



## Defence Sub-Committee

### Oral evidence: Women in the Armed Forces: From Recruitment to Civilian Life HC 1047

Thursday 18 March 2021

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Members present: Sarah Atherton (Chair); Stuart Anderson; Martin Docherty-Hughes; Richard Drax; Mr Tobias Ellwood; Derek Twigg.

Questions 68-123

#### Witnesses

**I:** Emma Norton, Director and Solicitor at the Centre for Military Justice and Nicola Williams, Chair of the Independent Complaints Panel at Portman Group; previously Service Complaints Ombudsman for the Armed Forces.

**II:** Ahmed Al-Nahas, Partner and Head of Military Claims at Bolt Burdon Kemp and Wing Commander (Ret'd) Graham House, Principal, Justice4Troops.

Written evidence from witnesses:

- [Centre for Military Justice \(WAF0056\)](#)
- [Bolt Burdon Kemp \(WAF0043\)](#)

## Examination of witnesses

Witnesses: Emma Norton and Nicola Williams.

**Q68 Chair:** Welcome to this second evidence session of the Defence Sub-Committee looking at the experiences faced by women in the military and female veterans. In a week when behaviour towards women across society as a whole has been under scrutiny, it is topical that today we undertake this inquiry to establish the lived experiences of serving females in our military and women veterans. The Defence Committee ran a survey to hear from serving women and veterans, and we received 4,106 responses. Some 62% of our survey respondents claimed that they had experienced harassment, bullying and discrimination, and six out of 10 felt disempowered to make a complaint.

This session will explore in further detail the service complaints and justice system, and our witnesses today not only have first-hand experience of the process but represent many others who have found it necessary to pursue this route to justice. I thank all the women and men who engaged in our inquiry, whether serving personnel, veterans or civil servants, and I wish again to give reassurance that all evidence submitted to this inquiry has been anonymised where requested. Before I start, a note of caution: can witnesses please refrain from referring to individuals or situations that may identify individuals, ongoing service or legal cases, or cases pending appeal? Thank you.

In panel 1 we have Emma Norton, who is director and solicitor at the Centre for Military Justice, and Nicola Williams, Service Complaints Ombudsman for the Armed Forces from 2016 to 2020. In the second half of the session, we have Graham House, Wing Commander (Ret'd) and principal of Justice4Troops, and Ahmed Al-Nahhas, partner and head of military claims at Bolt Burdon Kemp solicitors. Good morning. You are most welcome. Thank you all for being here today. Graham and Ahmed, please would you stand down for the next hour while I introduce Emma and Nicola? Emma, first of all, would you like to give a short introduction and a potted history of yourself?

**Emma Norton:** Thank you very much. My background is that I used to work at the human rights organisation Liberty, and there we did an increasing amount of work acting for military bereaved families, including the Deepcut cases. I also acted for an increasing number of Servicewomen who approached us for help because they were not able to get help anywhere else. At the end of 2019, with my trustees Des James, who is one of the Deepcut fathers, and Brigadier John Donnelly, who is the former head of army personnel services, we set up the Centre for Military Justice, because there is a real gap in provision for people who are suffering bullying, harassment and discrimination to get good-quality legal advice, so that is what I am doing now.

**Nicola Williams:** Good morning, Chair and everybody else. I am Nicola Williams. I was the first Service Complaints Ombudsman—I was actually



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the last Service Complaints Commissioner for 2015, but the first Service Complaints Ombudsman from 2016 to the end of last year. Before that, I had a long career at the Bar as a barrister in private practice, but also as an ombudsman in various jurisdictions, including abroad, and I currently sit as a part-time Crown Court judge. I am still very interested in all things Defence, and I am very happy to be able to assist the Committee.

**Q69 Chair:** Thank you both. As an opener, within the past year 12% of military personnel—men and women—experienced bullying, harassment and discrimination. To put some meat on the bones of that, about 17,000 people serving today have experienced some sort of abuse. Does that suggest there is something wrong with the institution and culture of the military, or is that to be expected, given the nature of the job and the numbers involved?

**Emma Norton:** I think it is a wider problem in society—we have seen that this week very clearly—but you do have a particular difficulty in the Armed Forces because women are in a very stark minority there. Therefore, if there is a problem with, for example, patriarchal attitudes, male violence against women and a disinclination to tackle the causes of that, you are going to see that manifest much more starkly in those kinds in environments. I accept that I only see the cases where it has gone wrong, but certainly the women who contact me are not describing isolated incidents. They are describing patterns of behaviour. Then, when something catastrophic has happened, they are describing a system that is incapable of helping them address that.

**Nicola Williams:** Yes, there is a problem, and I think it is both a personal problem and a more systemic problem. The figure you quoted—please correct me if I am wrong—referred to both men and women who had suffered bullying, harassment and discrimination.

**Chair:** That's correct.

**Nicola Williams:** Of course, that is right: both men and women can suffer that for a variety of reasons. I will say, though, that there are particular cohorts within the Armed Forces that are more likely to suffer from these matters and therefore more likely to complain. That would be women and ethnic minority service personnel of whatever gender.

With regard to particular issues concerning women within this, bullying has a corrosive effect not just on the person receiving it but on those around them because it leads to a toxic workplace environment or a toxic culture. If women are suffering from bullying, harassment or discrimination, they may be targeted because of their gender, or the actions or language may be sexually motivated. The issue is where it is more covert, because not all bullying, harassment and discrimination is overt; some of it is very subtle and very covert, and the only reason why you know a person is suffering from it is because they have changed. They have become more withdrawn and do not want to associate with people. Often people do not want to drill into the reasons for that. Certainly, I have seen cases which describe exactly that kind of matter. As good as banter can be for building



team cohesion and esprit de corps, it is often used as a way to bully people, because if someone is the butt of a joke and they tell you to stop and you carry on, that leads to that toxic environment. So both men and women can suffer from it, but some cohorts can suffer more than others.

**Chair:** Thank you both.

Q70 **Martin Docherty-Hughes:** Good morning again, Nicola and Emma—I saw you yesterday at the Select Committee on the Armed Forces Bill. Nicola, as Service Complaints Ombudsman, you never judged that the service complaints system was efficient, effective and fair. Can I ask you why? Did you perceive any improvement during your tenure?

**Nicola Williams:** First, I would like to make it clear that it gave me no great pleasure to adjudge the system as being not efficient, effective and fair year on year for the entire time that I was there. My predecessor as the Service Complaints Commissioner, Dr Atkins, said the same thing. So it is not just the ombudsman picking on the services; there is something quite fundamentally wrong here.

To give you four reasons—it is not limited these four, but four for the purposes of time—first, the overarching one is that trust and confidence in the system as a whole is sadly still lacking. It is slightly skewed towards my office—I should say my former office—because service personnel will have more confidence in that office and be more willing to make a complaint to the SCOAF than go through their chain of command. But we all know that over 90%—if memory serves, I believe it is something like 93%—of service personnel who could make a legitimate complaint about, for example, bullying, harassment and discrimination, will not do so. The reasons they give are: it takes too long; they will be victimised; it is not confidential; they will be career-foiled; and overall their life would not be worth living.

There is a wider cultural change that I think is needed. Now, that phrase is repeated often, but just because it is repeated often it does not lose its force. There is still a feeling that to make a complaint is a sign of weakness, and as long as that under-current is there, you will find that people who could make legitimate complaints will not come forward.

I also think there are not personnel in the services dealing with complaints as a specialism. Everyone knows that people move on, get promoted and get moved to different areas of the country or across the world. But as people move on, you lose that expertise and that corporate knowledge.

Finally, coming back to delay, 90% of complaints are supposed to be resolved in 24 weeks, but that figure has never ever been achieved by any of the services since the inception of that figure, which long preceded me. As a period to deal with these matters, that is already much longer than is usual in civilian life.

Those are four reasons why—as I said, it gave me no pleasure to do so—I repeatedly did not judge the system as efficient, effective and fair.



I think there was another rider to your question. Did I miss it?

- Q71 Martin Docherty-Hughes:** Was there any sense of improvement during your period in office? Let me put it this way: you have already said that for those service personnel who thought they might complain, they wouldn't, because life would not be worth living and it took too long. My assumption then is that there would have been no improvement, because we would have seen a huge increase in the amount of people who felt confident making a complaint.

**Nicola Williams:** No, it would be unfair to say that there had not been any improvement. Although that 90% within 24 weeks target has been missed year on year since its inception, there have also been improvements year on year; it is just that the improvements are glacial, and therefore we have not reached a critical mass whereby it is sufficiently improved that a lot of people who could make complaints actually think, "You know, I am going to go through the grief"—because it is grief—"to make a complaint, and I will put up with whatever I might have to put up with for 24 weeks." It has improved, but not as much as it should.

Some services have improved better than others: in my former role, you would have figures for individual services and figures for tri-service. Other improvements that I saw go to the overall better working of the service complaints system. I saw better decision letters. I remember the decision letters when I was first there. They were ridiculous; they would never have stood up in any court on judicial review. They were maybe three lines long, and no reasons were given for the decisions on a level 1 decision. There was improved engagement with SCOAF when I was ombudsman, at all levels of seniority, and I think an improved respect for the office as well.

There was a reduction in the backlog that both my former office and the services had, and a reduction in the percentage points number of bullying, harassment and discrimination complaints that came through the system, but that was only maybe about eight percentage points over five years, from an already low base. There were improvements—it would be churlish of me to suggest otherwise—but you were starting from a really low base, so you haven't gotten up to level parity as a result.

- Q72 Martin Docherty-Hughes:** To build on those improvements, does your successor need not just structural and cultural change within the Ministry of Defence but most probably financial investment in the ombudsman's service itself?

**Nicola Williams:** I am very careful not to tread on the toes of my successor. It will be for her to come forward to the HCDC.

**Martin Docherty-Hughes:** Based on your own experience, then, rather than putting words in their mouth.

**Nicola Williams:** Based on my own experience, certainly, my office became experts at doing more with less, but you can do more with more,



and I would like us—or my former office, I should say—to be in a position of doing that.

- Q73 **Martin Docherty-Hughes:** Does it come as a surprise to you, the amount of evidence that a sub-Committee has received from serving women and veterans—over 4,100 contributions—or the fact that around one in four of our surveyed respondents had made a service complaint? Does that come as a surprise at all?

