages of bad or unfair treatment by other recruits than by staff, (with the exception of being treated differently) at Phase 1 and Phase 2.

Sexual harassment was reported by 0.1% of recruits (by other trainees) at Phase 1 and by less than 0.05% by Phase 2 (by other trainees) and there were no reports of racial harassment.

Formal and informal complaints

Figure 12 shows a reduction in both formal and informal complaints since 2012 but it is not clear how much this was caused by errors in last year's data capture. The trend however since 06/07 is downwards.

Service complaints about improper behaviour constituted 38% of all RAF Service complaints in 2013 but the comparison of numbers suggest that the complaints about bullying, harassment and discrimination are broadly in line with rates of such complaints in the Navy, taking account of the relative size of the two Services.

Conclusion

The RAF appears to have a culture based on respect, as demonstrated by the reports of its recruits of how they were treated at training establishments. The picture given by AFCAS 2013 is mixed with a divergence of trends between Officers and Other Ranks. However the

overall trend of reported bullying, harassment and discrimination, like the trend in complaints about such behaviour, is downward and is the second lowest of the Services, after the Royal Marines. Like the Navy, the RAF should not be complacent and the higher levels of complaints made by female personnel about improper treatment may be an issue for the RAF to explore. Unlike the other two Services, they do not have a Servicewomen's network but may consider one for the future. The RAF has the highest female representation of the three Services and the best record of female representation at the highest ranks.

Goal 3: Complaints for which there is a specialist complaints procedure, such as complaints about pay and allowances, housing, education and medical treatment, dealt with in a timely and fair manner

As in 2012, the SCC has no evidence that complaints that are subject to a specialist complaints system are being dealt with in a more timely manner.

Under the current system, any Service complaint that is about pay, allowances, medical treatment, housing or selection for redundancy, is suspended until that aspect goes through decision and one appeal under the relevant specialist complaints system. With the exception of complaints about redundancy, which the Services agreed should be dealt with thereafter at Defence Council level, any Service person who is dissatisfied has to bring a Service complaint about the same matter to his or her CO for the complaint to be dealt with under the Service complaint system. The 24 week target only applies to the Service complaints made after the individual has exhausted the specialist complaints process. If an individual seeks to make Service complaint about such a matter from the outset, it will be suspended and the suspension given as the reason for delay in the red flag report. This was the case in around a tenth of the 341 Army's red flags and a fifth of the Army's yellow flags at the end of 2013.

The SCC's proposals for simplifying the system should resolve this problem. The proposal is that all complaints brought by Service personnel about a wrong occurring during their Service life, will be a Service complaint and will be sent to the appropriate empowered person for decision. Complaints about pay, medical treatment or housing will be dealt with as now, but with a decision by

an appropriately empowered specialist person and specialist appeal body constituting the first and second stages of the Service complaints process. The complaints will thereafter be subject to review by the Ombudsman and, if the Ombudsman is satisfied that there has been maladministration, will be returned to the specialist appeal body for re-consideration. The usual time targets will apply to these types of Service complaints in the normal way.

Developments during 2013

Pay and Allowances

Service personnel have continued to complain to the SCC about issues to do with pay and allowances. A common complaint is a demand by SPVA for repayment of monies overpaid due to an error by the Service, for example in relation to placement on a particular pay scale, on promotion or transfer between trades. Complainants' sense of injustice in many cases stems from the fact that they attempted to raise a query about the amount when the error first arose and were assured that it was correct. Often the mistake goes back a number of years and the individual's family circumstances have changed so that a repayment, even at a capped amount, is felt to cause real financial hardship. If an individual leaves the Service, as many have done over the last few years on redundancy, the full amount owed is taken from their pay. This can be a shock and impact on their plans for making a transition to civilian life.



A second common complaint to the SCC during 2013 involved a discrepancy between the notified and actual amounts of the early departure payment service personnel would receive on redundancy. The affected group were those who served before 2005, took a break in Service and re-joined after 1 April 2005 and thus were required to join a different pension scheme. Having been advised that they would receive an early departure payment if they elected to combine their two periods of Service, these personnel were later informed when they left the Service that the previous assurance had been wrong. The MOD rectified the problem for those still serving on 16 December 2013; complaints brought by those who had already left the Services by that date are still outstanding.

Other complaints were about changes in terms and conditions, for example the re-designation of what was specialist pay to be a retention allowance, resulting in a loss of that extra amount for those who put in their notice for premature voluntary release. They complained about having to serve and do exactly the same work in their last 12 months of Service but on reduced pay. Such cases are not dealt with under the pay complaints system but under the Service complaints system as complaints about policy.

On a few occasions when former personnel have contacted the SCC about problems with pay and allowances which had occurred after their discharge (i.e. which could not be the subject of a Service complaint) the Chief Executive of the SPVA has responded positively and fairly swiftly having taken practical action to try to resolve the problem.

The Services' view is that many of the problems connected with pay and allowances complaints stem from the complexity of the current pay and allowances system and that a degree of human error in such circumstance is inevitable. They see the simplification of these allowances, which will come with the New Employment Model, as providing a significant answer to the problems. The case study H in this report (and others in previous Annual reports) shows how long it can take for relatively simple problems to be resolved.

Medical Treatment complaints

The Defence Medical Service consulted the SCC in early 2013 on a first draft revised medical treatment complaints scheme. This was clearly written in plain English, was principles based, included time targets and

had a provision for whistle blowers. It is therefore disappointing that the scheme did not appear to have been finalised and implemented before the end of the year.

The SCC has alerted the Surgeon General to a number of cases during the year, with the individual's consent, and again met a practical and helpful response. Although the SCC receives only a relatively few number of such cases, they can be distressing to the individuals involved. Common problems concern lost medical records or interaction between the Defence Medical Service (DMS) and the NHS, for example where a Service person wishes to complain about medical treatment by a Service doctor working in an NHS hospital or where, for whatever reason, delay has meant the individual's complaint cannot be progressed.

