

Defence Committee

Oral evidence: Work of the Service Complaints Ombudsman, HC 1856

Tuesday 24 October 2023

Ordered by the House of Commons to be published on 24 October 2023.

[Watch the meeting](#)

Members present: John Spellar (in the Chair); Sarah Atherton; Robert Courts; Martin Docherty-Hughes; Richard Drax; Mrs Emma Lewell-Buck; Gavin Robinson.

Questions 1-46

Witness

I: Mariette Hughes, Service Complaints Ombudsman for the Armed Forces.

~~Written evidence from witnesses:~~

~~– [Add names of witnesses and hyperlink to submissions]~~

Examination of witness

Witness: Mariette Hughes.

Chair: Our session today is with the Service Complaints Ombudsman for the Armed Forces, Mariette Hughes, supported by her staff. We very much welcome you here. We have had sessions before on the Service Complaints Ombudsman; it is an important part of the military environment. We want to explore with you what is working, what isn't, and what needs to be done.

Q1 **Mrs Lewell-Buck:** Good morning, Mariette. An easy question to get us started: what powers do you currently have, and what powers would you like to have?

Mariette Hughes: As the Service Complaints Ombudsman—and when I say “I”, I mean my office more broadly—we can refer individuals into the service complaints system to help them get started with the process of raising a complaint. We can also review decisions made by the services not to admit a complaint or an appeal as admissible. If we find that the incorrect decision has been made, we can overturn it. We can investigate ongoing issues in service complaints, such as undue delay, and once a complaint has finally been determined, we can look into the substantive issues of complaint and alleged maladministration in the handling of the complaint. My final power is that of reporting; I report once a year on the overall performance of the system.

In terms of what powers I would like to have—presumably within the realm of service complaints and not just me personally, because flying would be great—one of the key deficiencies with my powers under the system at the moment is that I am tasked with reporting on whether the system as a whole is efficient, effective and fair. I can only see the details of cases that are specifically brought to me through application by those individuals. I am reporting on an entire system, but I see only the tip of the iceberg. In order to make the assessment of what is going wrong, what is going well, what could be done better and where improvements could be made, it would be important for my office to be able to see the wide variety of cases that come through the system, not just those of people who approach us with their applications.

Last year, for example, 950 cases were closed through the service complaints system. We received applications to look into substantive matters on fewer than about 100 of those. It would be nice to believe that all those other people were very happy with the outcome of their complaint, but surveys and feedback tell us that that is not the case: 98% of individuals say that the underlying issue in their service complaint was not resolved. That figure is massively at odds with the number of people who apply to us. To have the power to look into cases that are not specifically applying to come to us would give us a much broader remit



HOUSE OF COMMONS

and a much stronger reporting base for talking about what needs to change within the system.

On a similar note, expanding on that, there is the idea of own-motion investigations or thematic reporting. At this moment in time, we can only look at the things that people ask us to look at, so a lot of the questions today I can only answer from the experience of what we have seen. If we talk about things like why people do not complain or the experiences of people who might not get to access the service complaints system, those are all things that I am not currently tasked with or empowered to look at. With own-motion, automatic reporting, we would be able to look into that.

- Q2 **Mrs Lewell-Buck:** On the back of that, presumably you have made that known, that you want those powers, so what rationale have you been given for not being given them?

Mariette Hughes: My predecessor spoke at length about wanting those powers. The feeling at the time was that until SCOAF was in a position to manage its own caseload and work, it would not be appropriate to ask for powers. I absolutely understand that rationale. Unless we can deal with what we have coming in the front door, expanding the remit does not seem appropriate. We are in a very different position now; that is one of the reasons why we asked to come to speak today, to give an update on where SCOAF is now and how the landscape has changed.

- Q3 **Mrs Lewell-Buck:** You could expand your remit now, you think.

Mariette Hughes: I would like to.

- Q4 **Gavin Robinson:** Good morning. If you had the ability to conduct investigations of your own volition or to take thematic reports, it is easy to see how you could build a rationale for doing so from the cases that have come to you. However, you suggest that plenty of cases do not come to you, and that therefore you do not have the opportunity to consider those issues, whether individually or in the round. Can you give us some examples of issues that you imagine are there but are not seeing and which cause you concern? If you had the power to take cases of your own volition or motion, are there some things not before you today that you would like to get your teeth into?

Mariette Hughes: Absolutely. At the moment, for example, if someone applies to my office for an investigation into alleged maladministration, we have a power: if there is an aspect of maladministration that I see but the individual had not identified, we have the liberty to add that to our investigations. That is useful, because of a lot of the time people do not know how their complaint should have been handled. To me, that is the key aspect: identifying what the process should have been; what should have been followed; and how that individual should have been treated. The key thing for me will be uncovering those cases where people have not had the best experience, where they have not had the process and outcome that they are entitled to, and yet where they do not realise that themselves, because they are not the experts in complaints handling. That, to me, is the key area that we would be looking at.



HOUSE OF COMMONS

Q5 **Sarah Atherton:** Hello, Mariette. During the inquiry into women in the Armed Forces, this Committee recommended that your findings—your investigations—be binding on the MoD, but the MoD did not accept that. Is that correct?

Mariette Hughes: Yes.

Q6 **Sarah Atherton:** How many times do you investigate a case and then overrule or refute the in-house central admissibility team decisions?