**Nicola Williams:** No, it sadly does not come as a surprise to me at all. I know the complaints that came across my desk when I was ombudsman, and I always knew that was the tip of the iceberg: you were not really getting to the nub of it. I know there is a specific question later on about unique and additional challenges for servicewomen, so I might save my answer for that, but the short answer is that I was not surprised at all, and I still think you probably have not mined all of it.

- Q74 **Martin Docherty-Hughes:** Yes, I found some of the evidence traumatic myself.

Chair, I hope you will indulge me for one final point. In the last couple of weeks, in the Select Committee on the Armed Forces Bill, we even had senior judges, I suppose, ridiculing aspects of judgments such as sexual assault and rape, which many of us on the Bill Committee were quite shocked by—for example, excusing sexual assault and rape because people were drunk, and so on. Did it shock you at all, in any sense, or any shape or form, that that type of notion about sexual assault and the experience of, predominantly, women in the forces should be treated that way by senior members of the military judiciary?

**Nicola Williams:** It absolutely shocks me. It shocks me as a former ombudsman; it shocks me as someone who is also a part-time judge, and had a career at the Bar; and it shocks me as a woman that anyone would want to try and minimise that, bearing in mind that men can also be sexually assaulted and raped, but of course, it is mostly women who tend to suffer that really damaging crime. Rape is sexual violence: let's not skirt around it. Some people think it is just sex that has got a bit out of hand. Rape is sexual violence and it should be looked at like that. I am very clear about that.

**Martin Docherty-Hughes:** Thank you.

- Q75 **Stuart Anderson:** Hello Nicola and Emma, it is nice to see you both again, after yesterday's panel. My first question is to Nicola. We know that both Servicewomen and Servicemen report problems with the complaints system, but women are overrepresented in the service complaints system. Do Servicewomen face additional or unique challenges when making a formal complaint?

**Nicola Williams:** Yes, they do. The horrible thing that is weaving through that is sexism. I will give just four examples of how it manifests, although these are examples, not a complete summation of all the reasons why Servicewomen face unique challenges, because there are broad features and then the individual features for each woman.





Of the four examples I will give, or the four areas in which that manifests, the first is bullying. Bullying, harassment and discrimination generally, but bullying in particular—as I said earlier in answer to the question that the Chair first asked about the 12% of men and women who had suffered bullying, harassment and discrimination—has a particularly corrosive effect, not just on those being bullied but on those around them, because it breeds a toxic workplace environment and a toxic culture. When a woman is suffering from bullying, harassment and discrimination due to her gender, either she is targeted because she is a woman or the language of the actions themselves are sexually motivated. That can be overt or covert.

I do not know if this is a direct analogy, but it springs to mind: it is a little like racism—people sometimes think that unless you use overtly racist language, you are not racist. People also think that unless they see someone actually bullying you, the bullying is not taking place. Bullying, harassment and discrimination can be covert. Therefore, the people to whom the person suffering the bullying can complain would normally be unaware of this and, it has to be said, sometimes unsympathetic.

Another issue that particularly affects women is career management, in particular in relation to retention and promotion. For example, the mid-career years—about 10 to 15 years in—are often the most promotable years for a woman, or for any person in the Armed Forces, but they are also the time when many women are starting families or have increased caring responsibilities, perhaps for elderly relatives. Those increased responsibilities might cause some wrongly to doubt a woman's commitment to the Service. She is more likely to be micromanaged and less likely to be considered for certain types of assignments that would assist her in applying for promotion.

Banter is the most obvious and contentious example, I think. Inappropriate comments, which are often sexual, are passed off as banter. As I have said many times before, banter is good when it builds team cohesion and esprit de corps, but not when someone is the butt of a so-called joke that continues even when they ask the person to stop. Again, that leads back into a toxic work culture.

Finally, we have mentioned sexual assault and rape, which can happen to men, but the victims are very largely women. Those are the four examples that I wish to give.

Q76 **Stuart Anderson:** Thank you for the detailed response. It was very informative. To pull out one of the pieces you said, the banter point, having been a Serviceperson, I know that that goes through everything that the forces would do. At the moment, is the culture around banter too easily accepting that something is just banter, while not enough is going into stopping that crossover into bullying, sexism or racism, as you mentioned?

**Nicola Williams:** I think some work has been done in this area. Certainly, my office—I cannot remember exactly where—has done a blog post



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specifically on the issue of banter; on what amounts to banter and what does not, and on where it crosses the line. I appreciate that the line can sometimes be quite difficult to draw.

In the most egregious examples, which I have seen personally, it is clear on the face of it, because of the language used, that they are not banter that build esprit de corps. They are inappropriate comments that will exclude, not include people, which is what team cohesion is about. There are those kinds of matters.

I think there is an acceptance by the more senior members of the Armed Forces

I think there is an acceptance by the more senior members of the Armed Forces that this is something that needs to be improved, but I do not know how far that trickles down, because it still goes on.

The other aspect of that is that people are just expected to take it on the chin. When you come to work, why should you take on the chin comments that are deeply, not mildly inappropriate? In a civilian work environment, people would not expect that to happen. I am sure that if that happened in the House of Commons, people would not expect it and would have a lot to say about it. It is happening in the services, where people are supposed to be tougher. They might be tougher, but it does not mean that they are without feelings.

**Q77 Stuart Anderson:** Thank you very much for expanding on that. My final point to you, Nicola, is that 1,538 current and former Servicewomen told us that they did not make a complaint after experiencing an incident of bullying, harassment or discrimination, with many telling us that they did not have faith in the complaints system or thought that doing so would harm their career. You have mentioned mid-level career opportunity being hampered already. Does that number surprise you, and is it a concern to you?

**Nicola Williams:** It is of concern to me, and it does not surprise me. I am afraid that that is the short answer to your question. We have heard—this comes from men as well as women, but of course it has a disproportionate impact on women, as it does on ethnic minorities—that the reasons why people do not complain include, but are not limited to, these examples. Delay, because if you think something is going to take six months, six months is a long time, but you think, “All things considered, I can weather this for six months, and if it gets out, I can deal with the hassle for six months.” But if a matter takes not months, but years, you think, “Why am I going to do it?”, particularly when the outcome is uncertain at the end of it.

There is a fear of being victimised for just making a complaint, despite the fact that the now Chief of the Defence Staff, Sir Nick Carter, said when he was Chief of the General Staff that it is cool to complain. People much lower down the ranks still worry about being victimised for making a





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complaint. Generally, people are worried about being career-fouled—that suddenly their careers will come to a screeching halt.

I think an overarching reason is the lack of confidentiality. Of course, the person against whom a complaint has been made has the right to know who the complainant is, but it seldom stays just between those parties; somehow it gets out. People cannot make anonymous complaints to my office. There is a whole side issue as to whether SCOAF should become a designated authority for whistleblowing, but it is not at the moment. People are worried about that.

When you add in delay, fear of victimisation, career-fouling, lack of confidentiality and also the proposed changes in the Armed Forces Bill, which would squeeze the time limits for making appeals but not address the delay that is embedded in the system up until the level 1 decision, you can see why people not only do not come forward, but will repeatedly not come forward unless some very fundamental changes are made.

**Stuart Anderson:** Thank you very much.

Q78 **Chair:** We will now look at investigations and the chain of command. This question is to you both. We received several testimonies regarding problems with the investigation process around complaints, bullying and harassment. Is this common? Do we often see problems experienced by service personnel when they complain to their chain of command?

**Emma Norton:** Yes, certainly in all the cases I see, that is a very clear characteristic. It is interesting that when I am advising behind the scenes and not going on the record—basically, the chain of command might not know that a solicitor is providing advice behind the scenes—the quality of those service complaints investigations is quite illuminating; it is pretty resoundingly awful.

My general observation is that there is little to no understanding of, let alone sympathy for, someone claiming to suffer from discrimination. There is an ingrained unwillingness—I see this all the time—to see events as part of a pattern. They tend to break it down to an individual event and then knock it out on that basis, rather than seeing it as a pattern of harassment. That is partly deliberate, and I think it is partly because they just don't understand the law of discrimination and harassment.

There is a tendency to strike out matters for being out of time. There is generally a three-month time limit, during which time you have to appeal. You can apply for that to be extended. In my experience, those are not generously extended when solicitors are not involved. I have seen blatantly discriminatory things, blatantly racist things and blatantly sexist things said by witnesses and respondents in responses to service complaints in their statements and interviews, which are clearly not being picked up by commanding officers. That is very concerning.

With respect, I think you see all the kinds of problems that you would expect to see in an organisation that is staffed, particularly at high levels,



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by white men who, as a general observation, tend not to have much experience of these issues and aren't trained to deal with them.

I thought it was interesting that the evidence that was submitted by the MoD to your inquiry specifically reveals that. They quietly appended some research that they have obtained that clearly said that the white male prototype is pervasive, that it undermines inclusion and that issues affecting women and black and ethnic minority people are unseen. There is sometimes open hostility to discussions around racism and discrimination, and what needs to be done to fix it, and active resentment. I have certainly seen that in a lot of my work.

Just to round this off, one of the things that could be done, which Wigston recommended, was to take the handling of these complex, difficult service complaints outside the single services and put them in a central defence authority. Although the Secretary of State said, "We accept that recommendation," it is clear that they have now not accepted that recommendation because it now looks like something very different being tendered. If they are serious about wanting to tackle that, they need to go back to Wigston and do what he recommended.

**Q79 Chair:** Are you suggesting removing the commanding officer from that element of the complaints system? Is that the way forward?

**Emma Norton:** It depends on what kind of complaint. Clearly, there are lots of complaints that will be appropriate to be dealt with at a lower level, but when you are dealing with matters of gender or race discrimination, these are complex issues.

At the moment, the victim in that situation is left completely to their own devices, with very little support. The support that is around them is almost non-existent. There is also quite active hostility when it is known that that person has a solicitor. It suggests that they are somehow being litigious or difficult, when they just want some back-up. They need to get some support from somewhere.

I am not saying remove the commanding officers at all levels, but there are some particular kinds of complaints that need to be dealt with, as Air Chief Marshal Sir Michael Wigston recommended. It is frankly mind-boggling why that hasn't been acted upon.