The SCC urges DMS to implement its new complaints scheme as speedily as possible.

Housing

The SCC receives relatively few complaints about housing, possibly because the Service complaints system is such a slow route for resolving problems, as the case study I on page 19 in this report illustrates. Complaints about housing make up a large percentage of the work of the Navy, Army and RAF Families Federations. The SCC has overseen a complaint about housing policy, which was found by a Service Complaints Panel to be indirectly discriminatory and complaints about problems associated with a disabled Service person or disabled member of his or her family. Many of the frustrations appear to be exacerbated by the disconnection between the housing provider and the chain of command's responsibility on posting and for duty of care. Some of the causes of complaints may also be resolved with the introduction of the New Employment Model.

Service Police

The SCC continues to receive a small number of complaints about treatment of Service personnel by the Service police and has raised queries on occasion when such complaints appear to have been automatically and wrongly excluded by the CO. Any complaint about the decision by Service police to charge an individual is excluded from the Service complaints system. Not all actions by the Service police are excluded however and any allegation that in making the decision to charge the Service police acted

in an improper way, e.g. in a biased, dishonest or unlawfully discriminatory way, can also be the subject of a Service complaint.

A complaint about the actions of Service police in the conduct of their official duties is different in nature from other Service complaints – i.e. concerning provision of policing services not employment matters. The SCC has in previous Annual Reports highlighted the significant omission of the Service police from the oversight by the Independent Police Complaints Commission (IPCC) or its equivalent bodies in Scotland and Northern Ireland. Unless and until oversight of Service police is brought into line with that of civilian police in relation to serious incidents and complaints, SCC believes very strongly that, such complaints should continue to be dealt with under the Service complaint system and the provision with regard to improper treatment should remain as in the current legislation. She repeats her previous recommendation 10.12 that all complaints from or about Service police should have an independent element to the appeal body, and notes that there may be circumstances under the provisions of the Armed Forces Act 2011 when that appeal body must be made up of totally independent members.

Complaints about the actions of Service police as currently covered by the Service complaints system will fall under the remit of the Ombudsman under the proposed changes to the Service complaints system. This is an important step forward but is not a substitute for oversight by the IPCC who have powers to investigate the substance of the complaint.

Goal 4: The SCC judged by Services, their families, Ministers and Parliament, to be playing an effective part in assuring the proper treatment of Service personnel

Levels of awareness of the SCC and Service complaints system

AFCAS shows a steady increase year on year and in all Services and across the ranks in awareness and understanding of the SCC role. As shown in Table 16, in 2013 in every Service, over two thirds of Service personnel understood the SCC role at least to some extent, with over 86% of Officers doing so. Understanding of the SCC rose in nearly every rank category (and in the Royal Marines by 5 and 6 percentage points). Conversely the numbers of Service personnel who had not heard of the SCC fell and is lowest amongst Royal Marine Officers. The RAF has the highest percentages of those who have not heard of the

SCC. There still appears to be the need for more awareness raising in the RAF as recommended by the SCC in her Annual Report 2012.

Table 16: Levels of awareness and understanding of the SCC role – AFCAS 2013

Tri-Service	Officers	Other Ranks	Total
Understand SCC role fully or to some extent	86%	74%	76%
Never heard of SCC	5%	12%	10%
Royal Navy			
Understand SCC role fully or to some extent	86%	73%	76%
Never heard of SCC	5%	12%	11%
Royal Marines			
Understand SCC role fully or to some extent	87%	68%	70%
Never heard of SCC	2%	12%	10%
Army			
Understand SCC role fully or to some extent	90%	76%	78%
Never heard of SCC	4%	11%	10%
RAF			
Understand SCC role fully or to some extent	78%	70%	72%
Never heard of SCC	9%	14%	12%

Confidence in the Service Complaints Commissioner

In February 2013, the House of Commons Defence Committee published its report on the work of the Service Complaints Commissioner. It concluded that the role of the SCC was an integral part of honouring the commitment in the Armed Forces Covenant to the duty of care of the Armed Forces and the opportunity to seek redress when they have been treated inappropriately or unfairly. They commented positively on the work of the SCC over the previous 5 years, including the valuable work the Commissioner had undertaken with the Services to identify systemic failures that could lead to potential Service complaints. However they noted, with concern, evidence presented to them of a loss of confidence by some Service personnel in the SCC because of the lack of power to intervene effectively to ensure that they were treated properly when they made a Service complaint.

They were also concerned at the level of resources provided for the SCC. For those reasons, they recommended that the SCC role should be changed to that of an Armed Forces Ombudsman.

Conclusions

The working of the Service complaints system at the end of 2013 is very different from how it was 5 years earlier. The Services have systems in place to record numbers, types and locations of Service complaints, staffing to oversee and advise on the handling of complaints, targets by which to measure performance and have changed to a greater or lesser extent their approach to making Service complaints. The Navy has made the greatest progress, focussed on resolving problems raised as complaints, dealing with them in a timely fashion and acting on lessons identified to prevent similar problems arising in future. Awareness of the role of the Service Complaints Commissioner has increased steadily and the SCC is an integral and valued part of Service life.

Nevertheless problems remain. The Army and RAF have not been able to provide an assurance as to the accuracy of the data provided, which hampers their ability to monitor the handling of complaints or use Service complaints for promoting continuous improvement. They have struggled to resolve Service complaints in a timely manner, and have far too many in the system for over a year.

The incidence of bullying, harassment and discrimination in the Army appears to be increasing as do complaints about such treatment. Satisfaction levels and confidence in the Service complaints system and the powers of the Service Complaints Commissioner are falling.

