



HOUSE OF COMMONS

Defence Committee

Oral evidence: [Military exercises and the duty of care: follow up](#), HC 820

Tuesday 29 November 2016

Ordered by the House of Commons to be published on 29 November 2016.

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Members present: Dr Julian Lewis (Chair); Mr James Gray; Jack Lopresti; Johnny Mercer; Mrs Madeleine Moon; Jim Shannon; Mr John Spellar, Bob Stewart MP.

Questions 1-74

Witnesses

I: Mark Lancaster TD VR MP, Parliamentary Under-Secretary of State, Ministry of Defence, Air Marshal Richard Garwood CB CBE DFC RAF, Director General, Defence Safety Authority, Major General Timothy Hyams OBE, General Officer Commanding The Army Recruiting and Training Division, and Isabel Letwin CBE, Director, Ministry of Defence Legal Advisers, Government Legal Department.



Examination of witnesses

Witnesses: Mark Lancaster TD VR MP, Air Marshal Richard Garwood CB CBE DFC RAF, Major General Timothy Hyams OBE and Isabel Letwin CBE gave evidence.

Chair: Welcome to today's evidence session, at which the Committee will follow up several matters from the Government's response to our report "Beyond endurance? Military exercises and the duty of care". For the avoidance of doubt, I must be clear that we will not be looking at individual cases or making any comment on individual cases. I would like to invite our four witnesses to identify themselves for the record.

Major General Timothy Hyams: I am Tim Hyams, the General Officer Commanding the Army's recruiting and training division.

Isabel Letwin: Good morning. I am Isabel Letwin, Legal Director. Last time, you saw my legal colleague Humphrey Morrison. I am covering for him because he is in hospital.

Chair: Thank you for doing that.

Mark Lancaster: I am Mark Lancaster MP, the Minister for veterans, Reserves and Personnel.

Air Marshal Richard Garwood: I am Air Marshal Dick Garwood. I am Director General of the Defence Safety Authority.

Chair: Thank you. As you will be aware, the Report was undertaken as a result of the work of the Defence Sub-Committee. That Sub-Committee was chaired by Madeleine Moon, and its members will be taking the lead in this session.

Q1 **Mrs Moon:** I wonder whether I can start on a positive note by thanking you, Minister, and by asking for something to continue. You very helpfully sent us the ad hoc statistical bulletin. Can we have an assurance that that will still be ongoing, and that you will publish it on a regular basis?

Mark Lancaster: Yes. During my tenure in this post over the last 18 months, I have tried to be as transparent as possible with the Committee in our dealings. I think that the ad hoc bulletin was a positive move, and I will certainly ensure that it continues.

Q2 **Mrs Moon:** Thank you very much. We asked you to come back because during the inquiry we heard various arguments about why the military should continue to be exempt from the Corporate Manslaughter and Corporate Homicide Act 2007 for hazardous training for operations, and why specialist military units should enjoy complete exemption where gross negligence has occurred. Those arguments varied as we heard evidence, and new ones were introduced when the MoD responded to our Report. We felt that we needed to seek answers to some of the questions



HOUSE OF COMMONS

we had as a result of that new evidence. Minister, do you stand by the judgment that not to remove those exemptions from the law where a Crown censure has been issued by the HSE is an appropriate way forward?

Mark Lancaster: I have looked at this very carefully. There are, of course, two separate Acts that are relevant here. There is the Health and Safety at Work etc. Act 1974—although the MoD and other Government Departments are not exempt from it, they have Crown immunity from prosecution—and, running in parallel to that, the Corporate Manslaughter and Corporate Homicide Act 2007, to which there is no blanket immunity. Indeed, Section 12 explicitly includes the Ministry of Defence within that Act. Section 4 then excludes it with an exemption for hazardous training. It is important that we look at those two Acts separately.

The question is, what value would be added if that exemption were to be removed? That would not, of course, be the Ministry of Defence's choice; it would be a matter for Parliament to amend the legislation. The question for me is, what value would be added? On the 2007 Act, I assumed—as it turned out, wrongly—that if we were to remove that exemption and the MoD were to be prosecuted, somebody in the Ministry of Defence, maybe the Secretary of State or me, would be held to account. I was surprised to learn that, if that exemption were to be removed, what would happen is that the MoD would be fined and would then pay the fine to the Treasury, so one part of Government would be fining another. I was not clear in my mind, given that we now have what I believe to be a powerful system of having Duty Holders at four different levels—the Secretary of State, the Senior Duty Holder at four star, the Operating Duty Holder at two star and the delivery duty holder at the Commanding Officer level, which I am sure we will come back to because it is probably the most relevant—what extra value simply fining the MoD a sum of money would have.

There are other issues that I have taken into account. I have said that I think the Duty Holder is a very powerful system. It has been in place for only a year. It holds a level of accountability that simply fining the organisation would not bring.

I am slightly fearful that we would introduce a culture of risk aversion. We try to train in a similar way to how we operate, and the last thing I want is for risk to be moved from the training environment into the operational environment. That is something that General Barrons highlighted when he gave evidence.

The final factor that I think is relevant is that both the 2007 Act and the 1974 Act are not applicable overseas. If we were to have incidents in, for example, Germany, they would not necessarily be applicable, so there would be an inconsistency in the application. Members of the Committee may recall that one of the great advantages of the Armed Forces Act is that it is consistent in its application for our service personnel, wherever they are in the world. For a combination of reasons, which I have just tried to explain, I am not particularly sure what value there would be in extending it if, ultimately, it will simply result in a fine to the MoD, as



HOUSE OF COMMONS

opposed to genuinely holding to account individuals who are responsible for ensuring that that risk is minimised.

Q3 Mrs Moon: Where do you sit, then, when people might argue that it was not in fact about risk aversion, it was about a basic failure of duty of care in some deaths? Perhaps it would concentrate the mind of the Ministry of Defence, which does generally have—certainly the inquiry found that there was—guidance on most things. The failure was in making sure that that was driven down from a corporate level right the way down to the frontline. Would it not concentrate the mind and make sure that, certainly for those who have lost someone, there would be a feeling of someone having been held to account and of justice having been done?

Mark Lancaster: That is precisely what I think the Duty Holder system does with its four levels, from the highest level, the Secretary of State, to the Senior Duty Holders at four star—effectively the Service Chiefs—all the way down to the Delivery Duty Holder at Commanding Officer. I think there is a combination of both accountability and of using effective risk assessments to try and manage that risk. I appreciate that the Duty Holder system is new, but I think in the evidence that was given to the Committee, it was widely welcomed. I do believe, from the anecdotal evidence I am given, that actually it is the best system as we move forward to ensure the accountability that I, and I know the Committee, would like to see.

Q4 Mrs Moon: In the case of Alton Towers, where there was a prosecution at a corporate level for failures, where there were pretty serious, life-changing injuries, people have argued that that did lead to a whole change in ethos and a driving down, corporately, on health and safety awareness and regulation. However, every time there are deaths within the Ministry of Defence and its areas of responsibility, there continues to be a concern that, again, that corporate ethos is not being driven. Are you confident, and do you feel you can justify, that that is actually happening now?

Mark Lancaster: Yes, I can. I think I can only go back to what I have just said: the very fact that the Senior Duty Holders are the heads of service and then there are the two levels beneath. Personally, I think probably the most important level is actually the delivery duty holder, because I think a combination of effective oversight by the Commanding Officer and the use of dynamic risk assessment on the ground ahead of training events will be the key combination to ensure that the appropriate risks are reduced. Because the Senior Duty Holders are key figures within the corporation—the Ministry of Defence—I think this system actually will be even more powerful than simply fining the corporation, because we are directly appointing people to be accountable as individuals.

