

Defence Committee

Oral evidence: The work of the Service Complaints Ombudsman, HC 1889

Tuesday 26 February 2019

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Members present: Dr Julian Lewis (Chair); Leo Docherty; Martin Docherty-Hughes; Graham P Jones; Mrs Madeleine Moon; Gavin Robinson; John Spellar; Phil Wilson.

Questions 1-66

Witnesses

I: Nicola Williams, Service Complaints Ombudsman for the Armed Forces.

Written evidence from witnesses:

[Nicola Williams](#)

Examination of witness

Witness: Nicola Williams.

Chair: Good morning, and welcome to this session on the work of the Service Complaints Ombudsman. It is a particular pleasure to welcome Nicola Williams in person.

Q1 **Gavin Robinson:** Thank you for joining us. You concluded in your last report that despite improvements, the Service complaints system is still not efficient, effective or fair. Why did you draw that conclusion?

Nicola Williams: In my 2017 report, that was my conclusion. In my 2016 report, which was my first one as the Ombudsman, I reserved judgment on that. In private practice when I was a barrister I never liked to take an unfair point. I felt that the new system was in its infancy and I could not make that conclusion. Reluctantly, however, I came to the conclusion in 2017, certainly for the annual report covering that year, that the system still was not efficient, effective or fair.

One of the three biggest reasons for that is delay. Delay has bedevilled the Service complaints process, both the old system and continuing so far in the new system. For example, as of the end of 2017, for the period that the annual report covered, only 52% of complaints Tri-Service were resolved within 24 weeks. Of course, some Services perform better than others, but the average across the Services was only 52% when 90% are supposed to be resolved within that time.

In addition, all the Services have said that they have had insufficient resource. For example, fee earning investigators were often used by the Services to deal with their cases involving harassment and they had insufficient numbers of those. Of course, if you do not have enough investigators, that builds in delay.

There is a lack of awareness of the Service complaints process in general, although that is improving year on year, the longer that this office is established. With the lack of awareness sadly there is a lack of confidence in that system. You have to think that the new system has only been going for three years to date and there is a lot of ground to cover in getting people to feel confident in that system.

Q2 **Gavin Robinson:** Those touch on effectiveness and efficiency. What about fairness? Do you think there is inherent unfairness, even with delay, and that the outcome of the process is inherently unfair, or was at that stage?

Nicola Williams: I think so. It is trite but true that justice delayed is justice denied. If delay is built into a system—it is improving, but improving very slowly—the longer the delay, the more likely the complainant and the respondent will perceive the system to be unfair. That is why as of my last annual report, regrettably, even though things had improved, I could not say that the Service complaints process was



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operating efficiently, effectively, or fairly but those words were used conjunctively and not disjunctively.

- Q3 **Gavin Robinson:** Could you give an indication of how you feel it is operating now? Has it improved to your satisfaction? If it has not, what issues remain outstanding that could be resolved to provide an efficient, effective and fair system?

Nicola Williams: May I address it in this way? I am certainly not trying to avoid your question. In our annual report for 2018, which we are preparing now with a view to having it tabled in April, I do not think the position will change from what we have seen. Because the annual report has not been tabled, there is a limit to what we can say, but certainly my position is unlikely to change then. The main issues are still lack of confidence and delay.

- Q4 **Gavin Robinson:** In the feedback option that is available to complainants, personnel are given the opportunity to explain why they approached you rather than their chain of command. Primarily the highest percentage chose to tick "other", and secondly, that was followed by lack of confidence in the chain of command. Have you had the opportunity to investigate or understand what is meant by "other" when personnel tick that in the highest percentage?

Nicola Williams: Not fully, and if the answer I am about to give you does not satisfy, I am happy to address it in writing with you after this Committee hearing.

First of all, the percentage is high. The number of responders was actually lower than it would appear to be on the face of things. I do not know whether Committee members are aware that it had appeared, on first blush, as if the number of respondents to this was 97. Actually, the number of respondents was 20. Of that 20, eight—40%—came up with the "other" figure.