For all these reasons the SCC is not able, for the sixth year running to give an assurance that the system is working efficiently, effectively or fairly. The system needs to be simplified and the powers of the SCC strengthened.

Changes to the Service Complaints System and the Role of the Service Complaints Commissioner

This chapter explains:

- the proposed changes to the Service complaints system and to the SCC role accepted by Ministers and the Services
- why the creation of a Service Complaints Ombudsman is essential

Throughout the last six years, the Service Complaints Commissioner has sought to ensure that Service Personnel, who are prepared to lay down their lives for their country, are treated fairly, throughout their career including when they make a complaint. In her Annual Report 2010 she concluded that the powers she had as Service Complaints Commissioner were not sufficient to achieve this and that the role should be made into an Ombudsman. In 2013 this recommendation was wholeheartedly endorsed by the House of Commons Defence Committee.

Following the Secretary of State for Defence's announcement in March 2014, discussions between the Office of the Service Complaints Commissioner, the Ministry of Defence and the three Services are now focused on delivering a new 'Service Complaints Ombudsman'. The proposed role of the Service Complaints Ombudsman, together with a simpler internal complaints process, should bring substantial improvements to the fairness of the complaints system, the time it takes for complaints to be resolved and increase the level of confidence Service personnel have in the process. Therefore, at the end of her second term in office, the SCC is optimistic that that although the system is still failing, the means to a more effective, efficient and fair system have been decided and once implemented will offer Service personnel the reliable means of redress that they deserve.

The case for change

Since the role of Service Complaints Commissioner was established in 2008, she has not been able to report to the Secretary of State that the Service complaints system operates efficiently, effectively or fairly. This has been because of a lack of confidence in the system, unreasonable delays in the resolution of complaints and a lack of accurate data on how complaints are handled.

Service personnel have a low level of confidence in the current system which does not offer all complainants the assurance of an independent person overseeing their complaint outside the chain of command in any effective way. No one currently has powers to recommend necessary changes when a complaint has not been handled properly. Service personnel have no recourse to other Ombudsmen on matters such as housing, medical care or police services where these are provided by the Armed Forces.³⁶

Whilst some Service complaints are dealt with promptly and successfully, too many are subject to unreasonable delay and maladministration. Service personnel can wait two years or longer for resolution of their complaint, by which time it may be too late to make amends and/or the stress of an unresolved complaint impacts on the health and wellbeing of the complainant or at times the person complained about.

The current role of the Service Complaints Commissioner is to refer complaints into the system and then to make enquiries if that complaint is not resolved within 24 weeks. The SCC provides an annual assurance of the complaints system to the Secretary of State for Defence and Parliament but does not have the legal power to review the handling of individual cases.

The role of a Service Complaints Ombudsman

Defence Ministers and Service Chiefs have agreed, and the Ministry of Defence has now announced, their intention to create a Service Complaints Ombudsman with the legal power to review individual cases where a Service person feels their complaint has not been handled properly and report their findings with recommendations for correcting any default found.

The proposed system will be that a complaint is considered in the first instance by the person in the

³⁶ Service personnel can go to the Pensions Ombudsman with complaints about the administration of a Service pension but not about pension policy.

chain of command who is able to decide the case and take action to put things right. There will be one level of appeal which will continue to include an independent element as under the current system. If a complainant believes his or her complaint has not been dealt with properly, after the appeal, a complainant can ask the independent Service Complaints Ombudsman to review their case.

In considering whether there has been maladministration in the handling of a Service complaint, the Ombudsman would consider whether there has been a failing in the process by which a decision has been made in the internal Service complaints system, which has not been rectified, sufficient to result in an unjust outcome. A decision which the complainant dislikes but where he or she cannot fault the process by which it has been reached, would not count as maladministration.

As with other public sector ombudsmen, the Service Complaints Ombudsman's recommendations will be not be legally binding but will be considered highly persuasive. Services would need to provide cogent reasons and defend any decision to reject the

Examples of maladministration can include but are not limited to:

- **Procedural impropriety**
- **Bias or personal interest in the outcome of the decision**
- **Unreasonable or unexplained delay**
- **Knowingly giving advice which is misleading or inadequate**
- **A failure:**
 - To keep the complainant informed
 - To fulfil a legal duty or obligation
 - To take into account factors that should have been taken into account
 - By reason of taking into account factors that should not have been included
 - To investigate or adequately address issues raised in a complaint
 - To give adequate reasons for decisions made
 - To inform a complainant correctly of his or her appeal rights
- **A breach of substantive or procedural legitimate expectation**

Ombudsman's recommendations. The Service Complaints Ombudsman will retain the ability to receive complaints and pass these on to the chain of command where a complainant is anxious about approaching the chain of command directly. Service personnel will also be able to appeal to the Service Complaints Ombudsman if their complaint is ruled to be on an excluded matter or out of time. This is particularly important for people who have recently left the Services but wish to complain about wrong that was done during their Service life. Under the current system, if that complaint is ruled excluded because it is out of time, they have no means of pursuing the matter as they were not longer serving at the time the decision to exclude the complaint was made. In future, if the Ombudsman rules that it should not have been excluded, the Services will be obliged to consider it.

Public Sector Accountability

Over the last year other national organisations, such as the National Health Service, the BBC and the Police Service, and the wider public have come to realise the importance of having an effective complaints system in which there is full confidence and which highlights unacceptable behaviour and systemic weakness. Good, effective and independent oversight has been recognised as essential to securing and maintaining confidence and ensuring that action is taken, to protect the most vulnerable in particular. There has also been public concern about the unacceptable treatment of Service personnel during their Service and questions about the effectiveness of the current systems. Strengthening the independent oversight of the SCC's powers to those of an Ombudsman is part of modern public sector accountability.