Q5 Mrs Moon: So you think it is proportionate and fair that an individual could be prosecuted, including, even now, members of Specialist Military Units, but the MoD as a corporate body has no liability?

Mark Lancaster: I go back to my earlier point, which is that if the ultimate outcome of the corporate body—the MoD—being fined under the



HOUSE OF COMMONS

Corporate Manslaughter and Corporate Homicide Act 2007 is simply that it will be fined as a body, I am not sure how that fine will necessarily influence individual behaviour when it comes to driving down risk on exercises where we operate. I think it is much more powerful to have individuals who are held to account.

Q6 Mrs Moon: Is this not a get-out clause for those who make the rules, and should provide the resources, oversight and accountability, to not be held accountable and to just push it further down the chain of command?

Mark Lancaster: No, it is not. The reason for that is because of the various levels we have of Duty Holder, from four star to two star to Commanding Officer. I think those are appropriate levels for the Duty Holder. How can senior management be perceived as somehow getting out of it when they are the ones who are the appropriate Senior Duty Holder, and therefore responsible? I think that is a much more powerful model than simply the faceless corporation being fined.

Q7 Mrs Moon: In 2009, Mr Haddon-Cave wrote in the Nimrod review that “much of the process currently in place is designed not so much to improve safety, but to act as a bulwark against criticism in the event that things go wrong...they shift the heavy burden on to other shoulders”. By allowing individual soldiers to face prosecution in these matters but maintaining a corporate exemption, is the MoD yet again simply placing the burden on the shoulders of individuals? That argument still holds, even with the duty holder concept, does it not?

Mark Lancaster: I don't think that's the case, because of who the Duty Holders are. I can only repeat that at the most senior level, to have the heads of service at a four star level being the Duty Holder is hardly the senior members of the Ministry of Defence seeking to pass the blame to more junior members. There is also a recognition that while the most senior duty holders are responsible, it is probably at the Commanding Officer level that there is the oversight of daily training, which is why it is also important that the Delivery Duty Holders are held to account. There is ultimately no seeking to apportion or shift blame to more junior members of the establishment, when the most senior members, including the Secretary of State as the Senior Duty Holder in the four-tier system, is potentially responsible. It is much better that individuals are held to account, rather than simply a faceless corporation that will then be fined. That would not necessarily influence individual behaviour.

Mrs Moon: I have one final question, but I know that Johnny wants to come in at this point.

Q8 Johnny Mercer: It is quite a bold assertion to say that it is a faceless organisation. Essentially, it is personified by the people who run it—the Secretary of State, Ministers, the Chief of the Defence Staff or the Service Chiefs—so it is not really a faceless organisation. If that organisation is persistently fined for breaking the law, that will reflect on the people who run it. I don't think it is pointless to pay fines from one organisation to another. That is ultimately what the families want.



HOUSE OF COMMONS

Essentially, we are saying, "You can sue the lads who are running it," but if the organisation has not trained them, put them up to the task and given them the equipment to get on with it, there is no sanction for that organisation. It is not about money. Whether they get fined 50p or £5 million does not matter; what families want is someone to take responsibility for the loss of their son or daughter's life. You understand that, don't you?

Mark Lancaster: I understand exactly, and I absolutely agree; it is not a faceless organisation. The reason for that, in part, is the implementation of the Duty Holder process, where the Secretary of State, the head of the organisation, and the heads of each of the three services—the four stars—are now far from faceless, because they are the duty holders and are being held to account. In many ways, we are probably arguing the same point; we have simply come to different solutions. The solution that the Department has come to, by using the duty holder system, ensures that the organisation is not faceless and that those who are running it are held to account, which I think is ultimately what we all want to see.

Q9 **Mrs Moon:** Following your argument, why then should we not have total corporate immunity from law and prosecution for all military matters? Is that not what you are arguing?

Mark Lancaster: No, I am not arguing that. I think, as it sits, because of the nature in which we train, whereby we are trying to make—we seem to accept, I understand from the Report that the Committee accepts that operations should be exempt.

Mrs Moon: Yes.

Mark Lancaster: So at that point, if we are to conduct hazardous training in a manner which means that we can seamlessly move from that training into operations and avoid transferring that risk from training to operations—how we distinguish that line is the difficulty. So no, I am not seeking that there should be a wider corporate exemption from other activities where risk is appropriate or where risk can be taken but needs to be limited as much as we possibly can. But because of the relationship between training and moving seamlessly into operations, that is the one area where there is an exemption, which should continue.

It is worth pointing out that it is not just the MoD that has that exemption. I understand that the police also have the exemption for hazardous training, so there would be a wider implication if we were to remove that exemption. My key point is that I'm not sure what value it would have for this particular exemption in the manslaughter Act to be removed, for reasons I have tried to explain to the Committee.

Q10 **Mr Gray:** Could we focus specifically on the Specialist Military Units for a moment? You argue that the operational security of what they are doing is dependent on there being a corporate exemption for everything they do, broadly speaking; I think that is the argument that you advance. Why is that argument any different in relation to any other secret or semi-secret activity of the Ministry of Defence—for example, the nuclear



deterrent? Surely you could argue precisely the same thing about that.

Mark Lancaster: I suppose I go back to my opening comments about transparency. I like to think that in the 18 months I have been in post, I have tried to bring a culture of transparency to my portfolio. Examples I can give include publication of sexual offences post the Armed Forces Act and publication of information on Lariam and on Marine A. That is my starting point: as a Minister, I would like to be as transparent as I possibly can.

I think we do accept, when it comes to Specialist Military Units, that they generally operate beyond the reach, capability and profile of other military units. And the very nature of how we train them—we hope to select, train and move seamlessly to operations—means that my concern would be that as soon as we start to try to separate out, the nature of our training and selection would give a very clear indication of how they operate. As much as I have tried to separate actions out, it is pretty clear that potentially, through this mosaic effect—for lack of a better description—individual pieces of information could be put together, and I have a genuine fear that that may then reveal what our capabilities would be. I have been given several examples of that, which certainly were not apparent to me, so at the moment, while I find it equally frustrating, I would have to say to the Committee that I am of the view that we should continue to have this blanket ban. Given the amount of time that I have had to look at this particular issue, I am prepared to go away and look again to see whether there are any options, but my starting point is, as per the evidence to the Committee from the examples I have been given, that I simply cannot see any option other than to continue the blanket—

Q11 **Mr Gray:** I understand that point, but the question actually was: why would that argument not apply to all kinds of other secret or semi-secret areas of MOD activity—for example, the nuclear submarines?

Mark Lancaster: Forgive me: that's not within my portfolio, I am not privy to the details of how that particular aspect of Defence works, so I think it would be inappropriate for me to comment.

Mr Gray: All right. Let's think of another aspect—

Isabel Letwin: Could I just chip in on that? I think the nuclear activities might be covered by the exemption as well, because under section 4(1)(b) of the Corporate Manslaughter and Corporate Homicide Act, the exemption also covers "activities carried on in preparation for, or directly in support of, such operations". I think that might cover the nuclear—

Q12 **Mr Gray:** All right. That's quite interesting. It is beyond the scope of this inquiry, but none the less what we are hinting at here is that all kinds of other aspects of activities of the Ministry of Defence are equally covered by the corporate exemption. That strikes us as worrying and might be something that we want to return to at a later stage if indeed it is the case.



