



Service Complaints Commissioner **Annual Report 2011**

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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,

In my letter to your predecessor last year I set out how the work of the Service Complaints Commissioner was integral to the Armed Forces Covenant, helping to ensure that members of the Armed Forces are treated fairly. When you took office you spoke of your commitment to rebuilding the Covenant. That is why I am disappointed that I am unable to report to you that, for the fourth year running, the Service complaints system is working efficiently, effectively or fairly. The key issues are delay and sustainability.

In my Annual Report for 2010 I reviewed the performance of the Service Complaint system, against the three year goals I had set when the new system came into effect at the beginning of 2008. Despite some improvements, I concluded that the system was not efficient, effective or fair. I also concluded that the current system was not sustainable and needed simplification and redesign. I recommended a fundamental review be undertaken to that end.

A review started in summer 2011 but is not now due to be completed until May 2012, nearly 18 months after the Service Personnel Board of the Defence Council ordered that it be undertaken. I have expressed concerns about its design and approach as well as timing. I do not believe it is fundamental, nor likely to result, by spring this year, in conclusive recommendations to make more efficient use of limited and decreasing resources.

This Report for 2011 shows that although there have been some improvements, for example in more use of informal resolution and lower rates of appeal, other aspects have worsened. Whilst those Commanding Officers who have decided cases have done so in a more timely fashion, the majority of cases in the Army and RAF at this level, (Level1), remained undecided by the end of the year. In all three Services, the majority of the Service Complaints at Defence Council level, (Level 3)

remained undecided, with more cases which had been waiting for over a year compared to the end of 2010.

The issue is not a lack of ownership by Service Chiefs or want of application by their staff. All three Services have taken my recommendations for reform seriously and made further changes during the year in their arrangements for managing the Service complaints system. I would particularly like to thank their staff, and my own, who have worked with increasing numbers of complaints to try to ensure Service personnel are dealt with in a timely and fair fashion. The improvements that have been made give a glimpse of how the system should be operating. The question is whether these can be sustained across the Services, given the demands on Service and departmental resources.

The Services are facing huge challenges and changes. If there are alternatives, as I believe there are, which can produce fair and effective outcomes more efficiently, it does not seem right that resources, which could be used for operations, are used disproportionately in dealing with complaints.

My call for simplification appears to have struck a chord across the Services, particularly with those involved at unit level who seek to do right by their people with competing demands on resources. Complexity leads to delay which itself leads to unfairness. The inability of the SCC to prevent or remedy this unfairness is producing a loss of confidence, by Service personnel and their families, in the very role which was designed to bolster confidence in the chain of command in the wake of the Deepcut Report.

You have said that operational effectiveness must remain the watchword for everyone in Defence. You will see in this report that that has been my goal for the Service complaints system since I took office over four years ago. In my 2010 Annual Report I said my powers should be strengthened and that I believed the best

way, which supported the Services dealing with their own personnel, was an ombudsman model. I still believe that this is the right approach. It is a modern form of governance and accountability that preserves the primacy of the chain of command but holds the Services to account for their fair and proper dealing of individual cases. In my view, it would promote fairness and confidence. Together with simplification of the existing system, it would also make best use of increasingly scarce resources.

Perhaps mindful of concerns about failures of self regulation elsewhere during 2011, a number of responses to my recommendation for an Armed Forces Ombudsman, both within and beyond the Armed Forces, have been that an ombudsman is the accepted form of accountability for the public sector in the twenty first century and that the Services should have nothing to fear.

In last year's Report, I called for interim measures to strengthen my effectiveness to intervene where, during the course of my oversight, I believed there was overt maladministration of the complaints process. In December 2011, the MOD and Services indicated their willingness to explore such improvements. This was confirmed by your Minister for Defence Personnel Welfare and Veterans at the end of January 2012. I am of course pleased that there is confidence that the SCC can add value by overseeing Service complaints as they are being processed through the system. I am not convinced it will be sufficient.

Providing the SCC with power to make comments on the handling of individual cases, and for those comments to be given to the Service Boards or Service Complaints Panels when they ultimately hear the cases at Level 3, is no guarantor against delay, as is exemplified by the case study on page 35 in this Report. My informal intervention in a small number of cases this year, has

led to a swifter resolution than would otherwise have been the case. In most cases, however, it has not, because of the size of backlogs in the system and lack of resources to resolve them. Our Servicemen and Servicewomen deserve better.

I have included a number of illustrative case studies in my report. While these show particular aspects of the complaints system, you should note these do not include the cases, albeit relatively few in number, of serious bullying and harassment I have overseen. Service Chiefs are clear that such behaviour is not acceptable in today's Armed Forces. The increase in complaints about such behaviour, possibly as a result of Army's new Bullying and Harassment helpline, is not of itself a cause of concern if it helps the Services tackle the problem more effectively. However there is no room for complacency and vigilance will be required to ensure that the lessons learned since Deepcut are not lost, particularly given resource constraints.

I will consider very carefully the conclusions of the Government's review, due in May 2012 and report on the performance of the system at the end of the year. I will be looking for action on proposals to remove current backlogs and for delay to be stripped out of the system on a sustainable basis. I very much hope to see such improvement by the end 2012 that I will be able to give an assurance that the Service complaints system is working efficiently, effectively and fairly. If not, I will revisit the options I set out in my 2010 Annual Report.

I look forward to having an opportunity to discuss my report with you in person.



Dr Susan Atkins

Service Complaints Commissioner for the Armed Forces

Executive summary



1. The SCC is judged by Ministers and Service Chiefs to be playing an effective part in assuring the proper treatment of Service Personnel. The Government's formal response to my Annual Report 2010 confirmed the value Ministers and the Service Chiefs placed on my work and my team. They commented that:

"The independent oversight and scrutiny you provide of the process is fundamental to the continued improvements that are being made to the way in which we manage Service complaints."

2. Service Personnel and their families are contacting the SCC with complaints that they would not have made without the SCC's oversight. These include complaints of bullying and harassment. The SCC's office helps keep lines of communication open, particularly between the family of the most vulnerable complainants and those dealing with the Service complaints. Over 1,300 people have contacted the SCC in the first four years. Overall referrals by SCC made up just over one third of all Service complaints in 2011. This was lower than last year's figure of nearly half, suggesting that confidence in making complaints directly to the chain of command may be increasing.
3. My recommendations for reform in the Annual Report for 2010 have been taken seriously by all three Services and there have been some improvements. All three Services have made changes in managing the complaints process in an attempt to make it more efficient. The statistics on Service complaints and cases under the SCC's oversight in 2011 show an increase in informal resolution and a fall in appeal rates. This suggests progress towards "getting it right first time" – one of the goals for the Services the SCC set in taking up office in 2008.

The number of claims made to Employment Tribunals in 2011 has also fallen, which may also indicate increasing confidence in the Service complaints system.

The new reporting module of the Joint Personnel Administration (JPA) system, available from 1 January 2011, has also enabled the Navy for the first time to provide data on Service complaints at unit level. A second audit by Defence Internal Audit will report in 2012 on the reliability and consistency of JPA use across the three Services.

4. Despite these improvements, delay and sustainability remain key issues. For this reason, for the fourth year running I am unable to say the Service complaints system is working efficiently, effectively or fairly. The Services now monitor progress of complaint cases against targets set in 2010 and all Services have made progress to meeting those targets at least at one level. However the Services vary markedly in their performance against targets and none are meeting them at all levels.

The Navy is dealing with complaints well at unit level (Level 1) and has made progress at the first level of appeal (Level 2) but has a backlog at the final level (Level 3). For those cases which have been decided at unit level in the Army, the time targets have also nearly been met. However the majority of complaints remained undecided at the end of the year. The Army did not meet the time targets in any of its cases decided at Level 3 and at the end of the year had over a hundred cases awaiting decision at this level. However, the Army has made decisions on most of the pre-2008 cases and is increasing the throughput of cases on appeal. The RAF has delays at the first decision stage, due to demands on legal resources. The RAF however was closest to meeting the time targets at both appeal levels.

5. The problem is not a lack of commitment or will. Those managing Service complaints in all three Services have worked hard to reduce delay and resolve cases more efficiently and effectively. The SCC thanks them for all their work. The causes are partly volume of older cases, made more complex because of delay, increased levels of complaints, (including some increase stemming from the redundancy exercises and the impact of other post-SDSR changes), and competing demands on resources.

6. In 2010 I concluded that the current system was not sustainable and needed simplification and redesign. The complexity of the process designed to ensure fairness for all parties, was having the opposite effect. I recommended a fundamental review to consider if there were alternatives that would deliver fairness with a more sustainable level of resources. During 2011, the MOD started a three part Review aimed at better understanding if delay is inherent in the design of the current Service complaints system. This will not conclude until 2012. I do not believe that it is fundamental and I have expressed concerns about its design, approach and timing. In May 2012 the MOD intends to address the 10 recommendations made in my Annual Report 2010 which were dependent on the outcome of the Review. These include simplification of the Service complaints system and changes to the role of the Service Complaints Commissioner.
7. The MOD Review of the Service complaints system has already resulted in some changes to the way cases can be managed and decided and more changes are planned for 2012. These include new investigative resources for all three Services, more legal resources in the Navy, changes in authority levels in the Army and a planned increase in the number of independent members available to sit on Service Complaints Panels. However there is an issue of sustainability, given the demands on Service and departmental resources.
8. Ministers and the Services have agreed to strengthen the SCC's oversight powers in the meantime. Feedback from many within the Services and externally is that the SCC's powers need to be strengthened to prevent delay, unnecessary complications or injustice. I welcome the agreement that the SCC may now formally raise questions, where I believe there may be maladministration or delay in the handling of a complaint, my views to be responded to and ultimately put before those deciding the complaint. However I am not convinced that the proposed changes are sufficient to ensure the system works fairly.
9. I remain of the view that the most efficient, effective model for oversight is that of an Armed Forces Ombudsman. An Armed Forces Ombudsman recognises the primacy of the chain of command and enables the Services themselves to oversee the handling of a complaint whilst it is in the system. An Ombudsman would focus on whether system had worked fairly, making recommendations in cases where there was found to be maladministration. This should make more efficient use of already stretched resources and enable the Service complaints system as a whole to be put on a more sustainable footing. It also is the accepted form of modern oversight and accountability for the Public Sector and, internationally for Defence, in the Twenty First century.
10. I await the outcome of the Review in 2012. In the meantime, as a result of my oversight this year, I have made some further recommendations to be considered as part of the Review or other work already in hand.



The SCC visits 145 (South) Brigade, May 2011

2011 Recommendations

Recommendation 11.1 – I recommend that the Ministry of Defence (MOD), Defence Medical Services (DMS) and Services consider implementing a system for complaints about medical treatment similar to that adopted for Service complaints about redundancy. This could be reviewed as part of the Review into how to improve the Service complaints system, which is still underway.

Recommendation 11.2 – Now the Services have had a year to embed recording of Service complaints on Joint Personnel Administration (JPA) system, I recommend that they provide statistics for Service complaints by gender for 2011 and beyond.

Recommendation 11.3 – I recommend that the report of the second audit of JPA, currently being undertaken at my request by Defence Internal Audit (DIA), be considered by the Service Personnel Board, and its subcommittees, and any management action agreed in response to the audit's findings, should be implemented as part of the Review of the Service complaints system.

Recommendation 11.4 – I recommend that the recording of diversity complaints be reviewed also as part of management response to the DIA audit of JPA so that Ministers, Service Chiefs, Parliament, the Equalities and Human Rights Commission and I can have full confidence in the information reported.

Recommendation 11.5 – I recommend that the role of the Assisting Officer (AO) be reviewed and clarified as part of the action following the Review of the Service complaints system. This review should consider the criteria for selection being used by the Services and the possibility of better guidance and/or training.

Recommendation 11.6 – I recommend that, if the SCC retains discretion to refer, the rules about notification of a complaint be amended to include notification to the SCC or agreement be given to stop the clock for the period of time the SCC has taken to make these enquiries.

Recommendation 11.7 – Given that Service personnel do not have the right to make a claim to an Employment Tribunal (ET) about unfair selection for redundancy, and in the light of the provisions in the Armed Forces Act 2011 for fully independent member Service Complaint Panels (SCPs), I recommend that the use of Independent members for redundancy related Service complaints should be considered by the Review as a matter of urgency. I also recommend that the Services consider the option of having a Defence SCP for redundancy related Service complaints.

Recommendation 11.8 – I recommend that the proposal to reduce delay in the handling of complaints about policy in relation to pay and allowances, put forward, in 2011, by the Service Veterans and Personnel agency (SPVA) be considered as part of the Review and with expedition.

Recommendation 11.9 – I recommend that the MOD should undertake some further analysis and work to try to find out the reasons for the higher levels of complaint making in Phase 2 establishments; and that the RTS questionnaire includes a question on levels of awareness of the SCC.



The President of the Republic of Serbia and delegates at the Third International Conference of Ombudsman Institutions for Armed Forces held in Belgrade, April 2011



As part of the SCC'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 SCC and referred to the Services in 2011; and
- an overview of the numbers and types of Service complaints handled by the Services in 2011.

Complaints to the SCC in 2011

Numbers of people contacting the SCC

527 people contacted the SCC's office during 2011. This compares to 434 in 2010, a 22 % increase in contacts in 2011. Of those 527 people contacting us, 91 raised matters that could not be the subject of a Service complaint and were therefore not within my remit.

Numbers of potential Service complaints

The number of contacts about matters that could become Service complaints, referred to in this report as potential Service complaints, was 436. This compares with 357 in 2010, also a 22 % increase. This is a much lower rate of annual increase than in the first three years on the SCC's office.

The reasons for this are not clear. However other organisations, such as the Army and RAF Families Federations have also reported much lower levels of contact from Service personnel and their families and believe that this may be linked to the redundancy programmes announced in 2011. They suggest that Service families have been more reluctant to raise issues of concern, lest this should affect decisions on selection for redundancy. A number of solicitors have also reported individuals going to them because they felt the SCC had no powers. We have had an increasing number of people not pursue matters with us, after initial contact, for the same reason.

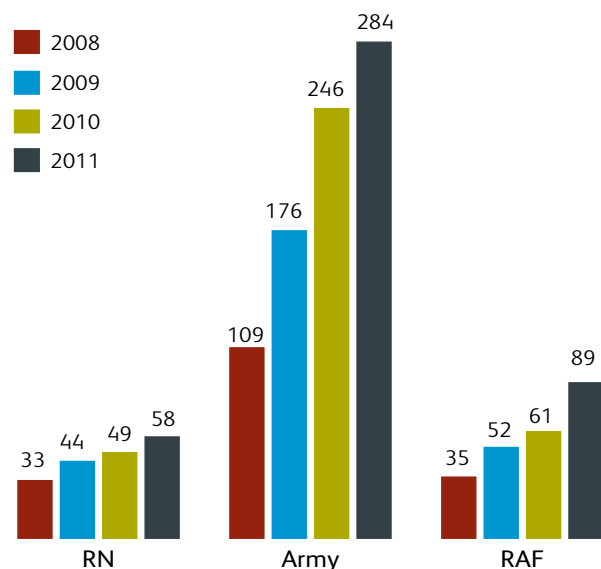
Patterns of potential Service complaints by rank and Service

Figure 1 gives the numbers of contacts about potential Service complaints in 2011 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 435 potential Service complaints, those from or about the Army made up 65 %, the Navy 13 % and the Royal Air Force, (RAF) 20 %. (In 5 cases the Service was not stated and not subsequently discovered as the complainant did not pursue the matter after initial contact).

Although the number of contacts from the Army is proportionately higher than its force strength¹, its percentage share of contacts to the SCC's office is slightly less than in previous years. (Contacts from the Army about potential Service complaints made up 69 % of all such contacts between 2008 and 2010.)

The rate of increase of potential Service complaints from or about Army personnel in 2011 was lower than the other two Services; 16 % compared to 18 % from the Navy and 46 % from the RAF.

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

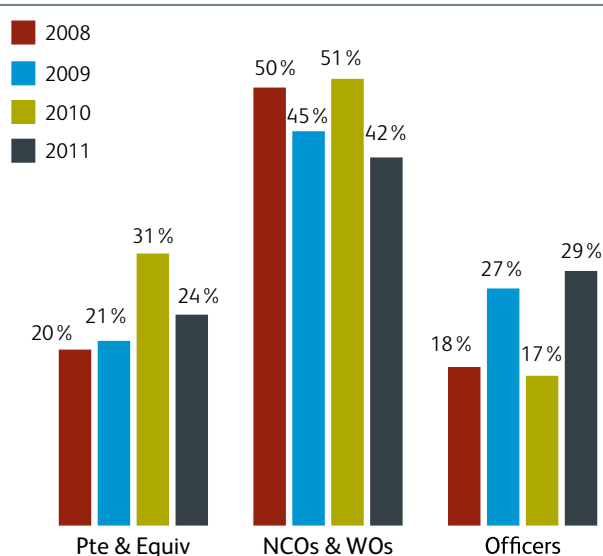


¹ On 1 April 2011, the Army made up 57 % of regular Service personnel and 62 % of total UK Armed Forces (regular and voluntary reserve forces). The figures for the Navy were 20 % and 18 % and the RAF 23 % and 20 %. Defence Analytical Services and Advice (DASA) UK Armed Forces Annual Manning Report May 2011 and DAS statistical Bulletin TSP07. Contacts from volunteer reserves made up 7 % of all contacts to the SCC about potential Service complaints in 2011.

The reason for the highest rate of increase from or on behalf of RAF personnel is not clear. Even discounting the potential complaints from officers deselected from flying training, the rate of increase in the RAF would be double that of the Army. Comments made to me from all ranks on visits over the last year suggest that the RAF has made great strides in changing perceptions about the deleterious impact of making a complaint (although a small number of contacts to our office suggest that this may not yet be universal across the RAF). However the increase in contacts to the SCC from RAF personnel contrasts with a 10 % reduction in numbers of new Service complaints made at Level 1 to the RAF (see page 27). This suggests that RAF personnel still wish to have the assurance of the SCC overseeing their Service complaint.

Figure 2 shows that, as in previous years, overall the largest number of contacts about potential Service complaints came from Non Commissioned Officers (NCOs) and Warrant Officers (WOs). The group making the next most numerous contacts to the SCC were Commissioned Officers (Officers), a change from previous years.