Benefits of a new system

As has been stressed by those writing to the Commissioner in support of her proposal for an Ombudsman, the new system, once implemented, should benefit both individual Service personnel and also the Services themselves.

"It is my most sincere wish that the Service complaints process is completely reformed. In its current state it leaves Servicemen exposed to archaic attitudes to employment/Service. It appears to me that this process fails the individual and the Army."

Those making a complaint will have more confidence in a system that resolves matters quickly and transparently, knowing that the case can be reviewed by the independent Ombudsman if he or she thinks there has been maladministration. Ultimately personnel will have more faith in the chain of command if it demonstrates a commitment to treating people fairly.

Service personnel will benefit from a simpler and faster system. All Service complaints including those on issues like pay and housing will go directly to the part of MOD that can make a decision and take remedial action if required. The SCO will continue to monitor the over-all handling of complaints and the red and yellow flag system should remain in place under the new system. The SCO will also continue to provide an annual assessment to the Secretary of State on how the system is working. The Defence Council has recognised that in a number of cases, if resolution of a Service complaint is so delayed that redress can no longer be awarded, compensation can be paid. Therefore there is a financial incentive to manage complaints in a timely way.

Recommendation 13.7

The red and yellow flag system should remain in place to monitor performance against time targets whilst a complaint is live.

A better complaints system will also help the Services to see where they need to make changes in their organisations, taking action to reduce the number of future complaints and also improve operational effectiveness. Because the proposed system will be simpler and quicker it should also cost less than the current system.

Next Steps

Maintaining the momentum towards these changes is critical and it is important that these changes are implemented as soon as possible. The Service Complaints Commissioner recognises that legislative changes will be needed but hopes the new system can be implemented early in 2015. Implementation should consider carefully the transition to a new system and ensure that people with complaints to make in the meantime still get the best treatment possible, with a complaint resolved within the current 24 weeks target. Communicating the new system across the Services

and educating NCOs and Officers in how to manage complaints will be key to success.

Appendix 1.

Glossary

AFCAS – Armed Forces Continuous Attitude Survey

AO – Assisting Officer

BFBS – British Forces Broadcasting Service

CO – Commanding Officer

DBS – Defence Business Services

DC – Defence Council

DCAF – Centre for Democratic Institutions and Human Rights

DIA – Defence Internal Audit

DIN – Defence Instructions and Notices

DMS – Defence Medical Services

DO – Deciding Officer

EDP – Early Departure Payment

EHRC – Equality and Human Rights Commission

E&D – Equality and Diversity

ET – Employment Tribunal

FEHIO – Fee Earning Harassment Investigation Officer

HIO – Harassment Investigation Officer

ICOAF – International Conference of Armed Forces Ombudsman

IPCC – Independent Police Complaints Commission

JPA – Joint Personnel Administration

MOD – Ministry of Defence

Non-prescribed behaviour – These are categories of behaviour that are not prescribed by Regulations. This covers a wide range of matters including pay, appraisals, promotion, discharge and Medical treatment.

OSCE – Organisation for Security and Co-operation in Europe

Prescribed behaviour – These are categories of behaviour prescribed by regulations, including bullying, harassment, discrimination, bias, dishonesty, victimisation, and other improper behaviour.

RTS – Recruit Trainee Survey

SCC – Service Complaints Commissioner

SCIT – Service Complaints Investigation Team

SCP – Service Complaints Panel

SCW – Service Complaints Wing (Army)

SPVA – Service Personnel and Veterans Agency

SSAFA – Soldiers, Sailors, Airmen and Families Association

Appendix 2

Progress against Recommendations in the Annual Report 2012

	Recommendations for the MOD and Services	Assessment of delivery	SCC comments
12.1	A third DIA audit of JPA should check the proper use of JPA	Amber	This was originally planned for 2013/14
12.2	Each Service should analyse complaint data and consider what action is necessary to ensure all personnel are treated properly in their Service regardless of gender	Amber	Data has been provided by gender
12.3	Service complaint data to be presented by ethnicity	Amber	Information provided for 2013 will need to be expanded on for 2014
12.4	Complete data should be presented regarding Assisting Officers	Red	The Army have not provided any AO data for 2013. The Navy should seek to minimise the numbers of not knowns
12.5	The third DIA audit should check the timing of provision of an AO	Amber	The Army have not provided any AO data for 2013. The Navy should seek to minimise the numbers of not knowns
12.6	The role of the AO should be reviewed as recommended in 2011, with the provision of better training and guidance	Red	No review has been undertaken
12.7	Services should provide a full report on the use of FEHIOs	Green	A copy of the report is at Appendix 6
12.8	The review by the MOD, Services and SCC of the 24 week time target should include an assessment of the cost of the Service complaints system	Red	The MOD has not done the review and is therefore not able to identify the cost of the Service complaints system
12.9	The MOD, Services and SPVA should consider the interface between pay complaints and the Service complaint system and the role of an Ombudsman	Amber	The proposals for the new system will resolve the inefficiencies in the inter-action between the two complaint systems
12.10	All complainants alleging unfair discharge, including redundancy should have the option of independent scrutiny	Amber	The RAF is including independent members on Service complaint panel deciding service complaints about redundancy. The new proposal will enable a complainant to seek a review of any Service complaint by the Ombudsman, after an appeal or hearing by the Defence Council
12.11	The Defence Medical Service (DMS) should establish a provision for whistle-blowers. This should also be considered for Service police and Service lawyers	Red	DMS consulted the SCC on a new medical treatment complaints policy in early 2013 but had not published that policy by the end of 2013
12.12	The RAF should act to increase awareness of the SCC	Amber	AFCAS 2013 shows a slight increase in awareness of the SCC role but the RAF still has the highest percentage of personnel who have not heard of the SCC
12.13	The MOD should include mention of the SCC in the RTS	Green	This has been agreed and a question included for RTS from 1/1/14
12.14	The powers of an Ombudsman should include complaints by families of Service personnel about how the Service person was treated in their Service	Black	This has not been accepted by the MOD and Services. The Ombudsman role is confined to oversight of Service complaints
12.15	An Ombudsman should be established as part of the Armed Forces Covenant	Amber	A Service complaints Ombudsman has been agreed, subject to legislation