HOUSE OF COMMONS

Let's continue to focus on Specialist Military Units. Given that individual Special Military Unit soldiers are not exempt and could therefore appear in open trial, why should that aspect be any different in relation to the question of corporate liability?

Mark Lancaster: I think I can only return to the wider comments I made over why I was not convinced that the exemption to the Corporate Manslaughter Act should be lifted.

Q13 **Mr Gray:** No, I want you to focus on the particular question. A soldier can appear in open court, accused of certain activities that endangered his colleagues, in hazardous training for example. If it is acceptable for a Specialist Military Unit soldier to appear in court—an open court—on trial, why should that not be the case with regard to the MoD as a corporate organisation?

Mark Lancaster: I would hope that, during the process of that trial, appropriate precautions would be put in place to ensure that we don't end up inadvertently revealing information about the activities of our Specialist Military Units.

Q14 **Mr Gray:** Exactly. That is precisely the point, Minister, if you don't mind my saying so. Those safeguards are put in place with regard to a soldier in open court. Why should precisely the same safeguards not apply to the organisation on a corporate basis?

Mark Lancaster: That is precisely why I say "I hope". Unfortunately, I am not in a position to guarantee that is the case, nor, when I look at history, can I be convinced, unfortunately, that information wasn't revealed, but simply because that is the case does not mean to say that we should move to a position where we open the door and potentially allow even more information to be revealed.

Isabel Letwin: Also, if you are looking at an individual, you are looking at what the individual has done, but if you are looking at the offence of corporate manslaughter, then you are looking at the corporate processes of the organisation. That would be much more difficult, because you would be looking at their processes as a whole and how they work with the security and intelligence agencies, which was the rationale for exempting them in the first place. More would be exposed about the operation with the organisation.

Q15 **Mrs Moon:** We were also told by the Ministry of Defence in response to our report that it did not see how removal of the Act's exemption would result in any tangible improvement in the safety of military training, as corporate prosecutions could only follow the issuing of Crown censure. Does this mean you believe that corporate accountability at the MoD can play no useful role in determining training safety?

Mark Lancaster: I just need to be clear what you are asking me, because Crown censure refers to the Health and Safety at Work etc Act 1974. There are very different thresholds at which there would potentially be Crown censure as opposed to a prosecution under the Corporate



HOUSE OF COMMONS

Manslaughter and Corporate Homicide Act 2007. There is not a direct parallel. So, the threshold being passed for Crown censure, which the MoD takes very seriously and acts in accordance with that censure, would not automatically trigger a prosecution under the 2007 Act, because of the different thresholds.

Q16 **Mrs Moon:** So are you saying that safety can be increased without any form of corporate liability?

Mark Lancaster: Well, I think there are always opportunities to increase safety and the Duty Holder concept in combination with risk assessments and the principle of trying to reduce risk to as low a point as possible mean we should continue to strive to increase safety. I am not necessarily sure, going back to the original question, that by being fined, the corporation would necessarily contribute to that process.

Q17 **Mrs Moon:** If you follow your argument, Minister, then any corporate body should be exempt from corporate responsibility. What is the difference? Why is the Ministry of Defence so unique? The gas industry, the nuclear industry, they have to comply with corporate responsibility. In what way, in those hazardous professions, is corporate responsibility appropriate and yet, it is not appropriate for the Ministry of Defence?

Mark Lancaster: Because—let's be clear—the MoD is only exempt in one specific area, which is when it comes to hazardous training. The reason it is exempt in that specific area is because of the intrinsic link between hazardous training and operations. There is not a blanket exemption for the Ministry of Defence; just because of that dynamic link between our hazardous training and operations.

The Committee accepts that operations should be exempt.

Mrs Moon: We do.

Mark Lancaster: So the only question, really, is whether or not hazardous training should also be exempt. I would argue that, because of that intrinsic link, it should be.

Q18 **Mrs Moon:** Isabel Letwin, did you want to come in?

Isabel Letwin: Yes. I was just going to say, from a legal perspective, I see the danger in that it would bring hazardous training within the ambit of the offence and risk would be transferred to the battlefield. For example, you might get the prosecution, the court and the jury saying, "Gosh, I think that type of hazardous training falls far short of the duty of care that could be reasonably expected." That is the danger, to my mind, from a legal point of view—that you would not know where a court could go with it. The court could say, "That type of hazardous training is too dangerous," and that would have a real chilling effect on the type of hazardous training.

Q19 **Mrs Moon:** Do you know, I would follow all of this, I really would, were it not for the fact that having looked at the deaths, at the nature of the deaths, most of them have been the result of just downright blinkin'



HOUSE OF COMMONS

simple incompetence. I cannot get past that. Does that bother you at all?

Mark Lancaster: Well, how could it possibly not bother me? I am very mindful that, since 1 January 2000, there have been 139 deaths. I am very mindful that, since the Committee's report, we have had four further deaths—Flight Lieutenant Parr, Corporal Hoole, Private McPherson and Lance Corporal Spencer. To suggest I am not bothered by that, I find slightly offensive, Mrs Moon.

Q20 **Mrs Moon:** I apologise. I did not mean that to you personally. As an agency of state, our position is that when training people for hazardous roles, it is not the hazardous training that is the area of risk, but the incompetence in management of that training.

Mark Lancaster: And that is precisely why the new system of Duty Holder has been introduced. I believe strongly that the combination of making individuals accountable from the very top of our organisation to Commanding Officer level as the Delivery Duty Holder, an effective system of risk assessment and, crucially, dynamic risk assessment, which will avoid the tick-box mentality of simply repeating a risk assessment that was used the time before, taking full account of, for example, climatic conditions on the day, and individuals being prepared to change training accordingly, is exactly the sort of action we are taking to ensure that the duty of care we owe to our service personnel is implemented to reduce risk, while accepting that the best way of reducing risk on the battlefield is to make our training as effective as possible, so that risk is not simply transferred to the operational theatre.

Q21 **Mrs Moon:** How do we move from making sure the training is effective and doesn't become the focus of tension rather than the removal of—I don't know how to describe them—the simple failures, such as lack of provision of water and of signage, that need to be dealt with? How can we make sure that is built into every level of the organisation? I regularly have veterans coming to talk to me about their experience of hazardous training. Never, ever do they say that it was not appropriate training or that it was not valued. They refer to the failure to take simple duty-of-care responsibility making the training hazardous in a sense rather than the military fighting component of the training. Am I making that differentiation in the way I hope I am?

Mark Lancaster: Yes.

Q22 **Mrs Moon:** The hazard is not the military training, but the people running the training.

Mark Lancaster: I do understand the question. If I may, I will invite Air Marshal Garwood to give you some examples of how we ensure that we look into these issues, that lessons are learned, and that we have processes in place to ensure we do that.

Air Marshal Richard Garwood: I think it goes back to, as Sir Charles Haddon-Cave put forward in his report, that this must be about personal accountability and not corporate or wider accountability. That is why we



HOUSE OF COMMONS

now have the three-layered or four-layered Duty Holder construct with the fourth being the Secretary of State for Defence.

If we had a fatality in the military tomorrow, I could give you the four names for any part of military defence who have accepted personal accountability for that. Perhaps I could refer to one of our Duty Holder letters from the Chief of the Air Staff, Sir Andrew Pulford to Air Vice Marshal Turner, who is an Operating Duty Holder. Line 4 of the letter says: "You are personally legally responsible and accountable through the Secretary of State for air safety, the air systems and functional safety in your area of responsibility." We are now crystal clear in the military about where that accountability lies and it is not at lower levels, but at pretty senior levels: Lieutenant Colonel up to Chief of the Air Staff in this instance, and above to the Secretary of State.