Mariette Hughes: Broadly speaking, when we look at the substantive elements of a complaint—what was the original complaint and whether the correct decision was reached—in about 50% of cases, we say that the substance of the application to SCOAF was upheld. I am sure my stats manager will poke me if I have misquoted that. At least one of the aspects that people asked us to look into, we found had merit. That might be a partial uphold, or we might agree with the underlying decision but we found an extra element, but in 50% of cases we find something that should have been different or additional. On maladministration, it is about 75% of cases¹.

I would take those stats with a pinch of salt because, as I am sure the Committee is aware, my office employs a triage system for which cases we are going to investigate, so we investigate only cases where we think we will find something. Therefore I would expect the stats to be around that level.

In terms of the recommendations we make, sometimes we find that the decision should have gone further, that the redress should have gone further or that something else now needs to happen. From when I started this role to now, there has been only one example where a recommendation in a report was not followed by the service, and that was because it had already been enacted by the time the report was finalised. So the individual elements of recommendations that we are making on individuals' cases are being followed and enacted. The wider concern is about the recommendations on how the system as a whole needs to change.

Q7 **Sarah Atherton:** Do you get any feedback from the member of service personnel or the veteran about what the MoD has done and whether it has made progress, whether there has been a positive impact? Where is your quality assurance?

Mariette Hughes: We do not necessarily have any direct feedback. Once the report is finalised and out, our interaction with the complainant is broadly concluded. However, the business side of my office will follow up with the service to ensure that it says, "These are the recommendations that were outstanding. What was your action plan? Have you actually completed what we said you should be doing?" If at any point the

¹ [56% of maladministration cases were fully or partially upheld in 2022. However, the uphold rate averaged 72% between 2018 and 2021 – it is too early to know whether the 2022 figures represent a downward trend.](#)



HOUSE OF COMMONS

individual has a concern that that has not been done, or has not been done in the way we intended, they are at liberty to contact our office again; and we can follow that up on their behalf, or they may wish to raise it as a separate issue.

Q8 **Sarah Atherton:** Does that happen often?

Mariette Hughes: I couldn't give you a figure off the top of my head, but it does not happen particularly often.

Q9 **Chair:** I want to come back to the question about expanding your remit. Given the way in which ombudsmen's offices across the piece operate, would that not move you from being an ombudsman to, basically, an inspectorate?

Mariette Hughes: No is the short answer. There are a number of ombudsmen in the United Kingdom who do have own-initiative powers and who can do the same sort of thematic reporting. The key for me in relation to the term "ombudsman" is less to do with the powers and more to do with the independence of that office. It is very different from an inspector; it is different from an advocate. It is about being that quality control, that absolutely on-the-fence, independent individual who can assure the quality of a system. If we were to have own-motion on thematic powers, that would better enable our ability to report on the system, and not replace certain offices—for example, the Army inspectorate.

Q10 **Richard Drax:** Good morning. Could you clarify something for those watching, who might be a little confused? I think we all know what an ombudsman is in civilian life. Many of our constituents ask us to sign a bit of paper; the complaint goes to the ombudsman; and they look at the way someone has dealt with an investigation, whether it is the council or whoever. Is that exactly what you do—the complaints within the services are looked at within the service and then, if the individual is not happy with the result of that, they come to you? In simple terms, is that exactly what you do?

Mariette Hughes: Yes, absolutely. We do not replace or seek to step on the internal service complaints process—my view is very much that the provider of a service or of an environment should be the person who has the first attempt at resolving an internal complaint. Once an individual has engaged with that process, we are the fall-back, or the quality assurance. If, having been through that process, they are still not happy with the outcome, they can approach us and ask us to see whether the complaint was handled correctly and whether the correct outcome has been reached.

Q11 **Richard Drax:** The recent reforms saw the removal of the chain of command from the complaints process and its replacement with centralised admissibility teams. What has been the impact of that change? That may be slightly misleading, because the chain of command has not been entirely removed, has it? But you are new in your role as an ombudsman to investigate anything that comes after the investigation—if that makes any sense.



Mariette Hughes: Yes, I am fairly new in the role—we're coming up to three years, which has gone by in the blink of an eye. My predecessor was also the Service Complaints Ombudsman and, prior to that, the Service Complaints Commissioner, so the role of my office has existed for quite a while.

The changes and reforms that we saw in June 2022 meant that instead of an individual complaining first to their commanding officer, they complained to somebody else within the service. The complaint is still held in-service, but it goes to a centralised admissibility team. That was to address a number of issues, perceived lack of independence being one, particularly if you are complaining about things that either affect your chain of command or affect people that they are close with. People did not have a lot of trust and confidence in that system, so applying to a specified officer who sits in a centralised admissibility team massively improves that independence and has improved confidence in the system.

We can see that in the sharp rise in service complaints that have come through. The RAF piloted centralised admissibility before the other services and almost immediately saw a rise in complaints. The minute that the other two services went live with the legislation, they saw the same rise. Service complaints as a whole saw 25% more admissible complaints last year. That is enormous, especially when we consider that that legislation was only live for half of the year. We are taking that as a real positive—that people are more confident in coming forward.

Part of your question was about how the chain of command has been removed from that. I have a slight concern that it has possibly over-corrected just a little. While there are massive benefits to being able to come directly to an independent individual, there are some low-level issues where it is appropriate for the chain of command or your commanding officer to resolve that and do it informally. When people can come directly into the system, we are maybe not looping in the CO where we should. The services themselves are handling this really well at the moment. If they are identifying things that could be resolved informally and the parties are happy to do so, they are looping it back round in the way that it needs to be. It is for that reason that we recommended in the annual report 2021, in recommendations 6.1 and 6.3, bringing those two halves of the whole back together. It is really important that there is an independent person governing admissibility of service complaints, but it is also important that complaints are resolved at the lowest level possible, because not everything needs investigating, but everything needs resolving. We need to find a way to bring those two back together.