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

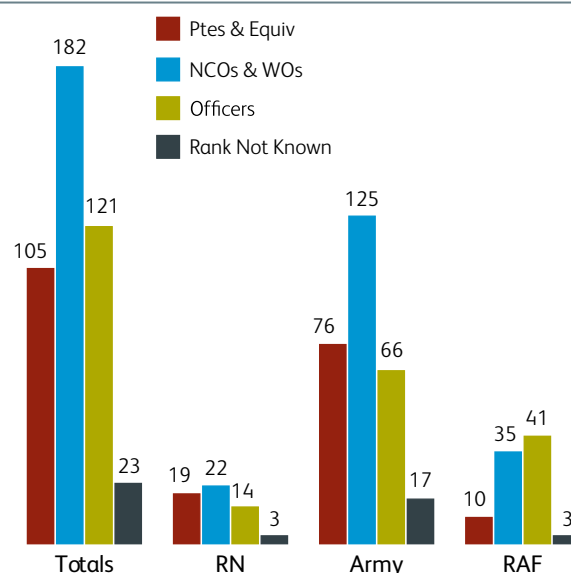


There are, however, differences in patterns of numbers of potential Service complaints by Service and rank as Figure 3 shows. Until 2011, the largest group in each service making contact with the SCC about potential Service complaints has been NCOs. For the first time this has changed. Whilst in the Army, and (less markedly) in the Navy, NCOs remain the largest category of those contacting the SCC, for the RAF it was Officers who most frequently contacted us during 2011. RAF Officers made up 47 % of all those contacting the SCC from the RAF with potential Service complaints, compared to Officers in the Navy and Army who made up 24 % and 23 % respectively of all such complaints.

Some of the increase in RAF Officers appears to be related to the decisions on redundancy. Of the 41 RAF Officers who contacted us with potential Service complaints, 7 were pilots whose commissions were terminated in the final stages of training. A further 2 RAF Officers made complaints about their selection for redundancy, as did 1 Royal Navy Officer.²

However, even discounting those complaints about redundancy, the proportion of complaints to the SCC from Officers in the RAF is higher than Officers in other Services.

Figure 3: Number of potential complaints to the SCC in 2011 by Rank and Service



² The other two redundancy potential complaints received in 2011 were from soldiers – an NCO and Private.

Potential Service complaints of prescribed behaviour

Figure 4 shows the numbers of prescribed behaviour complaints in 2011 to the SCC by type of allegation. It also shows the differences over the last 4 years. There were increases in contacts in 2011 about bullying, harassment improper behaviour and victimisation. There were falls in numbers of contacts about unlawful discrimination (i.e. on grounds of sex, race, sexual orientation and religion) and on more general allegations of discrimination, (which the SCC refers as allegations of bias). Allegations of sexual and racial harassment remain low. The majority of allegations to the SCC about bullying came from the Army (72 %).

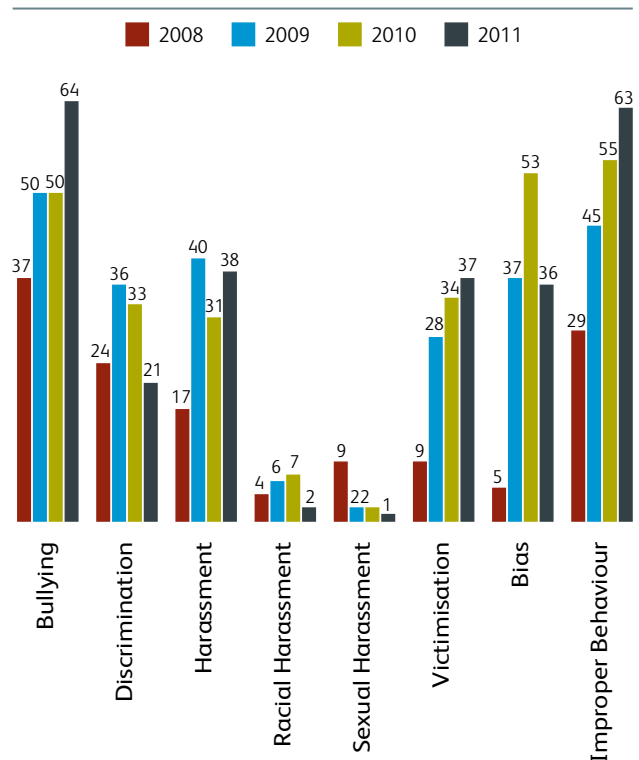
The majority of allegations made to the SCC about bullying involve allegations of abuse of power or undermining of authority, particularly with regard to non commissioned and commissioned officers and with regard to Servicewomen. However there have been a small number of allegations by private soldiers in the Army, which because of their serious nature, have involved the Commanding Officer referring the matter to the Royal Military Police. Action on the Service complaint has been suspended whilst the matter is investigated by the police. Particularly where the service person is at home on sick leave, the SCC has played a role in keeping the lines of communication open between the Service and , where contact first came through the individual's family, with the family. In these cases the SCC's office has told the individual of the support that can be provided by the Army's Bullying and Harassment helpline, based at Land Forces HQ, who can liaise directly with the chain of command and the Service police. These cases are complicated and take a very long time to investigate. It is still too early to say whether they are being dealt with better now under current arrangements than were similar cases under the SCC's oversight in previous years.

Being able to provide information to soldiers about the confidential Bullying and Harassment Helpline has been helpful where there are fears about the consequences of making a Service complaint. In my 2010 report I expressed my concern about complaints of victimisation and said I would monitor the situation.

The trend is upward but the numbers each year are too small to draw any conclusions. However, the Armed Forces Continuous Attitudes Survey for 2011 (AFCAS 2011), based on over 12,000 returned questionnaires, also shows an increase in concern about victimisation. Of around a thousand Service personnel who said they had suffered some sort of discrimination, harassment or bullying in the previous year but had not made a formal complaint, just under half (49 %) said the reason was fear it might adversely affect their workplace or career. The percentage was higher for Royal Navy Officers, 65 %, and this was higher than the previous year.

There was also a continuing upward trend of complaints about improper behaviour, which includes dishonesty and alleged failings of the standards expected, where there also appears to the SCC to be some mental element, for example intention or recklessness. The majority of these complaints were about intentional or reckless maladministration and medical mistreatment.

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



Non-prescribed potential complaints

Two types of non-prescribed potential complaints increased during 2011: those related to discharges and those involving medical treatment. Complaints about discharge were not primarily about redundancy, although towards the end of 2011 we began to receive these as the results of appeals against selection for redundancy were known. The Services agreed in early 2011 that any service complaints about selection for redundancy should be considered directly at Level 3, once the internal redundancy appeals process had been exhausted.

Complaints about discharge included complaints that the wrong process had been used – for example an administrative discharge rather than a medical discharge, when the reason for the individual being unable to perform his or her duties was medical; complaints that the medical discharge process had not been followed correctly; problems with not receiving the necessary paperwork and complaints about release dates.

In a few complaints about release dates, the Services changed their views, after the SCC's referral, and enabled those who had applied for early release to leave sooner than their discharge date, for example to take up University places or civilian jobs. As large numbers of Service personnel leave the Services over the next few years, it will be important to use the Service complaints system as a means to identify potential weaknesses in the discharge processes, to make the transitions as smooth as possible. There is a risk that reductions in the personnel and back office functions of the Services and MOD will lead to more complaints of maladministration.



Case Study A

In 2010, a Commissioned Officer, contacted us after finding out by chance, whilst still serving in Afghanistan, that the Army had discharged him. He had applied for premature voluntary release (PVR) four months prior to going on his operational tour and after 16 years service. The PVR process should have triggered his discharge 12 months after his application and with full resettlement support. It appeared that an error had been made in the process, with potentially grave consequences for the officer and his family.

After the SCC referred the case, the Officer was assured in autumn 2010 that the matter would be sorted out and he was persuaded to withdraw his complaint. However, in early 2011 the Officer contacted us again as the matter had not been resolved and in fact had worsened, a second error having been made, leaving a sum of just under £11 for his last monthly pay.

These errors were not corrected before the officer left the Service and his eventual resettlement payment, paid after the discharge, was also incorrect despite the SCC's oversight. The Officer's understandable view was that the SCC was "toothless and voiceless". In contacting the SCC, all he wanted were two very simple things: a written apology for being discharged while deployed on operational service; and the correct calculation and payment of his terminal grant.

It was 10 months after the initial mistake was made and a month after the Officer had left the Service before he received a written apology from the person who had made the error. That letter explained how and why the mistakes had occurred and what steps had been taken to try to prevent others suffering in a similar way in future.

The Officer responded very graciously to the personal apology but questioned whether the system was sufficiently geared to ensure systemic care and attention when processing applications for discharge.

Complaints about medical treatment have fallen into three categories: medical examination as part of the recruitment process; treatment by defence medical staff and medical discharges; and the interplay between medical treatment and the chain of command. A number of recruits complained in 2011 about miscommunication during the recruitment process of information about medical conditions. This appeared to be about conditions that should have prevented them from being accepted for training and not simply that the training tested their fitness, which would not have been picked up sooner. Similar comments had been made to me by training establishments during visits. The Inspector General of the Defence Medical Services is undertaking an investigation.

Complaints about medical treatment have increased in 2011 but have been taken seriously by the Surgeon General and heads of the Defence Medical Service, (DMS) to whom I have copied such referrals, with the complainant's consent. A number of these have been resolved before a formal complaint has been made, in one case after a management audit of processes. An over-defensiveness on the part of the medical unit or delay can escalate what might have been resolved without further claims, for example for medical negligence. There appears to be some confusion and delay caused by the necessity to first exhaust the two stage medical treatment system, before a Service complaint can be actioned. At present where complaints about medical treatment are not resolved quickly and are appealed, they can get lost in the medical appeals process. This can cause any Service complaint which has been stayed whilst the matter is considered in the Service complaints system, to drag on for months and years.

Table 1: Potential complaints about medical treatment³

Year	Numbers of Potential Prescribed complaints	% of Total Potential Prescribed complaints	Numbers of non Prescribed complaints	% of All non Prescribed complaints
2011	2	Less than 1 %	30	21 %
2010	2	1 %	7	7.5 %
2009	0	0 %	15	15 %
2008	1	1 %	22 (but 7 not referred)	26 % – (17 %)

The Surgeon General takes a continuous improvement approach to complaints and has ordered a review of medical complaints processes used across DMS. One referral highlighted the need to update the medical treatment complaints system and will consider the interplay with the Service complaints system.

Recommendation 11.1

I recommend that the MOD, DMS and Services consider implementing a system for complaints about medical treatment similar to that adopted for Service complaints about redundancy. This could be reviewed as part of the Review into how to improve the Service complaints system, which is still underway.

Some complaints which appear to involve concerns about medical treatment are in essence concerns about treatment by the chain of command. These often appear to be about poor communication and management. In referring them, I flag up my assessment of the nature of the potential complaint, and why I do not believe this needs to be diverted to the special medical complaints process. In a number of cases I may also suggest that, from what I have been told, the complaint might be resolved informally. This can be a more timely, efficient and effective way to resolve problems and does not necessarily preclude wider learning or action to prevent a similar occurrence in future.

³ These include complaints about medical discharges but not complaints about action by the chain of command in connection with a medical condition.

Case Study B

Sgt B wrote to me in April 2011 about delays and uncertainties in her medical discharge, which she felt was having a detrimental effect on her health and transition from the Service to civilian life. She had not been briefed by her chain of command on either how the discharge process would work or the financial implications. When she had tried to get the relevant information she had been given inconsistent and sometimes contradictory advice. Having eventually been told the unit was working towards a specific date for discharge, she was then told that this was being delayed at her CO's request but no reason was given. She told me that when she asked for an explanation from an officer in her chain of command, she was shouted and sworn at.

Because of the apparent involvement of the Commanding Officer, I referred the matter to his Senior Officer, who assigned an Assisting Officer for Sgt B and interviewed her himself. As a result of that interview, Sgt B decided not to pursue her complaint formally. She was happy that the action the Senior Officer was prepared to take to resolve her complaint informally would have the outcome she was seeking, without the matter dragging on long after her discharge. She confirmed that the informal route was her choice and that no pressure had been applied to persuade her to drop her formal complaint. She was particularly re-assured that the Senior Officer would take action to ensure that others throughout his command, who were to be medically discharged in future, would not suffer in the same way.

Referrals – potential complaints referred by type and Service

The Armed Forces Act 2006 provides that the SCC may not investigate any complaint made to her but may only refer the matter to the individual's chain of command. Where the SCC considers that the information provided to her includes an allegation of any sort of improper behaviour, any referral of those allegations puts the chain of command under a legal obligation to keep the SCC informed on the progress and any decision on the case. The categories of behaviour can be prescribed by regulations made under the Act and are therefore referred to as prescribed behaviour complaints. Currently prescribed behaviour includes, bullying, harassment, discrimination, dishonesty, bias, victimisation and other improper behaviour.

The SCC can refer any other matters that could be the subject of a potential Service complaint to the chain of command. These can include any matter which the Service person considers has caused them wrong, for example complaints about their terms and conditions of Service, their annual appraisal reports, promotions and postings, pay and allowances or medical and dental treatment. For ease of reference these are referred to as non-prescribed complaints. A referral of these types of complaint by the SCC to the individual's chain of command does not impose an obligation to keep her informed about the case but the SCC can ask to be kept informed. In practice I usually ask to be informed if the Service person does go on to make a formal service complaint and if this is accepted (with reasons given for any rejection). I also ask to be informed of the eventual outcome. Where the information provided suggests that there may be a systemic weakness, or others are similarly affected, I will ask the chain of command for their findings on any potential weakness and information on action taken to rectify it.



Figure 5 shows that of the 436 potential Service complaints in 2011, I referred 291 to the chain of command, a referral rate of 67 %⁴, (slightly lower than the 2010 rate of 72 %). The SCC has discretion as to whether to refer a potential Service complaint. I will only do so if I know that the Service person is content for me to do so. In a small number of cases, the individual was able to resolve the matter without the SCC's intervention. In 9 % of cases, I made a positive decision not to refer. The reasons for my decision included that:

- the matter was not within my powers (8 cases)
- there was no evidence that the Service person had been wronged (9 cases) 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 reasons for accepting nevertheless (10 cases)⁵.

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

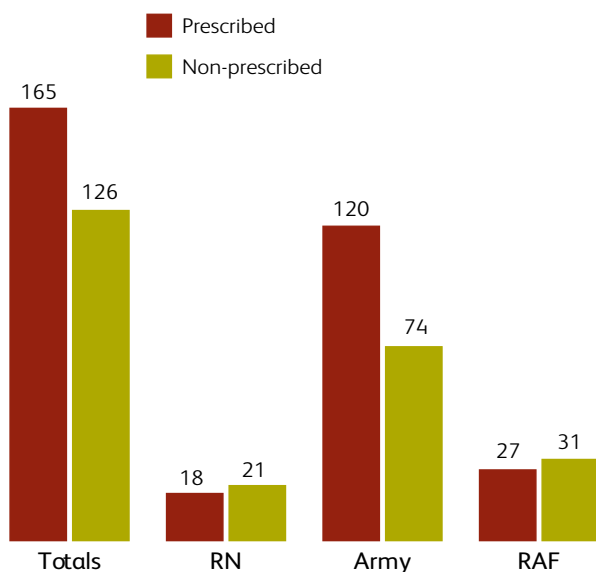
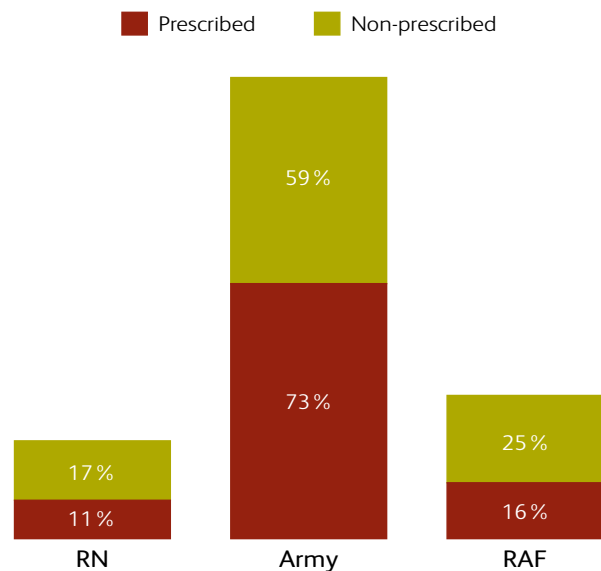


Figure 5 also shows that overall I referred more prescribed behaviour complaints than non-prescribed behaviour. Prescribed behaviour complaints made up 57 % of all referrals. However this pattern was influenced by the high numbers of complaints from the Army.

(Prescribed behaviour referrals made up 62 % of Army referrals.) For the first time since the office of the SCC was established, for both the Navy and the RAF, I referred more non-prescribed complaints than prescribed behaviour complaints.

Figure 6 shows the distribution referrals by type and Service. Referrals of prescribed behaviour complaints from the Army made up of 73 % of all prescribed behaviour referrals, slightly higher than 2010 (when Army referrals made up 69 % of referrals of prescribed behaviour). The RAF increased their share of non-prescribed referrals from 16 % in 2010 to 25 %.

Figure 6: The distribution of types of complaint across the Services



Referrals by the SCC made up just over a third (36 %) of the total of new Service complaints made in 2011, a reduction from nearly a half in 2010. This suggests an increased confidence in making a complaint directly to the chain of command. Referrals by the SCC of Service complaints which were already in the system, was only slightly higher than in 2010, (11 % compared to 10 %).

⁴ There was little difference in referral rates between Services: referrals from the Navy, Army and RAF constituting 67 %, 68 % and 65 % of all potential Service complaints respectively.

⁵ The remaining 118 non-referred potential complaints are made up of those resolved before referral, not pursued and those on which we were awaiting further information at the end of the year.