In terms of us learning from the past, I hope that what the Defence Safety Authority has now brought in is the ability to conduct Service Inquiries in a fair and impartial way. We now conduct a Service Inquiry for every fatality, and when a serious life-changing injury, significant money, or something novel is involved. In the past, that has not happened. Service Inquiries have often been convened and then stood down while awaiting police or health and safety inquiries. Therefore, the inquiries that have filled that void have tended to be ones more about holding to account the police and criminal side rather than purely the safety side.

Our investigations now look at this from a perspective of stopping another repeat of this type of accident. They are long and thorough, and they stand the test of coroners, police and families. The recommendations that come out of these are then personally tracked by the Defence Safety Authority. Indeed, since 2010, we have had around 650 recommendations from Service Inquiries. We have completed 580-plus, and they are signed off by me personally every six months at a panel in the MoD. I look for explicit evidence before I sign off any of those.

I think we now have personal accountability here, and we have a good means of investigating and taking those recommendations forward, as we have done in many service inquiries recently. I am convinced that will make a difference to what is, overall, a very low fatality rate in exercises and training. We are talking about 3.25 fatalities per year per 100,000 in the population at risk. We are safer than the UK waste recycling industry, and we are about a third of the agricultural base in this country, so we are relatively safe in the MoD. However, my job is obviously to look for those accidents that could occur which are purely unnecessary, which are perhaps some of the ones you are referring to.

Q23 Chair: Can I ask something at this point? Madeleine has just made a very important statement about the fact that these fatalities often result from a mistake made by someone at a very, very low level in the command chain. Can you give us a rough idea how many of the total number of fatalities that have happened over the period that we have been reviewing were caused by low-level mistakes? If a lot of them were, that would seem to suggest that we have to use every tool at our disposal to



ensure that reporting is done from the low levels rather than just by a series of duty holders at a much higher level. Do you see where I am coming from?

Air Marshal Richard Garwood: Yes, I do. I do not have those figures in front of me—I do not believe they have been analysed—but you are certainly right that often an accident will result from someone miscalculating, misjudging or doing something wrong much further down the chain of command. I do not doubt that that is right.

Q24 **Chair:** Can I just suggest that it would be worth investigating this? Obviously, if the main problem is mistakes made at that level, then the main emphasis needs to be put on remedies at that level.

Air Marshal Richard Garwood: Exactly. When we have looked at some of the accidents we have seen, for me, the one thing that stands out—I know this is somewhere the Committee has been before—is the risk assessment process. I would say that in many of the accidents I see, the quality of the risk assessment has been variable, and sometimes missing. That is an area we need to look at; indeed, we are looking at it as part of the Defence Safety Committee. It is often where the exercise becomes dynamic—something changes. Let's say the corporal training instructor will have done a reasonable risk assessment, but then the weather changes. Something changes, and the ability then to switch to a dynamic risk assessment is perhaps often wanting. We have been doing work on this in the Defence Safety Authority over the past few months. The Defence Safety Committee on 8 December will purely take the issue of risk assessments at the operational and tactical level. We have completed a paper. We believe we absolutely know where these errors lie. I could detail more now, if you wish, but I feel we know where our problems are.

Q25 **Chair:** Finally from me, are you satisfied that where you do identify gross negligence at a low level, the families concerned can feel they have had justice in terms of people being held accountable?

Air Marshal Richard Garwood: The one thing that the Defence Safety Authority does not do, for very good reasons, is hold people to account or become involved in any punishment or judicial issue. We work in a culture that means people have to come and talk to us, and we are open and approachable. Where we see issues that could be service offences or, indeed, criminal, we pass them directly to the Chain of Command to deal with. Over the past year, I think I have done that around four times, where I have seen issues that I think are not safety-related and are perhaps service offences. I then write to the chiefs of staff and tell them what I have seen, and it is up to them to investigate and maybe call in the military police or do their own investigation. We are really careful not to mix our business with the pure holding to account.

Q26 **Mrs Moon:** I think there are two things that need to be driven here. I appreciate that yours is a structured role around ensuring that appropriate steps are taken to ensure that risk assessments are carried out and that it is not just a tick-box exercise. In fairness to you, I think that you are someone we can trust to ensure that is carried out



HOUSE OF COMMONS

rigorously and that there will be a corporate change. What I am unclear about, and what keeps coming back to me from families, is the feeling of greater loss and almost an insult to the memory of the person lost, where it is not down to anything other than attitudinal incompetence. How do you feel the changes you have introduced will affect that? Do you feel that the new structures you are responsible for can impact on that?

Air Marshal Richard Garwood: Unequivocally, yes. Perhaps we will come to this later, but we have seen results right down to the most junior level, with heat injury and cold injury. We have seen a cultural change, led, I have to say, by the Chiefs of Staff—the heads of our Services. It was very noticeable when they became engaged in this. I feel now that the message, certainly in terms of heat injury, has gone right the way down to the lowest levels. We have had two occasions of heat injury this summer—one in Cyprus and another one near Brecon. We have seen investigations carried out, the Cyprus one at unit level. They have produced a briefing of best practice, which is now going to be circulated across the Armed Forces—i.e. they are telling the rest of their colleagues what they got wrong that day. They know what they got wrong that day and they are showing the best practice that will prevent it from happening again. So, I think we are seeing results, for example in heat injury, right down in the field now: I am convinced that we are.

Q27 **Mrs Moon:** May I very quickly tell you this story? A member of the public came to me. Their daughter had been out on the Brecon Beacons and had come across a soldier there—Specialist Military Units. She offered to get him to her home and call help. He said, “I am not allowed to do that. I will stay here; they will find me eventually.” She went home and her father was very concerned about this. He went out and the man was in a worse condition. He rang the barracks in Brecon. They said, “Oh, that is the Specialist Military Forces people; they are nothing to do with us.” They remained really worried and rang the ambulance and the police force. At that point a message got through to Specialist Military Units. They went out. The ambulance was there. The senior officer from Specialist Military Units was blatantly angry at the member of the public who called for help and assistance. They didn’t speak; they didn’t thank; blanked. The ambulance person who took the personnel who had been injured away said to the member of the public, “He’d have been dead in an hour if you hadn’t done that; well done mate.”

Now, I’m sorry, but that isn’t around Duty Holder concepts. It is about communication and knowing where your people are—tracking where they are. That was a near miss. I would hope that that is the sort of between-the-cracks incompetence that seems to be the critical thing that needs to be dealt with—would you not agree?

Air Marshal Richard Garwood: I can’t comment on that anecdote.

Q28 **Mrs Moon:** I know that you can’t comment on that individual case.

Air Marshal Richard Garwood: Having seen the work that has gone on in the specialist military units regarding this issue, it could not happen again like that.



HOUSE OF COMMONS

Q29 **Mrs Moon:** You are confident about that?

Air Marshal Richard Garwood: I am, yes.

Q30 **Mr Gray:** Staying with the distinction between Specialist Military Units and other hazardous training, you argue in your response to our report that it is much harder to judge the corporate liability of an organisation that has selection at its heart than other hazardous training for operations. Why did you come to that conclusion, Minister?

Mark Lancaster: I think it is back to the earlier principle that there is a seamless transition from selection to training to operations, and that the nature of selection of Specialist Military Units—which I confess I am not 100% up to speed on, having never taken part in it—is designed to be that seamless process. Therefore it is quite difficult to disentangle the elements.