There are issues in terms of confidence with the chain of command, and I think that is the major issue. However, in terms of our position and doing our statistics, although I now have a statistics manager—he sits behind me now—for a very long time during that period we did not have one, so we would need to drill down a little bit into that. I am happy to write to you, if that would satisfy you and the other Committee members.

- Q5 **Gavin Robinson:** Have you considered augmenting, for example, the survey, so that you could provide other options, rather than simply the word "other"?

Nicola Williams: Oh yes, we are. We are going to look at that completely differently now. It helps that I am now assisted by a statistics manager. I had an excellent person before and I have an excellent person now, but that post was gapped at a very critical time in our office. So that is something that we will address very differently in the forthcoming annual report.

- Q6 **Gavin Robinson:** What about lack of confidence in the chain of command



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as one of the other primary reasons why Service personnel would approach you? Have you had an opportunity to hear feedback from—notionally—chain of command about how they could address levels of confidence in them, and how they could instil greater confidence among Service personnel?

Nicola Williams: One of the things I do, Mr Robinson, is that in the course of my role as an ombudsman I make a point of going to different units Tri-Service and speaking to people at all different ranks. I separate the ranks out—for example, I speak to junior ranks, then warrant officers and then officers—and quite often that figure about lack of confidence in the chain of command has been repeated on more than one occasion. It does not matter where I go; that tends to happen. For example, a couple of years ago I went to the Falkland Islands and it was as live an issue in the Falkland Islands as it is in places that I have been to in the United Kingdom.

When I tell the chain of command, they are often very disappointed to hear that. In terms of the individuals I have met, I have no reason to believe that they do not want to encourage people to make a complaint, but usually people say—to express it perhaps not very elegantly, but very frankly—that if they make a complaint, their card is marked. It does not matter where they go; even if they transfer out from that particular unit, it follows them. They are career-fouled; they never recover from that. Their life is made a misery. That is what some complainants tell me.

Now, that clearly is not the experience of every complainant, and it clearly does not mean that every commanding officer is a malign person trying to make someone's life difficult. But if that perception persists, all you need is for one person to say that to somebody else and the overall effect is that there is a lack of confidence in the Service complaints process.

That is what I think the new process was trying to address when it was set up in 2016, and certainly I, as the ombudsman, and my team are trying to drill into that. More importantly, we are an alternative point of contact, so if people really feel that way about instituting their complaint within the chain of command, at least they can come to our office and do it that way.

Q7 **Mrs Moon:** I have two very quick questions. The Liberty report suggested that it would be helpful if the Office of the Service Complaints Ombudsman played a role in the Service justice review. Why were you not involved? Do you agree that it would have been helpful if you had been involved, and could it have helped the functioning of your office?

Nicola Williams: In answer to your first question, Mrs Moon, I do not know why I was not involved. I was not asked. I do not know why that was.

Could it help the functioning of my office? Well, Service justice is wider than Service complaints, so it may well be the other way; it may well be that in my role as ombudsman, and given what I have seen with the new system, I may well help in the functioning of their work, although of course it might be completely separate, completely discrete. For example,



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matters that would go to courts martial are very different from the types of matters that would come to my office, which is fundamentally a workplace grievance system. But the fact of the matter is that I was not asked to take part in that review.

- Q8 **Mrs Moon:** My understanding is that there is a meeting of Armed Forces ombudsmen. Could you give us an impression—if this was not at the forefront of your mind in preparing for this meeting, I am sure we would be happy to have it in writing—of where we stand internationally? Are we bobbing along on the same level as most people, or are we lagging behind? I spent some time going back to Dr Atkins' reports, and we have been told since 2008 that the system is not efficient, effective or fair. We have not exactly made progress over those 11 years. Where are we internationally? Can you give us a picture?

Nicola Williams: You are absolutely right about Dr Atkins, who was the first Service Complaints Commissioner. You will remember that I was the Commissioner for one year before I transitioned into this role. I think she did a stellar job within the limitations of the legislation that applied then. She consistently said that the complaints service was not operating efficiently, effectively and/or fairly—you can take those words conjunctively or disjunctively.