Q12 Richard Drax: When I was serving, I remember that we were asked if we wanted to be judged by x or to go to y. Does that now take place in the sense that if a commanding officer has someone in front of him or her and says, "Do you want to be sentenced by me or go higher up the chain?", does that question have to be asked? You say that you want the smaller things dealt with internally, and on the whole that suits everyone better. Is that person making the complaint then offered the choice to go



HOUSE OF COMMONS

higher up the chain in the process being asked, "Are you happy for it to be dealt with here?"

Mariette Hughes: I will move away from the terminology of sentencing, if that is all right. Obviously in service complaints we are talking about more individual grievances that are separate from the disciplinary process. Previously we would have instructed all commanding officers on what they should do if they receive a formal service complaint and what they must do to make that admissibility decision. Just because that decision has been taken off them does not mean that the education should be taken off them. My office presents to the commanding officer designate course—COXODC—and a future commander study period. At each of the services' new commanding officer intake every quarter, we do an hour-long session on service complaints and talk about the need to resolve things informally, but also hammer home that there are time limits and a centralised admissibility team, so if somebody comes to you with an issue that you can resolve, that is fabulous. That is wonderful—that is what we would all love—but you need still to be advising that person that there is a formal process, they have the right to access it, this is how they do it and these are the time limits. Individuals should be getting that level of information.

Q13 **Richard Drax:** To summarise the question, the impact is good because more people are coming forward. What is worrying is that a lot of people were very dissatisfied until this became live.

Mariette Hughes: Yes. If I could expand slightly on the impact of the changes to admissibility—sorry, I talk too much, so please throw something at me if I go on too long—it is broadly positive. We have also seen, as well as more people coming forward, that the quality of the decisions on admissibility is better. It has long been something that my office has spoken about—when commanding officers see only one or two service complaints in their career, they are not necessarily familiar with the legislation and the different timeframes with all the exclusions under the schedule.

We now have a few individuals in each service who are becoming specialists in their own right. They are seeing cases again and again, and they are getting much better. We are seeing a better quality of decision and we are seeing faster decisions. We do not currently have the stats—we are looking into that together—because we have never formally collected stats on how long it takes to get an admissibility decision, but anecdotally it has been too long. I know that when my predecessor was here she spoke about cases that required months to get an admissibility decision. A couple of years ago, we saw averages of about 10 weeks to get an admissibility decision. We do not have the exact stats, but I have seen very few cases with significant delays at admissibility, and broadly I would be confident that they are all being made within a couple of weeks. That is an absolute benefit to the reforms. I know that we might speak about it later, but the other impact of the reforms relates to appeals. I do not know whether you want me to touch on that now or later.

Richard Drax: Do touch on it now if you want to.

Mariette Hughes: I will touch on it briefly, conscious that there is a question on it later. The other key change in the reform was the restriction on the grounds of appeal that can be brought. That has resulted in far fewer cases being eligible to have their appeal heard. That has improved timeliness, because appeals take the longest out of any part of the service complaint process. If we are not hearing the appeals, they are not taking that long in the system. That is one of the key drivers behind why timeliness has improved, but I have real concerns that those changes are restricting the fairness of the system.

Q14 **Richard Drax:** I'm sorry, but if this is a question, it is the last one. One of your recent recommendations asked for the grounds of appeal to be expanded. Why did you feel that was necessary? I think you just answered that.

Mariette Hughes: I can expand much further on that. If you wanted to take that one now, I could do it now.

Richard Drax: Yes, please.

Mariette Hughes: Previously, in order to get an appeal heard, all you had to do was apply within six weeks and say, "I would like to appeal." Broadly, as a tenet of good complaints handling, I do not disagree that there should be grounds for an appeal. It is not sufficient just to say, "I don't like that decision; I want another one." You should be able to explain why it is that you feel the decision is lacking.

The current grounds, under the new legislation, are a material error of process, of fact or new evidence—just those three. That is very restrictive. We have seen a number of cases that have had their appeals turned down, who have come to us to review that decision. We have agreed that, under those grounds and legislation, that appeal cannot proceed, but the decision still just feels wrong. It is either missing something or it hasn't explained something fully, or there is something in the reasoning or logic that is flawed.

Under the current legislation, there is no way for that case to receive a second-level decision within the service. Their only option at that point is to come to SCOAF. I would like to see those grounds of appeal extended to include material error of reasoning—something so flawed in the decision making that this requires a second look.

One of the second-order impacts we see from that is the number of cases coming to my office asking us to review admissibility—up 70% in the year to date. The majority of that 70% is people asking for their appeal admissibility to be reviewed, because historically they would never have been turned down.

We are also seeing a massive increase in the number of people who come to us asking for substance and maladministration investigations, because they have not had an appeal body decision. They have not had a second-level decision; they have just had the one decision, so they come to us to ask us to look into matters for them.



HOUSE OF COMMONS

If we look at the increase in the service complaints system last year, there was a 25% increase in the volume of complaints going to the services. In the year to date, there is a 54% increase in the cases coming to me, asking us to look into those matters, because they are not getting the second-level decision.

Q15 **Sarah Atherton:** Who funds SCOAF?

Mariette Hughes: We are funded through the Ministry of Defence budget.

Q16 **Sarah Atherton:** You mentioned that 75% of cases have been maladministered—correct me if I am wrong. Please go through that stat again for me.

Mariette Hughes: In 75% of the cases that we accept for a maladministration investigation, we find an element of maladministration².