Q31 **Mr Gray:** But that would apply, surely, to hazardous training for other non-Specialist Military Units as well. There is a seamless link between hazardous training, for example, for the Parachute Regiment—P company; for specialist IED operatives—a matter which you yourself will be aware of—and a variety of other hazardous training that goes on for non-Specialist Military Units. You seem to be saying that you can understand criminal liability, whereas where selection is involved for Specialist Military Units, you can't. I cannot see the difference between those two things. Why is P company different from Specialist Military Unit selection?

Mark Lancaster: Well, you choose to use my own area of expertise as a bomb disposal officer. During my EOD training, which I carried out over a number of weeks, as far as I was told, the majority of the munitions I was training on were not live—or at least I hope they weren't. So there was a distinct separation between my training period as an EOD operator and my operational experience. There was a distinct break between that training and operation, and that seems to be rather different when it comes to our specialist military units.

Q32 **Mr Gray:** What about Commando selection at Lympstone or P company? Surely they are just the same. Why are they different?

Mark Lancaster: I followed the Committee to Lympstone and went to visit. I had the honour of handing out the green berets having gone for a little jog across Dartmoor.

Mr Gray: We didn't do the jogging bit.

Mark Lancaster: Right. I enjoyed the little jog across Dartmoor.

Q33 **Johnny Mercer:** You did the full 30-miler didn't you, Minister?

Mark Lancaster: I did not quite do the full 30-miler but that is irrelevant for the purposes of this Committee. It was far enough, let us put it that way, thank you very much.



HOUSE OF COMMONS

I think that is a slightly different environment. At Lympstone, for example, I was very impressed to see the culture that had been embodied in training, which was very much a training in, not a training out. Unlike the US Marine Corps where if you get an injury you end up being discharged from service, at Lympstone, you go into the remedial company—I am embarrassed to say I cannot remember its name—where you are rehabilitated and then put back into training. So, there is actually a very positive culture where, if you are injured, you continue on to be rehabilitated and retrained. That is not the sort of environment, with respect, Mr Gray, that you are suggesting is the case. So, actually, no, there is a difference, and Lympstone and EOD training are two examples of where I think there is a difference.

Q34 **Mr Gray:** Briefly, if I may, how about the difference between regular hazardous training and selection, and reserve forces hazardous training and selection? Is there a clear distinction to be made there with regards to Specialist Military Units?

Mark Lancaster: I have a personal view but, if I may, I am going to invite Major General Hyams to come in.

Major General Timothy Hyams: In the context of Specialist Military Units? I am soldier in the regular army rather than the Specialist Military Units, so I am afraid that is outside of my ambit. In terms of how we approach Regular and Reserve training in the Field Army, it is about different routes to the same output.

Q35 **Mr Gray:** I know all that, but the question was very specific. Maybe the Minister will have to answer, if it is beyond your pay grade. The question was whether or not hazardous training for Specialist Military Unit soldiers is different between Reserve Specialist Military Units and Regular Specialist Military Units, or should it be?

Mark Lancaster: I am unable to answer that question. I do not know the detail of the training. I can certainly endeavour to come back to the Committee.

Q36 **Mrs Moon:** Is it possible for the Minister to write to us with some reassurance about that? One of the things that particularly came out of our first report was the preparatory training—the failures of preparatory training particularly for reservists, the additional preparatory training to undertake exercises.

Mark Lancaster: In general terms on reservists and regular training, I can comment. I am happy, within the realms of what we can write, to write to the Committee on the specific question of Specialist Military Unit training—the difference between Reserve and Regular.

Q37 **Mrs Moon:** And Selection.

Mark Lancaster: And Selection.

Q38 **Mr Gray:** It is really Selection and corporate liability within Selection. That is really what it boils down to. In other words, are you more liable for the



HOUSE OF COMMONS

death of a TA soldier doing Specialist Military Unit selection than you would be for a Regular soldier doing Specialist Military Unit Selection? That is the distinction I am trying to tease out. It might be something you want to write to us about rather than discuss in open court.

Mark Lancaster: I would hate to draw any distinction between an Army Reservist and a Regular. Any liability over injury or death to either, I would take equally seriously.

Chair: Thank you James. Johnny, we need to speed up a little bit.

Q39 **Johnny Mercer:** I will speed up significantly. In one of the responses we got back from the MoD, it said that it is "not always easy to distinguish between training and operations". Is that something you would stand by?

Mark Lancaster: It depends on the nature of the training. As we have just discussed, there are distinctions, for example, between EOD training, training at Lympstone and other general training. Equally, elsewhere, when it moves to that phase of hazardous training, when we are specifically trying to train ahead of operations so that we can have that seamless transition, there are difficulties.

Q40 **Johnny Mercer:** But the individuals who conduct these operations and go on these courses and selections—we all know if we are on training or operations. We know whether it is an operation or training. It is pretty obvious. When we ask you for the statistics, you break it down into operations or training, so why would a response come back to the Committee saying, "The blokes don't know whether they are on training or operations?"

Mark Lancaster: I think there may be some confusion here. The point that is being made is that if you are on, for example, a fixed-target rifle range firing your weapon in that environment, that is one thing; it is probably slightly different when you are moving to, I think, level 4 field firing, where you are on fire and manoeuvre and you are actually firing and manoeuvring your weapon with live ammunition, which is as close as you get to operational training—

Q41 **Johnny Mercer:** Yes, but it is still training, isn't it? There is no one coming the other way.

Mark Lancaster: No, but there is a greater risk, isn't there?

Johnny Mercer: Of course.

Mark Lancaster: I think the clear definition that you are reading into it probably is not what was implied. There is that transition through training from a very controlled environment, which is clearly quite different, into the hazardous training immediately prior to operations when you are seeking to simulate operations as closely as is possible. I am not suggesting that we are trying to make that differentiation.

Q42 **Johnny Mercer:** Yes. It's just difficult, because the MoD is obviously very clear on when someone is or is not on operations. If we get a response back from the MoD saying that the blokes don't know whether they are



HOUSE OF COMMONS

on operations or training, it seems slightly bizarre.

Mark Lancaster: My gut reaction to that, Mr Mercer, is that it is a misinterpretation of what was meant. I have tried to explain my interpretation of it.

Q43 **Johnny Mercer:** It is clear from the evidence we have seen that a lot of this is personality driven and that things have changed. Things have really come on in leaps and bounds, which is fantastic. Nevertheless, there are very clear points in this. I remember some of my own experiences. On a course I was on, before me, a guy died. In that inquiry, they said "Look, these beacons are not fit for purpose. You need to change these beacons," but no one does anything about it at all. I leave the military, and two years later, three guys die, and they say, "Yeah, the beacons are crap"—sorry, "are rubbish, and we need to do something about the beacons."

The problem that I guess we have on the Committee and that the families feel is this total inability to police yourselves as an organisation. It happens time and again. You court-martialled two captains because of a drysuit that you knew was inherently dangerous and was recommended for withdrawal. It took two years to withdraw it and two more people died. I am sure you understand where the Committee and the families are coming from. Learning those lessons is so slow, and it doesn't happen until you come here and all the dirty washing is hung out in public.

There is no point saying that the MoD doesn't care or whatever, because I know that there are individuals in there who work really hard and take this personally, but you must see it from the other side of the fence. If this was a private organisation whose people died using unsafe practice that had been found to be unsafe, the company would go bust and the directors would go to prison.

Mark Lancaster: Of course we take it very seriously, and I am pleased at your comments that you think the situation is improving, but that is precisely why the Defence Safety Authority was set up from 1 April last year: to try to address the very points you are raising. The general consensus seems to be that positive progress is being made, but let me be absolutely clear: nobody is resting on their laurels, which is why we currently have a number of internal reviews going on, with the intention of seeking constant improvement. I am determined that we should constantly strive to improve the processes we have and to learn the lessons. Air Marshal Garwood has described some of the processes we have in place to learn those lessons and, crucially, to ensure that they are implemented. It is that implementation stage that is so important.