Gender Differences

In my 2010 Report I noted that, whilst Servicemen remained the majority of those contacting or about whom contact was made with the SCC, the percentage of Servicewomen was higher than their representation in the Services. In 2010, the percentage of Servicewomen who contacted the SCC's office was nearly three times higher than their representation in the Navy and double their representation in the Army. (The percentage of RAF women contacting the SCC was slightly higher than their representation in the RAF). As shown in Table 2, the level of contacts from or about Servicewomen in the Navy and RAF Service women has dropped in 2011. Contacts from Service women were lower than their representation in the RAF, slightly higher than their representation in the Navy and nearly double their representation in the Army.⁶ The level of contacts from women in the Army is the same as in 2010.

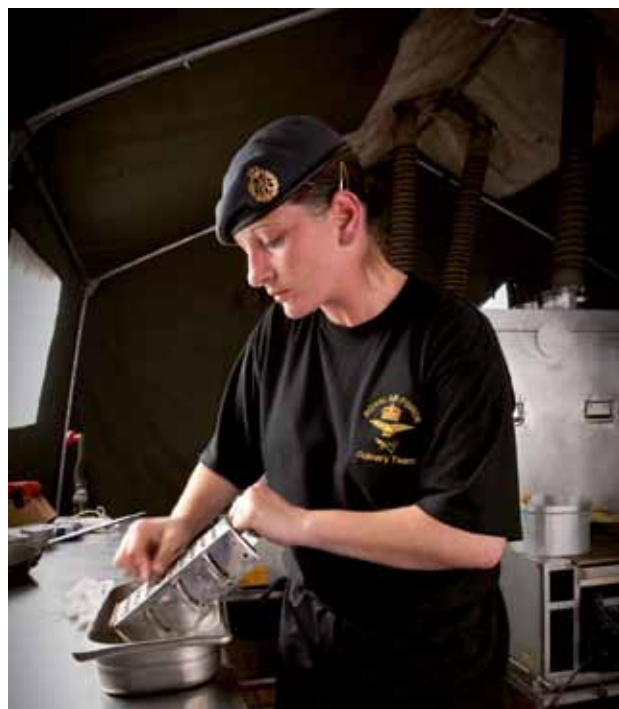


Table 2: Percentage of potential complaints by Service and Gender 2008–2011⁷

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

In deciding whether to refer a complaint made to me, I make no assessment of the merits of a case. However, I do consider whether there is evidence to support an allegation and will also take into consideration whether the matter is likely to be accepted as a Service complaint. To that extent, referred complaints provide a sounder basis for comparison by gender than contacts or potential complaints. As in previous years, the SCC referred a higher percentage of complaints from Servicewomen than from Servicemen.

In 2011, complaints by women about prescribed behaviour were still more numerous than complaints about non-prescribed matters but the gap was closed. In 2010, potential complaints made by women made up 21 % of all prescribed behaviour referrals. As shown in Figure 7, this dropped to 16 % in 2011. Conversely women's share of non prescribed referrals rose from 7 % in 2010 to 10 % in 2011. This is close to their representation in the Regular forces of 9.6 %⁸.

⁶ On 1 April 2011, the representation of women in the regular forces was as follows: 9.4 % of the Navy, 8 % of the Army and 13.8 % of the RAF. DASA UK Armed Forces Annual Manning Report May 2011. The SCC received one complaint from female volunteer reservists in 2011.

⁷ In 2008 gender was not identified by some complainants.

⁸ *ibid*.

There are differences between the Services. Women in the Navy account for a slightly higher percentage of prescribed referrals than their representation in the Service and a higher percentage of non prescribed referrals though numbers are small (see Figure 8a). Prescribed behaviour referrals in the Army account for 18 % of all such referrals, over twice their representation in the Army. (See Figure 8b). The non prescribed referrals are in line with their representation in the Army, as is the case with women in the RAF. Referrals of prescribed behaviour referrals are much lower than women's representation in the RAF. (See Figure 8c).

Because of small numbers, it is not possible to draw any firm conclusion from the SCC's figures alone. They do appear to be consistent with the data given by the Services' Equality and Diversity returns and the anonymous feedback about experience of bullying, harassment and discrimination in the Armed Forces Continuous Attitude Survey (AFCAS 2011) (see page 45). They suggest that the work the RAF and Navy have undertaken following their work with the Equality and Human Rights Commission in 2009 has had a beneficial impact, although women in the Navy may still look to the SCC to provide oversight of their complaints. The figures suggest that the problems raised in the Army's own investigation by Andrews and Watts in 2009 have not yet been resolved.

Recommendation 11.2

Now the Services have had a year to embed recording of Service complaints on Joint Personnel Administration (JPA), I recommend that they provide statistics for Service complaints by gender for 2011 and beyond.

Figure 7: SCC referrals by Gender

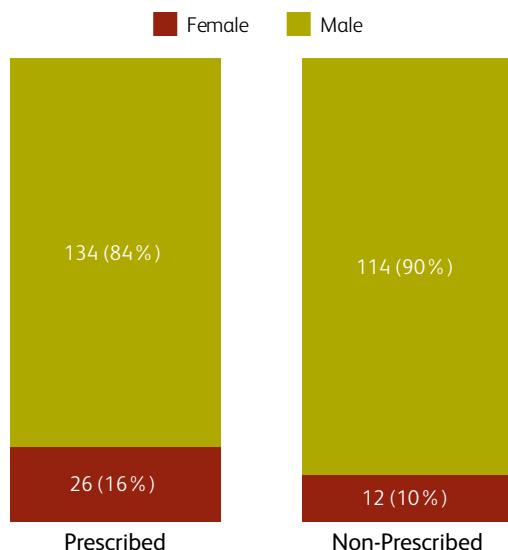


Figure 8a: SCC referrals by Gender and Service – RN

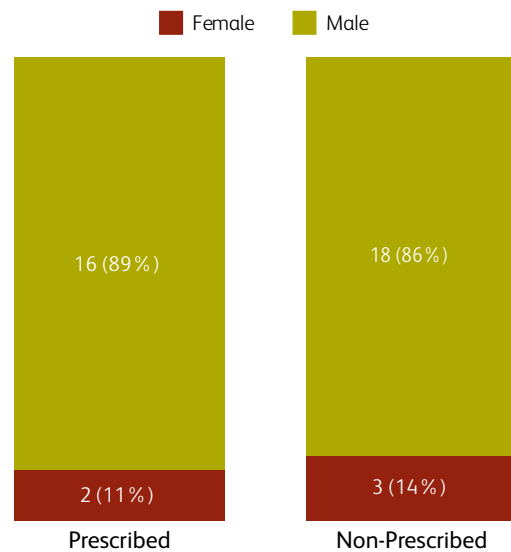


Figure 8b: SCC referrals by Gender and Service – Army

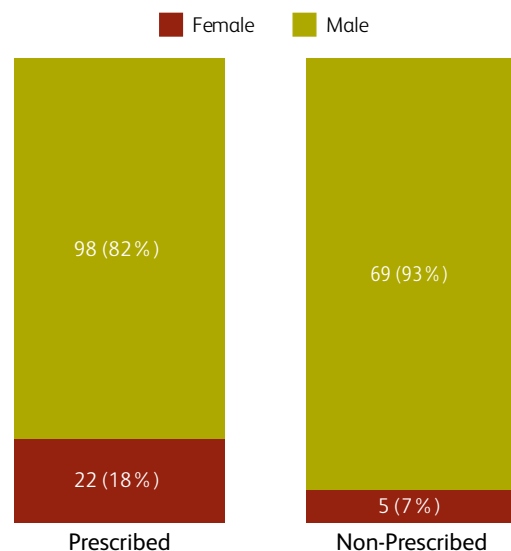
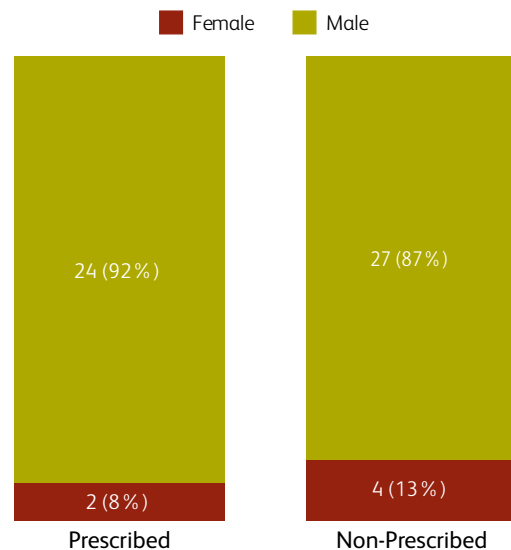


Figure 8c: SCC referrals by Gender and Service – RAF



Closure Rate and continuing cases

The closure of a case by the Service does not automatically result in an immediate closure of that complaint by the SCC. Further enquiries are undertaken with the complainant, to confirm whether our understanding matches theirs and they have closed the case. The Army have introduced a closure certificate, which requires the complainant to confirm that they have closed the case voluntarily and without pressure being applied to do so. We check that this is the case. We also follow up on any action the chain of command or others have agreed, either in a decision or as part of a resolution before decision. In a number of cases, as in the example of Case Study A, the promised action has not been taken. Closing a case too soon can have adverse consequences for some complainants, for example those who are leaving the Service. In some cases, former Service personnel may be unable to use the Service complaints system to make a new complaint to achieve the agreed redress or action. The SCC has stressed on the Services that, where a case is informally resolved, they should not ask complainants to withdraw their complaint. It should be recorded as subsequently resolved, either before or after a formal decision.

In relation to SCC data in 2011, the SCC has accordingly distinguished between complaints that were not pursued after referral and those that were resolved after referral and before formal decision. In 2011, of the 291 potential complaints referred, 39 had been closed by the end of the year. Of those 39, 9 were not pursued by the complainant, 25 were resolved before formal decision and 3 were not upheld, 1 was partially upheld and 1 was upheld. (The informal resolution rate was about the same for prescribed and non prescribed complaints – 8 % and 9 %.)

Update on 2008, 2009 and 2010 cases

Of the 225 potential complaints referred in 2010 and which remained open at the end of 2010, we closed another 51 in 2011: 15 were not pursued or withdrawn after referral; 20 had been resolved; 6 ruled out of time; 3 upheld in full and 2 in part. Only 5 had not been upheld. We closed a further 36 cases from referrals in 2008 and 2009, of which 5 were upheld in part and 5 resolved. One of those had been previously not upheld, only for those preparing the case for Level 3 decision to realise a mistake had been made. In a couple of cases which were closed in 2011 individuals, who had been discharged a few years ago, were re-instated.

In two cases, one of which had been referred in 2008, the other in 2009, the case was closed because the complainants died before their case had been finally decided. This caused distress to their families and, in one case, to the person about whom the complaint had been made, who had also lost the opportunity to have the complaint determined.

Complaints to the Services in 2011

Source of Data

The data on Service complaints for the three Services are shown in Tables 3a-c. Data is drawn from the recording systems each Service has in place. A new revised reporting module on the Joint Personnel Administration (JPA) system was in place by 31 December 2010. This was the anticipated source for the 2011 Service complaints data. This year, the data for the Navy at Level 1 and Levels 2 and 3 has been drawn primarily from JPA and local records. This means that for the first time the Navy is able to provide full data for Service complaints at Level 1. The data for the RAF and Army is drawn, as in previous years, from the Services' own recording system, rather than from JPA.

An audit of the new Service complaints module on JPA is being undertaken, by Defence Internal Audit, (DIA). This will provide a level of assurance on the use and accuracy of the JPA data and make recommendations for improvement, if necessary. The DIA audit will establish the reasons for two Services not relying on JPA, including assessing whether the new complaints recording module, revised after the first DIA audit in 2008, is fit for purpose; whether the problem is lack of knowledge or training; or other reasons.

Although the audit is still underway, a concern was raised during field work that there may be some confusion in the written guidance as to when a complaint should be recorded. Auditors found in some units that complaints were not being recorded until the point at which the complaint was not withdrawn or formally resolved, even when a completed Annex F form (the means for making a formal Service complaint) had been submitted. This suggests that where the Services have relied on JPA, there may be some element of under-recording. All Service complaints should be recorded on JPA as soon as possible after a completed Annex F form has been submitted to the chain of command. A withdrawal form should only be used for those cases where the complainant does not

wish to refer the complaint and subsequently withdraws the complaint rather than where it is informally resolved. Informal resolutions and withdrawals should be entered on JPA as such. This will enable the SCC's audits and other quality assurance agencies, such as OFSTED and the Defence inspectorates, to check that the system is being implemented properly and that no pressure is being brought to bear on complainants.

The revised JPA complaints module was intended to provide a single recording system of formal and informal complaints, including complaints about discrimination, harassment and bullying, (equality and diversity complaints). Previously these were not consistently recorded on the Service complaints recording systems, because of concerns in some quarters about confidentiality. Instead, reporting of complaints to the MOD was carried out using a manual records system. The information provided by the Services on Service complaints and on equality and diversity complaints (see pages 48 and 49), suggests that there may still be discrepancies. The DIA audit should assess the level of assurance that can be given to the data on formal and informal complaints.

Recommendation 11.3

I recommend that the report of the second audit of JPA, currently being undertaken at my request by Defence Internal Audit, DIA, be considered by the Service Personnel Board, and its subcommittees, and management action agreed in response to the audit's findings, should be implemented as part of the Review of the Service complaints system.

Recommendation 11.4

I recommend that the recording of diversity complaints be reviewed also as part of management response to the DIA audit of JPA so that Ministers, Service Chiefs, Parliament, the Equalities and Human Rights Commission and I can have full confidence in the information reported.

Numbers of Service complaints

The Army reports a 63 % increase in new Service complaints made in 2011 compared to the previous year. The RAF a much more modest 15 % increase in new Service complaints (including those that started at the higher levels). In both Services this represents a reduced rate of increase compared to 2009/10.

Tables 3a-c provide an overview of the cases worked on at each level during the year and provide the foundation for the discussion on timeliness and effectiveness below.

In contrast to 2009, when a large percentage of SCC referrals appeared to be about Service complaints that were already in the system, the percentage in 2011 was 11 %, just slightly higher than the 10 % of 2010. Not every referral by the SCC leads to a Service complaint. However the ratio of SCC referrals to new Service complaints is similar to the patterns reported in 2010; 20 % for the Navy, 40 % for the Army and 37 % for the RAF. This suggests that the SCC continues to play a valuable role in giving Service personnel confidence to make a Service complaint, especially in the Army and RAF.

Types of Service complaints in 2011

As in previous years, the majority of Service complaints made to the all three Services were about terms and conditions of Service, pay and allowances and medical and dental treatment, with those about terms and conditions of service forming the largest single category.⁹ Service complaints about discrimination, harassment bullying and other improper behaviour (the categories of complaint which are prescribed in regulations) made up around a quarter of Navy and RAF Service complaints at Level 1. This represents a significant drop since 2010, when such complaints made up nearly half of complaints at Level 1. (Figures for the Navy at Level 1 were not available in 2010). In comparison to previous years, the Army has seen an increase in the numbers of prescribed behaviour complaints and in the percentage share of such complaints. In 2010 the 147 prescribed behaviour complaints at Level 1 made up 42 % of all Service complaints. In 2011, the 285 prescribed behaviour complaints made up 45 % of all service complaints. The pattern of Service complaints made to the Army is therefore much closer that in previous years to the pattern of complaints to the SCC.

⁹ See Appendix 3 for a breakdown of Service complaints worked on for the first time during the year by Service, level and category.

The steady rise in such complaints in the Army, particularly complaints about bullying does not necessarily mean that there has been a rise in incidents of poor behaviour. Given the historically low levels of individuals being prepared to make formal complaints about such treatment reported in the Armed Forces Continuous Surveys and Recruit Trainee Surveys, an increase in Service complaints could be seen as an increase in confidence in the Service complaints system. AFCAS 2011 reported a small decrease (3 %) in the percentage of those responding to the survey who said they had experienced bullying over the previous year although the levels of those making a formal complaint remained as in 2010 (9 %) an increase from 6 % in 2009. (See page 45). AFCAS 2011 took place over the first six months of 2011 and so does not capture the experience over the whole year. It does not suggest however that the increase in complaints is indicative of an increase in incidents in the Army. It does suggest that there may be a growing confidence within the Army about raising complaints about such behaviour. This would be a good thing.

Progress and Outcome of Cases during 2011

Tables 3a-c show the numbers of new Service complaints made in 2011 and the numbers of cases worked on during the year. These tables show the numbers of Service complaints escalated for review up the chain of command, either by way of appeal (where the complaint was not upheld or in some cases, partly upheld) or by the Deciding Officer, because the redress sought was outside his or her authority. This is particularly the case in the Navy, where over a fifth, (51), of the 237 Level 1 cases worked on during the year were escalated to Level 2, without a decision at Level 1. In the other two Services a few cases have been escalated from Level 1 to Level 3, to avoid unnecessary delay and where the redress can only be given at the highest level. In November 2011 the Army changed its process to enable complaints about manning and Terms of Conditions of Service to be redressed at Level 2. The aim is to enable these cases to be resolved at this level, without adding them to the severe backlog of cases awaiting decision at Level 3. The RAF had 34 new Service complaints start at Level 3 during 2011. Twenty two of these related to a decision to remove individuals from flying training as a result of SDSR manpower changes, and a further two which had exhausted the special appeals process for redundancy decisions.

Each Service has made changes during the year in the management of service complaints, the results of which are shown in the Tables 3, 5 and 6.

The Navy

The majority of Service complaints in the Navy (70 %) are made about non-prescribed matters which, due to the way the Navy is structured, means Commanding Officers have less scope to provide redress. During 2011, the Navy brought all the Level 2 and Level 3 caseworkers involved in the management of Service complaints under the command of the Director of Naval Legal Services. The post of head of the Level 2 casework cell was re-designated and filled by a lawyer. She and her team, supplemented as personnel became available during the year, have worked hard to reduce the backlog and resolve cases informally where appropriate.

The effect can be seen in Table 3a. 77 out of 116 complaints have been resolved at Level 2 during the year, 16 informally. The Navy has not met the time targets at this level (Table 5) and starts 2012 with 39 cases to be decided. However, the Navy has been responsive when I have alerted them to concerns that delay in specific cases runs the risk of justice being denied. From my oversight I believe there has also been an improvement in quality of decisions, both in terms of reasons given and tone of communication. The impact of these improvements can be seen. Table 5 shows that 72 % of cases at Level 2 were upheld or partly upheld. Table 6 shows a reduced level of appeals for review at Level 3. Case Study C on page 25 is an example of good handling.