**Q80 Chair:** We have received testimony by some complainants saying that the chain of command has delayed the process of investigation to such an extent that the alleged victim is posted out or leaves under duress, and then the slate is wiped clean. They are suggesting there is a tactic being used here. Have you seen any evidence to support that?

**Emma Norton:** Delay is rife in every single case. For example, they are supposed to make a decision with two weeks on admissibility. I am doing a case at the moment where it has taken a year and two months to make an admissibility decision, and that is in a case where a woman reported being the victim of a serious sexual assault, and a whole series of failings



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by her unit after that. That is really serious, and she is just left in limbo for a year and two months. Delay is absolutely rife.

There is certainly a failure during the course of the service complaints to respond to perfectly reasonable requests being made by those women, for example "Post me closer to my family", "Give me additional support that I may need" or "Support me to have some compassionate leave." All these kinds of reasonable requests are being ignored, in my experience.

**Q81 Chair:** We heard in the last session that justice delayed is justice denied, which is a turn of phrase that keeps cropping up. Nicola, would you like to make any comments?

**Nicola Williams:** I want to start by saying that I echo everything that Emma has said. That is my short-form answer. I can endorse every single thing that she has said, because I have seen it in my office.

I have some particular comments. With regard to the quality of the investigation process, that is as variable as the HIO, particularly if it is a fee-earning HIO that is dealing with it. It is known within the services, although not openly expressed, that some people are better than others. If you have a slight variation, that is one thing; if you have a huge variation, some people would prefer to wait until a particular FEHIO is available before the matter is dealt with. It doesn't happen often—I wouldn't want you to think that a complainant is the agent of their own misfortune with regard to delay—but people recognise that some investigating officers are better than others.

The issue about training is a key one, because right from the very first annual report that came out from my office, which was the 2016 annual report, there were a number of recommendations around training in that, both for assisting officers and investigation officers. There has been some action on that, but clearly there are still issues where training is lacking.

Whether or not a complaint is even accepted, even before it becomes a formal complaint, is an issue. Sometimes, people are dissuaded from making any complaint at all, especially a formal complaint. If they make a complaint, they are encouraged to go down the informal resolution or the mediation route. Let me be clear that I have no issue with informal resolution or mediation—I myself am a trained mediator—but it is not appropriate in every case, and it is not appropriate for bullying, harassment and discrimination cases. People face attempts to dissuade them from making formal complaints, and especially from going to my former office to make a complaint. That is really seen as breaking some sort of code.

Quite often, there are a series of matters, particularly around BHD-type complaints. It isn't just one issue. The last thing is usually the straw that breaks the camel's back, but there have been a number of things that have happened before that. The tendency has been to look at the last one as if it is the only one, and not to join it as a chain. We have certainly overturned decisions in my office—not always, but where it is



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appropriate—where we have said, “You can’t look at this in isolation. You have to look at it as the culmination of a pattern of behaviour.”

Delay is the sore that runs through the entire service complaints process. I will particularly mention admissibility, because it is something that Emma has specifically highlighted. We had recognised a couple of years ago that admissibility, or making decisions on admissibility, was routinely an issue. The expectation is that that decision would be made within two weeks, and it was being routinely missed.

Again, I know that, concerning the Armed Forces Bill that is coming up, there are lots of concerns around delay, but if you are looking at delay, you have to look at admissibility delay—before a matter is deemed admissible—and what happens at the process before appeal, not just the process after appeal. But I absolutely echo everything that Emma has said on this point.

**Emma Norton:** Can I just come back on one of the points that Nicola has just raised? It is so important to understand that a Serviceperson’s access to the court—in this case, the employment tribunal—comes through the service complaints process. If she does not make a service complaint, she cannot access the employment tribunal. Therefore, the Ministry of Defence kind of controls the gateway. It is deeply, deeply problematic, and it traps women inside the service complaints process.

All of my clients—I think pretty much without exception—who are doing service complaints would like to drop them, because they find it painful and retraumatising, they are not being believed and they are being handled by people who have no understanding of these issues. But they know that if they withdraw their service complaint, they will lose their right to bring their employment tribunal claim, and that is the only way they get independent expert judicial oversight and a final decision on what has happened to them. That is another thing that I think it is really important to understand, and it is relevant to admissibility. In a case recently, the MoD have argued that because they have not made an admissibility decision on a woman’s service complaint, she cannot proceed with her complaint in the employment tribunal. You can see the problem there.

Q82 **Chair:** Thank you. Nicola, during your tenure as ombudsman, 90% of cases resolved within 24 weeks was never met. Is that correct?

**Nicola Williams:** Sadly, that is correct, yes.

Q83 **Chair:** But you say delay is inherent and riddled throughout this process, and that it is causing problems, so why did you never meet any of your targets during the four years that you were ombudsman?

**Nicola Williams:** Why did we never meet any of our targets?

**Chair:** Yes. Why were the targets—

**Nicola Williams:** The 90% within 24 weeks was for the services— to resolve a complaint within 24 weeks. The targets that we set ourselves are



the targets that happen once we get a complaint, but the 90% within 24 weeks is something that I had highlighted within my first annual report. The recommendation that I made about that was: if it is an unworkable target, have a look at it again and come up with something workable.

That recommendation came out in April 2017, and here we are in March 2021 and, although there has been work done on it by the MoD and the service complaints and justice transformation team, there still has been no definitive resolution to that. Some services are closer to hitting that target than others, and I will not embarrass the ones that are not by mentioning which they are, but as long as that figure is being routinely missed, people are going to think, "Well, six months is a long time, but I could put up with whatever grief I get for that—but if I know it's going to take years, not months, to resolve, I'm not going to make a service complaint."

**Q84 Chair:** What are the reasons for the blockage, in your opinion?

**Nicola Williams:** One of the reasons is not enough pressure being put on those who have to make decisions at different points to do that in a timely fashion. If you have to make a decision on admissibility within two weeks, but the example Emma gave was that an admissibility decision, before it even becomes a complaint, was taking more than a year, that is an issue. If you have 24 weeks to make your level 1 decision, and that is missed again, that is also an issue.

One reason that has been given—while I am sympathetic to it, I do not see it as an excuse—is that those who have to make those decisions are dealing not just with service complaints, but with other things as well. However, I see this as a core part of being a leader, because you want to ensure that your people are content at work and, if they are not, you want to be able to resolve issues before they become a real problem. The excuse or reason sometimes given is, "We have other things to do, not just dealing with service complaints." Yes, I know you have other things to do apart from that, but these are the time limits that are set down. You either change the time limits—they should have been changed a long time ago; as I say, it is nearly four years and they have not been—or you are held to those time limits.

**Chair:** Thank you, Nicola. Tobias?

**Q85 Mr Ellwood:** Chair, may I just congratulate you on putting together this entire inquiry? Of all the studies we have done on the Armed Forces, the response we have had to this study on women in the Armed Forces has been phenomenal. That is a credit to you and all those who have come forward to voice their concerns and share their thoughts. We have touched on something quite important here, so thank you also to Nicola and Emma for your contribution; it is good to see you again. Nicola, looking specifically at specialist support for those who make a complaint, for example in relation to bullying, harassment or discrimination, do you think there is enough specialist support available?

**Nicola Williams:** In short, no. It can fall into two brackets. Within the existing system, all those who would be party to resolving a complaint,



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assisting officers and investigation officers in particular, as well as deciders, could have specialist training to deal with these particularly sensitive subjects, especially where it comes to matters sexual—or to do with racism, but here we are talking about women in particular. The training could be increased, but that specialist training has not been increased for those people and therefore they cannot provide the specialist support, although it would be open to them to draft in specialist support if they wanted.

Another way of getting around that is for, as recommended in the Wigston report, a defence authority to be set up. I have always said, and I will say it again, that the Wigston report was an excellent piece of work, and the recommendations were eminently sensible and very practical. A key recommendation was a defence authority that would deal with bullying, harassment and discrimination, which would have specialist people in it and would come outwith the chain of command but below the ombudsman. If that body was set up, the issue of quality specialist support would be largely solved, because you would have the specialist people dealing with those matters.

**Q86 Mr Ellwood:** Thank you for that. You mentioned the Wigston report, which is fundamental to much of what we are speaking about. Could you give a value out of 10 for how helpful the Wigston report is, and another value out of 10 for how many of the recommendations in the Wigston report have actually been implemented?

**Nicola Williams:** Respectfully, I think the question is slightly mis-phrased, because if the recommendations have not been completely implemented, that will have an impact on the marks out of 10 that I would give it. I can say that if it were completely implemented, I would give it nine or 10 out of 10, because I do think it is a really good piece of work. I say that and it is not even a report that I authored. I do think it is a really good piece of work.

I appreciate that it takes time and money to implement all of the recommendations that have been made, but if you concentrated on the defence authority, got that done first and then had other things follow behind it, I really think that would be wonderful. In terms of the recommendations that have been implemented, I am only going on the subsequent review that I saw from Danuta Gray, which came at the end of last year, but it would seem that many matters are in progress. However, I don't know at what stage in that progress they are.

What concerns me with regards to that is, firstly, that there was the need for another report. I would actually have preferred to have seen the Wigston recommendations just adopted in full, without having another report to report on a report. Having said that, there are a number of additional recommendations that Danuta Gray has made, and I think they are actually very good. In terms of recommendations that have not been implemented within the Wigston report, and that there is no plan to implement, it concerns me that two of those are policy recommendations





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owned by the MoD, and they concern both the proposed defence authority and BHD matters.

So, I think, if the report were implemented in full, that would be ideal, and you would get 10 out of 10. If it were implemented in part, starting with the defence authority, then you would get eight or nine out of 10, even if only the defence authority and the recommendations around that were implemented. Controversial comment coming up here, but perhaps the time would have been better spent actually implementing the recommendations in the report, rather than getting another report to report on the report, which actually adds five new recommendations. You have gone up from 36 recommendations in the Wigston report to 41 recommendations now if the new ones are accepted.

**Mr Ellwood:** Forgive me; that is why I phrased my question in the way that I did. Many people welcomed the Wigston report itself with the recommendations. What has been less welcoming is that they have not been implemented. That is what I was hinting at, but I did not want to lead you there.