Q17 **Sarah Atherton:** How many times in the past few years have you reported back to the MoD to identify maladministration by commanding officers or decision makers?

Mariette Hughes: We do not actually report back to the MoD about those specific issues. The reports would say, "This is what has happened in the handling of this complaint." For maladministration, that would be directed at the service complaints secretariat, which is responsible for the handling of the complaint. It is for the single service then to decide what to do with those findings.

Q18 **Sarah Atherton:** If you are seeing a pattern with a certain commanding officer or decision maker, you do not feed that back to the MoD.

Mariette Hughes: No. The single services will have the information on who was named in the complaints, what we have found and who and what, if anything, we have criticised. It is then for the single services to take that forward.

Q19 **Sarah Atherton:** That is interesting, because a recommendation grid update from the MoD for the House of Commons on "Women in the Armed Forces" says that you do that.

Mariette Hughes indicated dissent.

Sarah Atherton: No? Okay. Thank you.

Mariette Hughes: I was aware of the response to the "Women in the Armed Forces" report, and the proposals that those things would be taken forward, particularly where the Ombudsman has found that a CO has failed to take a complaint seriously. As of this point, nobody has spoken to my office about how to take that forward.

Sarah Atherton: I will look into that. Thank you.

² [56% of maladministration cases were fully or partially upheld in 2022. However, the uphold rate averaged 72% between 2018 and 2021 – it is too early to know whether the 2022 figures represent a downward trend.](#)



- Q20 Martin Docherty-Hughes:** Good morning, Mariette. I wonder if we could talk more about what seems like a backlog your office might be dealing with, and if you believe you have the necessary resources to effectively carry out your function. When I say resources, that includes money. Could you go into that a wee bit and maybe expand it?

Mariette Hughes: Absolutely—I am very happy to. From the last time my predecessor spoke to you, funding and our make-up have not changed significantly. We have funding for 26 posts. I am going to go out on a limb and say that we currently have six vacancies, so we are just under 25% gapped at this point in time.

That is the bad news story; I am going to tell you the good news story. Historically, the backlog coming through to SCOAF was about 149 cases. Cases were taking over a year to allocate. When I took on the role at the beginning of 2021, that was down to about 49 cases, and we were looking at around eight months to allocate. We are currently on 18 cases. The most recent case gets allocated about once every two and a half months, so it is a two-and-a-half-month wait at our front end, and that is in the face of a 54% increase in the incoming volume.

We have held the backlog steady in the low 20s or high teens for the last year, with 50% more cases coming in. What I am exceptionally pleased with—I am going to toot my horn on this one, and it is not my horn but the horns of all my team—is that, year to date, we are 100% on our timeliness targets. As of 2019, I believe that less than 5% of substance maladministration investigations were being done on target; every single case that has come to SCOAF in 2023 has been closed on time.

- Q21 Martin Docherty-Hughes:** That is good to hear. You have noted a 50% increase, but your budget has not increased in any shape or form. Maybe don't tell the MoD how good you are doing—that slightly concerns me.

Have you found that increases in inflation have had any impact on, say, your back-room services or utility costs? In the last couple of years, has your budget gone in places other than it would normally have done?

Mariette Hughes: The biggest impact we have seen over the last few years has been around things such as travel expenses—things that are generally costing more—and yet our budget lines have remained fairly static with that. We have been able to balance that budget quite well. There are various lines that we are able to adjust within each other to account for that. Broadly, we have not had any issues in not having the funding to deliver the service we would need to.

- Q22 Martin Docherty-Hughes:** To take that slightly further before we finish on this, I believe that you are having operational process reviews during 2023 to ensure efficiencies. I always get concerned with the word “efficiencies” because, to me, it always rings “cuts”. Could you expand for the Committee on what you mean by “efficiencies”, especially given that your budget has not increased but your workload has increased by 50%? What do you mean by “efficiencies”?



Mariette Hughes: Let me be absolutely clear that it does not mean cutting corners, it does not change the quality of our outcomes, and it has not meant a change in the approach to what we decide to investigate or how we investigate. We have looked at the number of times cases would be touched and then handed off to somebody else and whether we could ensure that cases stayed with one person. We have looked at what work we can front-load to make sure that, when someone is then assigned to the case, it is as ready to go as possible.

We have changed the style of some of our templates and decision writing, so they are more customer focused, easier to read for the individual and easier to write for our investigators. We are really following the approach that people are people and they want decisions that make sense and that they can read. We have looked at how many cases one individual can logistically handle and whether we could increase that case capacity, and we have. We have also introduced things such as regular check-ins, either with myself or the chief operating officer, to avoid situations where we might get to the end of an investigation and I have concerns with the way that an investigator has gone. We have early touchpoints and we have mid-point check-ins to see how the investigation is progressing and make sure everything is on track.

- Q23 **Martin Docherty-Hughes:** I have a brief question on your investigators. Your budget has not increased. I always think a good team is one that is being looked after properly. That is not only about those you are investigating but about those who are doing the investigation. To be blunt, have they seen a cost of living increase in their wages in the last couple of years?

Mariette Hughes: It is something that we are tracking very keenly, and it is something that always comes up on our staff survey: pay feels very static, cost of living has gone up and individuals feel like they are struggling in ways they have not before.

- Q24 **Martin Docherty-Hughes:** Finally—I get that we might be agreeing—the Royal Navy complaints that were admissible as service complaints rose 33% compared to last year, and the Royal Navy had resolved 69% of complaints within 24 weeks, which it put down to, importantly, changes in resources as the Royal Navy recruited more permanent staff and a further seven personnel to act as decision bodies. Would you say that, along with yourself, they recognise that investment works and that that means putting your money where your mouth is?