In terms of where we stand within the wider military ombudsman community, not last year but the year before we hosted the ninth ombudsman conference in London. I was very proud to do that. In fact, the Chair was a guest at that conference. At that time, from the discussions that took place, my office had wider powers than other ombudsman offices—not all, but it had more than others. The systems are very different. For example, in the Netherlands, members of the Armed Forces can join a union. Of course, in the UK they cannot, but that is one of the reasons why my powers are slightly wider than the ombudsman who is charged with dealing with Service complaints in the Netherlands. In South Africa, members of the public can make complaints against members of the Armed Forces. That is not the case here.

Where do we stand? To use a footballing analogy, we might be in the premier league, but at the bottom of the premier league. In other words, we are doing quite well, but there should be absolutely no room for complacency. You have to hold yourself to a particular standard, and I hold my office to a particular standard. If we have issues of delay, for example, in terms of dealing with complaints within the Services—and I will mention, because I am sure you or one of your colleagues will, that we have also have a backlog, so there are issues around that—that is of concern to me. I think we are doing better than most of my equivalent bodies across the world, but some of those systems are very different, so we cannot really compare them directly. Even if we are doing better, we could be doing better still.

- Q9 **Martin Docherty-Hughes:** I am delighted that you are here today, because this is music to me. You mentioned the Netherlands. Members of the Netherlands Armed Forces are able to be members of a



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representative body. Last week, on the Floor of the House of Commons, the Minister more or less stated that he was delighted that members of the Armed Forces in the United Kingdom are not employees. In the 21st century, that is an absolute outrage.

You are in the premier league of ombudsmen because, looking at the stats, you are dealing predominantly with terms and conditions, pay and pensions, and bullying. Do you believe for one minute that if members of the Armed Forces—especially those who are on low pay—had access to a representative body, the complaints you receive about those issues would still be off the scale?

Nicola Williams: Honestly, I do not know. That is an honest answer. If you are asking me whether it would help if there was some sort of collective grouping, if not a proper union, that could advocate for fairer conditions, it may or may not. I honestly could not tell you that. I suppose it is one of those things: if it happened, we would see from the number of complaints that came to us.

- Q10 **Martin Docherty-Hughes:** Let me ask you a hypothetical question as a barrister, then. I take it you are a member of the Bar Council, which articulates positions on your working terms and conditions. Do you believe it speaks rightly on your behalf on those types of issues and is good for you as a barrister?

Nicola Williams: Well, can I say—I am laughing, not at your question, but because I am a barrister and I was in private practice for a long time and am still a member of the Criminal Bar Association; every Monday they send us a newsletter, and it is usually about how they are trying to improve the terms and conditions for barristers. Barristers are all self-employed, so it is slightly different.

I hear what the Minister says about members of the Armed Forces not being employees, in terms of employment legislation. That was not my area of practice, when I was in private practice. I think to get to the nub of your question—would that help—I honestly could not say. It may help. It might not help; but I know from what we see that comes to our office, that you are absolutely right to highlight those three main areas. That was a surprise for me, because in fact the majority of the work that we see concerns terms and conditions of employment, not bullying, harassment and discrimination, which is what I actually thought it would be—and, from the reportage you see in newspapers that is what it would appear to be. I am not sure if I have answered your question in the way that you would like.

Martin Docherty-Hughes: I think you have articulated it in a way that does answer it.

- Q11 **John Spellar:** Can I go back to the Service complaints system and the deficiencies that you have identified? Can we dig down a bit deeper? Is it primarily due to lack of personnel, or is it substantially within that down to inefficient practices, a culture of inefficiency, and basically therefore almost a self-perpetuating system that constantly delays and therefore



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builds up delays, as we see in a number of other Government Departments?

Nicola Williams: You are asking this in relation to the Armed Forces in particular—the three Services?

John Spellar: Yes.