**Nicola Williams:** I think we are in the same space then with regard to that.

**Mr Ellwood:** We are indeed. Emma, would you like to respond as well?

**Emma Norton:** Just very briefly, it is not just that Wigston has not been implemented, it is that it has been watered down. I think it is really important to make that point. Wigston recommended the creation of a central defence authority sitting outside of the single services. Danuta Gray's report makes it clear that that is no longer the intention. With all due respect, somebody needs to explain how that has happened, because I am not aware of any process of consultation that has resulted in that. Given that the Secretary of State specifically said that they accepted the recommendations, I think somebody does need to explain that.

In relation to specialist support available to some of these most difficult cases in the services, I would ask: what specialist support? There is none. You have some assisting officers who are doing an absolutely fantastic job in addition to their day jobs. As Nicola says, they are not specially trained, but they should be. But I don't see any wider support, and we haven't even got into the issue of sexual assault and how you support women who have suffered from that.

**Nicola Williams:** Can I just come back on one point to Tobias and to echo the point that Emma has made, which I should really have said at the beginning? You have the Wigston report, which was accepted in full when it came out by the then Minister for the Armed Forces, and therefore accepted in full by the MoD. There was no question about any of those recommendations not being implemented.

But here we are, we have another report, which, as Emma has said, has watered down the first report, and the original recommendations have not



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even been accepted. If people say that it takes time to implement recommendations, well, we actually have additional recommendations on top of the original ones that have not yet been accepted. I do think it is incumbent on the MoD to explain why a report that it accepted in toto when it first came out is now a report that people seem to be resiling from.

**Mr Ellwood:** That is very helpful. Thank you very much indeed.

**Chair:** Thank you. May I introduce Richard Drax?

Q87 **Richard Drax:** Good morning to you both and thank you for attending. This series of questions is really just aimed at you, Emma, if that is ok. Nicola stated that she wants to keep out of this particular line of questioning. My first question is to you, Emma. Why do you think rape and other serious sexual offences should be heard in the civilian justice system rather than the service justice system?

**Emma Norton:** We were talking about this in great detail yesterday. I think there are a number of answers to that question. The first is that that is what Parliament intended. As Dame Vera Baird QC pointed out yesterday, she was actually in the House when the relevant law was passed, and it was very clear that Parliament's intention was that rape and serious sexual assault cases would not be dealt with in the service justice system.

I will briefly quote the Minister at the time. He said, "we do not propose that...rape...alleged to have been committed" by a serviceperson "in the UK will normally be investigated and tried within the service system". That is the first answer. Yet here we are, 13 years later, and an increasing number of those kinds of offences are being dealt with in that system. That is a problem for a lot of reasons. First, it is a point of principle. As his Honour Judge Lyons said in his review, service personnel are citizens of the UK. They have not given up their fundamental legal rights just by joining the Armed Forces. In cases where they have been the victim of a serious crime, they are entitled to have those cases handled in the civilian justice system.

Secondly, it undermines public confidence, and you see that every day. Every time there is a negative case, it disproportionately damages the armed forces, and gives the perception that justice is not being delivered on the same terms for them. That is very harmful to the Armed Forces and I am not sure why they want to hang on to those cases, especially when there are not many of them. I think it undermines public confidence in that way.

The belief of women who I represent is certainly that if people knew that they would be able to report their assaults to a police force that was entirely unconnected to the forces, that would encourage more people to come forward and report those sexual offences. We do not have comprehensive data—that is part of the problem here—but there is a lot of evidence that suggests that there is a lot of under-reporting. The last



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Army sexual harassment survey indicated that 7% of respondents had disclosed an act that would have amounted to a sexual offence if they had reported it, but most of them did not.

I also think that reporting outside of the forces would go some way towards addressing problems that victims of sexual violence later experience inside their units. It is not going to be a panacea—it will not fix all of those problems—but it would address some of them. For example, a commanding officer can currently get access to service police statements in the context of a service police investigation, which might be right and proper in some circumstances, but imagine that you are a victim of rape and you know that your commanding officer has access to the service police statements, in order, sometimes, to investigate you and whether your conduct was appropriate and whether you breached the service test—that has happened in one of my cases. That is going to be incredibly difficult. I suggest that civilian police would not be sharing that kind of information as readily. I do not know whether that answers some of the questions, but I hope it gives you something helpful.

**Q88 Richard Drax:** It does. It is almost a double trial for the victims: the civilian police have one investigation and the Army has another, so the victim is put through two investigations. Is that what you are saying?

**Emma Norton:** I have certainly had cases in which the rape is reported, it is not progressed with, and charges are not brought for whatever reasons, and the victim is told that she will be investigated, as often is the alleged assailant, because the commanding officers—in their defence—come to the view that, “Something has happened here; I have got to get to the bottom of it.” The problem is that that can inadvertently result in the victim then being investigated

I have one case in which the woman was told, “We are now going to open an AGAI”—that is the internal investigation—“into your and his conduct on the night in question. I am going to get access to the service police statement, and I am going to look at those to determine whether the service test has been breached.” She described that as “horrifying”.

**Q89 Richard Drax:** I think you have just answered my second question, but I will ask it anyway in case you want to add to it. What concerns have servicewomen flagged to you about how the service police and the Service Prosecuting Authority handle sexual offences and domestic abuse cases? I think you have just answered that, but is there anything else you would like to add?

**Emma Norton:** A huge amount can be said about that. The best place to look, because you do not have the time to listen to me talk about it all day, is the Lyons review. He sets out very carefully in a well-evidenced way his concerns about the service policing of the most serious offences—not in all cases, but in a significant number of them. Likewise, he sets out problems with the Service Prosecuting Authority and the decisions it comes to.



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To be clear, it is not about attacking individuals. Lots of people there are working really hard and trying to do a good job, but they do not have enough experience or the same volume of experience as the civilian police do. That is why it would be safer and better to put the most serious cases into the civilian justice system.

**Q90 Richard Drax:** You conveniently lead me to the next question. Why are some cases handled by the civilian police and some by the military police? How different is the process for military women who bring complaints through the military police compared with through the civilian police?

**Emma Norton:** We do not have the data for the number of cases dealt with by the civilian system. At the moment, because of the concurrent jurisdiction, a case can go either way. We know that internal protocols direct that where it is Serviceperson on Serviceperson, the presumption is that it should go to the service justice system. That is something we want to change: we say that it is all the more important in that kind of situation to have entirely unconnected expert police and prosecutors dealing with those cases.

Data are being collected only on some aspects of sexual offending inside the forces. They are not being collected, as far as I am aware, on the number of service personnel being dealt with in the civilian justice system. I am sorry, I do not remember the second part of your question.

**Q91 Richard Drax:** How different is the process for military women who are bringing complaints through the military police compared with through the civilian police?

**Emma Norton:** For the most part, I am only advising those who are going through the military system. All my clients have been reported being victims of offences by service personnel, so those are the cases that I am seeing. They are describing very basic failures in police investigations and problematic decisions by the Service Prosecuting Authority, which are entirely reflected in Judge Lyons' work and which we set out in much more detail in our written submissions to the inquiry.

**Q92 Richard Drax:** My last question in this section, Emma: what more should the MoD do to advertise to service personnel existing opportunities to report allegations to the civilian police?

**Emma Norton:** I don't think they should. What they should be doing is amending the Armed Forces Bill to create a presumption that certain types of offences—identified by Lyons as murder, manslaughter and rape—should be going to the civilian police. In that case, it would not be down to the individual Servicewoman to make that decision. To put it to her at a time when she has just reported being raped, "which of these two jurisdictions do you want?" is an impossible thing to do. I think that is problematic.

I am acting for three women and we are closing some proceedings against the Ministry of Defence. They insisted that the Ministry of Defence issue a



fresh defence instruction notice so that Servicewomen would know that they had a right to report to the civilian police. All my clients did not know—they thought they had no choice. That is something that we could do. That defence instruction notice has been issued, so that is a start. I think that solution is a little bit of tinkering around the edges. The main thing to do is to change the law.

**Q93 Richard Drax:** Emma, can I paraphrase quickly? You are saying that the very serious cases such as rape should go straight to the civilian courts, and everyone should know that. It should be as clear as crystal, so there would be no confusion and there would be reassurance for the victims in many cases.

**Emma Norton:** Exactly. The Armed Forces Bill presents a wonderful opportunity for that to happen now.

**Nicola Williams:** Before you leave this point, I want to make clear that I wanted to keep out—as you described it Mr Drax—because it is not my area of specialism but Emma’s, but I agree 100% with everything she said. To pick up on the point of public confidence, this will undermine public confidence. The Armed Forces want to recruit the best people, whatever their ethnicity or gender, who want to join the Armed Forces and go as far as their talent and potential will allow, but if they see that this is what happens in the unfortunate cases where women are subject to rape or sexual violence, that will undermine public confidence and will affect the Armed Forces’ ability to recruit and retain people.

**Richard Drax:** Nicola, I did not ignore you out of rudeness. I just saw a little note here saying, “Don’t ask Nicola”, so forgive me.

**Nicola Williams:** I know you didn’t. That’s fine.

**Chair:** Before we move on to Martin, who will look at future reforms, can I just ask, Nicola, with hindsight do you think that the ombudsman is independent?

**Nicola Williams:** I think the ombudsman is as independent as the person holding the office. Sometimes people have said, “Well, if you’re taking money from the MoD and they’re funding your office, how independent can you be?” I have always been able to assure them: “If you know anything about me as a person, you know that I’m very independent”—I know everyone in this call knows that as well—“both in terms of thought and action.”

I think the ombudsman is as independent as the person holding the office, and also as the legislation that underpins it, which might come back to the Armed Forces Bill. I know that we have mentioned it a lot, and there is a specific question coming up about it. If that tries to undermine the independence of the office, then we have a problem, but I have absolutely no doubt that my successor will be as independently minded as I am, and the office has always operated in that way. There are a number of people who have been very pleased about the decisions that we have made.



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There have also been a number of people who have been very upset about the decisions that we have made, and that underscores our independence.

**Q94 Chair:** You have the ability to overturn decisions made by the defence counsel, so during your four-year tenure, how many did you overturn?