Mariette Hughes: I would say that, yes. There has been real enthusiasm from the services for getting this staffed correctly so that they can turn around a good service. Nobody I have met or spoken to in the secretariat wants to not hit the KPI, and there is a real recognition that further investment is required. I am particularly pleased with the increased number of decision bodies across all three services. All three services are now seeking to rely in large part on voluntary ex-regular reserve decision bodies. That means individuals who have been in the service but are no longer commanding officers, so they do not have the day job pulling them



HOUSE OF COMMONS

away from decision making and can just be employed on a piecemeal basis to make those decisions. That is one of the key drivers for why the timeliness has improved, and it is a real improvement to the system.

One of my concerns can be seen in recommendation 7.1 in my annual report about the need to standardise case-handling practices and understand how we work. Looking at the work we have done at SCOAF recently, we have figured out how many cases we can handle, what the maximum is we can take our people up to and how much of this increase we can absorb within our current resourcing and how much would require more staff.

I am always very positive when I am told that there is going to be more investment into service complaints. When we are putting £x million into it, we need to know what that buys us. We need to know exactly what the cost per case is and how many individuals are required to staff a 10% or 20% increase in service complaints, because it is not enough to just increase resources to the point where we are treading water. Service complaints are going up and—this is going to be on the record—I want to see them go up further. The number of people who currently do not complain is really worrying. I want the system to work, and I want more people to come forward. We cannot just keep putting money at that. We have to have an idea of, if everybody who had cause to complain complained, how many people you would need staffing the system.

Q25 Martin Docherty-Hughes: Before I hand back to the Chair, you mentioned a 25% gap in personnel in your own organisation. How many individuals is that?

Mariette Hughes: Six individuals, with three on the operation side—the investigation side—and three on the business side.

Q26 Martin Docherty-Hughes: How difficult have you found it to fill just six positions?

Mariette Hughes: The civil service recruitment freeze has been one of the big issues why we cannot fill those posts. We were prevented from going out to recruit them. It is not that we cannot get the individuals to fill them; it is that we have not been able to go out and recruit for the posts.

Q27 Martin Docherty-Hughes: So you have a 25% gap, which is six individuals who could assist you in improving your backlog, but you have been told by Ministers that you cannot fill that because of the recruitment freeze.

Mariette Hughes: I would hesitate to say that it was directly from Ministers, but it has been raised with DPBT that these are the roles we have outstanding. We have now received permission to recruit for some of those, and those are actively being recruited, but currently, as of today, the posts are still vacant because those people are still in the process of coming on board.

Martin Docherty-Hughes: Thank you.



Q28 Robert Courts: I would like to talk about the single service complaints system in a bit more detail. Your vision is that all service personnel have access to and confidence in a system that is efficient, effective and fair. In your report last year, you were not able to say that. You did not have confidence that that was the case. The two areas of particular concern were poor performance around flexibility and disadvantage and discrimination. I'm going to ask you to elaborate on that a bit. What is preventing service personnel from having access to a system that is, as you rightly say that it should be, efficient, effective and fair?

Mariette Hughes: I will try to keep it high level; otherwise I will go on all day.

Robert Courts: I'm going to ask you in a second to go through the challenges of each service. That will be next.

Mariette Hughes: Not a problem at all. In terms of efficiency, delay is still the big one. We saw a marked improvement in last year's annual report. For the first time we could say that more complaints were closed than were accepted, so we could say that it operates to keep up with demand, but the KPI for timeliness was still not hit. The average resolution time for a service complaint was 35 or 36 weeks—Ian will be able to confirm that. Of particular concern, 24% of complaints in the system are about bullying, harassment or discrimination. Those complaints take the longest to resolve. They take on average 54 weeks to resolve. For a quarter of the complaints, it is taking over a year to fix them. That is not a system that is efficient. We also look at appeals. The average time to resolve a case that did not go to appeal was 26 weeks. With an appeal added on it was 79 weeks.

Q29 Robert Courts: Can you give us some assistance with why those are taking so long? Maybe some sorts of complaints will by their nature take longer, such as where there are more people to speak to, but maybe not.

Mariette Hughes: Absolutely. You are quite right that some will take longer because of the number of heads of complaint, the number of individuals and the number of statements that you have to get.

More widely, thinking of complaint-handling approaches, I am not persuaded that our current method of investigating bullying, harassment and discrimination complaints is the correct method. We are not flexible enough in our approach because we approach it in exactly the same way as we do every other complaint, where we get a statement from the complainant, interview each of the respondents one by one, get their comments altogether and then send a disclosure pack where everyone has seen everything everyone has said and comments on it. It is a very emotionally fraught process, and there are definite ways we could look to improve that by getting parties into the room and focusing more on individual conversations, rather than statements and comments on disclosure. There are absolutely ways to speed that up.

Q30 Robert Courts: What do you mean by flexibility? I am keen to understand what that means, because there clearly has to be a due



HOUSE OF COMMONS

process, hasn't there?

Mariette Hughes: There absolutely does have to be due process. JSP 831 is actually quite broad in terms of what an investigation should look and feel like. There are some very basic tenets around, "The investigation must be done thoroughly and fairly" and "You must have these various points in it." In terms of how an investigator chooses to gather that information, that is very much within their gift. In terms of how a decision body wants to see and hear their evidence, or how they want to interact with the parties, that is very much within their gift.

Q31 **Robert Courts:** Are you suggesting that evidence may not be taken in a written form and may be taken verbally?