Nicola Williams: I think it is a combination of both. Certainly it is right to say—everybody knows—that there is a shortfall of Armed Forces personnel. That would include people who at some point in their career would have to deal with Service complaints, either as a dedicated Service complaints team or as a commanding officer that gets a complaint. So there is a shortfall in those numbers. There is also the position that as a result of that shortfall people are double or even triple-hatting, because they have other roles to carry out as well as dealing with Service complaints. Unless you are working in the dedicated Service complaints teams in the headquarters of each of the Services, you are going to be dealing with Service complaints as well as something else. So certainly lack of resource in terms of time to do it, and personnel—absolutely.

I think training is also an issue, and it is a recommendation that we have made in our first annual report. A number of recommendations are outstanding but at least one of them that has been substantially complied with concerns training. Also, if you are asking me is it an endemic issue because of the kind of sclerotic state that has built up over the years, I think there might be something in that, but I would like to contextualise it. My office has only been going as the Ombudsman's Office since the beginning of 2016. There was only ever civilian oversight of Service complaints from 2008, and the most junior, in terms of chronological age, of the Services—the RAF—celebrated its 100th birthday. If you think about that—the Services have been going for hundreds of years, and independent oversight of any sort has only been going since 2008, and an ombudsman with some teeth has only been going since 2016—you see it is like turning round the Queen Mary. It is a work in progress.

Q12 **John Spellar:** Up to a point, but when I was the Minister in charge of the justice system in Northern Ireland the Chief Justice and I looked at the judicial process and there was something like—it is a round-about figure—28 stages. At every stage there was masses of dead time in the system when the file was not being worked on. Letters, if they were being sent, were being sent second class, and so on and so forth. There was just masses of dead time, which all accumulated in creating a completely bunged-up system. Is that what is happening here?

Nicola Williams: Well, this goes back to the recommendation or metric that was first mentioned by Dr Atkins but still exists now, which is that 90% of complaints should be resolved within 24 weeks. If you ask the Services about that, they will say—I know this because this has been said, and I am certainly not breaching any confidences; it is a fact—that none of the Services has managed to resolve 90% of its cases within 24 weeks. Often they say that there is dead time over which they have no control,



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such as the complainant perhaps taking a long time. For various reasons, there is time when nothing is happening, but is counting towards the 24 weeks. Is there dead time within the system? Perhaps. Could it be done in a more streamlined way?

- Q13 **John Spellar:** Has anyone tried to measure it? Has anyone actually looked at it, not by setting headline objectives, but by looking at what happens in cases and seeing at every stage how it works? Has anyone done a proper in-depth study of that?

Nicola Williams: Yes, they have. Because it was a recommendation we made in the first report I did as an ombudsman with regards to that, I know that each of the Services feeding centrally into the MoD have looked at that. I know that there is a position that, if it has not been completely firmed up, is certainly close to being firmed up. However, I have not seen it, so I cannot comment on that.

- Q14 **John Spellar:** If a recommendation from an investigation report has been rejected without any sufficient reason, what can you do about it?

Nicola Williams: There are two ways in which we make recommendations. One is in our annual report every year. If you are taking about an individual complainant making a complaint, a recommendation cannot just be rejected out of turn. It could be that it is not possible to carry out the matter I have recommended, but it does not mean that the recommendations can just be ignored. As I am sure you know, Mr Spellar, as an ombudsman my findings are binding, but my recommendations are not. I think the pensions ombudsman might be the only one that is an exception to that. The vast majority of ombudsmen cannot make binding recommendations. My recommendations cannot just be ignored, and I would not let them. We try to come to a consensus or compromise that we can all live with. There has only been one case in which that did not occur, but that is about a particular complaint, and I do not think it is appropriate, with respect, to talk about that particular complaint.

- Q15 **John Spellar:** Okay. Our understanding from satisfaction surveys is that it is not just satisfaction with the single Service system, but satisfaction with the ombudsman that has declined in recent years. What can be done to change that?

Nicola Williams: I am actually very unhappy—very sad, I suppose, disappointed—to hear that satisfaction with my office has declined. I can suggest what I think some reasons for it, and then I will indicate what things we are doing to change that.