**Nicola Williams:** Chair, I could not give you an exact statistic and sadly, as I no longer work for the ombudsman, I cannot go back and get those figures for you. I could ask whether someone could get you the figures, but I can assure you that where there was evidence to support me overturning that decision I absolutely did it. Where people had threatened judicial review because they felt that they disagreed with my decision, my attitude to them was: "If you want to judicially review my decision, here's the address of the court. Go ahead and do it, but I know you're not going to succeed." I would always make sure that, if I did that, I would have good reason for overturning those decisions.

I can try to ask, even though I have, I suppose, no locus to ask. I can certainly ask my statistician to provide that for the Committee if you would wish it.

**Q95 Chair:** You do remember overturning decisions, though, made by the MoD?

**Nicola Williams:** Absolutely—100% yes, I do.

**Q96 Martin Docherty-Hughes:** What do both of you think about the proposed reforms within the Armed Forces Bill, such as the new Service Police Complaints Commissioner, the reduction of the time limit for appeals, and the concurrent jurisdiction? Emma, could I come to you first?

**Emma Norton:** Very briefly, the Service Police Complaints Commissioner is fantastic. Really good—100% accept that, so that is brilliant. It looks like the regulations empowering it are going to be quite broadly drafted, so that is very welcome. I am particularly encouraged that it will have the power to investigate super complaints, which are when you see a pattern. I think that is really encouraging.

I think I dealt with the service justice system and the concurrent jurisdiction issues in the preceding question. I think, for all the reasons I have given, that it is hugely important. This is a once-in-a-generation opportunity to fix this problem, and to put the position back to that which Parliament intended, which is that the most serious cases of rape and sexual assault should go to the civil system. At the moment, the clause is a blank canvas and it needs to be amended to ensure that that happens.

Finally, on service complaints appeals, it beggars belief that that is what they are trying to do. Given all of the problems, and all of the things that they could be doing to attack the service complaints problems, the fact that they are trying to restrict the very narrow time window that a usually harassed, traumatised, overworked complainant has to lodge her appeal is, I think, unconscionable. I do not have time to go through the various stages and explain just how difficult it is, but the amount of paperwork





that a service complaint generates, and the state that the complainant is going to be in by that point in the proceedings, especially in a harassment and discrimination situation, is going to make it effectively impossible for them to exercise their appeal rights.

That is unfair—institutionally unfair—and, just to re-emphasise, is going to reduce their right of access to the courts because, as I explained earlier, their right of access to the employment tribunal depends upon it. If they do not appeal, the employment tribunal will lose that jurisdiction.

**Nicola Williams:** I dealt with a lot of this at the Armed Forces Bill Committee yesterday, but with regard to the Service Police Complaints Commissioner, that is an excellent idea.

**Nicola Williams:** I dealt with a lot of this at the Armed Forces Bill Committee yesterday, but with regard to the Service Police Complaints Commissioner that is an excellent idea. There was a move to try and get my office to take on those matters, but right from the first year that I was the ombudsman I always said no, they need to be dealt with very separately—separately from the IOPC and from my office. I am so happy that that is happening.

The ability to investigate super-complaints is excellent. In fact, I wish that there were a read-across to complaints that come to the ombudsman—to SCOAF—because we often see patterns of complaints. We cannot investigate patterns of complaints from any number of people all at once, unless it is a whistleblower-type matter, and SCOAF is not a designated whistleblowing authority. So, to have a Service Police Complaints Commissioner is wonderful.

With regard to the reforms on appeals, I think they are disastrous. The central question should be, “Why are you changing it? What is the wrong that you want to remedy?” If you want to reduce delay and speed up the process, tinkering with appeals will not work because the delay, as I have already said, is before a matter is deemed admissible, at the point it is deemed admissible and on the way to the first level 1 decision. It is not from a level 1 to a level 2 appeal, and it is not from a level 2 appeal to my office. The appeal to my office is not part of the 24-week time limit, in any event.

Both the complainant and the respondent suffer significant delay in getting to the level 1 decision. That is where the emphasis should be, because otherwise this Bill could read, to people who already don’t have a lot of confidence in the system, as if, “You’ve taken well over a year to resolve my level 1 decision and now you’ve just given me two weeks to make my appeal, and I have to give you reasons for my appeal, which have to be adjudged just and reasonable by someone internally when I don’t know what that mechanism is.” If there are going to be changes to appeals, there need to be changes to the system as a whole. You cannot break it into fractions. You look at it as a whole, or you do not look at it at all.

Q97 **Martin Docherty-Hughes:** May I ask you both two further points on



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that? Emma, do you think that the reduction of appeal time limits proposed by the Government would disproportionately impact women in terms of the system?

**Emma Norton:** Of course it will, because we know that women are disproportionately represented in the service complaints process, so if there is a problem with the service complaints process it is going to disproportionately impact them anyway. So, yes. I do not think there is a clearer way to answer that question.

**Nicola Williams:** I absolutely agree with that. That is exactly what will happen.

Q98 **Martin Docherty-Hughes:** May I push you on one further point? If members of the armed forces were able to organise independently of the Ministry of Defence and of the military judiciary, would they be better supported to engage with the MoD to make sure that recommendations, such as this one in the Bill, did not actually take place, for example if they had an armed forces representative body where they could pre-engage with the Government before a Bill comes to the floor? Maybe the question is to you, Emma?

**Emma Norton:** It is a leading question, but I agree with you entirely. Yes, of course. What you see here is the product of some strange decision making that is going on. I do not know who is in the room when these decisions are made, for example, to not accept the Wigston review or to resist any suggestion that these most serious sexual offences go out to the civilian police. I do not know who is in the room, but I suspect that it is not a particularly diverse or representative group of people. Therefore, if you had something like the Police Federation that could only be a good thing.

Q99 **Martin Docherty-Hughes:** Based on the evidence we got last week, that is correct, Emma. Nicola?

**Nicola Williams:** I was going to echo Emma's point about the people making the decisions, for example, about whether Wigston is going to be implemented at all or in a watered down-version. We know that the people in the room will not be diverse in terms of gender or race, or even have different perspectives. That, of course, is going to impact the end result.

I know the thrust of your question, Martin. Another way of looking at it, which I have mentioned before—I particularly remember mentioning it in my last appearance before the Defence Committee, when I was ombudsman—is that it should possibly be an ombudsman for the Armed Forces, as opposed to a Service Complaints Ombudsman. That should be looked at, because that office would have a much wider remit than just dealing with service complaints and could look at tackling all these issues.

I say that because I believe that you are asking for some sort of union representation for service personnel. The MoD might not agree with that, I do not know, but I cannot see anybody objecting to the possibility of having an ombudsman for the Armed Forces. That, to me, would go some



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way to meeting the issues and concerns that you have expressed and that Emma and I have expressed, and it will give succour to service personnel about having their views represented.

**Chair:** Time is against us. Thank you both very much once again for coming before us. No doubt we will see you again. Emma, I am sorry that we did not have time to talk about support services for women who have experienced sexual assault. Nicola, good luck with your book.

**Nicola Williams:** Thank you. Please buy it!

### Examination of Witnesses

*Witnesses:* Ahmed al-Nahhas and Wing Commander (Ret'd) Graham House.

Q100 **Chair:** Hello to Graham House and Ahmed al-Nahhas. It is good to see you both again. Could you introduce yourselves, like Emma and Nicola did?

**Wing Commander House:** Good morning, Chair. Hello, Committee. I am Graham House, retired Wing Commander. I joined the Air Force a little over 35 years ago, in the ranks. I was commissioned into Ground Branch, then Flying Branch. I have been privileged to fly in most of the modern operations in the component era. I have supported, followed, led and commanded brilliant people in hostile environments, with a few lost, I am afraid. I served in frontline commands, NATO headquarters and the MoD. I now run an organisation called Justice4Troops, which was set up to give a safe space for an unsafe conversation.

**Ahmed Al-Nahhas:** Good morning, Chair. Thank you for this opportunity. My name is Ahmed al-Nahhas. I am a partner at a firm called Bolt Burdon Kemp. My department acts exclusively for Service personnel and veterans. As part of the evidence that we have submitted to this Committee, a number of my clients have come forward to provide case studies. I thank them for their courage in bringing forward their stories. A significant proportion of our work relates to claims involving bullying, harassment and discrimination, which is why I am here.

Q101 **Chair:** Some of our questions may be duplicated from the previous session, but we really want your opinions on them as well. Going back to the survey we conducted for the Defence Committee, six out of 10 respondents told us that they felt disempowered to make a complaint. Is the complaints system the problem, or the culture?

**Ahmed Al-Nahhas:** It is the culture and it is the service complaints system. The service complaints system has not changed but needs changing. I think Nicola Williams has been very eloquent in talking about the need for change and how that might happen. She has spent several years saying that the system is not efficient, effective or fair. The system does not work for complaints in the first instance, so you cannot resolve problems. That is the first problem.



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The other problem is the culture. You can have whatever system in place that you want, whatever laws, whatever regulations, but if the people who run those systems or operate in that sphere do not give it the respect that it deserves, it will never result in justice and it will never work in the way that people intended it to work. So in answer to your question, I think it is both.

**Wing Commander House:** I would go a little further than that. We think that people control systems and processes—that is not exclusive to the MoD; that is probably Whitehall and beyond—but that is not the case at all. The systems and processes are controlling the people. Why that happens is probably a deeper question and goes back to something that Emma said in your last session—strange decisions. That might be something that the inquiry might want to explore during the next 30 minutes or so, because it is the strange decisions behind it that leave a lot of people fundamentally ruined as an outcome. That is the concern we have.

Q102 **Chair:** Graham, can I ask you how you set up Justice4Troops and how many people you represent?

**Wing Commander House:** I was in a frontline command position, and by the nature of that I got involved in service complaints. I became a deciding officer and a prescribing officer. That gave me cause for alarm—the way that is executed—but the defining point for me was when the mother of an air cadet rang me directly. That is unusual—to get hold of a base commander. She said her daughter had been raped on my unit by her instructor. That obviously worried me, but what worried me most was that, immediately, as I was listening to her telling me, I was in denial of the incident, ashamedly. The more she told me, I was in denial of the narrative and thought that it could not have happened that way. Thirdly, what might be the impact on me as the base commander, when I am in command of all this?