Mariette Hughes: Absolutely. If we could look at the example of the RAF, which has moved towards a system of having case hearings, one of the things that has come out of the pandemic is that we are all much better at hybrid working, and we have seen a real drive to embrace technology. The RAF now has case hearings where they can have the complainant, any participants and any subject matter experts on a Teams call that is recorded and transcribed, and can then be turned into a record of hearing. It is a conversation, and it can be arranged so quickly and can really get to the nub of complaints. Actually, we are seeing things that can be sorted in a half-hour discussion, rather than a six-week investigation.

Q32 **Robert Courts:** So it would still be recorded and people would be provided with the details of what the complaint was and whether it might be done more quickly.

Mariette Hughes: Absolutely, yes.

Q33 **Robert Courts:** It is good to understand that—thank you. I hadn't interrupted you just to focus on that; I wanted to understand what you meant by flexibility.

Mariette Hughes: Delay is the big one around bullying, harassment and discrimination complaints and around appeals. In terms of effectiveness, the number of people who say that the underlying issue was not resolved means that we cannot really say the system is effective, because the JSP is called "Redress of individual grievances". They are getting decisions, but it is not resolving the issue at the heart of it. That, for me, is a real concern. When we look at fairness, fairness is usually the one that scores the highest, but, as mentioned previously, I do have real concerns that the introduction to the new appeal grounds has restricted that fairness.

Q34 **Robert Courts:** Presumably, that affects the confidence people have in the process, because clearly they have to feel that their grievance has been addressed. What about lessons being learned and building on prevention? I am interested in that side of things. Can you address that?

Mariette Hughes: Again, I am limited by what I see in that I only see a very small percentage of the cases, but to use one example, there was one particular area within the Army that had looked at all the service complaints they had received. It looked at the number of complaints that



HOUSE OF COMMONS

were upheld and found that they were actually doing quite well in not having complaints upheld—that there were not any issues. But the individual in charge of that area actually said, “Well, the fact that we have had this many complaints is still concerning.” If people are still needing to raise the complaints, they do not understand something or the communications have not been great, so how can we improve further? How can we take the fact that we have this many complaints in these areas and improve the guidance and training we give to ensure that people do not feel they have to complain, because it was resolved right at the start? That is the sort of learning from complaints I would absolutely love to see. In terms of where we need to focus those efforts, without access to all the cases that are coming into the system, I could not tell you where they are.

- Q35 **Robert Courts:** Do you have a “just culture” approach? I am interested in this because, from an aviation perspective, that has been a big sea change in the way that accidents have been approached over the years. Of course, there will clearly be some examples where complaints require strong action to be taken because it is simply unacceptable. Bullying is the obvious example of that. There may be some cases where it is simply a misunderstanding of process that has led to a complaint. Dealing with an issue in a way that does not apportion blame but seeks to stop it happening again is maybe something that would help restore confidence. Is that an approach you take?

Mariette Hughes: Yes, absolutely. I have mentioned already in front of the Committee that I find informal resolution very important—if things could be resolved at a low level, absolutely. But there are cases where people just cannot get the answer they need or the answer they want, or they have gone to the subject-matter experts and the result is that nobody quite knows, so they have to raise the service complaint to get the answer. Complaints do not always have to be combative. It is just about whether or not somebody feels wronged in their service. In the same way, whereas in a civilian job, if I had a query with my pay or an issue with something in my terms and conditions, I could go to HR. Service personnel have that same right to raise a complaint and have those issues looked into.

Chair: Robert, do you want to seamlessly move on to your question on the three services?

- Q36 **Robert Courts:** I am very happy to, Chair. Each of the services will have different challenges. Can you go through them one at a time and tell us what their individual challenges are?

Mariette Hughes: Broadly speaking, each of the services has a distinct identity. They have their own experiences, they have their own split of complaints and they have their own experience of their personnel. That will naturally affect the make-up of their complaints. As mentioned, if BHD complaints take so much longer and if you have markedly more of that type of complaint, it is going to affect your ability to hit the KPI. But in terms of the individual and unique challenges faced by each of the

services, I am not persuaded that there are any circumstances that are so unique to one service and not the other that that specifically prevents them from hitting the KPI.

The main issue for me is that we still think of this as a single-service issue and who is performing well and who is not. This is a tri-service policy and a tri-service KPI, so we need to look at the way we are resolving complaints as a tri-service whole. If one service has identified a way to hit the KPI or to improve timeliness, and it fits within the realms of JSP 831 and the approaches of good complaints handling, we should all be doing it. We need to reduce those operational silos.

For that reason, we have started having quarterly meetings with the head of the service complaints secretariats and my office. They are quarterly collaborative meetings where we all sit down and talk about who is seeing what, what cases are coming in, how they are dealing with them and what we can learn from each other. That is something that was absolutely not happening a few years ago, and that has been a real shift in the way in which we interact with each other. The services and the service complaints secretariats are now seeing each other as allies because they are doing the same job and delivering the same system.

Having said all that, we have tri-service policy and tri-service KPI, and we have service complaints secretariats staffed by their own single-service budgets with their own chains of command, their own hierarchy and their own pressures. There is a real disconnect between the desire to do a very good job and to enact some of the changes that we have recommended, and what it is actually like on the ground in terms of getting those resources and extra people in, because things have to go up the single-service chains.

Robert Courts: Each service has its own explanation for its performance. The Navy has had a 33% rise, resolving 69% of complaints within 24 weeks. They have recruited more permanent staff, which has helped with that. The Army has seen a 30% rise in the volume of admissible complaints. They believe that is down to removing the chain of command from the complaints system, which is essentially your point about wanting to see more complaints because that shows that the system is operating more effectively.