Q44 **Johnny Mercer:** Yes, and it is clear that from April, when it was set up and Air Marshal Garwood came in, things have changed. I would just encourage you in this. In my experience, which was across the plethora of military activities, this idea that you cannot talk about or regulate Specialist Military Units training is a myth. It is actually about professionalism and looking after people. I know you understand that here, but the idea that running across the hills in Wales with weights is



HOUSE OF COMMONS

some sort of trade secret that we shouldn't regulate, look into and ensure is done properly, is just substandard. A lot of these families feel that we put the shutters up—"It's Specialist Military Unit. March on by"—whereas those of us who have done that know that it is just military training, and it is about professionalism. If you are asking people to operate in that top percentile, the controls and the people doing it need to be that much better, to look after the people who go through this process. I really encourage you to not take any of that and to get stuck in. I have seen for myself the way this operates, as have a lot of people.

Mark Lancaster: I hear what you say. I think there is a slight misconception here that somehow because it is the Specialist Military Units, they can do what they want, when they want, there is no control or regulation and no one is seeking to constantly check that the training methods they utilise are appropriate and safe. Absolutely they are. We can offer you some reassurance about that. There are a number of ongoing reviews at the moment within that world, to seek to minimise risk as much as we possibly can, but there is a difference between following that process and necessarily putting it in the public domain.

Johnny Mercer: Absolutely.

Mark Lancaster: If you want me to offer reassurance to the Committee that those various reviews and processes, in a determination to drive down the risk, are ongoing—absolutely. It is with some regret, for reasons I tried to explain, that we simply cannot put that into the public domain.

Q45 **Johnny Mercer:** Yes, absolutely. Of course it is about us being happy and so on, but that is taken straight from the families and how they feel about their offspring, who they signed off to go and do these courses. When it comes to SMU training, you are absolutely right; there are some things you will not put in the public domain, because you could put mosaic pieces together and come up with a capability that you want to keep as a capability. But what is being talked about here, around basic learning lessons that we have seen, does not in any way encroach on that.

Mark Lancaster: No, absolutely. I think we are arguing the same point. I say with some frustration, given my principle of transparency, that we are unable to. I have been moved to a position where I agree that we are unable to put this in the public domain, starting from a position where I would like to. That does not exclude, or offer any form of excuse, when it comes to our duty of care to ensure that that training is properly regulated, designed, reassessed and evaluated, to ensure that it is delivered with minimum risk to our service personnel.

Q46 **Mrs Moon:** Can we have a categorical assurance that where a piece of equipment has been found to be faulty, inefficient or ineffective in providing the protection that it is there to provide, no exercises where that piece of equipment is a critical part will continue until a replacement that is effective and functioning is in place?



HOUSE OF COMMONS

Mark Lancaster: I can only ask Air Marshal Garwood to explain the process we would go through to identify that.

Chair: Very briefly, because we are way adrift in our timetable.

Air Marshal Richard Garwood: This, surely, is the beauty of the Duty Holder concept, in that if a piece of defective equipment is seen, someone in that chain, at those four levels—we see this frequently in aviation—will have to decide whether that activity with that piece of equipment continues, which it may need to. They will now be accountable and responsible for that action and will pick up the ownership of that safety case.

Q47 **Mrs Moon:** But what if they cannot make the financial decision?

Air Marshal Richard Garwood: This is why the Duty Holders are at levels where they have the levers. One of the things that Charles Haddon-Cave insisted upon was that we appoint Duty Holders who are accountable, responsible and have the levers to make a difference. There is no point in having duty holders who do not have those levers. One of those levers will be finance.

Q48 **Chair:** We discussed earlier the fact that high-level arrangements may not prevent low-level fatal errors. Minister, can you enlarge on the fact that when you responded to the Committee's report, you said that the Government would explore the feasibility of collating and communicating data on Administrative Action taken in various cases? Who is undertaking that work and what progress has been made? Surely, even though administrative action is intended for other purposes, we should not neglect any database that can give us insights into preventable fatal accidents.

Mark Lancaster: I think there is clearly a commitment from the Department to use every tool that we have to try to learn the lessons and minimise the risk. We have made that commitment to beginning to collect that data. It is a complex process. I am not in a position to tell you exactly where we are with that but I am happy to write to the Committee with an update.

Chair: We have got one issue that is slightly away from the subject matter that we have been discussing today, but it is topical.

Q49 **Jim Shannon:** Minister, on November 8 you made a written statement to the House regarding an error in the Government's estimate for the Armed Forces Pension and Compensation Scheme. You clearly stated that there was an urgent expenditure from the Contingencies Fund that would have to be made available of some £438 million, which was required to cover the shortfall in the net cash requirement amount. I have the utmost respect for you, and I am sure it has dismayed you as much as it has dismayed us. How on earth did we end up with a £438 million shortfall?

Mark Lancaster: The Committee will forgive me. This is not a sloping off of the shoulders, it was a mistake by the Treasury. It is a question for the Treasury.



Q50 Jim Shannon: I hope the Treasury will give me the answer. From your point of view, are you aware that this Contingencies Fund has to be for the men? Has this resulted in any pension or compensation payments not being made, in particular in relation to accidents and deaths during the training exercises? I am ever mindful, as well, that people are living longer when serving, even those who are injured. If we are living to the age of 85, which I understand is how long males are living—or that is the figure that is being put forward—then the compensation that is needed will have to be required for longer periods. Has there been any impact on the pensions and compensation payments?

Mark Lancaster: It's a mistake that was made—without wishing to blame the Treasury, but nonetheless blaming the Treasury. It has been rectified and there have been no consequential concerns or impacts on our service personnel.

Jim Shannon: Thank you.

Q51 Chair: Air Marshal, what progress has been made in developing measures of effectiveness for the Defence Safety Authority? Could you update us on the plans for a programme of periodic audits of the DSA by an externally recruited team or organisation for the financial year 2017-18?

Air Marshal Richard Garwood: Yes, I am glad to say I can. First, on measures of effectiveness: this has been difficult work. We have a Performance Measurement Working Group, and they have looked at various methods of direct and indirect assessment. None of this is easy. Some of it is down right into the performance of the Top Level Budgets and not the DSA. The data is sensitive to outside influence. However we are looking at three main areas: internal performance, finance and manpower. We are looking at regulatory performance and also our performance as a Defence Authority and an investigator, and we are looking at performance of the regulated community as well. So they are the core areas.

We are using established documentation such as the OECD's measuring regulatory performance model, and we are running three pilot studies of things that have changed since we came into being. The first one is the impact of joint audits, which is new. The second is the effect of our own and the statutory regulators' issuing of improvement notices and enforcement notices against Defence, and the third is that we are in the process of licensing our adventurous training centres. We are looking at the impact there from injury and death. So those are the measures of effectiveness.

As far as the audit is concerned, Dr David Snowball from the Health and Safety Executive (HSE) has, as the Committee will know, now agreed to lead our audit. This will be done in the year 2017-18 as requested by this Committee. It will be a high-level audit of the DSA and its processes, and it will provide six deep dives into our domain stovepipes. That will happen after April next year.



HOUSE OF COMMONS

Chair: Deep dives into a stovepipe is perhaps taking metaphor to an extreme, but I think I know what you mean.