Appendix 3

Service complaints by type and Service 2013³⁷

Service	RN			Army			RAF		
Level	1	2	3	1	2	3	1	2	3
Harassment	4	1	0	118 ³⁸	5	4	5		
Sexual Harassment	3	0	0	n/s	n/s	n/s	0	0	
Sexual Orientation Harassment	0	0	0	n/s	n/s	n/s	0	0	
Racial Harassment	0	0	0	n/s	n/s	n/s	0	0	
Religious Harassment	0	0	0	n/s	n/s	n/s	0	0	
Discrimination	1	1	0	66 ³⁸	3	1	0	1	
Sexual discrimination	0	0	0	n/s	n/s	n/s	1	0	
Sexual Orientation Discrimination	0	0	0	n/s	n/s	n/s	0	0	
Racial Discrimination	1	0	0	n/s	n/s	n/s	0	0	
Religious Discrimination	0	0	0	n/s	n/s	n/s	0	0	
Bullying	19	2	0	133	6	2	17	1	
Improper Behaviour (including dishonesty and bias)	3	0	0	34	3	0	4	0	
Victimisation	1	0	0	0	0	0	19	7	
Terms and Conditions of Service (including career & reports)	130	48	7	301	33	7	51	14	2
Pay, pensions and allowances	168	11	1	105	7	5	15	6	5
Medical and dental	5	2	0	61	4	3	9	3	
Uncategorised	21	7	0	n/s	n/s		n/s	n/s	
Total	356	72	8	818	61	22	121	32	7

³⁷ A complaint may contain more than one allegation.

³⁸ This figure is provided by the Army to cover all allegations of harassment, which may include harassment on the grounds of gender, sexual orientation, race and religion. The Army is not able to provide more specific data.

Appendix 4

Financial statement

Financial Statement	Cost (£,000) 2013 ³⁹
SCC salary	86.7
Support staff ⁴⁰	342.1
Accommodation and facilities	224.5
IT, telecoms, stationery and consumables	39.3
Travel and subsistence	5.8
External communications and media support	12
Annual report production and printing	13.9
Independent legal advice	3.2
Training and professional membership fees	1.4
Total	728.9

³⁹ Excluding VAT.

⁴⁰ The SCC's post is non-superannuable. The level of remuneration has not increased but reflects more days worked.

Appendix 5

Letter from Air Marshal North, Air Member for Personnel and Capability RAF

From: Air Marshal Baz North OBE MA RAF



Air Member for Personnel and Capability

Headquarters Air Command
Royal Air Force
High Wycombe
Buckinghamshire
HP14 4UE

Telephone
Facsimile
VPN
E-Mail



Dr S Atkins
Service Complaints Commissioner
PO Box 61755
London
SW1A 2WA

23rd January 2014

Dear Susan,

I have been made aware that the dialogue between your staff and the RAF's Service Complaints Team has identified that the data provided to you in January 2012, for your 2012/2013 report, was inaccurate. I wanted to write to you personally to offer, on behalf of the RAF, my unreserved apology, to explain the extent of our error, how this happened and the action that we have taken, and continue to take, to make lasting improvements.

Since May 2013 the RAF has applied additional resource to deal with Service Complaints; a new Service Complaint Team was formed taking responsibility for the oversight and management of all RAF Service Complaints on 30 September 2013. Their remit is to apply rigour to the existing processes at all levels of complaint, to clear the backlog and to review and update processes to ensure that Service Complaints are dealt with appropriately within the prescribed timelines. An early product of the team's work is that significant failures in how Service Complaints and the associated data were being processed have been identified.

Despite the best efforts of the staff and processes in place at this time last year, and noting your challenge over the data that was presented, it is now clear that the data detailing the number of new Service Complaints contained serious flaws. Those figures were provided using the Air Personnel Casework Database, rather than JPA, which is now used as the RAF's sole data capture method for Service Complaints. We have re-interrogated JPA to provide the total number of new complaints that year. JPA shows that there were 187 new cases; this figure includes redundancy service complaints, which although fast tracked to Level 3 for determination on their merits, were still received and initially processed at Level 1. I appreciate that this is significantly at odds with the total figure of 284 complaints¹ that you were given last year.

¹ Made up of 245 new complaints at Level 1 and 39 redundancy complaints at Level 3.



The new Service Complaints Team has identified that Headquarters Air were using seven databases at the Headquarters to record and monitor service complaints, including the Air Personnel Casework database; RAF Stations and Units did not have access to these systems and were using their own independent databases. These Unit systems did not distinguish between formal and informal complaints, and the dating of complaints altered as they were progressed. Where JPA was being utilised there was no governance or assurance in place resulting in inconsistent use.

Work is now ongoing to educate staff at our Headquarters, RAF Stations and Units in the correct utilisation of JPA. This work has involved the production of a JPA process guide, bespoke internal training, and the wider education and training of personnel staff as they progress through specialist training; further work is targeted at commanders at all levels. From 1 April 2014, the handling of Service Complaints will be audited at all levels by the RAF Service Complaints Governance Team. In addition there will be monthly internal audits of the Service Complaints Team to provide assurance, identify issues and invoke remedial action. I should like to extend an invitation to your team to join one of these audits in order to provide you and me with an independent perspective on how this process is bedding in.