Q37 **Sarah Atherton:** Can I ask a supplementary question? You touched on written evidence. Of the cases you see, how many times do you find that there is missing written evidence—for example, but not exclusively, medical records?

Mariette Hughes: I can recall one or two off the top of my head over everything I have seen in the last few years. More commonly, I find there is too much evidence—far, far too much evidence for the issues that are being investigated.

Q38 **Sarah Atherton:** A lot of cases that come in front of me have missing medical evidence that is quite crucial in the case, but you are not finding



that.

Mariette Hughes: No. It may be that the types of cases that are coming to you are more often resolved through the medical special-to-type process, and the things coming to me as service complaints are not necessarily around the medical issues and therefore do not require the medical notes. I have seen a few cases where, when we were looking at how the chain of command supported somebody, the medical notes would have been useful to understand everything that has gone on, but it is not an issue that I am tracking with any particular concern.

Q39 **Sarah Atherton:** Service complaints are increasing and women still remain disproportionately represented.

Mariette Hughes: They do.

Sarah Atherton: So what is happening with women in the complaints system?

Mariette Hughes: Again, I am going to caveat it by saying that I am limited to seeing the cases that come to me.

Sarah Atherton: Which was what—about an eighth?

Mariette Hughes: Very broadly speaking. In the annual report 2022, we had 80 applications for substance and 70 for maladministration, or the other way round. Some of those will have been an application for both types on one case.

Sarah Atherton: But compared with the cases going to the admissibility team, it is very small.

Mariette Hughes: A very small proportion. The actual experiences of individuals going through the service complaints process, from my narrow scope, does not appear to be markedly different to that of anyone else. They are not facing any issues within the service complaints process by virtue of being female. However, the fact that they are over-represented in the system, and are twice as likely to have to make a complaint, means they are disproportionately affected by the overall failings in the system—they are more affected by the delay.

I want to be really clear that it is not the case, as has been suggested to me a few times over my tenure, that women are just more confident in coming forward and that is why they are over-represented in the system. They are experiencing poorer behaviour at a disproportionate level.

Q40 **Sarah Atherton:** In our inquiry, we recommended that women should be able to choose their assisting officer in specific cases. Although that is happening in some cases, it is not always. Do you have an issue with gender-specific investigating officers?

Mariette Hughes: Ideally, I would like somebody to be able to choose an assisting officer of their preferred gender, particularly when the circumstances of the case make that appropriate. I am thinking of one case in particular that we referred to in our annual report, where an



individual had said, "I have been through this traumatic experience. I have been to civilian justice. We are at the service complaint stage and I do not want to recount this behaviour to another man I do not know. I would like to have a female investigating officer and a female assisting officer," and the service said, "No, that is not possible. You cannot pick and choose."

To an extent, I understand that you are limited by who is available and who is resourcing the system, but it is a real concern if the system does not have sufficient resources to be able to offer that and make someone feel more comfortable. Complaining is not a comfortable position to be in the first place, and anything we can do to assist that process—even if it is as simple as being able to choose that person—would be very beneficial.

- Q41 Sarah Atherton:** What is your overall opinion of the admissibility teams now that you have been in post for a few years? We say that it is central, but actually it is done by individual service but monitored on a central basis. What is your opinion of the performance of the admissibility teams?

Mariette Hughes: I think the single-service centralised admissibility teams—that is a mouthful—are broadly doing well. The timeliness has sped up, the quality is better and they are open to discussions if we have concerns around the way that complaints have been phrased or things that have been missed. They are open to those conversations.

I would say that the independence has increased, as well as the accessibility to the system, but we are not seeing that mirrored in the number of people who still do not come forward and complain. I struggle to understand exactly why that is. We have the AFCAS survey results that tell us how many people think that nothing would happen as a result of a service complaint. We know how many people still say that they fear their career will be harmed as a result of raising a service complaint. That figure has gone up, even though the number of service complaints that were raised has increased.

This is why it would be beneficial to have that own-motion power to go and do thematic investigations to find out exactly what people's experiences on the ground are. I do a huge number of outreach visits every year. I go out and speak to focus groups, kick the chain of command out of the room, and talk to them sensibly and properly about what they know about complaints, and what their experiences have been. People are still not comfortable or confident using that system, and a couple have spoken to me about being dissuaded from raising a complaint. It is very anecdotal without the evidence behind it. It is difficult to say.

- Q42 Sarah Atherton:** I wouldn't say it is anecdotal from what comes past me. Anyway, there is an increasing weight of debate for certain cases, and cases that are not resolved at local level, to go to an independent defence authority, and to change the whole structure of the admissibility teams to make an independent body. What is your opinion of that?

Mariette Hughes: We have achieved a level of independence by having the centralised admissibility teams making that decision completely away

from the chain of command. As I said earlier, I still firmly believe that the provider of an environment or a service is the person who should be given the first chance to resolve a complaint. I think it is really important that service complaints are investigated within the service.

At this point in time, I do not have any concerns that markedly more complaints are being ruled inadmissible than should be. The rates are broadly the same and the quality of the decisions is improving. When complaints are raised, they are raised with someone who is independent from the chain of command—which is, in the majority of cases, broadly making the right decisions on admissibility. Where they don't, they come to our office, and we have the power to overturn them. So accessing the system via that admissibility route is not a great concern that I have. The biggest concern I have is about people who don't feel able to complain and access that route.

Chair: Thank you. That almost leads straight into the question from Richard Drax on the recommendations you have made and how they have been taken up.