Following a decision by a SCP of a case at Level 3 that took two and a half years to be decided, the Navy undertook a review of casework resource and resilience at Level 3. The changes instigated in June 2011 stemmed from that review but problems remained in relation to availability of legal resources. Only four Level 3 cases were decided during 2011 and 27 remain, 8 of which date from 2009. The Navy is to add additional legal resources at Levels 1 and 3 during 2012, with a view to removing the backlogs and making the system work effectively.

Table 3a: Service complaints in 2011 – RN

Royal Navy	New complaints	Numbers worked on during year	Awaiting decision	Withdrawn/ informally resolved before decision	Referred to Level 2 without decision ¹⁰	Upheld	Partially upheld	Not upheld	Taken to next level
Level 1 CO	191	237	55	22	51	18	16	75	34
Level 2		116 ¹¹	39	16		23	21	17	8
Level 3 Total		31	27	0		0	2	2	n/a
Of which Service Board						0	0	0	
Of which SCP with Independent member						0	0	0	
Of which SCP						0	2	2	

Case Study C

Leading Hand C contacted my office in 2010, at the suggestion of his Service, seeking my oversight of a Service Complaint he had already submitted. He believed he had been unfairly de-selected for promotion following an injury. Due to an unfortunate series of events and timings of requisite training courses and operations on his knee, the promotion selection he was awarded 4 years earlier was deemed to have expired. However, by 2010, he had obtained all the necessary qualifications for promotion and, fully fit again, wanted the opportunity to pass the fitness test, the final hurdle.

His CO recognised that he did not have the power to grant redress at his level but felt that the service complaint was well founded. He referred it up to the higher authority. The complaint was upheld. In a well reasoned decision, the higher authority acknowledged that the Service had been inconsistent in its handling of the case. Whilst they recognised Service sports as an important element in promoting fitness levels, they did not treat any injuries caused during Service sports as a Service injury. The Senior Officer recommended action to remedy this procedural weakness. Leading Hand C was re-selected for promotion and given one further opportunity to pass the fitness test, which he did.



The SCC visits Royal Naval Air Station (RNAS), Yeovilton, November 2011

¹⁰ These cases were referred to a higher authority as being outside the Level 1's authority to redress.

¹¹ This includes the 51 referred for decision and redress.

The Army

Table 3b shows the greater numbers of Service complaints made in the Army and the difficulties they appear to be facing in dealing with them. Of the 630 Level 1 cases worked on during the year, decisions were made in just over a third. 399 cases remained to be decided at the end of the year. Of the 231 decided, over a third, (36 %), were upheld and nearly half, (42 %), were upheld or partly upheld. There may be a number of reasons for the decisions in these cases and it does not necessarily follow that the ratio of upheld to not upheld in the decided cohort will be replicated in the still to be decided cohort. The Army decided a higher proportion of complaints at Level 1 than the previous years (37 %) compared to 26 % in 2010. However, it is a concern that still nearly two-thirds remain undecided at the end of the year.

Delay also has an impact on the management of cases further up the chain of command. In my previous reports I have explained why delay can lead to dissatisfaction and how quicker decision making supports resolution, even when the decision was not what the complainant hoped for. Tables 5 and 6 on page 28 show that, although the rates of appeal from Level 1 to 2 have reduced slightly in the Army compared to 2010, they are still higher than the other two Services. Table 6 in particular shows that a significant proportion of Service complaints are upheld in whole or in part at Levels 2 and 3.

The Review being undertaken by the MOD and Services, tracking the course of Service complaints made in 2011, will enable the Army to take a view as to how far the picture shown in these tables is influenced by cases brought before the Service Complaints Wing (SCW) was established. However, there is a serious risk that unless

the backlogs at each level in the Army are removed, the patterns will be replicated for cases managed under the new arrangements.

Over half the cases at Level 2 were decided during 2011 but 50 remained at the end of the year. Of those decided two thirds were not upheld, the majority of which appear likely to be appealed. The Army has been flexible in moving Service complaints from Level 1 to Level 3 or starting a case at Army Board level, where the seniority of the parties made it difficult for it to be decided by more junior ranks. In this last category of cases the Army Board has decided the complaint, so as to provide at least one avenue of appeal, by way of petition to the Sovereign. However there remain a large number of complaints awaiting decision at Level 3, which the Army estimates will not be removed until 2013. The Army decided 31 Service complaints at Level 3, the majority being decided by the Army Board. This is because of the priority given to deciding cases made under the pre 2008 redress of complaints system. At the end of 2011 only one Service complaint made before 2007 remained to be decided by the Army Board.

In July 2011 the SCW took over the management of all Service complaints in the system including those that had been managed by Divisions at Level 2 before 2010. This should enable the SCW to improve the handling of cases. The changes to authority levels in the Army chain of command should also avoid the situation in a number of cases in 2011, where complaints which had been sitting at Level 2 for over a year were escalated without decision. The Army has made more use of SCPs this year for the first time and has plans to increase the numbers of SCPs in 2012.

Table 3b: Service complaints in 2011 – 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	493	630	399	12	80	18	121	71
Level 2		104	50	0	10	7	37	32
Level 3 Total		127	96	0	4	1	22	(3) ¹²
Of which Service Board					2	9	3	
Of which SCP with Independent member					0	0	4	
Of which SCP					2	1	5	

¹² Commissioned Officers, whose decision is made by a Service Board under delegated powers from the Defence Council, may exercise a right to petition the Sovereign. 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 and RAF were decided by SCPs in 2011.

The RAF

Table 3c shows that the RAF has made much greater use of informal resolution, with 33 cases withdrawn/ informally resolved in 2011 at Level 1 compared to 21 last year (a steady increase from 13 % to 19 %). However the numbers and proportion of Level 1 cases which were decided dropped markedly in 2011, apparently because of other demands on regional legal advisers during the year. Only just over a third (36 %) of Level 1 cases were decided during year and the RAF starts 2012 with 111 cases awaiting decision compared to 70 last year.

At Level 2, 60 % of Service complaints were decided and there were only 20 outstanding at end of year. The NUMBER of cases at Level 3 is the result of the 39 redundancy related Service complaints entering the system at this level. Of the 39 complaints decided at Level 3, 22 were from trainee pilots and these were heard by an SCP, sitting with the same members in late 2011 and early 2012. Because some of these Service complaints involved allegations of bias or other improper behaviour, requiring an Independent member, the SCP included an independent member for all. Table 3c and Table 6 show a higher level of resolution and upheld rate at Level 2 and much reduced appeal rates in 2011 compared to previous years. The RAF has used SCPs for all Level 3 cases.

Assisting Officers

There has been a continued increase in the Army and RAF in the percentage of complainants who have the support of Assisting Officers (AOs). AOs were appointed in 72 % of Army Service complaint cases in 2011 (compared to 64 % in 2010) and in 54 % of RAF cases compared to 51 % in 2010. Table 4 shows the differences between the Services in use of AOs. It should be noted that in the majority of cases where an AO is not appointed, this is because the complainant does not want such assistance. From the SCC's oversight this may account for the lower percentage of AOs appointed in the RAF, many officers feeling confident they can draft their complaint without any assistance. However in the RAF there appears to be an increase in complainants not offered an AO, (20 % of those where an AO was not appointed, compared to 1 % in 2010). The RAF needs to ensure that all Commanding Officers know of the requirement to offer assistance. The lower figures in the Navy may reflect the use of the Navy's Divisional Officer system, which provides personnel with the support of an Officer on a range of matters. The Navy however has the highest percentage of cases where it is not known if an AO was offered.

Table 3c: Service complaints in 2011 – 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	119	173	111	33	9	2	18	4
Level 2		51	20	13 ¹³	6	1	10	5
Level 3 Total	39 ¹⁴	49	31	1	3	0	14	(0)
Of which Service Board					0	0	0	
Of which SCP with Independent member					1	0	7	
Of which SCP					2	0	7	

¹³ One case was stayed awaiting the outcome of a medical treatment complaint and one case was transferred to the Army.

¹⁴ 34 of these are Service Complaints.

Table 4: Percentage of all complaints worked on during 2011 where an AO was:

	RN	Army	RAF
Appointed	36 %	72 %	54 %
Not appointed	32 %	19 %	29 %
Of which AO not offered	3 %	6 %	20 %
Of which AO declined	97 %	94 %	80 %
New case (less than 10 days old)	0	2 %	1 %
Not Known	32 % ¹⁵	7 %	16 %

The AFCAS surveys ask those who have made a complaint about discrimination, harassment or bullying about their satisfaction with their AO. AFCAS 2011 reported 36 % being satisfied and 41 % dissatisfied, a decrease in satisfaction from 52 % in AFCAS 2010. (In AFCAS 2011 18 % reported not having an AO). The SCC's Annual Report 2010 commented on the value a good AO can make to the confidence in the Service complaints system of the complainant and, (where there is one), the person complained about, and to the resolution of a Service complaint. During 2011, a number of complainants and AOs expressed the view that more should be done to train or support AOs, many of whom were appointed without what they felt was the necessary experience or guidance. A number of AOs felt there was a lack of clarity as to whether an AO was there to support the individual (including being able to challenge the chain of command when they felt that a complaint was being mis-handled) or to act as a tool of management, for example to persuade an individual to withdraw or shape a complaint in the way the chain of command thought it should be drafted.

The Army's guidance for speedier handling, which involves the AO(s) (but not the parties) in the initial case conference, appears to have added to this confusion.

Recommendation 11.5

I recommend that the role of the Assisting Officer (AO) be reviewed and clarified as part of the action following the Review of the Service complaints system. This review should consider the criteria for selection being used by the Services and the possibility of better guidance and/or training.

Outcomes and Appeal Rates

Table 5 shows rate of cases upheld and partially upheld by the Services. The figures for the Navy at Level 1 and Level 2 cannot be compared to the previous year, for the reasons explained above. Whilst there are differences year on year the overall pattern is similar to last year. The Army has the highest upheld rate at Level 1 and, when partially upheld decision are included, at Level 3. The Army has the highest appeal rate from Level 2 to 3.

Table 5: Cases upheld or partially upheld as a percentage of all cases decided during 2011 by Service and Level

	RN		Army		RAF	
	Upheld	Upheld & Partially upheld	Upheld	Upheld & Partially upheld	Upheld	Upheld & Partially upheld
Level 1	17 %	31 %	36 %	42 %	23 %	38 %
Level 2	38 %	72 %	19 %	32 %	35 %	42 %
Level 3	0	50 %	11 %	39 %	18 %	18 %

Table 6: Percentage of not upheld or partially upheld decision referred to a higher authority

	Level 1-2(3)		Level 2-3		Petitions to the Sovereign		Claims to ET	
	2010	2011	2010	2011	2010	2011	2010	2011
RN	n/k	37 %	32 %	21 %		0	7	2
Army	61 %	51 %	76 %	76 %		3	39	15
RAF	60 %	20 %	62 %	45 %		0	6	6

¹⁵ This is because JPA does not require information about AOs to be recorded although the "Other Related Objects" category on JPA can be used to record free text information about AOs.

Timeliness and Delay

In 2008 the SCC set a three year goal for the Services to achieve a decision on 90 % of Service complaints within the timings envisaged in guidance JSP831. At Level 1 this was 30 working days. Whilst keeping that as the three year goal, in late 2009 the MOD and Services agreed more generous, and, at that stage, what was felt to be more realistic goals. These differentiated between cases deemed to be simple and those which were more complex:

- Level 1: 80 % of non-complex cases to be completed within 60 working days; complex or multiple complaints within 120 working days
- Level 2: 80 % of non-complex to be completed within 30 working days; complex or multiple complaints within 60 working days
- Level 3: 70 % of all types of complaints to be completed within 70 working days.

Table 7 shows the Services performance against these targets for cases which have been decided. The table also therefore shows the percentage of cases by Service

and level which have been decided. The story this table tells is complicated. The Navy appears to be meeting time targets at Level 1 and deciding a majority of its cases at this level, although it is to be noted that a over a fifth of Level 1 cases were sent to Level 2 for decision and redress. It has made a decision on the majority of cases at Level 2 but not within the tighter time targets set at this level.¹⁶ It has not met the time target at Level 3.

The Army has almost met the time targets at Level 1 where a decision has been made but these decided cases account for just over a third of cases. Decisions have been made in just over half of Level 2 cases but not within time targets. None of the cases decided at Level 3 were made within the target times.

The RAF has also nearly met the time targets at Level 1 but made decisions in less than two fifths of cases. It has the best performance at Level 2 of the three Services and the least number of cases at Level 3 which have been in the system for over a year.

Table 7: Performance of the Services against agreed timeliness targets

Service	Percentage time targets met – Simple/Complex	Percentage decided	Numbers of undecided complaints submitted before 1/1/11
Navy			
Level 1	68 % / 78 % ¹⁷	67 % ¹⁸	0
Level 2	12 % / 34 %	61 %	4 ¹⁹
Level 3	25 %	13 %	17 ²⁰
Army			
Level 1	70 % / 75 %	35 %	94
Level 2	11 % / 25 %	52 %	24
Level 3	0 %	36 % (includes some which by-passed Level 2)	85
RAF			
Level 1	67 % / 89 %	38 %	16
Level 2	38 % / 80 %	60 %	1
Level 3	67 %	27 %	3

¹⁶ The tighter time targets at Level 2 were set on the assumption that this would be a review stage. For some of the Navy cases referred to Level 2 by the CO for redress this may not be the case. The approach of the SCC's new 3 year goal, i.e. giving an outer time limit for resolution of a complaint, however it is resolved, provides more flexibility and may be particularly appropriate for Naval cases.

¹⁷ These figures include the 51 cases which were referred to a higher authority as being outside the Level 1 authority to redress.

¹⁸ This figure includes the 51 cases as above, although no decision was made at Level 1. Excluding the 51 the figure drops to 46 % of complainants whose case was decided at Level 1.

¹⁹ Of which 3 have been at this level for over 2 years.

²⁰ Of which 8 have been at this level for over 2 years.

Conclusion

The data provided by the Services shows the impact of action taken by the Services and those in the Service secretariats managing Service complaints to identify and remedy problem areas. Having an informed, knowledgeable chain of command, supported by the central secretariat expertise, can resolve Service complaints quickly and effectively, releasing resources for more complex complaints. Dealing with all complaints well and in a timely fashion, reduces the numbers of those seeking a review by higher authority and increases confidence in the system and the chain of command.

There have been some improvements, particularly in the Navy and RAF, in resolving more complaints informally and, in all Services, in the percentages of decided complaints for which a decision is made within the time targets. Despite this there are still delays, in the Army and RAF at Level 1 and in the Navy and Army at Level 3. The numbers of cases at Level 3 which have been in the system for more than a year has worsened in all Services but significantly so in the Navy and the Army.

Because of the delays, I do not assess the Service complaints system to be yet operating efficiently, effectively or fairly. How this situation can be remedied is the subject of the Review of the Service complaints system currently being undertaken by the MOD and Services.

Case Study D

Cpl D wrote to me in 2011 to complain that she had been wrongly denied promotion. She explained that, having passed a promotion board in 2010, she was informed that she had to have a particular qualification before she could apply for a posting as a Sergeant. She applied for the two week course which would lead to the necessary qualification and obtained this in 2011. However there was a two month delay in receiving her course report. When she contacted me a year after the promotion board, she had not been promoted, as had others who had passed the course with her. Cpl D was concerned about loss of seniority and backdating of pay.

Nine days after my referral (and only 3 days after the unit had received it), an Investigating Officer met Cpl D, with her Assisting Officer, to hear and understand her concerns. He was able to explain that he was aware of the problem and outlined the action her unit had been taking. The unit had made her application for promotion and overcome an initial obstacle of which she had been unaware. They had arranged for her application to be considered by a special promotion board in the following few days. The Investigating Officer said that if her concerns were not resolved within 10 working days, he would interview her again with a view to her submitting a formal Service complaint.

Five days later, the unit confirmed that the promotion board had sat and that Cpl D had been promoted to Sergeant.



This chapter:

- considers action taken on the recommendations in the SCC's Annual Report 2010;
- assesses the progress and interim findings of the Review undertaken by the MOD and Services;
- reviews and re-affirms the SCC's recommendations for change;
- examines the case for change.

My 2010 Annual Report reported on the workings of my office and the Service complaints system that year. I concluded that whilst there had been some real progress, particularly in the handling of simpler cases, I could not give an assurance that the Service complaints system was working efficiently, effectively or fairly. Despite some significant developments, delay remained a key barrier. While there had been efforts to deal with older cases that remained in the system, complaints were still dealt with too slowly and many remained unresolved for more than a year.

I pointed out that delay was inefficient because a failure to grip a complaint early, led to a loss of confidence by all concerned, a hardening of positions and less willingness to accept decisions, if the complaint was rejected or only partially upheld.

Delay was ineffective, because it reduced the opportunities for rectifying any problems highlighted; and because the anxiety and stress caused could have

an adverse impact on operational effectiveness of the individuals involved. In a number of the cases under my oversight, this delay had led to request for early release of individuals working in shortage areas, such as defence medicine.

Delay could also lead to unfairness, for example where a complaint was eventually upheld but the opportunity had been lost to put the individuals back into the position where he or she should have been.

I reviewed the performance of the Services and the Service complaint system against a set of three year goals I had set soon after taking up my appointment. On the basis of my assessment against those goals, and taking into consideration my oversight of Service complaint cases I had referred to the Services for handling, I concluded that the complexity of the Service complaint process, designed to ensure fairness for all parties, was having the opposite effect.



The SCC visits HMS President, November 2011

I considered the sustainability of the Service complaints system, in the light of reductions in personnel after the Strategic Defence and Security Review (SDSR). The changes being implemented following the SDSR had the potential to put the Service complaints system under real pressure. I concluded that the Service complaint system was at a critical point and needed to be streamlined, if it was to act as an effective way to support change and sustain the confidence and operational effectiveness of those who serve.

I recommended that the MOD and Services should undertake a fundamental review of the Service complaints system during 2011, with a view to simplifying it and eliminating delay.

I also recommended that the powers of the SCC should be included in that review. In too many cases under SCC oversight, I had been powerless to prevent delay, unnecessary complications or injustice.