Air Marshal Richard Garwood: The third one, which was also a recommendation of this Committee, is that some interventions are conducted with the HSE. The HSE has agreed to lead some interventions, starting in January. They are not audits; they are interventions with them in the lead and us assisting. They have selected, in line with the work of this Committee, endurance training and live-firing. We will look at the Army training centre at Pirbright, the infantry training centre at Catterick, HMS Raleigh and RAF Halton. They will be complete by the first quarter of 2017.

Q52 **Chair:** Continuing on this theme, in the response to the report you said that as you carry on maturing, you will develop a rolling programme of engagement activity for industry as well, members of non-specialist communities like legal groups, and—of particular importance—families federations, and that you will try to generate two-way conversations with these audiences. Is it too early to say at this stage, or have you managed to make some progress in these respects? If so, could you give us a couple of quick examples?

Air Marshal Richard Garwood: We took the Committee's findings to heart. We have looked at our whole engagement programme. I can run a few off that I personally have been engaged in over the last six months. I have spoken at the Health and Safety Executive conference in York; we have spoken at the Institution of Mechanical Engineers; I have briefed a software company that is right across defence, called tlmNexus; we have briefed BAE Systems' safety staff; we have visited the NTSB in the USA; and we have spoken at the DE&S conference. Two weeks ago I was in Cyprus, briefing all the staffs there. We have lectured at the Royal Aeronautical Society once and will do that again in January. Sir Charles Haddon-Cave and myself have attended a Transport for London safety day, where we both spoke; we have visited Rolls Royce, Serco, the Atomic Weapons Establishment; we speak at the staff college, with foreign air chiefs at the Air Tattoo and Farnborough; and we have put all our documentation on the .gov website—so, a full engagement.

Q53 **Chair:** So a major outreach programme.

Air Marshal Richard Garwood: Absolutely.

Q54 **Chair:** I will exercise Chairman's privilege, such as it is, and ask a couple of quick questions. Because we have overrun slightly, I may have to ask my colleagues to continue with Madeleine in the chair, just for the last couple of questions. First, Minister, can you give us an update on the defence internal audit review into army training?

Mrs Moon: Can we ask for that in writing?

Chair: Let's have a couple of sentences now, and if you wish to expand on it in writing, by all means.



HOUSE OF COMMONS

Major General Timothy Hyams: The work is coming to a conclusion: the draft findings are in progress and the report will be concluded in January 2017.

- Q55 **Chair:** Very good. Also, what progress have each of the services made in addressing the different requirements that exist between the design and delivery of Regular and Reserve training?

Major General Timothy Hyams: What we have been looking at is ensuring that, while there are different routes to the same output standard that output standard is the same, but it recognises that there are different times to achieve this effect between Regulars and the Reserve. To give you an example, the Combat Infantryman's course for a Regular soldier is 26 weeks. That is because he is joining a battalion that may be held at high readiness. A Combat Infantryman's course for a Reserve soldier is two weeks, and that is because at the end of that he is joining a battalion that will be held at 180 days' notice to effect, and therefore he has that additional time for us to bring him up in a graduated sense to the same level of readiness. Where it is appropriate, the output standards from those two courses in terms of some of the tests at the end, such as the marksmanship test, are similar. Other things that we are trying to do are to integrate more of the courses, where it is appropriate that the same course syllabus can be delivered both to Regulars and Reserves. For example, in terms of the Royal School of Artillery, about 79% of the phase 3 courses, which are the specialist trade courses, are now integrated. We have also taken measures to make sure the course length is harmonised with Reservist service. So more and more of the courses now are split between two working weeks and two working weekends, or one working week and two working weekends. Indeed, some of the Regulars are now coming into line with that working practice so they can train together.

Finally, we have deliberately over-engineered the statement of training delivery, so that it is more than a statement of training requirement to give flexibility in terms of when the Reservist can attend these courses, to harmonise with his family life and career.

The next significant change is the outcome of the Army 2020 refine process and how we move forward to the Army of 2025. We will then have to recalibrate that in our training output.

- Q56 **Jim Shannon:** It takes the Reserves four times longer to achieve the level of capability of a Regular. Two examples, very quickly: first, the 50 calibre machine gun. The ammunition one soldier uses to train a regular soldier for the 50 calibre is all the ammunition the Reserve forces have in totality. How on earth can a Reserve soldier ever hope to achieve training in a 50 calibre machine gun as a Reserve, against a Regular? Secondly, coming off last week's visit to Northern Ireland, it was very clear meeting some of the TA soldiers, they were telling us, with respect, Major General, in relation to this, they were saying they were having difficulty getting the Land Rover training done because they could not fit it in. With respect to the very thing you said, they could not fit it in with somebody's life outside of uniform.



HOUSE OF COMMONS

Those are two very simple examples of where it falls down. With respect, you say what is going to happen, but we never see it ever getting achieved.

Major General Timothy Hyams: In terms of the first one and the 50 calibre, that goes to the same point about the combat differences course, if I may. That Reserve soldier has an additional 180 days of training until the point at which we would deploy him. Therefore, we would use that graduate readiness to apply the additional ammunition that he needs to be at readiness, whereas the Regular soldier may be on far shorter notice to move. We therefore need to be clear about where we need to put an immediate application of resources.

In terms of Land Rovers, a part of that is something the CGS is very clear on. It is the balance between the training the Reservists must do in order to have those core competencies and some of the administrative burden we currently put on them. The CGS is very clear: we need to reduce the administrative burden put on the Reservists so they can focus more on their training in the time they have available to them.

Q57 **Jim Shannon:** The fact of the matter is that a Reserve soldier can never hope to achieve 50 calibre machine gun qualification because the ammunition is not available. That is what I have been told. Tell me it is different, Minister.

Mark Lancaster: Forgive me, you are slightly blindsiding me with a detail that I simply—

Chair: Maybe a letter afterwards, as we have somewhat strayed outside the parameters of today's session.

Mark Lancaster: All I will say is that I hope Mr Shannon will appreciate how, after 29 years serving as a Reserve, I do understand the challenges of training in the Reserve.

Chair: Administratively, the remaining questions are all allocated to Madeleine and Johnny. I shall continue to stay as long as I possibly can. I mean no discourtesy to our witnesses—I hope you will forgive me—but an engagement I have to attend means I will probably have to slip out before the end. Madeleine, if you will carry on from your present position.

Q58 **Mrs Moon:** If I can make it slightly easier on you—I know that is going to be a shock to you, Minister—can you write and give us some further details on a few issues that certainly I would like some updates on?

We were told there was going to be a revision of the Secretary of State's Health and Safety and Environmental policy. Can you give us details on that? Can you give us progress on the revision of Joint Service Publication 815? Can we have an update on that?

Air Marshal Richard Garwood: We have got rid of it.

Q59 **Chair:** Why cannot all the questions and answers be like that?



HOUSE OF COMMONS

Air Marshal Richard Garwood: DSA01.1 has replaced that, but absolutely, we will provide an update, yes.

Q60 **Mrs Moon:** Also, I understood you are going to do an illustrated guide. Can we see that? That would be extremely helpful.

I just cannot believe the hot and cold injuries. They should not exist in a modern military capability. It is so simplistic, and so devastating and life-changing an injury. Could we have an update on what you have introduced, how you are tracking that, and how you are ensuring that basic failures have been driven out and awareness has been increased so we can make sure and feel confident that those changes that we are looking for have been made?

Air Marshal Richard Garwood: Yes.

Q61 **Mrs Moon:** Finally from me, the MoD said it would undertake further work to identify how best it could track safety-related Coroner recommendations from receipt through to completion. How are you doing that? Can you give us an update on progress? I am happy to have that all in writing, but we need to know that things are ongoing and perhaps see that progress.