It was only the fourth base where I thought, “Actually, that is exactly why I’m here: to address these issues, whatever the evidence leads us to as an outcome, and then take a learning point from that.” When I took it to the chain of command, they did not think like that. Their position was that the allegation would have a high impact on the reputation of the service, especially on the anniversary of the air cadet organisation at that time. That triggered what has effectively been a 10-year journey that led me to think that, if this is brutal—it was for me, and it still is for me in many ways, in terms of the impact—I would have concern about how more junior people, more vulnerable people and minority groups would ever cope with these incidents. That was really why we set up an organisation that broadly intended to quantify the scale of the issue, get the learning and get the knowledge in order to give these people a representative voice and then try to change the law. I guess we have over 500 serving personnel from the whole military community, including families.

Q103 **Mr Ellwood:** Good to see you both, especially Graham; I have worked closely with you. I am really pleased to see what you are doing,



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particularly after your service to your nation. There are some unique challenges that face servicewomen. Does that make it more difficult when they make a formal complaint, and have we adapted to that? Graham, can I start with you?

**Wing Commander House:** I should perhaps just expand on the context of my answer here, Tobias. I have not just been a commanding officer and a deciding officer on a military unit. I have also been a respondent to two complaints from two women—one military, one civil service—so I have seen that process from both elements of defence. I have been a complainant myself, right through the Defence Council, right through to the ombudsman, and right through to the MoD, including Ministers. If I found that brutal—definitely life-changing, and close to life-taking—with all my background, all my resilience and all my experience to draw on, God help the minority groups, women, BAME and the junior ranks, who will not have that background or knowledge to draw on, especially the minorities. You're damned if you do and damned if you don't, and that leaves you with a complete crisis of conscience—not just dealing with the incident, but the consequences of the handling of the incident afterwards. That is where I think you see the real damage to mental health. It is not just the incident; it is the inaction of the service or the actions afterwards. Does that help?

Q104 **Mr Ellwood:** It does. What you say is quite profound, and the question is how we address it. One way may be—it is good to see this—to have high-ranking female officers right across the board, so that there are role models, people you can talk to and perhaps better understanding and empathy as to what situations might arise.

**Wing Commander House:** Personally, I think you need a comprehensive suite of measures to address the problem but, first, you need to find the problem. In my experience, without being critical of anyone, but as an observation and having been stuck deeply in this issue for 10 years of my life, I do not think that anyone has quite grasped the problem yet. Therefore, we are naturally at risk, with best endeavours, of changing these systems and making gender-related changes with best intent, but not actually changing the problem, because we have not actually understood it. I can expand on that later, but Ahmed has a view.

**Ahmed Al-Nahhas:** I am grateful to Graham for how he has explained through analogy the difficulties that he has faced. We do not need necessarily to rely on analogy here. There are facts and figures in front of us. For many years now, the statistics have indicated that at least 90%—I think last year it was 93%—of those individuals suffering bullying, harassment and discrimination did not raise a service complaint.

I completely mimic what Graham was saying about the challenges, and the unique challenges particular to women. Most of the clients whom I have acted for have described stigma. In fact, the last individual I spoke to, whom I was encouraging to raise a service complaint, said to me—I thought this rang true—"Why should I raise a complaint about the system to the system?" I could not quite deal with her question. All I could rely on



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was to say, "This is your only remedy. You have to go down this route, in order to protect your legal rights as well."

In answer to your question about unique challenge, it is a unique challenge—it exists and must be dealt with uniquely.

Q105 **Derek Twigg:** Graham, when you opened, you explained why you got into the role you are in now. You mentioned, I think, "extraordinary decisions" that had been taken in cases. Will you give us some more details—obviously without going into individual cases—about the sort of extraordinary decisions that have been taken, which you think are bad?

**Wing Commander House:** I will give you two examples, one my own and one that I was involved in directly. I took an issue to my chain of command at two-star level—I did not want to do that, but for various reasons I felt compelled to do that—and eventually, five years later, that went to the ombudsman, who proved my position against the defence counsel. That in itself upset me, that an ombudsman had to do what my Defence chiefs should have done and were able to do, but chose not to do.

To correct the reality here, the ombudsman's decisions are binding, good, but her recommendations are not, disaster. Because what that allowed the system to do at a senior level in the executive led the ombudsman to write: "You simply found a loophole to sidestep the fundamental issue"—at board level. We have a board willingly choosing to find a loophole to sidestep the issue.

When I was respondent to a female serving officer, this was a defining point in my life. This is when I realised the depth of the issue, which I had never known about before. I think I speak for most of my peers—you would not know about this unless it happened to you. As the respondent, the headquarters were actively telling me how to defeat the complaint and were expecting me to go along with it, because it was in my best interests to do so. The words that they predetermined were that the complaint was "pointless"—before the investigation.

The purpose of that was, by denying jurisdiction of the individual—therefore no access to the legal process and poor investigation internally—there would be no scrutiny, no external scrutiny, nothing in the media and no money lost. Not only would the individual be defeated, but the service would be protected. That, to me, was an awakening call.

Q106 **Derek Twigg:** Ahmed, do you have any examples—without giving out personal details, obviously?

Q107 **Ahmed Al-Nahhas:** I have hundreds of examples I could go through; we probably do not have enough time. I have seen harassment—investigating officers ask questions to rape victims like, "What were you wearing?" I have seen deciding officers consider that certain remarks, for example the use of the P word—a four-letter word that individuals from Asia will probably find very offensive—was not amounting to racial harassment, and that in fact it was banter. We have heard from Nicola Williams about how banter is used as an excuse for the inexcusable. I am





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conscious of time, but I can assure you that we certainly see hundreds of inquiries every year involving decisions that would shock you, I am afraid.

**Derek Twigg:** Thank you, Chair.

Q108 **Richard Drax:** May I ask this question to Graham? Why do you say that the system comes with a high cost for complainants' mental health?

**Wing Commander House:** That is a great question; thank you. As you will understand, and the panel will probably understand as well, the service is brilliant at recruiting people who have a strong sense of belonging. It is an identity, and as you belong to a team, whatever the team might be, it is high-performing, and that shapes your characteristics and it defines you over time. We are talking about belonging here.

When something happens in that team—Ahmed will have all the detail there, as do we—what you are doing is testing the organisation that you belong to, and the organisation itself risks rejecting you because you are testing it. You are compromising the very sense of belonging, and if you extrapolate that, when you lose a sense of belonging, you lose a sense of your own definition; you lose a sense of trust in the organisation that you have given everything to, that defines you, including your family who have supported you.

When you lose trust, and the more you see in the system and the way it plays out, you get a sense of betrayal. That betrayal can put you into what we would call moral injury—sanctuary trauma—and then you are on a dark road to ruin, possibly suicide. We have cases where, sadly, we have lost people, not because they wanted to take their lives but because they are not living the lives they wanted, and when we talk about the impact on mental health, that is a very broad-brush statement. We are talking about the consequences of losing belonging. It is life-taking.

Q109 **Richard Drax:** As you may know, I am a former soldier, so I clearly must declare an interest. You are saying that the investigations damage the unit, whatever that unit may be.

**Wing Commander House:** That is a great point. There is an individual you might know, Desmond Tutu. He once said, "There comes a point"—and I believe we are well beyond that point—"where we need to stop just pulling people out of the river. We need to go upstream and find out why they're falling in." That is what we have done. We have taken some brilliant people around us, and we have done some mission planning, some military estimates and some wargaming for this. We have gone upstream to identify, "What is actually the problem?" The problem is reputation, and therefore a protective element that is multi-layered: the unit, the brigade, the squadron, and the commanding officer especially, right through to the operational layers and up to the four-star layers. That protective element for the reputation comes before the serviceperson.

What we think is a solution to consider here—the Victims Commissioner talked about this at length in other legislation a couple of weeks ago—is



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that you need to move the system, the organisation, the Armed Forces, from being reputation-centric to being people-centric, and stay there. If you can get it people-centric and stay there, suddenly, quickly, you have delivered a reputation that would absolutely support the Global Britain ISDR need. It is a shift of reputational gain by getting rid of the reputation that we are trying to protect. That has been my experience of those who think they are protecting the reputation by doing this. They are actually destroying it without knowing it.

**Q110 Richard Drax:** Would you say that one of the strengths of our armed forces is the unit? Speaking certainly from my own experiences, the difficulty is that if something happens in the unit, whatever it may be, it inevitably damages that unit.

**Wing Commander House:** Yes.

**Q111 Richard Drax:** How it is handled depends on the leadership of the officers and how they deal with a particular situation. That is why officers are officers. Where I am probing is, I suppose, when you have such an extraordinary personal relationship that forms in a unit—unlike any other business I can think of—in the armed forces, particularly if you have served in a place like Afghanistan, where men and women become like brothers and sisters to you, how do you take that out of that special environment, unless, as we have discussed earlier, in serious cases it is removed from the armed forces altogether and handed across the civilian side?

**Wing Commander House:** Bear in mind that I was a CO, but if something happened and I did not agree with it, I would expect natural dialogue, because we are all part of the same fabric and service, and we are pretty senior. I would apply that at every rank level. What I was missing was a safe space for an unsafe conversation. I could not find one. What that taught me, and the more I have learned from the hundreds of people I have met and speaking to many senior people who have supported this inquiry, is that the quicker you can get an independent safe space for a difficult conversation, the better.

That goes not just for the complainant and not just for the respondent, which is also a brutal experience for all the families involved, but also for the commanding officer. On occasion, the commanding officer might have a compelling reason—almost like a crisis of conscience—to have a problem with their chain of command. They may not want to discuss it with their chain of command, but they need to discuss it with someone who understands their chain of command. That is why we're getting one and two-stars coming to us with that same concern; they don't know where to go with these issues.

And these are not trivial issues. We are not talking about complaints about the rations, we are talking about these deep allegations. We are almost incentivised to do the wrong thing. If the CDS talks about upward-looking leadership, the system has almost incentivised that behaviour. It is a



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fascinating area to explore in detail. We can send some ideas and correspondence we have to the Committee later.