Noting the significant remedial work in train, JPA does not yet provide wholly accurate information as it is reliant upon the quality of the data entered onto it; when information reports are run the data can be incomplete or misleading. Given the work undertaken to date, it is with great regret that I have to report that I assess that the baseline data provided this year is not comprehensive, but I am confident that it is at least 90% accurate. However, the supplementary data in relation to the detail of these complaints, where there is much more scope for human error is, I am afraid, only about 70% complete. I am committed to resolving these inaccuracies for next year's submission.

Please accept my sincere apology, on behalf of the RAF, for the provision of inaccurate data last year and the fact that this year's data falls below an acceptable standard of accuracy. I ask that you accept my assurance that there was absolutely no intent to mislead you over the 2012/2013 figures. Having now put Service Complaints under the microscope, set in place a dedicated Service Complaints Team and moved to JPA as the sole information system, I believe that we are starting to make real progress but acknowledge, without caveat, that there is still some way to go before I will be satisfied that the RAF's handling of Service Complaints is to the standard that it should be.



Appendix 6

MOD Fee Earning Harassment Investigating Officers (FEHIOs) Performance Report

Background

1. Following the outcome of a review into the way in which investigations of prescribed complaints of Bullying and Harassment were carried out, a new Fee Earner Harassment Investigating Officer (FEHIO) cadre service, managed by Defence Business Services (DBS), was introduced in 2012 to investigate complaints raised within the Services and by MOD civilians. The review identified that the use of Service and civilian volunteer investigators, for whom this was a secondary duty, was not the most efficient means by which to conduct investigations. Volunteers were increasingly finding that pressure from their primary role was preventing them being released to act as a HIO. As a result, this led to increasing delays in HIO appointment to cases which in turn impacted on the timely conclusion and quality of investigations. The new FEHIO cadre service was introduced to facilitate the timely and thorough completion of investigations, tackling the delays of the past to improve the quality of investigations given that the FEHIOs would be conducting investigations on a more regular basis and would therefore be more efficient and effective in their role. The information DBS provided for this report sets out progress that has been made to meet these objectives.

2. Prior to the implementation of the FEHIO cadre in 2012, there had been no agreed metrics or centralised capture of data to enable the performance of the previous system to be properly measured. With the introduction of the new FEHIO cadre, a number of targets were included in policy. These were:

- DBS to identify and appoint a FEHIO within normally 5, and no more than 10 working days of receiving a request;
- Investigations to be completed and a final report submitted within 30 working days of the FEHIO being appointed (Where an investigation extends beyond this period, e.g. unavailability of witnesses, the FEHIO is to report progress to the DO every 5 working days beyond the 30 working days timescale);
- The expected average duration of an investigation conducted by a FEHIO will be 11 working days, i.e. the number of days spent by the FEHIO working on the investigation, and for which they will be paid.

Resources

3. On 1 August 2012, on transition to Full Operating Capability (FOC), the strength of the FEHIO cadre was 50. This has since increased to a pool of 80 investigators following a successful exercise that resulted in suitable individuals volunteering to undertake pre-requisite training prior to them leaving the department on redundancy and early release schemes, and becoming members of the cadre following release. The current size of the cadre not only ensures the timely appointment of FEHIOs to Bullying and Harassment complaints, but is considered sufficient in number at present to manage a sudden increase in demand should it arise. This will however be kept under review.

Demand

4. The numbers of requests received by DBS in 2012 and 2013 to appoint a FEHIO to investigate complaints of Bullying and Harassment are detailed below:

	Services	Civilian	Totals
2012	107	57	164
2013	82	49	131
Totals	189	106	295

5. A number of these requests, despite a FEHIO being appointed, have resulted in the investigation not being completed. Reasons for this include, for example, the complaint being withdrawn or where the FEHIO has fallen ill or has left the cadre, and the investigation, if Service in origin, being on occasion completed internally by the Service. Due to the number of Service complaints they receive in comparison with the Royal Navy and RAF, the Army have used the service most often. This is highlighted in the usage table below:

	Royal Navy	Army	RAF
2012	1%	75%	24%
2013	4%	58%	38%

6. What is not clear, and needs further investigation, is the extent to which the Services continue to use their dedicated investigation teams. There are benefits to the use of these teams should there be a surge in demand, but it is important that the quality and timeliness of all investigations is understood and an agreed standard maintained.

	Service Complaints					Civilian Complaints				
	% of FEHIOs Appointed within (working days)					% of FEHIOs Appointed within (working days)				
	5	10	15	25	25+	5	10	15	25	25+
2012	36%	30%	14%	10%	10%	44%	30%	16%	4%	6%
2013	52%	33%	5%	10%	–	74%	14%	12%	–	–

Appointment of FEHIOs

7. Prior to the implementation of the FEHIO cadre in February 2012, there was frustration across MOD with the time it was taking to identify and to appoint volunteer HIOs (from within the department) to undertake Bullying and Harassment investigations. Such delays were not aiding the organisation in its ability to address workplace conflict and the negative impact this had on all parties. Whilst there were no metrics in place or organisation to monitor it, it was reported in 2011 that it was taking, on average, 71 days to appoint an HIO.

8. Since the implementation of the FEHIO cadre, the ability to appoint an individual to conduct such investigations has improved significantly. This is illustrated in the table below against the target of identifying and appointing a FEHIO within normally 5, and no more than 10 working days.