Having considered four possible models for change, I concluded that moving to an Armed Forces Ombudsman would be the most efficient and effective form of independent oversight and would enable the SCC to act to ensure fairness in individual cases without undermining the chain of command.

Fundamental Review of the Service Complaints system

The MOD's approach

During 2011, the MOD started a three part Review aimed at better understanding if delay is inherent in the design of the current Service complaints system and if it is over-engineered. First they undertook a number of workshops with personnel from the Secretariats who oversee and advise the Services at Navy, Army and RAF Headquarters to map the existing processes, to identify where there might be particular problems causing delay. This led to a number of changes, detailed below.

They also started a cohort study, tracking all Service complaints recorded on JPA in the first 6 months of 2011. Each Service had made changes in 2010 or early 2011, following recommendations in the SCC's Annual Reports, and identified at their own continuous

improvement events, in the role and configuration of the Service secretariats, to improve their oversight of and advice on the handling of Service Complaints. It was deemed appropriate to examine the performance of the system with regard to complaints brought after these changes had been made, distinguishing them from those cases which had been brought before the beginning of 2011, as complaints handled from 2011 should benefit from those changes giving a better understanding of their effectiveness.

The review of that cohort was to be refreshed monthly. A second cohort (1 Jul 11 – 31 Dec 11) would be added to the review for the first time in January 2012 and refreshed monthly thereafter. The MOD would also conduct detailed analysis of individual complaints from the 2011 cohorts to understand their nature and content, the manner in which they are handled by each Service, and to determine whether problems thereby identified were as a result of system design or of implementation.

A third stage of the review was to benchmark the Service Complaints system against and consider alternative approaches, looking particularly at the Armed Forces in Australia, Canada and Ireland and the MOD's own grievance procedure for civil servants. They also started work to assess the implications of reform from a legal perspective. Moving to a 2-level process, as in the MOD Grievance system, might require changes, for instance in the points in the chain of command able to grant redress, which in a Service context could have wider implications.

All three aspects of the Review were intended to come together by April 2012. At that point it was hoped the MOD would have a full understanding of the issues, have determined a way forward, decided what changes could be made within current legislative framework and what would require changes to primary or secondary legislation and timelines on the possible options for reform.

The MOD now intends to address in May 2012, the 10 recommendations made in my Annual Report 2010 which were dependent on the outcome of the Review. The recommendations included simplification of the Service complaints system and changes to the role of the Service Complaints Commissioner.

SCC's involvement in the MOD Review

The MOD consulted the SCC on the approach and how to involve the SCC's office in the review. They gave an assurance that the SCC's participation would not fetter my independence, for example in making an assessment in this Annual Report. I welcomed the Review and supported any work to consider seriously if and how the system could be made to work more efficiently, effectively and fairly. I was not wedded to any particular outcome. My past professional experience and the unique insight I had gained from three full years, oversight of the Service complaints system and from discussion with a wide variety of Service personnel, on visits, on senior training courses and with members of the Service Boards, had led me to believe the system should and could be simplified and improved.

I expressed concern about the approach and methodology. Whilst process mapping was a valuable tool, I had participated in two events, (hosted by the Navy and RAF) which had led to the improvements put in place by 2011. More fundamentally it seemed to me that starting by focussing on the current system would inevitably impair the ability to ask what I perceived to be necessary and more fruitful questions: for example, what is the Service complaints system for; what type of personnel or complaints need the highest levels of protection, in the light of the inability of Service personnel to protect their employment rights in the same way as other employees. By considering what an ideal system might look like in the light of thinking about these fundamental questions, the Services might be able to see new possibilities for efficiency and effectiveness savings, when they undertook the process mapping of the current system.

The cohort study seemed to me a good initiative. It was an appropriate mechanism for the policy unit in the MOD to understand exactly what was happening in the Services, providing the opportunity to identify what worked, where the problems might be and to share potential solutions. I am pleased they intend to continue the study and to extend it to include all cases brought in 2011.

My major concerns were about the viability of the study to produce meaningful answers in a reasonable time frame. I had doubts about the target date of April 2012, given the information supplied to me by the Army in September 2011, that they did not expect to have cleared all complaints waiting at Army Board level at August 2011, (i.e. excluding the study cohort) until the end of August 2013.

Waiting until the end of 2013 before coming to any conclusions on whether there was a need for a change, would fit in conveniently with what I was told was the next legislative vehicle for change – the Armed Forces Bill 2015. However, such a delay, did not seem to me to be fair to those Servicemen and Servicewomen, who made a complaint or who were the subject of complaint, if, as a result, they suffered avoidable delay. Similarly nor would it be acceptable to prioritise the 2011 cohort above those who had made a Service complaint in earlier years given they had already waited a long time (as is shown in Table 7 these numbers increased during 2011).

Finally, I was also concerned that the approach being taken would not take account of the issue of sustainability after the programmes of redundancies, both in the Services and the civil service. The first round of redundancies were not announced until the second half of the year and are only now beginning to bite. The selection criteria for the second rounds of redundancies may now include those who are most closely involved in the handling of the Service complaint system.

I explained these reservations and agreed to contribute to the Review when asked.

MOD Findings to date

The Review will not conclude until May 2012. Nevertheless a number of changes have already been made which go to the issue of delay and fairness. I welcome these.

The workshops, held as part of the Review, identified a number of improvements, which include changes in authority levels within the Army, designed to resolve at Level 2 the most numerous category of complaints about terms and conditions. The Navy made changes in 2011 at Level 2 which have resulted in the improvements reported in Chapter 1. They are providing additional legal resources at Levels 1 and 3 during 2012 and bringing those personnel who lead on equality and diversity complaints for the Navy under DNLS command. Given the improvements made during 2011 at Level 2 in the resolution of Service complaints the Navy may wish to give the 2012 changes time to bed in before coming to any decision on whether the current Service complaints system cannot be made to work in the Naval context.

New arrangements for the investigation of complaints of bullying and harassment are also due to be introduced in 2012. These were agreed following the SCC's Annual Report in 2009 and a subsequent cost benefit analysis by the MOD. From February 2012, the first cohort of 22 especially selected and trained fee earner Harassment Investigation Officers, (HIOs) will be available to all three Services and MOD, to investigate such complaints. The new HIOs will be recruited from retired Service or civil service personnel and paid on a call off basis. The full operating capacity of dedicated 50 HIOs is expected to be in place by August 2012. This will replace the previous arrangement whereby HIOs had to undertake such investigation on top of their day job, a major cause of delay in the handling of such Service complaints.

The Armed Forces Act 2011 provides for Service Complaint Panels made up of all independent members to sit in certain cases. The programme of work to refine the policy issues and draft Regulations made under the Act was being formalised at the start of 2012. The SCC is working with the MOD and Services on the potential application of the new arrangements, for example in relation to complaints about Service police. The recruitment of additional independent members for SCPs has been delayed by staffing the Review but is due to take place in spring 2012.

Review of the SCC's powers

The problem

In my Annual Report for 2010 I outlined the lack of powers the SCC had if, when overseeing a case, I spotted potential defects in handling. I was also powerless to prevent delays. Having raised my concerns in 2009 about this failure, the MOD and Services were then of the view that to enable the SCC to raise concerns would bring the SCC into the process and could interfere with the primacy of the chain of command in decision making. Nevertheless, if a procedural defect spotted by the SCC was not rectified in the appeal process, the SCC had no other means to ensure fairness.

The Services appeared to be comfortable with the SCC asking questions, but if I was not satisfied with the answers, or there was no answer or no corrective action, there was nothing the SCC could do. In one case, the defect in process I identified soon after I took oversight was not corrected for nearly three years. The case was not completed until 2011 and therefore not able to be included as a case study in the 2010 Annual Report.

Case Study E

A Service complaint was made in early 2008 about the lack of opportunity provided to a Service person who had been required to go back a group in the training year and repeat certain key tests. He felt insufficient account had been given to the severe disruption caused to his training by illness and injury and insufficient support given on his return to training. As a result of his failure to pass these tests, a decision had been taken to withdraw him from his chosen trade and to transfer him to another trade. His family approached me when attempts to get the matter resolved informally and speedily had been unsuccessful.

It seemed to me that the complaints procedure was not being followed correctly. I raised concerns about the way the complaint was being handled, including the lack of any investigation into the allegations of what had occurred at the training unit. This had no effect.

Despite my raising concerns periodically over the next few years, the case was only resolved two and a half years later when those making the decision at Level 3 upheld nearly all of the Service complaint. They also recommended a review of key aspects of policy and training processes which gave rise to the complaint and into the handling of the complaint at the different levels.

Had the SCC had powers to intervene to correct the handling of the complaint within the first few months, a huge amount of staff time in that Service and personal stress to the individuals involved may have been saved.

In my Annual Report 2010, I considered four options for improving the SCC's powers to ensure individuals, were treated fairly. These were:

- 1 Strengthening the oversight model
- 2 Introducing a supervisory role
- 3 Introducing independent investigation of Service complaints or particular types of complaints
- 4 Introducing an external Review of complaint cases – the Ombudsman model.

I concluded, for reasons given in detail in the report, that the most efficient and effective model was an Armed Forces Ombudsman. This best protected the authority of the chain of command and fairness to individuals (complainants and those complained about) was an Armed Forces Ombudsman. The Ombudsman would not oversee Service complaints whilst they were in the system. However he or she would have powers of review at the completion of the internal decision making (or earlier in cases of unexplained and persistent gross delay). The Ombudsman's powers would be similar to the Parliamentary and Health Ombudsman, focusing on the proper application of process and making recommendations for redress.

However I recommended that these four models should be considered as part of the fundamental review, not least because of the inter-relation between the protections provided by external oversight and the internal protections provided within the current system. Any simplification of the current system might require a different configuration of those protections. This could influence the role of the SCC. Some changes, including a move to an Armed Forces Ombudsman, would need primary legislation.

For these reasons, I recommended a number of improvements under Option 1 one of which appeared to me could be made without legislation. Some of the changes under Option 1 of the 2010 Report would require legislation – see page 68 of that report. These included allowing me to pass onto the chain of command any allegation made, whether of prescribed behaviour or other type of complaint, without any consideration of timeliness or whether, for any other reason, it was likely to be accepted by the chain of command. The enquiries my staff make at the initial stage to obtain the information on which I can exercise my discretion can be very time consuming, jeopardising the three month time limit for the complainant to make a Service complaint following referral. Instead of making enquiries and, in effect, second guessing the chain of command, sometimes on limited information, I recommended that my focus should be only on those complaints the chain of command rejected. This would have three benefits.

It would give the chain of command greater freedom to reject complaints they thought were vexatious, out of time or not acceptable for any other reason. It would

also, in the interests of fairness, give the complainant an independent review of that decision. Finally it would close a loophole which prevents a former Service person, whose complaint is rejected after they had left the Service from appealing the decision. This is because the Armed Forces Act 2006 changed the mechanism for appeal from a request for higher review to a new Service complaint. In a number of cases the decision to reject as being out of time has been made months or even years after the complaint was made. Where that individual has left the Service, he or she has no right of appeal. Some complainants lost confidence in the process and indeed the Service they had served with pride because they believed the delay was deliberate.

"The case took well over two years to come to a conclusion. On investigating why it took so long the answer came back that the officers dealing with complaints such as mine were extremely busy. I am trying not to be too cynical, but the truth may be that those responsible for processing the case may have been waiting for me to leave the Service with a view that out of sight was out of mind. If this was so, then they succeeded as the results of my case were finally disclosed 3 months after my discharge date.

If this is the way the Army is treating officers and soldiers, who have the moral courage to make genuine Service Complaints, then in my opinion the system requires a complete review and I have no regret leaving the employment of an organisation that values its people so little."

I also recommended that where it appeared to the SCC that there was a defect of process or unreasonable delay, the SCC could ask the Service and chain of command for information. If the SCC was satisfied with the explanation or proposed handling, the SCC would take no further action. If the response was judged to be inadequate or there was no reply, the SCC could make a recommendation for action, within a specified time. The SCC would then escalate any unsatisfactory response to Service Chiefs and ultimately Ministers. The power of recommendation could include a referral to a higher authority in appropriate cases, such as perceived conflict of interest and also a recommendation of referral to a Service Complaint Panel with independent members.

MOD's interim conclusions

Although most decisions on simplification and the role of the Service Complaints Commissioner will await the outcome of the Review in May 2012, the MOD and Services came to a conclusion on three options for strengthening the SCC's oversight model. These were that:

- The SCC should refer all allegations without further scrutiny
- The SCC should instead focus her scrutiny and resources on those few complaints which the Services reject as being out of time, vexatious or malicious and act as the final independent arbiter as to whether these enter the Service complaints system
- The SCC should be able to intervene where she believes there is overt maladministration in the process being applied to service complaints under her oversight.

The SCC should refer all allegations without further scrutiny

At a workshop in October 2011, at which the SCC was not represented, the MOD and Services concluded that the SCC provides an independent filter for and visibility of allegations received from those who, for whatever reason do not want or do not feel able to approach the chain of command directly. This would be lost if all allegations were simply referred without the SCC making an assessment as to whether there appeared to be something in the allegations presented and which may involve a prescribed matter. The Review was not convinced that transferring the SCC's work, and therefore the risk of scrutinising the allegations and seeking further information, would offer savings in terms of time. It would transfer work to the Service secretariats who were already under significant time constraints. Given that assessment the MOD did not support the proposal.

I accept this decision but will keep under review whether there is a duplication of effort. I believe there is an inconsistency of approach and thinking. The Services are clear with complainants that making a complaint to the SCC is not the making of a Service complaint. Complainants have to complete a Service form (to be found at Annex F to JSP831). The chain of command will need to make their own assessment of the complaint and often ask the complainant to redraft or modify their Annex F. In some cases contact with the SCC's office may assist the complainant to focus on the essence of the complaint but the chain of command is not bound in any way by the SCC's assessment.

There also remains a problem in some cases with regard to time limits. Under the Armed Forces Act 2006 the three month deadline for submission of a Service complaint cannot be stopped by an approach to the SCC; only by the submission of a completed Annex F or a signed and dated notification of wish to make a complaint. Although my office tries to prioritise such complaints, we are unable always to refer those who approach us towards the end of the three month period, especially at very busy times or when complainants are vulnerable or fear victimisation and require re-assurance to pursue their complaint.

Recommendation 11.6

I recommend that, if the SCC retains discretion to refer, the rules about notification of a complaint be amended to include notification to the SCC or agreement be given to stop the clock for the period of time the SCC has taken to make these enquiries.



The SCC should instead focus on complaints not accepted into the system

In their response on this option the MOD focussed on potentially vexatious or malicious complaints, not on potential complaints rejected as being out of time. The MOD and Services agreed that vexatious or malicious complaints took up a disproportionate amount of time and effort from the Services but the Services assessed that they had dealt with up to 9 such cases over the previous year. They saw no advantage to the SCC's proposed approach in terms of time saved and concluded that the potential advantage for increased confidence in having an independent person make the final decision whether their complaint was accepted, was not sufficient to outweigh the disadvantage of the SCC becoming part of the decision making process.

The MOD did however propose some changes to process to limit complainants to be able to offer additional information only during the disclosure phase. This seems in principle a sensible approach and I will monitor the impact of the new approach over the next year.

I remain concerned at the way decisions to reject complaints have to be redressed, if a complainant believes there has been maladministration, particularly if it appears the decision whether to accept or reject a Service complaint has been delayed until the Service person has left the Service. In such cases there is no ability to challenge that decision, short of a costly application for judicial review. Complainants are understandably angry when it takes the Service over a year to decide to reject a complaint on the grounds that it was not made within 3 months.

It is right that the Services should be able to reject complaints that are clearly out of time, where there are no just and equitable reasons for doing otherwise. Indeed this is a key reason behind my decision, in a number of cases, not to refer a complaint to the chain of command. However a decision by the chain of command not to accept a complaint, should be made fairly and in a way that instils confidence in the system. I do not consider the current arrangements are able to always ensure fairness. I remain convinced that the recommendation I made in 2010, for an appeal to an independent person, is the most effective way to balance the interests of fairness and efficiency. I will continue to monitor this aspect.

The SCC should be able to raise questions about maladministration of process

The MOD was persuaded by the advantages to them and Service personnel of this proposal.

The Review concluded that there was a strong argument for the SCC being able to comment on process, whilst the Service complaint was within the system. If there was to be any advantage for individuals contacting the SCC, then the SCC should be able to say that the process is not being followed correctly when it appears so to the SCC on the information she has before her. They were convinced that this could help to keep the individual on side if the SCC is able to influence positively the process (for example reducing the time taken to resolve the case or explain misunderstandings between the parties on process) and increase the complainant's confidence in the outcome, thereby reducing the potential for escalation.

The Review flagged up some potential risk – e.g. of additional work created by SCC's more active oversight of process and indeed of differences between the Service and the SCC on a point. However they agreed that a protocol should be put in place to formalise the current informal process. This would clarify what the SCC can offer (limited, as I proposed, to comment on process not merits of the case) how it will be treated by the Services (it is not evidence but should be considered fully by those handling the complaint and, at appropriate juncture, disclosed to relevant parties) and how the SCC will consider treatment of the response to that information when she audits the case after it has been closed.

I welcome the agreement to the proposal I made in 2009 and will work with the MOD and Services on the suggested protocol, which I believe should also include some means for assessing the impact of the SCC on the improved administration of the Service complaints process. In that context it will be important to try to assess whether this has any impact on delay.

My intervention in a small number of cases this year, has led to a swifter resolution than would otherwise have been the case. In most cases, however, it has not, because of the size of backlogs in the system and lack of resources to resolve them.

Conclusions

I am satisfied that the Services have put a lot of effort into trying to make the current system work. As discussed in Chapter 1, the changes made by the Services in the way they manage and approach Service complaints have led to some improvements, which give a glimpse of how the system should be operating. The question is whether these can be sustained across the Services, given the demands on Service and departmental resources.

Delay remains an issue for all services, although the points and causes of delay vary Service by Service. The delays in the Navy and RAF raise particular concerns about sustainability of the current system. By 2009, both Services had removed the backlog of pre- 2008 redress of complaints. The numbers of Service complaints awaiting decision at that level in the Navy has crept back up, due to demands on resources. The Navy will now devote extra resources, as it has done at Level 2 to good effect during 2011. It hopes that this will enable it to get the system onto a sustainable footing, particularly focusing on prevention by use of continuous improvement and culture change. For the RAF, the pinch point has been at Level 1, with competing demands on regional lawyers during 2011. They face other resource pressures in the management of complaints.