Sometimes, as you know, sadly it is human nature that if something goes well, people don't tell anybody, but if something goes badly, they tell people.

John Spellar: As constituency MPs, we understand that phenomenon very well.



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Nicola Williams: There you go. In that case, perhaps I am pushing at an open door, which is good.

Any response like that would be skewed by the fact that someone is unhappy with the decision we had made. Any decisions that we make are based on the evidence we have. Sadly, delay can erode evidence, maybe by the time the matter is decided; if it was heard earlier, the decision might have gone differently. Anyway, an unhappy complainant will say that. I do not know whether that properly reflects the position, because we also have people who tell us they are happy with our service.

In terms of what we can do, we can continue what we have been doing and keep rolling that out. For example, I mentioned in answer to a question that Mr Robinson put to me that I do a number of visits across all the Services to different bases. I make sure that I speak to people at all ranks. I can tell them about my office, but also hear what concerns they have. Those are concerns that they may not want to say “in group”, but they catch me outside and I talk about that. We want to raise the general awareness of our office. We are very clear about what we can do and also what we cannot do. If we raise false expectations and then people are disappointed, we have only ourselves to blame.

We are increasingly more active on social media. Social media is not just a province of the young, but if you are a younger member of the Armed Forces on your mobile phone, you can look at our Twitter feed, our blog, and we try to raise the profile of the office in that way.

People who are dissatisfied with the office will be more inclined to say bad things about the office. With somebody who is satisfied, you will hear that people are satisfied but they are not going to tell lots of different people.

- Q16 **Mrs Moon:** Following on from John’s questions about why there are difficulties with the Service part of the investigation, I note that commanding officers are not required to interview the complainants. We all get emails of complaint; if we tried to resolve the issues purely on the basis of information that is sent in an initial email to us, it would go all over the place and people would be very unhappy with us. Would it help the system if commanding officers had to actually follow up that initial complaint with an interview so they could drill down into what the source of the complaint is, rather than some people who are less articulate in writing being expected to explain it all on a complaints form?

Also, what is wrong with the Service decision letters? There seems to be a lot of unhappiness about those. Can you tell us why they are so bad? Why are they causing so many problems? That certainly comes through loud and clear.

Nicola Williams: I will take your points in order. Would it help for COs to interview complainants? It might or it might not. I will explain it in this way—you might say that, as a barrister, I can always argue two sides of an argument and perhaps I am about to do this here. If a CO were to not just decide the matter on the letter or the papers, the best practice would be to speak to the complainant, but to do that may well add to delay. I am



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not saying that that should be a reason to not do it, but I think if that is done, that will add to delay in the process.

The other side of looking at it is that I know that in some both quasi-judicial and judicial functions, decisions are made on the papers in front of you and you do not actually hear any evidence from the person whose case you are deciding on. It is possible. It does not automatically mean that if you do not do it the result will be wrong. Would it be better to do it? It probably would be. It is best practice to speak to the complainant, for sure.

On the second question about Service decision letters and why they are so bad, if you want an honest answer, they used to be a lot worse. When I first became the ombudsman, there was one particular situation, which we do not see now and it is value that we have added as an office. I will try to anonymise this example as much as I can. We would see decision letters from commanding officers—I won't mention the Service or anything like that—that would effectively be "Person A says this. Person B says this. I think this. The End." That was it. I am not exaggerating when I say that. This was in the very early days of my role. In those early days, every single letter I got like that, I automatically rejected and found in favour of the complainant, because it is not only a principle of good public administration but a principle of natural justice that you should actually know the reasons behind any decision that has been made.

We have seen a marked improvement, certainly in the letters that come to our office. There may well be matters that are started within the Service and decided by the Service and never come to my office, which we do not get to see. It may well be that a complainant is very unhappy about the decision they see there, but it is open to them to come to our office and notify us about it. Certainly, I have seen an improvement in the quality of the decision letters, but their quality was very poor in the early days.