But you touch on a real problem, which goes back to the central issue as we see it: reputation. We are trying to strengthen the reputation of our armed forces, and these inquiries make me miserable, because we are openly destroying the reputation. That encourages me to find a quick way through this with you and your colleagues.

**Ahmed Al-Nahhas:** May I come in here?

**Richard Drax:** Yes, of course, Ahmed.

**Ahmed Al-Nahhas:** I appreciate that you and Graham have served, and you are talking about units and l'esprit de corps. I cannot comment on that, but I will bring the focus to the damaging nature of these complaints, which was your first question. I would say to you that there are three very important points here. The first one is the delay, which has been a feature of the service complaints system for a very long time. It has been inexcusable. That does have an appreciable impact on the wellbeing of service personnel and servicewomen who are bringing these complaints.

The second aspect is the bad decisions. We have heard from the Service Complaints Ombudsman earlier that, very clearly, bad decisions are being made in circumstances where there is, for example, clear harassment and discrimination. That also has a damaging impact on the wellbeing of service personnel. Finally, you might have a good decision. It is very rare in my experience and practice over the last 10 years or so, but there is no transparency. You do not see justice being done, and it must be seen to be done. You do not have those individuals who are responsible for discrimination and harassment being essentially dragged through the dirt, so that people can see that if you behave this way, it is not going to be acceptable and you will be out of the MoD.

That is what happens in civilian life; if I was to sexually harass one of my colleagues, my boss would come to me with a box of my belongings and say, "Out." That doesn't happen in the MoD, and that is a huge issue.

I am glad you raised wellbeing. Nicola Williams, the former SCOAF, said in her last report in 2019 that this was one of the biggest concerns she had—the mental wellbeing of individuals. They are not given a leaflet, or any guidance; there is no connecting of the dots, for example, between welfare, which is a big institution within the military, and service personnel who have raised a service complaint. We need to start joining those dots.

**Richard Drax:** That is very helpful. I was trying to just get an answer from both of you as to how the camaraderie, and all the things that go on in the armed forces, can be dealt with when you have an issue in a unit. I think what you are saying makes eminent sense, but the lack of any speed of action seems to be one problem; you want to deal with it fairly, quickly and transparently, and that's not happening—I think that's what you're saying.



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**Ahmed Al-Nahhas:** Precisely, thank you.

**Richard Drax:** Thank you. Back to you, Chair.

**Chair:** Thank you, Richard. Stuart?

Q112 **Stuart Anderson:** Thank you, Chair. Hello to you both; it is great to speak to you today. My first question is to both of you. Graham, you've touched on safe spaces; I want to look at the support for the actual chain of command. How do you rate that support, for assisting officers, or investigating officers, to handle complex complaints, such as bullying, harassment or discrimination? Graham, I'll go to you first, please.

**Wing Commander House:** No, but almost deliberately. In the context of this, I had a note from someone who is senior and serving; I will just read it. It is only a short sentence and it gives context for your question: "Instead of witnessing candour, transparency and an open willingness to learn, I've observed an organisation that, even at the highest level, seeks to adopt a defensive posture seemingly focused on the preservation of individual and/or corporate reputation."

If I am a commanding officer having to potentially decide on someone who I don't necessarily know, but I might know later on in my career—which filters through the system—it puts you in an almost impossible position. Really, what I found—which is why I objected and got more involved in it—is that I wasn't deciding anything; the Defence legal were deciding for me.

I'd get reams and reams of documents, which I didn't necessarily have the time to read, since I'm not measured on this—my measurement is on other issues that I can deliver directly to. It is the note of actions—which the secretariat to the administrative staff and the Defence legal staff write for me—which, in one second with my pen, I can seal injustice, and I am incentivised to do that.

What we are seeing, in my view here, and in everything that Ahmed knows, as with Emma and Nicola is this. They see the symptom and the impact, and it is life changing. If you go to your first session, with Paula Edwards, I quote: "I am talking about the brutal rape of military people"—"brutal rape".

I am talking about the cover up of brutal rape and a raft of incidents. That tells me that the last thing you want looking at this stuff is the chain of command, because it's got an embedded conflict of interest. It needs to be independent, and that is what a lot of the legislation is looking at.

Q113 **Stuart Anderson:** I want to come back to that point; I specifically asked you to rate the support. When you said no, did you mean there's no support whatsoever, or is there some? I know the problem that you've described there, but let's say there is an assisting officer who wants to do the right thing—is there any support whatsoever for them?



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**Wing Commander House:** There is plenty of support; the issue is how effective that support is. If the support is always internal, I would suggest that there's a conflict of interest.

The support I would want—now I have the knowledge I want—if I was a commanding officer, is that I'd want a direct conversation with Ahmed; I'd want a direct conversation with Emma, or Nicola Williams. I'd want to go external, to give me the knowledge to make the right decision, and the right decision might not be in my primary interests, but it is in the interests of Defence. That is the problem there.

Q114 **Stuart Anderson:** I am going to push this point: I get where you want it to go. I understand that. You have raised a very valid point. But at the moment I'm trying to find something in the current system—is there support for officers who want to investigate a bullying claim, or other claims? I know that you are talking about changing a solution to make it better, as you've said, but I just want to see what's currently there and focus on that, not on what we do to change it.

**Wing Commander House:** I don't believe the current systems are effective and the individuals who own those systems have a conflict of interest.

**Ahmed Al-Nahhas:** If I were to come in here, Mr Anderson, the level of support that I have seen provided to those individuals—those actors, if you would—within the process really varies greatly, and I agree with and echo Graham's comments a moment ago.

From my experience as a practitioner, I have seen a lot of individuals who have been involved who are very well meaning. For example, there have been some harassment investigating officers who you can tell want to do their job properly. But as Ben was indicating, once it gets to a certain level and Army legal or MoD legal become involved, then the decisions become very different from what might exist on the papers, or what might exist in respect of evidence.

However, coming back to your main point about the support for these individuals—assisting officers, harassment investigating officers—I think we have heard from Nicola Williams that she made several recommendations every year about having dedicated training for these individuals. Those recommendations haven't been taken on board, so in answer to your question, they desperately need better support.

Q115 **Stuart Anderson:** Thank you. That is very good. Sorry, I am picking up on this one. Back to you, Ahmed—so, well meaning, they want to do right. As you say, when it gets to Army legal, it's a different conversation, but surely that officer has a choice, based on his values and integrity, to follow a certain process and not always say, "No, because I've been told, I'm going to do it that way". There is an ethical point here for those officers.

**Ahmed Al-Nahhas:** I would love to think along those lines, but I think that there is a tremendous amount of pressure on individuals, such as



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assisting officers. They might be involved in a service complaint that directly involves their chain of command, and they know that if they overstep the mark, if they are seen to be somebody who is causing trouble, that might get in the way of their career. That is what we know as well from statistics, namely that one of the real reasons why people don't raise service complaints is that they think they will be victimised or that their career will be affected, and I think that mindset is something that permeates. It is not just the complainants affected; it is everybody else who is involved within that system.

I would love to think that we could rely on the ethical decisions of those individuals. I would also sympathise with those individuals, because of the pressure. As Graham was talking about, in his position in command, coming up with those decisions and thinking of the unit and the bigger picture.

In my humble opinion, all this leads us to think that there needs to be better independence in the system. I would echo those suggestions of a central defence authority, because you are taking that element out; you are removing the pressures on those individuals, which might make them come up with the wrong decision, or do a bad job.

Q116 **Stuart Anderson:** Thank you. Just for clarity, I wasn't suggesting that we rely on the ethical decision; I was saying they will face ethical decisions.

**Ahmed Al-Nahhas:** Absolutely. I agree.

Q117 **Stuart Anderson:** I get that we are all not perfect.

Just to follow on from that, Ahmed, I have one particular question for you. Do you see any specific problems in the guidance and support for those handling sexual offences, either on paper or in practice?

**Ahmed Al-Nahhas:** I do, unfortunately. The MoD has a victim charter, which is a very well drafted document. It does need a bit more work and it needs to mirror the sort of level that you would see in the civilian sphere.

However, it is interesting that none of the clients I have dealt with, and I have dealt with hundreds, have told me that they have ever seen this document. They have never even been told that it exists. I don't know where it hides on the internet. I have seen a copy, but the problem is that complainants are not seeing it. In answer to your question, I think there is support in writing there, but again it's perhaps an issue of informing complainants properly, making sure that they are aware of their rights and making sure that, as victims, they have these rights enshrined and they have access to civilian police, for example, which was an issue that was raised earlier. The information and support exists, but it is not being disseminated, and I don't know why.

**Stuart Anderson:** Thank you. Back to you, Chair.

Q118 **Chair:** Thank you, Stuart. I want to pick up on the issue of sexual offences, Ahmed. Do you think there is a theory/practice gap within the MoD? You mention the victims' charter; we have seen bystander training,





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the victims' services policy and the code of practice, and they are looking to set up a witness care unit. This has all happened or is happening, but as you just said, it doesn't seem to manifest itself on the ground. Why do you think that is? Why have we got this gap?

**Ahmed Al-Nahhas:** Chair, I honestly do not know what the answer is. My suggestion is that this has to be a cultural issue. It may be that not enough information or training is given to those people who are handling these complaints. There should be direction saying, "Look, once you've got on your desk a complaint involving sexual issues, this is the pro forma that you have to provide. You have to provide all this guidance. You have to have a sit-down with the complainant, explain to them their rights to raise a complaint to the civilian police, and explain to them the rights to legal counsel. These are the documents that the MoD have painstakingly produced for victims. You must give these documents to the complainant and encourage them to speak to welfare." That is not what is happening. It might be that you look at culture, but you might also be thinking, "Well, there may be very straightforward processes here that are simply being missed." Earlier I mentioned connecting the dots between welfare support and those complainants who bring a claim.

Q119 **Chair:** On sexual harassment against women, do you think the MoD have now acknowledged there is an issue?