The Army appears to face the most difficult challenges, not simply in relation to Service complaints made before 2011, but also, because of the size of the backlog at Level 3, in relation to those cases made in 2011. This has the potential to jeopardise the methodology being used by the Review.

The Army has plans to temporarily increase the numbers of Brigadier members of SCPs. The MOD also plans to advertise in 2012 for Independent SCP members, (replacing the fourth Independent member who chose not to renew his contract in March 2011) and appointing two additional members. The MOD do not believe that having a fourth Independent member would have affected the closure rate during 2011.

The Services face new challenges in 2012, not least from the redundancy programmes, which may increase the numbers of Service complaints and stretch resources able to deal with them. In the Service complaints related to redundancy I referred in 2011 I raised a number of issues about consistency of handling across the Services.

The RAF answered one question by using the same SCP, with an independent member, to decide the Service complaints from all the trainee pilots who were contesting the decision to select them for redundancy. The use of an independent member has not been agreed for all SCPs contesting selection for redundancy.

Recommendation 11.7

Given that Service personnel do to have the right to make a claim to an Employment Tribunal (ET) about unfair selection for redundancy, and in the light of the provisions in the Armed Forces Act 2011 for fully independent member Service Complaint Panels (SCPs), I recommend that the use of Independent members for redundancy related Service complaints should be considered by the Review as a matter of urgency. I also recommend that the Services consider the option of having a Tri-Service Defence SCP for redundancy related Service complaints.

Because of the backlogs in the Army, and to a lesser extent in the Navy, there appears to be a risk of unfairness stemming from inconsistency in timeliness of deciding such complaints. In 2011, in two cases under my oversight a decision for re-instatement was made a couple of years after the individual had left the Service.

In the Service context, a decision to terminate an individual's service, for whatever reason can disrupt a whole family. A decision, over- turning that discharge, made after the person has left the Service, can cause further disruption to family life. One Service wife wrote to me after her husband had been told that it was likely his complaint about an alleged error in termination date would not be heard until after he had left the service. She was outraged by the Services' assumption that the delay would not matter as, if his complaint was upheld, he could be re-instated.

"I should be grateful if someone could explain to me: why it is that a single body is entitled to dismiss an individual allegedly wrongfully and then use its own errors and delays to ensure that that individual is unable to redress that matter internally within the organisation while expecting him not to seek a remedy outside of it; and how it is that in a situation in which a branch of the executive is assuming the role of the judiciary through its own internal procedures it is entitled then to fail to perform that judicial function according to its own regulations which stipulate acceptable timelines."

The issue of timely handling does not simply raise a risk for the Service complaints system that justice delayed will mean justice denied. It also appears to be an issue for the Armed Forces Covenant.

I will consider very carefully the conclusions of the Government's review, due in May 2012 and report on the performance of the system at the end of the year. I will be looking for action on proposals to remove current backlogs and to ensure that no Servicemen or Servicewomen suffer delay for the future. If there is no significant improvement this year, I will revisit the options I set out in my 2010 Annual Report.





This chapter:

- reports on progress towards achieving new three year goals by 2012.

In 2010, I set new simplified three year goals for the MOD and Services, which took account of the experience of the first three years of the new Service Complaints system. These recognised the changes in infrastructure put into place within the Services and the differences between Services in organisation and culture. They also reflected the different relationship I believed was appropriate for the second three years of the Service Complaints Commissioner role. Having given advice and recommendations at a more tactical level, appropriate to what I found on taking up office, I believed my role should be more strategic. The four three year goals focus on outcomes and give the MOD and Services flexibility about how these should be achieved.

Goals for the Service Complaints system 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

Progress against these four goals is reported within this chapter. In my Annual Report for 2013, I will assess the extent to which they have been met.

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

In my Annual Report 2010 I gave examples of the evidence I would be considering as part of my assessment each year of progress under this objective. This is set out in the table below.

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

Evidence to be considered to include:

- | | |
|--|--|
| <ul style="list-style-type: none"> • Prioritisation at unit level to deal with complaints quickly and properly • Good and regular communication with all parties • Use of mediation and other informal resolution • Comprehensive offer of Assisting Officers of good quality • Vexatious complaints identified and turned off fairly • Complaints heard at the appropriate level for resolution | <ul style="list-style-type: none"> • Good quality and proportionate investigations • Time targets that are monitored so that Services know where the problems are • Reasoned decisions • Escalation rates • Use of SCPs with independent members • Numbers of outstanding cases at each level by length of time in the system • Impact of action taken by the MOD/Services on recommendations made by the SCC |
|--|--|

Timeliness and Delay

Table 7 in Chapter 1 reports on the Services' performance of deciding cases against current agreed time targets and the percentage of cases dealt with during the year that were decided by the end of the year. Table 6 reports on the appeal rates. The evidence presented in this Report is that there are pockets of good practice, in all three Services, which, if embedded across the Services, should lead them to achieve the three year goal.

There appear to me to be three key stumbling blocks:

- the levels of backlogs which are causing delays;
- the sustainability of levels of resources which appear to be needed to make the current system work; and
- the time taken to implement measures designed to improve more timely resolution, such as the new cadre of HIOs and additional Independent SCP members.

The cohort study, being undertaken as part of the Review of the Service complaints system, will provide information about how each Service handles Service complaints (at least for Levels 1 and 2) and offer the opportunity to identify pinch points and action to address these. The changes in handling arrangements outlined in chapter 2 are designed to also remove unnecessary delay. The MOD hopes to be in a position, by May 2012, to consider if further changes may be needed.

The target set out under this goal (90 % of complaints completed within 24 weeks) aims to provide the Services with flexibility to handle Service complaints as appropriate to each case. For instance, it may be more efficient and effective to take a little longer at Level 1, if there is a good chance of resolution which will satisfy all parties and prevent further complaints or appeals. A simplified target overcomes the complexity of the current targets which distinguish between types of complaint. However, the aim is to ensure that most complaints are resolved within 6 months, wherever that resolution takes place.

A new pan-Government civilian HR expert service is currently working to identify best practice, which Departments can adopt to update existing policies. A best practice framework for principles for Grievance and Discipline procedure is due to be produced by mid 2012. The MOD intends to consider how this work might inform further improvement of the Service complaint system and assist in the achievement of this three year goal. Similar work is also planned on mediation.

If this work can inform the Review in a timely fashion, it may be useful. I would have concerns if the need to await its conclusions delayed the Review. One reason for choosing 24 weeks as the target for completion of a Service complaint was that this is the benchmark in other complaint systems within Defence, including the MOD civil service grievance process. By comparison, the minimum period of time under the current Service complaint system is 50 weeks, (assuming the time periods for the various levels set out in the guidance JSP 831 and not the later more generous time targets).²¹ The Review may be able to make good progress by referring to the ACAS Principles for Discipline and Grievance Procedures, whilst they await conclusions on the civil service project.

Levels of confidence/satisfaction

As reported in Chapter 1, the Services' returns on Service complaints and cases under the SCC's oversight in 2011 show an increase in informal resolution and a drop in appeal rates. This is a move in the right direction if, as it appears from a number of responses to the SCC, this reflects genuine satisfaction in the way the complaint has been handled. One of the aims of the first three year goals was to focus Service attention on getting complaints "right first time". This did not mean that every complaint would be upheld, even in part. It did mean that whatever the outcome, the way it was handled led to complainants being satisfied that their complaint had been taken seriously and handled fairly. During 2011 I received an increased number of requests from Service personnel whose complaint had exhausted the Service complaints system, who wanted an independent investigation of the way their complaint was handled. This is outside my powers.

Timeliness is an important factor in this respect. The longer a complaint takes to get a decision the less likely a complainant is to accept a decision that did not meet all his or her original hopes or expectations. Timeliness is also a factor in the response of persons complained about, who have the right to raise complaints of their own at the end of the process. I have received a small but increased number of contacts and potential complaints from such individuals during 2011.

There appears however to be a reduction in the number of claims made to Employment Tribunals (ET) in 2011, see Table 6. In the past, complainants have told me that they only went to the ET because of the unresponsiveness and delay of the Service complaints system. Whilst it is not possible to draw any causal link, without further investigation, a downward trend in ET claims may also be an indication of increasing confidence in the Service complaints system.

I will monitor these trends, with a hope to see further improvement in 2012.

²¹ The other reason is linked to the unique position of Service personnel. They have 6 months to make a claim to an ET but must also first make a Service complaint.

By contrast, AFCAS surveys 2009 - 2011 show steady decreases in satisfaction rates (and increases in dissatisfaction) for the objectivity and fairness in the way Service complaints are handled, timeliness, and about the outcome.²² After a dip in satisfaction in 2010, AFCAS 2011 shows an increase in satisfaction with communication about the progress of the complaint. As the field work for AFCAS 2011 took place in the first half of the year, it may be that the impact of work to improve timeliness and quality of decision making had not yet been fully felt. I will review the results of AFCAS 2012 on this point.



The SCC visits Commando Training Centre Royal Marines, November 2011

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

In my Annual Report 2010 I gave examples of the evidence I would be considering as part of my assessment each year of progress under this objective. This is set out in the table below.

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

Evidence to be considered to include:

- Reports in AFCAS and RTS surveys of incidence of all types of improper behaviour and number of complaints from trainees, minorities within the Services, those in joint environments and reservists working with regular personnel
- Reports in AFCAS and RTS surveys on the willingness of Service personnel to make formal and informal complaints
- Complaints about how Service personnel or members of their family have been treated because they made a complaint
- Evidence of action being taken to tackle the causes of complaints
- Evidence of learning from complaints and action being taken to tackle the causes of indirect discrimination
- Impact of action taken by the MOD/Services on recommendations made by the SCC

Every year the MOD surveys a significant proportion of Service personnel on a range of matters concerning their Service life. The Armed Forces Continuous Attitude Survey (AFCAS) includes a section on fairness and diversity, asking questions about experience of discrimination and harassment and bullying, knowledge of how to get information about how to complain and, since 2008, understanding of the SCC role. The SCC's Annual Reports have provided information from the AFCAS surveys as a baseline on which to measure trends in relation to incidence of discrimination,

harassment and bullying, bad treatment and use of the Service complaints system to resolve such problems. The SCC's Annual Report 2010 gave information about the AFCAS 2009, the survey that was available by February 2011, when the 2010 report was printed.

Two AFCAS surveys were published in 2011: AFCAS 2010 was published at the end of March and AFCAS 2011 in September. This report gives information primarily from AFCAS 2011, drawing on the earlier reports where appropriate to show trends.

²² It should be noted AFCAS findings relate only to complaints about bullying, discrimination and harassment complaints and that the numbers are small, as the question has been filtered to include only those who had experienced bullying etc in the previous 12 months and had made a formal complaint.

Levels of Discrimination, Harassment and Bullying

AFCAS 2009 reported a downward trend in those who say they had experienced discrimination, harassment and bullying but also a downward trend in those who had made a complaint about it. In 2008, I had set a three year goal to reduce the gap between the levels of anonymously reported improper treatment of this kind and the much lower levels of those who were prepared to make a complaint when it occurred. AFCAS 2010 changed the way the relevant questions were asked so that it was not possible to compare that year's findings with those of previous years. However compared to the 2010 findings, the 2011 AFCAS shows a downward trend in incidents of bad treatment.

The 2011 AFCAS showed that 9 % of respondents reported being the subject of discrimination, harassment or bullying in the previous 12 months (a 2 % drop since 2010 overall) and a 3 % drop in the Army. In 2011, the RAF had the highest levels of reports of such treatment 11 % and the Royal Marines the lowest 4 %. The Navy and the Army reported 10 % and 8 % respectively.

There were falls particularly in the levels of reported discrimination in the Royal Navy (a 1 % drop) and the Army (2 % drop), in levels of harassment (1 % in the Royal Navy and the Army). In 2011 only 4 % of Service personnel said they had experienced discrimination (for any reason), 2 % reported being the subject of harassment and 2 % bullying. The Navy and RAF had higher levels of reported discrimination than the other Services and the RAF the highest levels of reported bullying. A caveat has to be given that these results are based on low numbers and relate to people's perceptions of how they were treated. We know from other research²³ that there can be differences in how behaviour is regarded, both across groups and over time.

In 2011, there was no change from 2010 in the percentage (9 %) of those who had made a formal complaint about discrimination, harassment or bullying in the previous 12 months and had made a formal complaint. (In 2009 the percentage had been 6 %, a drop from 14 % in 2008). Within that overall static figure there were some changes within Services. For example in 2011, the Royal Navy had the highest percentage of those who had made a formal complaint (11 %, which represents a significant 7 % increase since 2009). 10 % of Army personnel and 9 % of Marines had done so, (a drop from 12 % in 2010). Only 5 %

of RAF had made a formal complaint, but the reason appears to be, at least in part, the higher percentage of RAF personnel who chose to resolve their complaint by mediation.

For the first time in 2010 AFCAS asked questions about the use of mediation and informal resolution.

In 2011, 6 % of RAF personnel said they had not made a formal complaint because they used mediation, compared to 3 % in the Royal Navy, 1 % in the Royal Marines and 4 % in the Army. The RAF has invested heavily in mediation training since 2008. It appears to be paying off. The Royal Navy has the highest use of other informal resolution, at 21 %, 16 % of Marines and 15 % of Army and RAF respondents said they resolved the situation informally.

The AFCAS surveys ask those who had experienced poor treatment but had not made a formal complaint for their reasons for not doing so. In AFCAS 2011 in all Services, a fifth of personnel said they considered the incident too minor to report. The Marines had the highest levels of those who said they did not make a complaint because they did not know what to do – 14 % compared to 9 % Royal Navy, 7 % RAF and 3 % Army. Combined with falling levels of awareness of the complaints process, this suggests that the Royal Marines need to continue their awareness programme.

The Royal Navy and Royal Marines had the highest percentages of those who said they did not make a formal complaint because of fear it would impact on career or workplace – 55 % and 53 % of their personnel giving this as a reason for not making a formal complaint. This compares with 49 % in the Army and 46 % in the RAF. The figure for Royal Naval Officers is particularly high – 65 %, which is an increase since 2010, albeit not one that is marked in the report as statistically significant. I discussed this aspect with the Navy Board during 2011, who are considering what action can be taken to tackle the causes of perception and to ensure that Naval personnel are not disadvantaged by bringing a complaint. I pointed out that the majority of complaints made by Naval personnel are about maladministration, not about behaviours of others, which may be more likely to brand an individual a trouble maker or someone who is not showing the necessary military resilience or fortitude. Naval personnel should therefore be less fearful of adverse consequences of making a complaint.

23 MOD Sexual Harassment Surveys 2007 and 2009.

It appears that the issue is cultural – the Navy had the highest percentage in AFCAS 2011 of those who gave being dissuaded from making a complaint as a reason for not doing so – 13 % Royal Navy and 12 % Royal Marines compared to 8 % Army and RAF. The Royal Navy had the highest percentage of those who ticked that they feared recriminations from the perpetrators 29 % compared to 24 % of Army personnel. The Royal Navy also had the highest percentage of those who ticked that they did not want to go through the complaints procedure. (24 % compared to 19 % for the Army and RAF and 18 % for the Royal Marines).

There may be learning the Army could share about how to reduce the fear of adverse consequences. The AFCAS 2011 shows a 14 % significant reduction since 2010 in Army personnel ticking this particular reason for not bringing a formal complaint.

In the 2009 AFCAS over half of those who did not make a formal complaint gave as the reason that they believed that nothing would be done. This remained the case in 2011 with 54 % given it as a reason. This is an 8 % increase since 2008. This remains a challenge for all the Services. The rates of those making a formal complaint when they believe they have suffered bullying, discrimination and harassment show only a small increase since 2009 and have not yet regained the levels reported in AFCAS 2008. This suggests that Service personnel are not fully convinced that the chain of command will tackle unacceptable behaviour if they make a Service complaint.



The SCC meets HRH The Prince of Wales at the COBSEO AGM, October 2011

Recruit Trainee Survey (RTS) Diversity findings for 2010

Recruit Trainees are asked to complete a survey at the end of Phase 1 and again at the end of Phase 2 training. The Recruit Training Survey for 2010 based on these returns was published in February 2012. Overall 12 % of Phase 1 recruit trainees and 8 % of phase 2 trainees reported being treated badly by staff and/or other trainees in 2010, in both cases a fall of 1 % since 2009. The RTS report for 2010 provides graphs²⁴ that suggest that the previous upward trend has been reversed. The Army have the highest levels of reported bad treatment at both levels and non white recruit trainees were more likely to report bad treatment than their white counterparts. Non white trainees were also more likely than white trainees to believe that the cause of the bad treatment was their race, colour or ethnic origin.

In the RTS 2009 fewer reports were made about bad treatment by staff than by other trainees (a reversal of the 2008 position). This has continued in RTS 2010, although there were increases compared to 2009 in reports of bad treatment by staff in the Army and RAF at phase 1 and from all Services at Phase 2. There were falls in the Navy and Army of those who reported bad treatment from other trainees at Phase 1 and across all Services in phase 2.

In all establishments the most commonly reported bad treatment is being made fun of or humiliated, (4.5 % of all phase 1 recruits), subject to verbal abuse (4.3 % of all Phase 1 recruits) or intimidated (3.1 % of all Phase 1 recruits). Around 1 % of phase 1 recruits said they had been the subject of physical violence. Being humiliated or being made fun of or verbal abuse was more likely to have come from other trainees. Army recruits were more likely to report bad treatment, in all forms than recruits to the other Services. Phase 2 trainees reported more bad treatment from other trainees than from staff.

I receive relatively few complaints about bad treatment from recruit trainees and usually through their parents. In 2011 I referred 6 cases, a number of which were dealt with quickly and sensitively after referral. The Services appear to have gripped complaints of poor treatment by staff particularly firmly. However any delay in the investigation of such complaints is unfair to those complained about and can damage confidence of the parents in the Service.

24 See the Recruit Trainee Survey Annual report: January 2010 to December 2010, Figure 59, page 90 and Figure 167, page 215.