Q17 Mrs Moon: I have looked at your investigation team and the staffing problems that you have experienced. It has been horrific and you can see the consequences in terms of the increased size of case loads and the increased time that people are waiting for investigations to start. Why has that happened? Has it just been the vetting issue? What has been the cause of the understaffing?

Nicola Williams: There is a number of reasons. We have had staffing issues on both the investigative side and the administrative side of my office. If I just take the investigative side, we are now almost at full complement. We should have 11 people and we now have 10, but it has taken us nearly four years to get to that. In my view, the two most significant issues that have affected it have been vetting—that has been a serious disadvantage to our office—and the nature of the work. If you deal with complaints all the time, there is an issue about morale. You do get people coming back and telling you, "You really helped me," and those are really nice to get, but the majority of it is disheartening work, in some ways. You know that you are adding value, but what you hear is quite disheartening.



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Particularly within the Ministry of Defence, we know that within the Services people move on every two to three years. Even though I am a Crown appointee, all my staff are MoD civil servants once they join my office, and they tend to move on after roughly two to three years. My office structure is quite flatlined. You will know that within the last 18 months we reconfigured the office, so I am now better supported with the senior leadership team, which I wasn't before. I had a very good person as my head of office, but it was just one person. We have reconfigured it now.

I think it is a lack of promotion for a bright person within my office, because we are flatlined, and the nature of the work that we see. The difficulty in recruiting is a matter of particular annoyance to me that I have raised, so it is not something that is going to take the Chief of Defence People or anybody else from the MoD in this room by surprise. We want really good-quality people with an investigative background, who are particularly needed to do our investigative work, and we train them as well. On more than one occasion, we have gone through our sift, hired a good person, got to the interview point and provisionally offered a role, subject to vetting—and then the vetting has taken months. Someone that good does not have time to sit around waiting four months or more in order to get employed by my office.

There are at least two occasions—I think there are others—that spring to mind where that happened. In fact there are more than two. As a direct result of the delay, we lost them. It is also disheartening for my staff. We get people who are happy to come round. They know the office and they meet the staff, and then all of a sudden the vetting has taken so long that they go off somewhere else. It is a combination of those two things.

Q18 John Spellar: What has been the response of the vetting agency to these unacceptable delays?

Nicola Williams: The response that I have had? Well, first of all, I know it is not just us. I think it is done by DVS; whoever it is, I know that there are other parts of Defence that also have people in the vetting "queue", but it has disproportionately high effect on my office because we are so small and because of the nature of the work we do. When it is raised, then suddenly it is actioned, but we should not have to raise it as a matter of priority in order to get our vetting done. It should happen as a matter of course, and it should not take as long as it has been taking.

John Spellar: I think we should write to the agency about that, Chair.

Chair: I agree.

Q19 Mrs Moon: Certainly here in Westminster, MPs' staff tend to move on, on the whole every two to three years. But staff here have also had horrific problems getting through the vetting agency. It is a major failure of that vetting contract.

Nicola Williams: It is really disheartening. There was a point, probably about 18 months ago, when for various reasons the number of



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investigators was low. May I expand on this point, because it might give some insight as to the reason that we now have a backlog? We should have been 10 at that time, but we went down from 10 investigators to four, and we had no senior team. We had a lot of people leaving at that time, for various reasons. As a result, I had very direct interface with the investigators every week when I would say, "We're hiring people. Someone's coming," then, all of a sudden, they're not coming. So you tell them, effectively, "Just hang on a little while longer. Things are going to get better. Oh no, they're not." It is much better now, because we are now just one person shy of full complement, but it has taken us a while to get to this point.

- Q20 **Mrs Moon:** On behalf of the Committee, then, we say thank you to those staff who stuck with it and persevered. This is an important role and one that we know is vital.

Nicola Williams: Thank you very much. May I take the opportunity to say to the Committee and to anybody else who might be viewing this, that the Ombudsman cannot do anything on his or her own? I lead my office; I am the external face of my office, so I am the pointy end of the skewer, if you like, but there is a whole team behind me, three of whom are here. We need to carry on the work, so not everyone can be here. It is hard, difficult work, but ultimately it is really rewarding and very valuable, so I am very grateful to you, Mrs Moon, that you have said that.