Continuous Improvement

9. To be appointed as a member of the FEHIO cadre, individuals are required to attend a 2 day training and assessment workshop and successfully complete a post workshop assignment. To satisfy customer requirements, and as part of a wider review to ensure that delivery of FEHIO training remains fit for purpose, appropriate representatives from DBS and the Army observed a Defence FEHIO training and assessment workshop in summer 2013. The findings of this exercise confirmed that the training provided excellent practical delivery of investigative interview techniques, but more was required in relation to investigative report structure and delivery. There is scope for the Service Complaints focal points within each of the Services to provide further guidance to FEHIOs on report writing to ensure that they are submitted in the specified format, suitably redacted and ready for disclosure. DBS will work with the Services and other relevant stakeholders in 2014 to address this matter, and also to identify the range and scope of refresher training to FEHIOs. Changes to policy, practices and procedures that might

result following the proposed review of JSP 763 in 2014, for example. In addition, DBS will also deliver in 2014 Data Protection Act training to ensure that the FEHIO cadre handle and store protected sensitive personal information in an appropriate manner.

10. To further improve the FEHIO service, and to learn lessons and share best practice, DBS engage on a regular basis with all parties who have a vested interest in the ability of the cadre to deliver timely, qualitative and cost effective investigations. Work in this area includes:

- DBS attendance at the quarterly Service Complaints Process meetings – This forum provides the Service Complaints team and the Services an opportunity to discuss their experiences of the FEHIO service and performance issues.
- Bi-monthly DBS one-to-one brief with the Service Complaints team – Provides a productive knowledge exchange and opportunity to assess and identify any performance issues.
- FEHIO FAQs – DBS compile, update and manage an FAQ brief for distribution to stakeholders, including FEHIOs and Service representatives. FEHIOs are encouraged to contribute based on their experiences and knowledge of the process.
- FEHIO Seminars – FEHIOs, Service Complaints team and Service representatives have attended DBS hosted seminars. These sessions have promoted the discussion of policy and process issues, and allowed stakeholders to share knowledge and experiences. These events have contributed greatly to the FAQ brief and identified a number of issues for inclusion in the review of JSP 763.

Quality of Service

11. To measure the quality of service the FEHIO cadre provide, DBS recently introduced a questionnaire for users of the service and those directly involved in delivering it (e.g. FEHIO and Deciding Officer (DO)) to provide feedback on their experience. The questionnaires, developed by DBS in consultation with the Service Complaints Process meeting members, are

	Service Complaints		Civilian Complaints	
	No. of Investigations Completed	Average Duration of Investigation*	No. of Investigations Completed	Average Duration of Investigation*
2012	63	19 days	48	22 days
2013	32	20 days	20	16 days
Totals	95	19 days	68	20 days

* Number of days the FEHIO spent working on the investigation, i.e. number of days paid for.

now separately completed by the FEHIO and DO at the end of the investigation.

12. The purpose of the questionnaires is to enable the performance of the FEHIO to be assessed and knowledge and skill gaps identified and mitigated. Supportive action in terms of training and development will be taken in the first instance if the work of a FEHIO is deemed not up to standard, but there remains the flexibility to not engage a FEHIO should investigation reports consistently not reach the required level expected. A FEHIO's questionnaire helps to identify not only the level of support he or she has been given by the business, but also to identify where delays have occurred in the investigative process so that any necessary corrective action can be taken. With their recent introduction, only a small number of questionnaires have been returned and assessed. However, initial results are encouraging with the majority of DOs reporting the performance of the FEHIOs as "Very Good". This is an area that DBS will focus on in 2014 to enable the qualitative aspects of the FEHIO service to be fully understood.

Duration and Cost of Investigations

13. At the time of implementation, it was expected that on average, the time spent by a FEHIO working on an investigation, i.e. the number of days for which they would be paid, would be 11. For those investigations completed in 2012 and 2013, details are provided below. DBS will work with the FEHIOs in 2014 to understand if the average number of days spent on

investigations is considered reasonable, or if there are lessons to be learned from the investigation process that might further improve timeliness.

14. The table below provides details relating to the time taken by the FEHIOs to complete the investigation and submit their report, i.e. the number of working days from the date the FEHIO was appointed to the date the investigation report was submitted. The target is 30 working days, however where an investigation extends beyond this period, e.g. unavailability of witnesses, the FEHIO is to report progress to the DO every 5 working days beyond the 30 working days timescale. The table also details the number of investigations from 2012 and 2013 that remain on-going. It might be that some of the investigations classed as on-going are in fact concluded, and that DBS have simply not been notified. This is a key area that DBS will be reviewing in 2014 to fully understand which investigations remain open, the reasons for the length of time certain investigations are taking, and to identify mitigating actions.

15. The costs associated with the investigation of Bullying and Harassment complaints undertaken by FEHIOs are provided below. The figures relate to the cost of completed investigations, and do not include costs attributable to on-going cases.

Summary

16. Since the introduction of IOC of the FEHIO cadre on 1 February 2012, significant progress has been

	Service Complaints						Civilian Complaints					
	No. of Working Days to Complete Investigation & Submit Report (Within)					On-going	No. of Working Days to Complete Investigation & Submit Report (Within)					On-going
	50	100	150	200	200+		50	100	150	200	200+	
2012	3	14	13	21	12	31	1	16	16	8	7	5
2013	5	11	7	7	2	32	2	7	5	6	0	28
Totals	8	25	20	28	14	63	3	23	21	14	7	33

	Service Complaints		Civilian Complaints	
	Cost of Completed Investigations (£)	Average Cost (£)	Cost of Completed Investigations (£)	Average Cost (£)
2012	234,161	3,081	144,490	3,705
2013	117,980	3,806	49,810	2,767
Totals	352,141	3,291	194,300	3,409

* Costs relate to claims for fees and travel/subsistence costs.

made to enable Service and civilian Bullying and Harassment complaints to be investigated in a more timely, efficient and cost effective manner. This has included:

- The provision of specifically designed FEHIO training and assessment workshops delivered by the Defence Academy – providing FEHIOS with the skills and knowledge to carry out their duties and responsibilities;
- The establishment of excellent links and lines of communication with all stakeholders, to promulgate FEHIO related matters and to learn lessons and share best practice;
- Development of a team ethos and inclusion within the FEHIO cadre through the arranging of networking events with FEHIOS and stakeholders to debate policy, processes and topical issues;
- Design and implementation of DO and FEHIO questionnaires as a tool to assess and evaluate the performance of the FEHIO cadre, and the assistance and support provided to them by the business.