Q43 **Richard Drax:** At present, there are three overdue recommendations from the Ombudsman to the MoD. How would you describe the MoD's approach to recommendations made by the Ombudsman?

Mariette Hughes: To date, we have made 44 recommendations prior to the most recent annual report, 40 of which were accepted, which is very pleasing. It is not a surprise to anyone that historically we have been very unhappy with the length of time it has taken to enact recommendations. That is one of the reasons why, in the annual report 2021, one of the recommendations was "Please close the recommendations". So to still have some outstanding at this point is frustrating and disappointing.

I will say that a significant amount of work went into it last year and we saw the closure of quite a few long-standing ones, which was absolutely welcomed, but progress is still not fast enough. For us still to have recommendations outstanding that my predecessor made in 2016 is simply not good enough, and to me it sends the wrong message. If those recommendations have been accepted as things that will help the service complaints system get better, but they are then not actually enacted, the message that it sends is that it is not important. I absolutely take a different viewpoint on that.

Q44 **Richard Drax:** Of the outstanding recommendations, which ones in particular would you like to have resolved immediately?

Mariette Hughes: All of them, Richard. It would obviously be very nice to get the ones that have been outstanding the longest closed off. I fully support all the recommendations made by my predecessor that were outstanding; however, recommendations in annual report 6 and annual report 7 were based on my observations of the system—what I think needs to change right now to fix this—so those are the ones that I am really focused on.

Q45 **Richard Drax:** There are four of them, yes? Will you tell our viewers what they are? We don't want to test you too much.

Mariette Hughes: Absolutely. Those outstanding from annual report 2021 are recommendations 6.1 and 6.3. They are about bringing informal resolution and centralised admissibility together in some way—having an early method for saying “Help, I need this issue fixed,” but also having it recorded in the system and still having that escalation route through to admissibility and full-service complaint. Those recommendations are still outstanding. The last update on them was that there would be a discussion with me about how they should be taken forward, and I have had many discussions about how they could be. My understanding is that the services are on board with it; it just needs to be done.

On the recommendations from this year, there were five in this year's annual report. One was around the standardisation and professionalisation of case handling. We touched on this point earlier: let's not work in silos and just throw money at; let's try to run this like a good complaints-handling organisation that actually wants to hit the KPI, but understands how volumes affect it, and when we might see that step-change improvement.

Recommendation 7.2 was around having a defined area on either DefNet or Defence Gateway. Currently, if you put “service complaints” into the search on DefNet, you have to scroll through about 10 pages to get to the JSP. There is no one area where an individual can go to and say “What is a service complaint? What should I complain about? What have been some good outcomes for other people? What are the routes I can go down?” It just needs a very simple SharePoint page.

Recommendation 7.3 was around quality. It is an absolute basic of good complaints handling that in any complaints-handling organisation you have a framework for assuring yourself that the decisions that have been issued by your team are good. I would like all the services to have that framework, to put their cases through that framework, and then to allow me to dip-sample, or quality assure that, to make sure they are being done well enough. Again, this touches on the point that I only see the very tip of the iceberg. I only receive the cases in which people are very unhappy because they have been all the way through the process and it is still not resolved. We could be seeing absolutely brilliant complaints handling, but I will never know about it and I cannot talk about the good work that is being done unless I see it.

Recommendation 7.4 is about having a standard operating procedure for when you are putting into place one of my recommendations, or making your own reform or change to the legislation, and just having one area where those changes are recorded, with the intended impact and how we are going to monitor them, and then following up on it. A key example of this for me is appeals. Depending on which conversations you have, were appeals put in to improve the fairness of the system or to improve timeliness? What are some of the unintended impacts, such as the 54% increase in volume into my office and a perceived degradation of the



HOUSE OF COMMONS

fairness of the system? Where is that being tracked? If we are making changes, we have to track those changes so that we can look back and go, “Was it the right thing? What else do we need to do?”

Recommendation 7.5 is on appeals. It would extend the grounds of appeal to include flaws of reasoning and to ensure that people go through the appeal process before coming to me.

That is the summary of this year’s annual report recommendations. The formal response was published on 14 September, but we had early sight of those on 3 August. I will be extremely honest: I was disappointed with the response to this year’s annual report. My office does not make recommendations for the fun of it: we make recommendations that we genuinely think will change and improve the system. We spent a long time discussing the recommendations with the services and with the MoD service complaints transformation team—how they could look, the various levels that we could enact them to and why they were a good thing—so to then get a formal response that broadly rejected quite a big chunk of them was disappointing.

I did write back immediately on seeing that initial response and highlighted my concerns. I do not know whether the Committee has seen a copy of that response, but I would be happy to furnish you with it following this sitting. I wrote back immediately following that, setting out why I think the response missed quite a few points in what we were trying to achieve, my disappointment and an urge to reconsider. That was issued on 14 August; as of today, I have not had a response.

Q46 **Chair:** Thank you very much for a most interesting and informative session, which I think has given us a number of matters to reflect on. Is there anything you want to say in summary?

Mariette Hughes: If I could leave you with one overarching point, it would be that the picture we are trying to present in the report is of a system that is not efficient, effective and fair but that is getting better. It has been slowly getting better for a long time, and it has been too slow, but it had finally started to feel like we are all pulling in the same direction. We cannot let the focus slip off this now. It is within reach to make huge improvements to the system, if we can maintain that drive on it, and I would hate to see that slip away.

Chair: On that semi-optimistic note, thank you very much.

Mariette Hughes: Thank you for having me here today.

Chair: Order.