The MOD returns and data on diversity complaints

In 2006 the MOD entered into an agreement with the then Equal Opportunities Commission (now succeeded by the Equalities and Human Rights Commission) to monitor and report annually on formal and informal complaints of discrimination, harassment and bullying in the Armed Forces. These are referred to here as diversity complaints. At that time there was no means for recording informal complaints. The Services were reluctant to record formal complaints on the then Service complaints module of JPA, which was felt to be not fit for purpose and not able to provide the requisite confidentiality. The MOD imposed a requirement on Commanding Officers to record such complaints within units and to review these every month. Commanding Officers made half yearly returns to the MOD, through their Services, from the unit records. Since 2008, the results of these returns have been published in the SCC's Annual Reports.

The revised JPA module, which went live on 31 December 2010, had provision for the recording of informal and formal Service complaints of all types, including those involving allegations of discrimination, harassment and bullying. As shown in Chapter 1 of this report, JPA records have not been the sole basis of the Services returns on Service complaints. The Services have also continued, in 2011, to submit returns on diversity complaints from Units. These have been the basis for the figures shown in Figure 9.

In preparing data for the 2011 returns, to be included in this Report, some discrepancies were discovered between the data provided from units, as has happened previously, and the Service complaint data provided for new Service complaints on these grounds. The data provided in Figures 9 and 11 with regard to formal complaints have been verified with the data recorded on JPA and other central recording systems and I am assured that they are now consistent.

Both sets of data do show an increase in formal complaints about bullying, which the Service complaints data suggests is largely due to increases in the Army. I have suggested that this should be seen as encouraging, indicating increased confidence in speaking out and not the opposite. The Service complaints data (unlike the data in Figures 9 and 11) also shows increases in the Army in nearly all categories at Level 1 (i.e. new complaints) where formal complaints have been made (the exceptions are sex discrimination and victimisation, where there were fewer Service complaints made in 2011).²⁵ The picture in the RAF is more mixed but the numbers are comparatively small. Service complaints at Level 1 about bullying halved in 2011 (from 25 to 13) whereas they increased from 83 to 138 in the Army. It is not possible to make a comparison for Level 1 figures in the Navy.

This suggests that the data presented in Figures 9, 10 and 11 need to be treated with caution. I have made a recommendation on the review of the recording of diversity complaints – Recommendation 11.4.

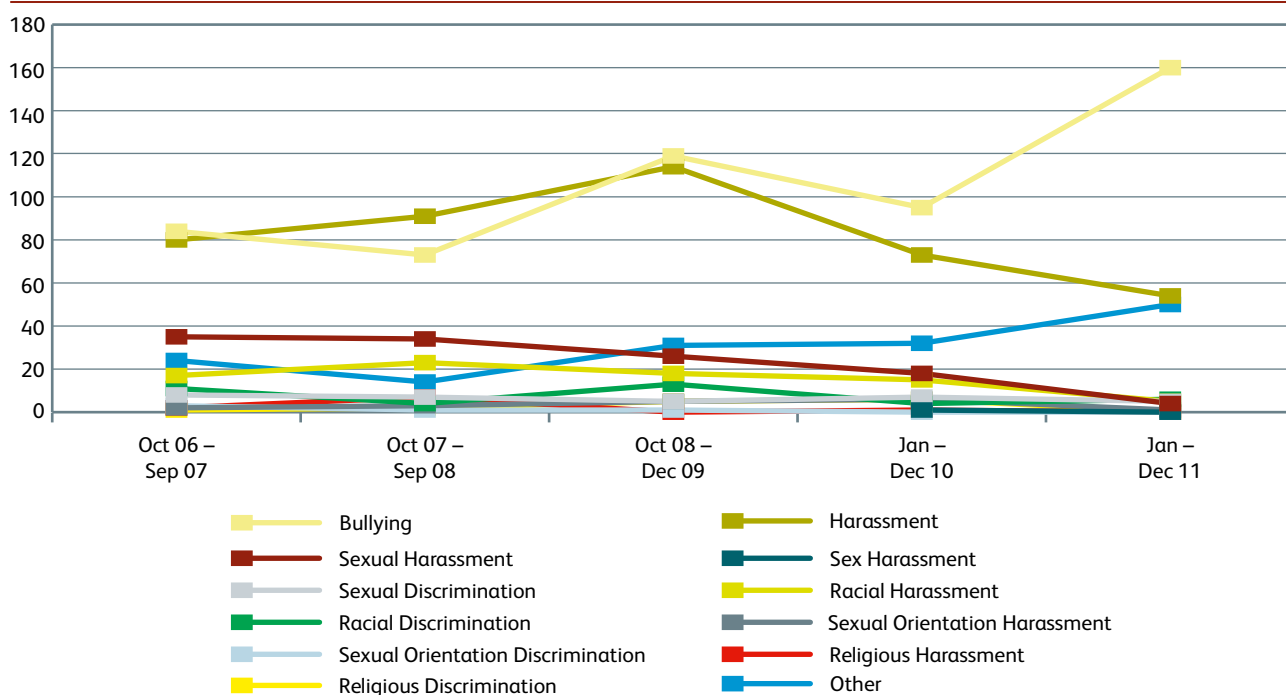


The SCC attends the Armed Forces Eid Gathering organised and hosted by the Armed Forces Muslim Association, November 2011

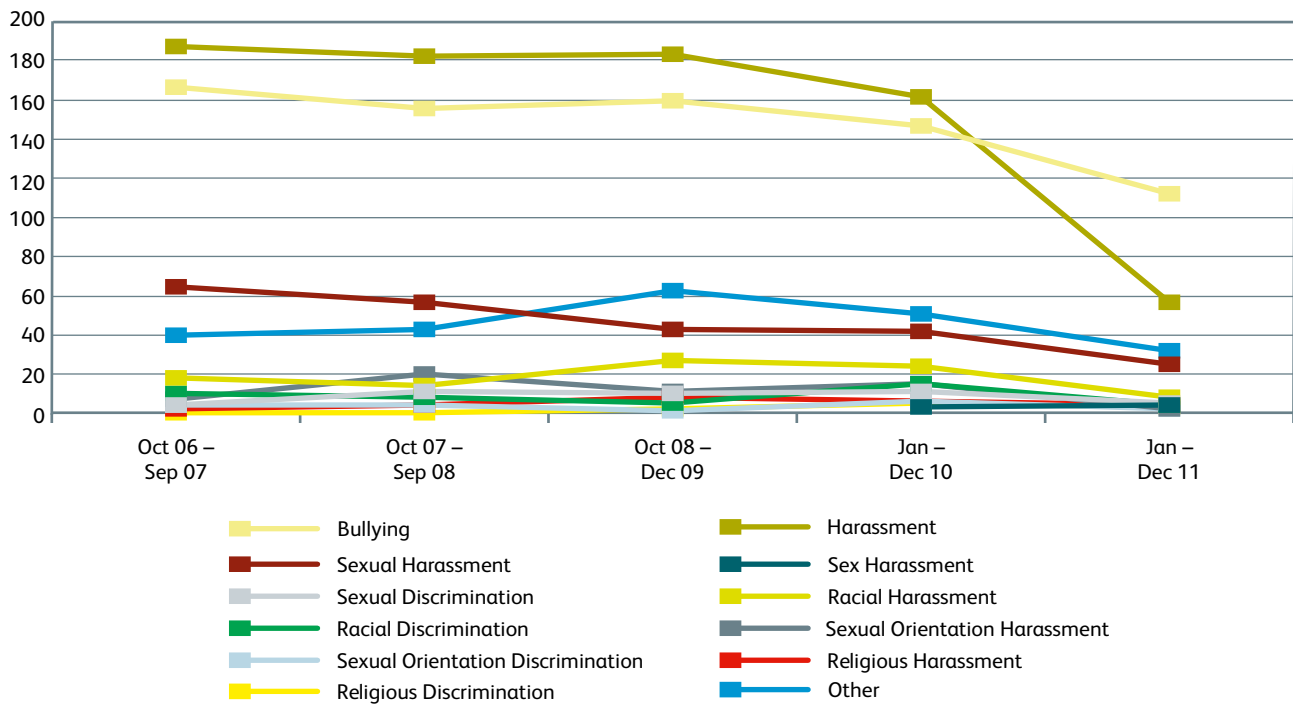
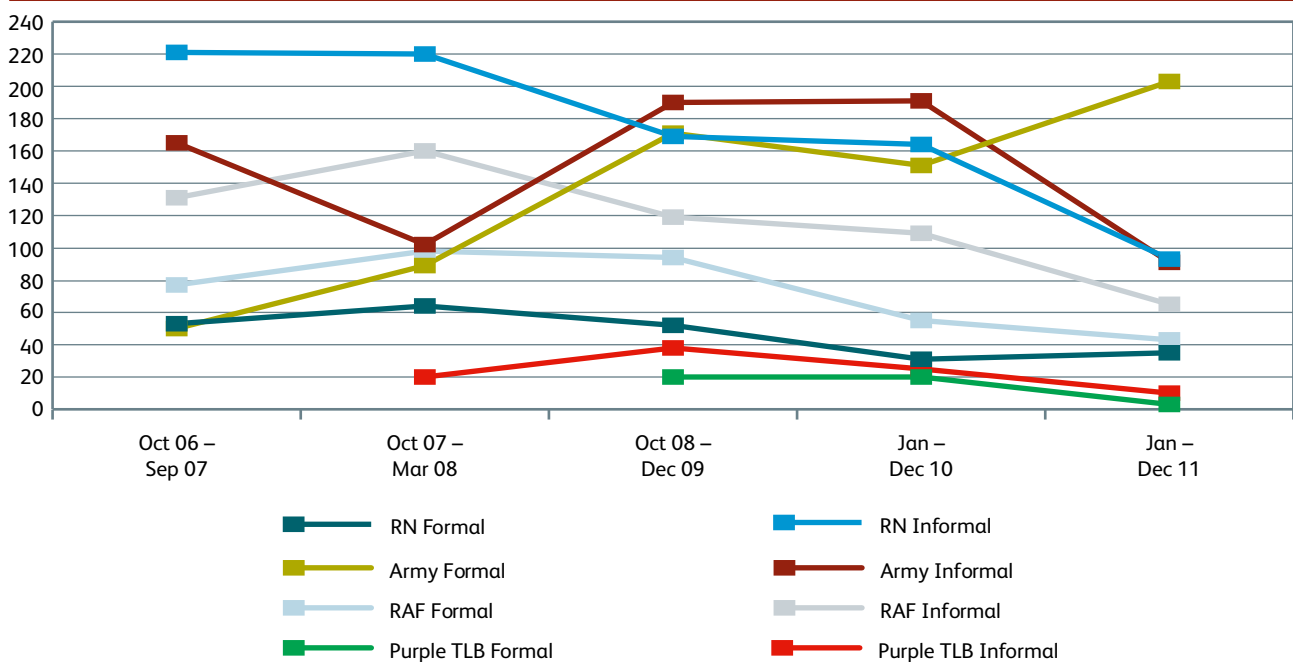
²⁵ A table of categories of Service complaints made in 2010 can be found at appendix 6 of the SCC's Annual Report 2010.

Table 8: Numbers of formal and informal complaints by Service and type 2011

	RN		Army		RAF		Purple TLBs ²⁶		Totals	
	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal	Formal	Informal
Bullying	26	42	120	33	13	33	1	5	160	113
Harassment	6	24	36	13	10	16	2	4	54	57
Sexual harassment	2	10	1	7	1	7	0	1	4	25
Sexual discrimination	1	1	0	0	4	2	0	0	0	4
Sex harassment	0	3	0	2	0	1	0	0	5	5
Racial harassment	0	0	3	7	2	1	0	0	5	8
Racial discrimination	0	3	4	1	2	1	0	0	6	4
Sexual orientation harassment	0	2	0	0	0	0	0	0	1	2
Sexual orientation discrimination	0	0	0	2	0	0	0	0	0	2
Religious harassment	0	3	0	0	0	0	0	0	0	4
Religious discrimination	0	0	0	2	0	1	0	0	0	3
Other	0	5	39	24	11	3	0	0	50	32
Totals	35	93	203	91	43	65	3	10	284	259

Figure 9: Formal complaint trends by category 2006–2011

26 Tri-Services Top Level Budget holders.

Figure 10: Informal complaint trends by category 2006–2011**Figure 11:** Formal and informal complaints by Service 2006–2011

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

In my Annual Report 2010 I gave examples of the evidence I would be considering as part of my assessment each year of progress under this objective. This is set out in the table below

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

Evidence to include:

- Evidence that everyone involved, (whether a complainant, in the chain of command or dealing with the complaint) is aware of the correct procedures and that those procedures are being followed correctly and consistently
- Complaints decided within reasonable time limits
- Complainants informed on a regular basis and provided with reasoned decisions and information on how to appeal if they are dissatisfied
- Escalation rates
- Evidence from the Service Families Federations, SSAFA and other welfare agencies
- Impact of action taken by the MOD/Services on recommendations made by the SCC

Complaints about medical treatment

I have discussed the increase in contacts to the SCC about complaints of medical treatment and medical discharges in Chapter 1 and the intention of the Surgeon General to revise and update the medical treatment complaints system and review its relationship with the services Complaints system. I have also recommended that the MOD, DMS and Services consider implementing a system similar to that adopted for Service complaints about redundancy. This could be reviewed as part of the Review still underway into how to improve the Service complaints system.



The SCC visits British Forces Cyprus, November 2011

Complaints about Pay and allowances

The Review of the Service complaints system has not yet conducted any analysis on the specialist complaints procedures. It has yet therefore to consider in any detail an initial proposal put forward by SPVA for a simplification of the handling of pay and allowance complaints where the redress sought would involve consideration and clarification of policy or a change of policy to correct any unintended unfairness. Following initial discussions with MOD policy staffs responsible for complaints and for pay and allowances during early 2011, the SPVA proposal remains open for consideration and further development work. At present such complaints have to complete the specialist pay complaints appeals process and then the Service complaints process before reaching Defence Council level, which is the only level with the authority to grant redress. SPVA believes this makes no sense. It often takes 50 weeks to exhaust the pay and allowance complaints process – because of the timeframes of this process and another 50 weeks to reach Level 3 in the Service complaints process.

My experience is that that is an optimistic timescale. The SPVA proposed that the Commanding Officer should consider the complaint first, to ascertain whether the matter to be addressed required the submission of

casework to determine the entitlement of the Service person or whether the Service person was complaining about the pay and allowance policy which could only be redressed by the Defence Council. Enabling these complaints to be considered as a Service Complaint at Level 3, in a similar way to the process agreed for the handling of redundancy related Service complaints, would appear to be a swifter, more efficient and fairer system and a better use of resources.

I believe the handling of complaints about pay and allowance policy merits review.

The SPVA write-off significant sums in overpayments that are declared unrecoverable in accordance with the regulations for Managing Public Money²⁶. The recovery of over-payments is a common subject of complaint which SPVA, and the single Services, work hard to resolve. I am told that the levels of write-off for overpayments on discharge is decreasing as a result of this work. However I see the human impact on Service families of the recovery of overpayments, particularly on those leaving the Services, from whom the outstanding amount will usually be recovered, in accordance with the MOD policy, from the Service person's final month of pay, in some cases resulting in no salary for the month of discharge. It seems imperative that the Service complaint system should work quickly and that any initiative to reduce the requirement to recover overpayments from the final pay of discharged personnel should be considered as a priority.

There are also sustainability issues. As shown in the case study, errors in pay and allowances can be the result of errors made in the unit, in connection with recording on JPA or a combination of factors. As back office functions are squeezed, the potential for more complaints arising increases. It would seem sensible to find a more efficient way to handle such issues before they become complaints and share the learning to prevent future errors occurring.

Recommendation 11.8

I recommend that the proposal to reduce delay in the handling of complaints about policy in relation to pay and allowances, put forward, in 2011 by the Service Veterans and Personnel Agency, SPVA, be considered as part of the Review and with expedition.

Case Study F

Ex-Lt E wrote to me in 2010 to complain about the time it was taking for the MOD and his Service to repay money taken from him five years earlier. When he had been posted overseas in 2005, an error made by his then Unit Personnel Office about his marital category, had resulted in overpayment of Local Overseas Allowance and Married Unaccompanied Service Allowance. This initial error was compounded by the overpayment being recovered twice from his pay account, once as a lump sum and again over time as a series of deductions from his monthly pay.

Ex-Lt E had noticed the error and made attempts to resolve it in 2007 but this was during the changeover of the computer systems by which Service personnel are paid. He was told that the only solution was for his local unit to resolve it after the changeover. A junior officer at Ex-Lt E's overseas unit then spent an inordinate amount of time tracking through records and submitting a service request for recovery. This was escalated several times but could not be processed as it lacked hard copy supporting documentation.

When Ex Lt E left the Service in 2008 his complaint was still not resolved. He had been told that it was being held up by sheer volume of pay queries after implementation of the new pay system. He contacted me in summer 2010 in desperation at the lack of action.

Following my referral and a formal Service complaint, it took 6 months for the overseas unit to work through the intricacies of handling of the matter in the intervening years and another 6 months in 2011 for the matter to get to a stage where Ex Lt E could be paid. This involved an officer in the overseas unit devoting hours to unravelling 4 years of documentation and pay accounts. Ex Lt E finally received a cheque, for the full amount in August 2011.

In thanking my office for its help and the way we had kept him informed, Ex Lt E said: "From my experience, the office of the SCC really is necessary as a last resort. I have no doubt that no action would have been taken if I didn't have the big stick of the SCC shining light on the process and holding the Services to account."

²⁶ The NAO Report – Ministry of Defence – Military Pay: Audit Completion Report (including Management Letter) on the 2010-11 Audit refers to an advance notification of a £500K loss related to false Continuance of Education claims.

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

In my Annual Report 2010 I gave examples of the evidence I would be considering as part of my assessment each year of progress under this objective. This is set out in the table below.

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

Evidence to be considered to include:

- Levels of awareness of the Service complaints system and of the SCC, amongst trainees, regular and reserve personnel
- Evidence that SCC's involvement in a case has led to improved treatment of Service personnel
- Evidence that SCC involvement has saved time and resources
- 360 degree feedback from MOD, Armed Forces, welfare agencies, Service personnel, Parliament and others
- Impact of action taken by the MOD/Services on recommendations made by the SCC

The Government's response to the SCC's Annual Report 2010

The Government's formal response to my Annual Report 2010 confirmed the value Ministers and the Service chiefs placed on my work and that of my team.