Mark Lancaster: We will commit to write and give you the detail.

Mrs Moon: I hope you share my horror about those hot and cold injuries. I thought that was something that had gone almost after World War One, and to find that that still exists is shocking.

Q62 **Johnny Mercer:** Minister, in your response, you committed to share the outcomes of the Defence Internal Audit review of the casualty and compassionate process from point of incident to post inquiry. Has this been completed? If so, what were the outcomes?

Mark Lancaster: I do not believe it has quite been completed. It hasn't. Forgive me; it is shortly due to be completed. I fear it is another case where I am going to have to write to you. It is slightly unfortunate that many of the reviews that are ongoing are due to be completed literally between the end of this month and January, so we are very slightly premature on timing, but it is no more than that.

Q63 **Johnny Mercer:** Okay. I am going to ask you a question about families in a minute, but my personal reflection on this, for what it is worth, as a lowly person here and a junior officer in the military, is that the problem we have with this is that when we are training at that top percentile and it gets to the point where people are really pushing themselves, the standards in reality should go up. I have run arduous courses. They should go up, not come down.

The families feel that there is an element of this around corporate responsibility. I absolutely understand why the MoD does not want to do this. The trouble I have with that is that thinking about it myself, it would not inhibit my way of training my soldiers for operations, and the director came in here and said it is not going to affect his operational output



HOUSE OF COMMONS

either. The only people who want to keep it in are the MoD themselves. I precisely understand that, because you do not want to be criticised for corporate responsibility. I get that, but these arguments that you put forward for not doing it against operational capacity—other people who are in command of current units have come in and said that that is not the case, and it is very difficult to weigh those two up. Do you see what I mean?

Mark Lancaster: We are conflating a number of issues. My principal objection to potentially amending the Corporate Manslaughter Act—we go back to where we started—is that now we have introduced the Duty Holder system, I simply do not see how it will add any value. It is not going to add accountability to key individuals in the MoD, and I do not necessarily think it is going to have any particular impact when it comes to reducing risk, holding to account people who need to be held to account and ensuring that our training is conducted in as safe a way as possible.

When it comes to families, I absolutely understand—for reasons you will understand, Mr Mercer, knowing my background—why it is so important that families who give us their children, who we then train, feel included in the process and have as great a degree of transparency as possible, but equally have a degree of certainty that when we train their family members, we do so in as safe an environment as possible. I do feel that keenly, and I am determined, and I hope the new system really moves several steps towards it to ensure that that is the case.

[Mrs Moon took the Chair]

Q64 **Johnny Mercer:** It is really encouraging—the Duty Holder concept clearly will challenge that, and I do not think anyone on the Committee thinks otherwise—that you and other individuals at the top of the service get this. But what has happened over the last 24 months? The Minister for the Armed Forces was previously doing a Non-Statutory Inquiry into the treatment of families following a fatality. Can you update us on that?

Major General Timothy Hyams: The report has concluded and it is currently being reviewed. We will be able to share it very early in the new year.

Q65 **Johnny Mercer:** Will that be made public?

Major General Timothy Hyams: As I understand it, yes.

Q66 **Johnny Mercer:** Have families had input into that?

Major General Timothy Hyams: I think Air Marshal Garwood was briefing, just ensuring that we had kept people up to date, just before—

Q67 **Johnny Mercer:** We are very good in the Military at saying, “We will do this and the other”. Did we actually get the families in and say, “What was this process like for you? What would have made this better? When would you have liked to have found out?”

Air Marshal Richard Garwood: I cannot comment on that; I do not know this answer.



HOUSE OF COMMONS

Mark Lancaster: I think it was GOC1 who commissioned it, so unfortunately you have the right general, but the wrong general to answer that question, if that makes sense. But it is due to be published in the new year.

Air Marshal Richard Garwood: Our work goes on with the families. A good example would be the recent Puma accident. We have just spent the last three weeks briefing families. We briefed two in the UK, we briefed one in Romania. We briefed two in the USA. We briefed the wife of a VSI aircrew. We briefed the sister of the national from Romania who was in the UK. We briefed the parents of one of the fatalities. We have made contact with two other US citizens who have been injured, and a Lithuanian. So that has cost the DSA three weeks doing that, but we see that as part of the aftercare.

Q68 **Johnny Mercer:** It would be fair to say that the experience of some of the families of those who died in training has been pretty appalling, hasn't it?

Mark Lancaster: That is why we are determined to address the issue and why the report will be published in January.

Q69 **Johnny Mercer:** All I would say is it is not a personal thing against those involved. You can absolutely see the work going into getting this right, but it certainly makes those of us from the Army family feel, "We look after people. We look after these families. We are a whole-force concept", and then when you hear the experiences they have, it sometimes makes you a bit ashamed.

Mark Lancaster: That is precisely why I said in my earlier comments I am sure we all feel exactly the same way. We must do everything we can to support the families in these circumstances. That is precisely why this report had been commissioned and why I look forward to seeing it in January.

Major General Timothy Hyams: If I may, in Giles Hill's terms of reference he is asked to specifically comment on the support that the next of kin receives.

Johnny Mercer: Fantastic; excellent.

Q70 **Mrs Madeline Moon in the Chair:** I am very concerned about the term "new year", because I always find that Departments say "in due course" about when they will publish something. But, Minister, you said, "end of January." We will note that.

Mark Lancaster: I would like to think that so far I have kept my word when it comes to publication.

Q71 **Mrs Madeline Moon in the Chair:** You have, and we always welcome having you in front of us because we know what you say is what you mean.

Air Marshal, you talked about there being a Defence Safety Committee meeting in June, I think, to review the roll-out of the duty holder concept.



HOUSE OF COMMONS

Could we have an update on that when you do us the written update? That would be extremely helpful.

Air Marshal Richard Garwood: Of course.

Q72 **Mrs Madeline Moon in the Chair:** In terms of the review in relation to families, is there going to be an opportunity for families to feed back their feelings about the support they have been given, and any areas where they feel perhaps they have not had the help and support they need, not just in the review but in future?

Mark Lancaster: We always welcome that. I think it is an important step. I have yet to see the report—it is due to come to me shortly. We will then publish it, and, of course, we will welcome feedback on both the report and the general principle.

Q73 **Johnny Mercer:** On that, can we make sure that the families are plugged into that process? This whole marking your own homework stuff is a bit last summer. It would be great to get them into it and really make them feel part of that process. At the end of the day, they have sacrificed in this process. If we can get them in and say, "Look, how was this for you? Can you please help us with this stuff?" that would be a big advance on just sitting there, compiling our own report and marking our own homework about how we do stuff.

Mark Lancaster: I recognise it needs to be an inclusive process.

Q74 **Mrs Madeline Moon in the Chair:** Thank you all for your time and the fullness of your replies. Can I say, on behalf of the Committee, we do have a great deal of confidence that the Ministry of Defence and its senior personnel are taking this extremely seriously, and that there is a desire and a drive for change to be built throughout the organisation. Our concerns remain, and that change is what we are desperate to see. We will be looking at whether or not it is effective at addressing those gaps, cracks, and low-level mistakes that have often been behind the deaths we have seen.

We appreciate that that is an extremely difficult task. We thank you for the work that you have done to date. We will almost certainly come back to this as we see whether we are able to evidence—through the bulletins that you are going to provide us with—that the changes that you hope are going to drive down the deaths are actually effective.

Thank you for your time, the work you have done, and for the additional information you are going to provide us with. Thank you.