**Ahmed Al-Nahhas:** Grudgingly, I'm afraid. I don't want to be petty about this; I welcome everything that the MoD are saying in the evidence that they have submitted—save for the watering down of recommendations in the Wigston report, which I won't go into immediately although it is something I would be happy to talk about. I welcome the steps that they are taking, and they say at the outset of their evidence, "We know we need to do better," but the issue of harassment is dealt with in a very light-touch way in that evidence. The word "harassment" appears a smattering of times in the document. There is an elephant in the room, and nobody is addressing it. So, well meaning, trying to do better—I respect all these things, but the thing that they are not acknowledging is that the systems in place are not efficient, effective or fair. You will forgive my frustration: when you hear this every year for several years, you start to develop a real cynicism about their intentions.

**Chair:** Graham, do you have any comments?

**Wing Commander House:** I would agree with all of that. I would go a little bit further. There is an assumption, and the key words here to me are "trust" and "independence"—not just being independent, but being seen to be independent. The offer of service itself, that contract between the state and the serviceperson, focuses on trust and the maintenance of it. But the trust, as all the evidence shows you, is—well, I wouldn't put it on a scale. To try to put reality on this, Chair, and to put it bluntly, the military are capable of putting a missile in the top right window of a top right building anywhere, at a place and time of choice, with precision. We can do anything we want, but we can't do service complaints. That tells me, when the narrative is that it is inefficient, ineffective and unfair, that



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to the MoD and elements in the MoD, it's perfectly fair, perfectly efficient and perfectly effective to deliver the predetermined position, which is to protect the reputation and contain these stories and realities. This might explain why people are not giving the information: because the purpose of the complaints process, arguably, is to contain the narrative and time out every legal access to any claim in order to avoid the external scrutiny that it might get at a later date. That is the danger of it, I'm afraid.

**Q120 Chair:** We spoke about timing out before. Graham, can I come back to the chain of command? I wanted your opinion on whether we are asking commanding officers to do too much. They are leaders and military personnel, but we are asking them to be HR and victim support and to offer therapeutic support. Are we asking too much of them, because you also mentioned the workload that a complaint gives to a commanding officer?

**Wing Commander House:** Yes, and that is compounded by the scaling down of the service over time. Take for example, the chair of your parallel Committee, James Sunderland. I defend defence on this point: these are the people in the arena, to quote Roosevelt, who are doing the blood, sweat and tears now. If you keep beating them up with more legislation, policy and burden, you set them up to fail. There is a reason why they cannot deliver this in 24 weeks: the whole system does not allow them to deliver it in 24 weeks.

I focus back on the Victims' Commissioner: with best intent and best endeavour, you have a victims code, principles and protocols, but no one is following it. That is the same in the armed forces. You would think that the right thing to do thing is to have a victims' law, and we will make it illegal if you do not follow your processes and protocols. Actually, all that does is put the burden on the serviceperson years later to prove what we knew we could not deliver. That is why I have a lot of sympathy with the chain of command right to the top of defence. The system does not allow you to do the right thing; therefore, you need an independent intervention moment quickly, to shift the focus towards the people. That is the problem with the chain of command. I would say less heat, more light.

**Q121 Chair:** We will move on to the Wigston review. We spoke about it in the last panel, but I would like your opinions as well. Wigston recommended a pan-military central defence authority to handle the most serious crimes. The MoD intends to set up a centralised function in each of the services and also a new diversity and inclusion directorate. Do you think that is enough to resolve some of the issues?

**Ahmed Al-Nahas:** Chair, if I may, I do not think it is enough. As Emma Norton said, the recommendations in the Wigston report went beyond that, for a very good reason. The office of the ombudsman has found year on year that there is a lack of confidence in the system—Graham used the word trust, which is very important. To return that confidence, you need to create something that is truly independent of the chain of command, at least for the kind of complaints that will not affect the issues of combat or fighting effectiveness or things like that. We are talking about harassment,



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sexual harassment, discrimination, racial harassment and rape. That sort of thing does not need to be dealt with by a commanding officer; it needs to be dealt with by individuals outside the service who are properly trained and who can deliver justice quickly. That would be my recommendation. I do not think it is going far enough. This is a massive blind spot. We might be missing an opportunity here.

Q122 **Chair:** Ahmed, would you like to go one step further? What would you suggest?

**Ahmed Al-Nahhas:** I suggest that the central defence authority needs to be entirely separate from the three services. It needs to have dedicated staff who, in accordance with several recommendations made by the ombudsman, will be trained on the issues that we have been discussing: how to deal with complaints, what issues are relevant, the legal test for things like harassment and discrimination, which deciding officers seem to be getting wrong.

You might even resolve the issue that you raised with Graham about whether we are asking too much of our commanding officers, who have enough on their plate. They step into that other realm, and they get a smattering of training on it but they are not really specialised for it. By creating that independent body that can deal with those issues, you might encourage confidence in the system.

You also need to fix the service complaints system. There are more than 30 recommendations from the Service Complaints Ombudsman but I have yet to see any formal response from the MoD to say, "We are going to implement them." She was at least—and the new ombudsman will be—the best person to judge the system because that is what legislation has created. It is an office to judge the system and make sure that it is efficient, effective and fair. I kind of feel like we are ignoring the most important person here when addressing the service complaints process. Those are the two things: an independent investigatory and deciding body and a service complaints system that works.

**Chair:** Thank you, Ahmed. Graham?

**Wing Commander House:** I agree with that. There are two further things, if I may, starting with our strong recommendation, on behalf of the people who are with us. If the service complaints system was an NHS trust, you would put it in special measures. If it were a school, you would shut it down. If it were an aeroplane, you would ground it. There are strong recommendations to stop it now because it is hurting people, as well as destroying the reputation of defence and costing the taxpayer a fortune, needlessly.

That would come back to the Wigston review. Bear in mind that it is a non-independent review that was reviewed two years later, non-independently. It seems the default position of everyone. When your own Committee published an independent review a month later, the ombudsman responded with all the recommendations. It is bizarre, totally



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bizarre. Very rarely are the ombudsman's recommendations accepted and implemented by defence, and then in non-independent review from Wigston—a four-star, now Sir Mike—his own recommendations are implemented two years later. Yet CDS was on your Committee six months ago saying that this is “a no-mission-fail mission”. Well, I'm afraid, with the best support to CDS, that we have failed.

I would quickly stop the position that we are in because it is dangerous, and I would get some smart people together. Effectively there is no doubt that the recommendation was a defence authority. We are all agreed that we have crossed the threshold of a defence authority. The real question is how independent it needs to be. Our strong recommendation is that it be entirely independent of defence, not even funded by defence, but populated by people who understand defence—and do that quickly. You would secure immediate operational gain, immediate financial gain, immediate people gain, and immediate reputational gain. Immediate. That would support CDS in his no-mission-fail mission. It would give you success.

**Q123 Derek Twigg:** Those concerns and complaints have been around a long time. It all really seems to boil down to culture, doesn't it? We can make all the changes we want and we can put in greater safeguards, but should the Ministry of Defence change the culture when people first come into the service? How can we change things in that respect?

**Ahmed Al-Nahhas:** Training, from day one. That is what is not being provided: training and transparency. I think it is a very good question, Mr Twigg, but as I said before, you need to see justice to have it done. There are individuals who will remain in command having been found, through the service complaint process, to have been responsible for flagrant racial and sexual harassment and those sorts of issues. Those individuals cannot be allowed to carry on, because the people below them will look up to them and think it is okay and all right to behave that way.

When you operate within a service complaints system that is—as Graham would describe it—broken, it is very easy for there to be, culturally, as you say, an attitude of, “Well, it just doesn't matter. The service complaints process is not important. Let's not respect it.” Wherever you have a system that is not respected, there is no confidence in it, and it is not transparent or independent, that sense will always remain.

I would just add one thing, because I am conscious of the time. Maybe the only difference, or rather disparity, that I have with Graham on this, is that I for one do not believe that the way to resolve this is to tear down the system and start again. My own view is that that will only cause delay. You have for many years had an ombudsman in place who has made very sensible recommendations; you have had the Wigston report that has been very good and made various recommendations. Put those recommendations into place and see how things go. Trust your ombudsman, because she has done her job in an independent way, and trust Wigston, because those recommendations were accepted and encouraged by many stakeholders, but what we seem to have been



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getting since is a watered-down version, and two years later we hear, “We’re going to do it one day, we promise.” Where is the result? I hope that answers your question.

**Derek Twigg:** Graham, do you have any comment on that?

**Wing Commander House:** Forgive me; I have obviously confused the audience. I do not mean tear it down. I mean pause it, deliver Wigston, then start it. I would not dismantle it. That would cause no end of a further problem. This is the problem with the chain of command. The service is under great pressure: Iraq, Afghanistan, the deep wounds still at Deepcut, the fiscal challenges we face and the fact that we are on operations in Syria. For 20-odd years there has consistently been huge operational, financial and transformational challenges. That is ongoing, and that is before the next SDSR that we are going to try to implement on a different tilt to the east.

The difficulty you have is cultural issues. I don’t know whether she sent her documentation to you, but a young lady came to us with a proven case of wilful intent to harass and bully her by her chain of command. What does defence do? It explains it and excuses it because of operational and manning resource pressures, and therefore there is no action. That is a cultural problem, but what it shows is a capability problem, because if you take action against those individuals that might lead to kicking them out, you give yourself a capability problem immediately, and the frontline commander is incentivised to deliver capability during a short period of their time.

The cultural issue will take a long, long time to thin out, but that comes back to the question Emma asked. There are strange decisions. We cannot even implement our own review of ourselves, two years later. That has now compromised trust in Wigston—and bear in mind that it was called “Report on Inappropriate Behaviours” in the Armed Forces, which was plagiarised as Wigston. Wigston now has, through no fault of his own, a question mark over trust in the Royal Air Force. That is not acceptable for a guy who is trying to do the right thing. We have a problem with trust in the MoD. The impact on operations is high, as is the impact on recruitment and on retention. It is strange, and that is why we have set up what we have set up, to try to bring the volume of evidence to allow Parliament to take a grip of that and to allow you to be more effective in your primary role of accountability.

**Derek Twigg:** Thank you, Chair.

**Chair:** Thank you, Derek. Gentlemen, our time is up; thank you so much for contributing today. I have read both of your submissions with sadness, but we will carry on. The last oral evidence session will be on 27 April, with witnesses attending from the MoD and the Government, and in the interim we will hold focus groups with serving female personnel to better understand the environment in which they work. Once again, thank you both very much.