17. We judge that the implementation of the FEHIO cadre has improved the manner in which Bullying and Harassment complaints are investigated. The time now taken to appoint investigators is a marked improvement on the previous system, e.g. in 2013 85% of FEHIOS were appointed to Service cases within 10 working days, and indicates that the existing size of the cadre is sufficient in number to meet demand. It is also considered that the average number of actual days spent by a FEHIO working on an investigation appears reasonable, although DBS will review this in more detail in 2014.

18. Despite these successes, we acknowledge that there is more to be done to improve the process further. In particular, a key area of work for DBS in 2014 will be to understand the reasons why some investigations are still taking the time they do, why some investigations from 2012 and 2013 remain on-going, and how we can mitigate against this in the future. DBS have also

identified a number of important targets and objectives for 2014, including the delivery of refresher training to the FEHIO cadre and the development of a 'buddy' system and mentoring by more experienced FEHIOS.

19. Following on from the Commissioner's recommendation in her Annual Report for 2012 (Recommendation 12.7), and MOD's response to the HCDC's report on the work of the SCC in 2013, the Service Complaints team will also work with DBS and the Services to assess if it is possible, and if so how, to identify whether complainants or respondents go on to make further complaints on the conduct, outcome or timeliness of FEHIO investigations.

[REDACTED]

Appendix 7

Places Visited by the Commissioner in 2013

Naval Service	
January	HMS Edinburgh, British Forces South Atlantic Islands, Falklands
January	HMS Clyde, British Forces South Atlantic Islands, Falklands
February	Navy Commanding Officer Designate Course, HMS Collingwood
June	Navy Commanding Officer Designate Course, HMS Collingwood
June	Naval Service Women's Network Conference, HMS Collingwood
June	HMS Excellent, Portsmouth
October	Navy Commanding Officer Designate Course, HMS Collingwood
November	Britannia Royal Naval College
December	Commandant General Royal Marines, London
Army	
March	Commanding Officers Designate Course, Warminster
June	Army Lawyers Conference, Defence Academy, Shrivenham
June	Commanding Officers Designate Course, Warminster
June	Land Forces HQ, Andover
November	Commanding Officers Designate Course, Land Warfare Centre, Warminster
December	CV HQ Royal Artillery and Woolwich Station, Royal Artillery Barracks Woolwich
December	2nd Bn Princess of Wales Royal Regiment, Royal Artillery Barracks, Woolwich
December	Kings Troop Royal Horse Artillery, Royal Artillery Barracks, Woolwich
December	HQ London District, London
December	HQ 3(UK) Div, Bulford Camp
Royal Air Force	
January	905 Expeditionary Air Wing, British Forces South Atlantic Islands, Falklands
January	Falkland Islands Support Unit, British Forces South Atlantic Islands, Falklands
January	RAF Ascension Island
April	RAF Future Commanders Study Period (FCSP), Defence Academy, Joint Command and Staff College (JCSC), Shrivenham
July	RAF Future Commanders Study Period (FCSP), Defence Academy, Joint Command and Staff College (JCSC), Shrivenham
November	RAF Future Commanders Study Period (FCSP), Defence Academy, Joint Command and Staff College (JCSC), Shrivenham
Tri-Service/Welfare	
January	Mount Pleasant Complex, British Forces South Atlantic Islands, Falklands
January	Joint Force Logistic Unit, British Forces South Atlantic Islands, Falklands
January	Royal British Legion, London
June	HM Inspectorate of Prisons, London
October	Defence Mental Health Symposium, Defence Academy, Shrivenham
December	Advanced Command and Staff Course (ACSC), JCSC, Shrivenham

Appendix 8

List of Invitations accepted/other events attended by the Commissioner in 2013

April	Forces Law Network Annual Dinner, London
April	Naval Legal Services Spring Term Update – Employment Law and Service Complaints, HMS Excellent
May	Ombudsman Association's 2013 Biennial Conference, Loughborough
June	Army Lawyers Conference Dinner, Defence Academy, Shrivenham
June	Dinner hosted by the German Ambassador in honour of Sir Mark Stanhope, former First Sea Lord
July	SSAFA Armed Forces Arts Society 79th Exhibition, Mall Galleries, London
July	ICOAF, Gender and Ombuds Institutions for the Armed Forces: Challenges and Opportunities Workshop, London
July	Air Force Board Standing Committee, London
September	Conference for Assembly of Kosovo Centre for the Democratic Control of Armed Forces, Ljubljana, Slovenia
September	Service Prosecuting Authority Dinner, RAF Northolt
October	Conference on The Role of Ombuds institutions in Protecting Human Rights of Armed Forces Personnel, Organisation for Security and Cooperation in Europe and Office for Democratic Institutions and Human Rights, Vienna
October	Dinner in honour of the Service Complaints Commissioner British Embassy, Vienna
October	RAF Legal Branch 90th Anniversary Dinner Royal Air Force College, RAF Cranwell, Lincolnshire
October	Fifth International Conference of Ombuds Institutions for the Armed Forces, Oslo, Norway
October	Lunch, Norwegian Ministry of Defence, Oslo
November	Bullying, Harassment and Discrimination Complaint Handling Workshop, Land Warfare Centre, Warminster
November	Naval Families Federation 10th Anniversary Celebrations, HMS Excellent, Whale Island, Portsmouth
November	Naval Legal Service Annual Dinner, Britannia Royal Naval College, Dartmouth