"The independent oversight and scrutiny you provide of the process is fundamental to the continued improvements that are being made to the way in which we manage Service complaints."

The interim conclusions of the Review also emphasised the value they placed on the SCC's oversight, for instilling confidence in the system and for supporting the Services and chain of command to deal with Service complaints properly and fairly. The acceptance by the Services and formalisation of the SCC's power to raise apparent maladministration in the Service complaints system, is a concrete signal of that value. It mirrors, at a senior level, the feedback I get after my presentations to Commanding Officers in all three Services and more senior officers at the joint Defence Academy. (See Appendix 5 for details of the SCC's visits and presentations during 2011.)

Levels of awareness of the SCC and Service complaints system

AFCAS 2011

Although the majority, (84 %), of those responding to AFCAS 2011 said they did know where to get information about the Service complaints procedure for unfair treatment, discrimination, harassment and bullying, this was a drop of 3 % since 2010. There were decreases in percentages of other ranks in all Services except the Royal Navy, with a 4 % drop in Royal Marines and RAF and a 3 % drop in the Army. There was also a 6 % drop in awareness in Royal Marine officers. Royal Marines have the lowest levels of awareness, after significant increases in awareness in 2010. This suggests that the Services should not be complacent and should continue to focus on the complaints process as part of training and periodic briefing. It should be noted that the AFCAS 2011 took place at the beginning of the Royal Navy and Royal Marines briefing on the Service complaints process. I will review AFCAS 2012 on this aspect.



The SCC visits 4th Division Headquarters, May 2011

AFCAS 2011 shows continued increases in awareness of the SCC and particularly in those who say they fully understand how the SCC can help a discrimination, harassment or bullying complaint. Overall in 2011 only 14 % of Service personnel said they had not heard of the SCC at all, a 3 % drop since 2010. There appears to have been a steady and significant rise in awareness since 2009, when only 55 % of personnel were aware of the SCC. In 2011, 74 % of Service personnel said they understood how the SCC could help them fully or to some extent, with a 5 % improvement overall since of those who said they fully understood how the SCC could help – (25 %). The pattern of understanding of the SCC role is the same as in 2010 and is highest in the Army (78 %) and the Royal Navy (73 %) and lowest in the RAF (67 %) and Royal Marines (60 %). 19 % of RAF personnel and 20 % of Royal Marines said they had not heard of the SCC at all. Officers tend to be more aware, with Army Officers having the highest levels of understanding of the SCC's role (89 %) and RAF Officers the lowest (76 %).

Recruit Trainee Survey (RTS) 2010

In my Annual Report 2010 (page 43), I commented favourably on the reported significant increase in recruit trainees who in the Recruit Trainee Survey for 2009, had made a complaint when they felt they had been treated badly. In preparation for the 2010 RTS, a data error was discovered which affected four questions relating to the making of complaints. The revised report for 2009, which was published together with the RTS 2010, shows a reversal of the downward trend but not as great as previously reported. In 2009, 12 % of Phase 1 recruit trainees and 23 % of Phase 2 recruit trainees complained when they felt they had been treated badly compared to 9 and 8 % in 2008. In 2010, the figures were 12 % and 24 % respectively. The figures for Phase 2 are still encouraging, especially as the increase in 2009 appears to have been sustained. In both Phase 1 and 2, the percentages of recruit trainees who did nothing when they felt they had been badly treated dropped.

Whether recruit trainees raise their concerns (with military or welfare staff, their peers, their family or friends) varies by Service, gender and colour, (RTS reports by colour on white and non-white recruits). There are also differences in whether a complaint is made formally or informally.

The RTS asks those who did not make a complaint their reasons for not doing so. There are differences between Services and genders and between responses from Phase 1 and 2 trainees. In general Phase 2 trainees were less likely to have refrained from making a complaint because of fears that it would have caused problems for them on the course or that nothing would be done. At both phases of training a higher percentage of female trainees and RAF trainees than Navy or Army trainees said they worried they would be considered a troublemaker. At Phase 1 there was an increase in RAF trainees from the previous year in the percentages who said they did not know who to complain to and the RAF had the highest percentage of all three Services in this regard. The percentages of those giving this reason in all three Services were much lower at Phase 2. This may suggest a reason for the higher levels of those making complaints at Phase 2.

It does appear that the RAF need to ensure that all trainees are made aware of how to raise concerns, including information about the SCC, which is standard in Army training establishments.

The RTS does not cover awareness of the SCC.

Recommendation 11.9

I recommend that the MOD should undertake some further analysis and work to try to find out the reasons for the higher levels of complaint making in Phase 2 establishments; and that the RTS questionnaire include a question on levels of awareness of the SCC.

Feedback on SCC's performance

During the year, the SCC has been able to bring about a resolution to a number of complaints raised through her office. Some of these were resolved informally, the SCC's letter alerting Commanding Officer to a problem that appeared to have got stuck further down the chain of command.

"I am very pleased with the advice given to me by the Commissioner that allowed me to explore all of my options and guide me through making my Service Complaint. It was reassuring to know that if I felt my complaint was not being handled properly I had someone to further advise me. Thank you for your assistance and rapid response."

The SCC's office played a particularly important role for families and in relation to complaints about the actions of the chain of command. One complainant, whose concerns were resolved informally by a higher authority, after the SCC had referred it directly to the Commanding Officer's superior, wrote:

"I am completely happy with the complaints procedure and the role of your office as had I not had that, I would not have known who to raise my complaint to as it was the chain of command my complaint was partly about – and when I asked them how I redressed my concerns they said I could not."

However, some expressed confusion about the SCC's role and lack of confidence in my ability to ensure fair treatment.

"Having been an Officer Commanding whilst serving, I believe I can speak for the majority of soldiers who have been through the same process as me and of which your office has been involved in their cases. In their view the SCC is impartial and a point of contact that can be used in the case of redress against their superiors or other incidents such as bullying or victimisation. What they, or I cannot understand is the role you play, of all the cases reported through your office, there is never an outcome in their favour. Indeed when their case (or mine in this instance) has gone through the Appeal Process there is nothing you can do to overturn it."

Some were very unhappy with the SCC's inability to undertake an independent investigation of their complaint and the lack of power to tackle delay and problems in the processing of their Service complaint. One complainant wrote to us, having received the news that the SCC had no powers to investigate their Service complaint:

"The victim is utterly reliant upon the SCC to protect him here: the [Service] appear to believe that they can ignore the Service Complaints process, and act with impunity, rendering the Service Complaints Commissioner a nugatory, toothless irrelevance. Please assure me this is not the case?"

The longer a complaint has been delayed, the more betrayed Servicemen and Servicewomen feel by their Service. Some of those who have served for long periods of time, particularly commissioned officers who have not had any reason to doubt the efficacy of the Service complaints system until they tried to use it, include the SCC in their, often trenchant, comments.

"In her current role and with her current (lack of) powers, the SCC makes little or no difference to the extremely poor handling of Service Complaints by [the Service], to the equally poor and cynical treatment of the Complainant, or to the complete travesty of justice that invariably results. Justice delayed is justice denied. The [Service] authorities continue to ride roughshod over their own laid-down rules and regulations and over their personnel, whom they emptily claim to value and to strive to support during the inexcusably protracted complaints process. Until such time as the SCC is given – and, more importantly, actually uses, rather than merely bares – some real teeth, and holds the [Service] to account, then I strongly believe that Service personnel struggling with serious (rather than merely minor) complaints will continue ultimately to feel very let down by the SCC and her lack of ability to help them."

Perhaps mindful of concerns about failures of self regulation elsewhere during 2011, a number of responses to my recommendations for an Armed Forces Ombudsman have been that an ombudsman is the accepted form of accountability for the public sector in the Twenty First century and that the Services should have nothing to fear.

I will continue to monitor feedback on the SCC performance and report in my next Annual Report on whether the new powers for the SCC have, and are perceived to have, made a difference to the efficiency, effectiveness and fairness of the Service complaints system.



Appendix 1

Glossary

AFCAS – Armed Forces Continuous Attitude Survey

AO – Assisting Officer

BFBS – British Forces Broadcasting Service

BIOA – British and Irish Ombudsman Association

CO – Commanding Officer

DIA – Defence Internal Audit

DIN – Defence Instructions and Notices

DMS – Defence Medical Services

DO – Deciding Officer

EHRC – Equality and Human Rights Commission

E&D – Equality and Diversity

HIO – Harassment Investigation Officer

JPA – Joint Personnel Administration

MOD – Ministry of Defence

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

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

SC – Service Complaints Wing (Army)

SCC – Service Complaints Commissioner

SPVA – Service Personnel and Veterans Agency

SSAFA – Soldiers, Sailors, Airmen and Families Association

Appendix 2

SCC assessment of progress made on recommendations made in the 2010 Annual Report

	Recommendations for the MOD/Services	Assessment of delivery	SCC comments
10.1	The SCC's office should have unlimited read-only access to the JPA complaints module, and all associated complaints files	Red	Access has yet to be provided. Requirement being assessed as part of MOD Review of the Service complaint system
10.2	The proposal for the establishment of a cadre of HIOs should be implemented without further delay	Amber	Not implemented in 2011. Initial operating capability expected in February 2012; full capability expected in August 2012
10.3	The Army should reconsider its decision not to devote resources to ensuring that heavily delayed complaint cases are speedily concluded	Green	Resources maintained but still severe delays. Resources should be maintained at least until the backlog is eliminated
10.4	Service Chiefs should resist cutting staffing levels in their complaints secretariats before the system is judged to be operating effectively, efficiently and fairly	Amber	Resources protected in the short term (and to be increased in the Navy) but remain under threat. Service complaint system at risk if resources reduced
10.5	The quality assurance arrangements for the HIO cadre should be extended to those investigating the most serious allegations of mistreatment. Investigators of such complaints should not include Service police, but should receive appropriate external training	Red	MOD wishes to consider in the light of experience of HIO cadre. MOD has rejected the recommendation regarding not using Service police
10.6	For cases escalated without investigation or where there is a need for further investigation: (a) a Deciding Officer should be identified as soon as the complaint arrives at Level 2 to be briefed on the key issues and agree the proposed handling and timescale, and (b) if further investigation is required, no investigation should take place without the Deciding Officer, or (if at Level 3) the chair of a SCP, agreeing the terms of reference and scope of such investigation	Red	This continues to be a problem. During 2011 the SCC has alerted two Services that there were cases at Level 2 where a delay might mean the denial of any possible redress. The scale of the problem is not known
10.7	The SCC should audit cases undertaken under the new arrangements by the end of 2011	Red	No new arrangements have been put in place
10.8	The SCC's resources should be augmented to ensure effective assessment	Green	Resources have been increased in line with those agreed in 2008 for 2011/12 but additional resources will be required to keep pace with the volume and complexity of SCC work
10.9	The Service complaints system should be subject of a fundamental review with a view to removing one level of appeal. The review should focus on fairness as well as efficiency	Amber	A review is underway although it will not now conclude until May 2012 and is not considered fundamental by the SCC

	Recommendations for the MOD/Services	Assessment of delivery	SCC comments
10.10	SCP independent members should be consulted on a new procedure for chairing SCPs	Amber	This is being considered as part of the MOD Review of the Service complaint system
10.11	Service complaints involving more than one Service or the Civil Service should have a representative from each relevant Service and, where appropriate, the Civil Service on the SCP	Amber	This is being considered as part of the MOD Review of the Service complaint system
10.12	Service complaints from or about the Service police should have two independent members on the SCP, one of whom should have expertise in police professional standards	Red	The MOD awaited the passing of Armed Forces Act (AFA) 2011 and will consider this recommendation in 2012
10.13	Pre-hearing decisions should be taken by an SCP sitting with an independent member as chair	Rejected	This was rejected by MOD. The SCC will review the recommendation in the light of experience of implementation of AFA 2011
10.14	The relationship between the SCC and SCP independent members should be formalized with the independent members required to report annually to the SCC on their experience of the system	Rejected	The MOD rejected the recommendation to formalise the relationship but has agreed that the SCC and independent members should continue to meet formally once a year
10.15	The SCC's role in following up on whether lessons have been learned by the Services should be formalised	Red	This has yet to be taken forward by MOD
10.16	The SCC's office should be properly resourced and resources should be provided in a timely manner. SCC staff should automatically be recruited from across the wider Civil Service and not just from the MOD	Red	The MOD have not agreed to the SCC automatically recruiting across the wider Civil Service, but have so far agreed to this on a case by case basis. This leaves it open to MOD to restrict future recruitment to by the SCC to MOD Civil Servants
10.17	The SCC should, with consent of the complainant, refer any complaint made to her office to the Services, and SCC gate-keeping resources should focus on ensuring that any decision by the Services to reject a Service complaint is properly made	Rejected	This proposal was rejected by MOD. The SCC will reconsider the recommendation in the light of the outcome of the MOD Review of the Service complaint system
10.18	The powers and remit of the SCC should be strengthened as part of the fundamental review of the Service complaints system	Amber	Agreement in principle to interim strengthening in December 2011, but subject to discussion in 2012. Other options to be considered as part of the MOD Review of the Service complaint system
10.19	The SCC role and title should be changed to one of an Armed Forces Ombudsman	Amber	This is subject to the outcome of the MOD Review of the Service complaint system
10.20	The Armed Forces Ombudsman should also include all the specialist complaints systems within the Services as part of the Armed Forces covenant	Amber	This is subject to the outcome of the MOD Review of the Service complaint system

Appendix 3

Service complaints by type and Service worked on for the first time in 2011²⁷

Service	RN			Army			RAF		
Level	1	2	3	1	2	3	1	2	3
Harassment	6	2	0	36	0	0	10	4	1
Sexual Harassment	2	0	0	1	0	0	1	0	0
Sexual Orientation Harassment	1	0	0	0	0	0	0	0	0
Racial Harassment	0	0	0	3	0	0	2	0	0
Religious Harassment	0	0	0	0	0	0	0	0	0
Discrimination	0	0	0	39	0	0	11	0	4
Sexual Discrimination	1	0	0	0	0	0	4	0	0
Sexual Orientation Discrimination	0	0	0	0	0	0	0	0	0
Racial Discrimination	0	0	0	4	0	0	2	0	0
Religious Discrimination	0	1		0	0	0	0	0	0
Bullying	26	1	1	120	0	0	13	1	1
Improper Behaviour (including dishonesty and bias)	5	2		6	0	0	3	1	0
Victimisation	5	0	0	19	4	0	1	0	1
Terms and Conditions of service (including career & reports)	144	61	8	197	14	7	113	19	39
Pay and allowances	16	8		46	2	3	16	3	10
Medical and Dental	18	2		22	0		7	6	5
Total	224	77	9	493	20	10	183	34	61

Appendix 4

Financial statement

Financial Statement	Cost (£,000) 2011 ²⁸
SCC Salary	82.2 ²⁹
Support staff	259.9
Accommodation and security	83.2
IT, stationery and consumables	5.7
Travel and subsistence	3.7
External communications and media support	24.5
Annual report production	11.0
Independent legal advice	3.5
Training and professional membership fees	1.1
Total	474.8

²⁷ A complaint may contain one or more allegation.

²⁸ Excluding VAT.

²⁹ The level of remuneration has not been increased but reflects more days worked.

Appendix 5

Places Visited by the Commissioner in 2011

Royal Navy

Royal Navy Commanders Designate Course, HMS Collingwood – February, June and October 2011

Defence Naval Legal Services Termly Update, Southwick Park – March 2011

Navy Board, London – October 2011

CTCRM Plymouth – November 2011

RNAS Yeovilton – November 2011

HMS President. London – November 2011

Army

Army Commanding Officer Designate Course, Warminster – February, June and November 2011

Bullying and Harassment Cell and Service Complaints Wing, Andover – May 2011

Head Quarters 4th Division, Aldershot – May 2011

145 (South) Brigade, Aldershot – May 2011

Army Welfare Service, Aldershot – May 2011

2nd Battalion The Yorkshire Regiment Cyprus – November 2011

2nd Battalion The Royal Anglian Regiment Cyprus – November 2011

3, 4 and 12 Logistic Support Regiments Dalton Barracks, Abingdon – December 2011

Royal Air Force

RAF Continuous Improvement Day , RAF Halton – January 2011

RAF Future Commanders Study Period, Defence Academy, Shrivenham – January, May, July, October and November 2011

Air Force Board Standing Committee – April 2011

RAF Akrotiri/Cyprus Operational Support Unit – November 2011

RAF Cranwell – December 2011

Tri-Service

Intermediate Command and Staff Course, Defence Academy, Shrivenham – February 2011

House of Commons Select Committee on the Armed Forces Bill – February 2011

Service Personnel and Veterans Agency, Gosport – October 2011

Armed Forces Eid Gathering, RAF Northolt – October 2011

Cyprus Joint Service Adventure Training Centre – November 2011

The Princess Mary Hospital Cyprus – November 2011

Dhekelia Station/Dhekelia Support Unit Cyprus – November 2011

Episkopi Station/Episkopi Support Unit Cyprus – November 2011

Advanced Command and Staff Course, Shrivenham – November 2011

Welfare

External Reference Group (Armed Forces Covenant), RAF Benson – June 2011

List of Invitations accepted by the Commissioner

Law Forces Network Quarterly Meeting, London – April 2011

Law Forces Network Annual Dinner, The Honorable Artillery Company, London – April 2011

Third International Conference of Ombudsman Institutions for the Armed Forces, Belgrade – April 2011

‘Geneva Centre for the Democratic Control of Armed Forces’, Open Society Justice Workshop. Security Sector Oversight and Access to information, Geneva – May 2011

BIOA Conference, Loughborough – May 2011

German Ambassadors Dinner, London – May 2011

Armed Forces Art Society 77th Annual Exhibition, London – July 2011

Regimental Dinner Night at the Defence College of Police and Guarding, Southwick Park – October 2011

Directorate of Naval Legal Services Annual Dinner, Portsmouth – October 2011

Royal United Services Institute for Defence and Security Studies – Women in Defence and Security Leadership Conference VIP Speakers’ Dinner, Kensington Palace – November 2011

RUSI Women in Defence and Security Leadership Conference, London – November 2011