- Q21 **Mrs Moon:** If you are only just functioning when you are virtually fully staffed, are we understaffing you full stop? Should your staff complement be, say, 15 rather than 10, so that you have some capacity to flex? It sounds as though, even if you are fully staffed, you are going to be working full on just to keep your head above water. Are you chronically understaffed, and the vetting exposed you to the fact that it wasn't just chronic but almost terminal understaffing?

Nicola Williams: Yes—I completely agree with you. If I may expand on that, I do not know, because it was done before I was appointed, the basis upon which the numbers for my office were decided. Certainly, I know, and I think that the Chair and other Committee Members are aware, that in the early iteration of this office, the thinking behind it was that there was not going to be an investigative arm, because we were not going to have the powers to do our own investigations. When that started, I do not know why a certain figure was arrived at. I think that, in part, we may have been the victims of our own success, because people are coming to us. The fact is that I think we need more permanent staff, whether full-time or not, on the investigative side, and on the—"support" doesn't really do them justice, but on the administrative side, where we also have gaps. We now have two gaps on that side; it was three, but we have just filled one. So there are gaps on both sides of the business of our office.

Certainly, in order to bring down the backlog and keep it either to a minimal amount and/or to deal with any increase that we would get, we need an increase in permanent investigative headcount. You mentioned flex; we do have, I suppose, a surge capacity of fee earning investigators;



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but we don't have many of those. I think they do fantastic work, but if you are really going to solve things, we need to get an increase in the permanent headcount of our office. You asked me about investigators, but it is not just investigators; a lawyer would also help.

- Q22 **Mrs Moon:** We would like more information about the terms and conditions of service issue. I know that Martin started to explore that. Could you provide us with a breakdown of what the terms and conditions of service complaints have covered? We would be happy to have that later, in writing, because I know that the Chair wants to move on. Would that be possible?

Nicola Williams: I can certainly give you that in writing—I hope that my people behind me are making a note of that—but I can give you some idea right now.

The main area within terms and conditions of service is career management; that is the main area. It includes reporting—what is said in people's reports and how those reports are used to help you to progress in your career. Then there are issues around discipline. There are issues around accommodation; it is really a special-to-type process where people do complain about accommodation. There is also manning and discharge, and pay, pensions and allowances. But certainly I am more than happy to write to give that further. Just so that I understand, you want in writing a more detailed breakdown of the types of complaints that are classified as about terms and conditions of service?

Mrs Moon: Yes please; that would be helpful.

- Q23 **Martin Docherty-Hughes:** Why do you believe that the numbers of complaints from black, Asian, minority ethnic and female personnel are disproportionate to their representation in the Armed Forces?

Nicola Williams: There could be a number of reasons for that. I am happy to give you my thoughts on it, but my overarching answer to that question would be that in my first annual report as ombudsman, I recommended that the MoD carry out an independent review of that, the results of which I have not yet seen.

- Q24 **Martin Docherty-Hughes:** You have just answered my second question: you have not seen that report.

Nicola Williams: No.

- Q25 **Martin Docherty-Hughes:** Is there a reason why they will not let you see it?

Nicola Williams: No. It may not yet be complete. In any event, what I wanted was an independent review, and I think the review that has been done is not an independent review. But can I go back to your first question?

Martin Docherty-Hughes: Sure.



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Nicola Williams: There is a disproportionality. It could be for a number of reasons. The particular figure that I can remember is for black, Asian and minority ethnic staff in terms of complaints about bullying, harassment and discrimination: 57% of people who fall within BAME—that is not an acronym I particularly like, but still, I use it.

Martin Docherty-Hughes: I was quite confused by it myself.

Nicola Williams: Yes, 57% of complaints from that grouping are about bullying, harassment and discrimination, as opposed to 21% of white complainants. There is a similar disproportionality with regard to gender. Why does that happen? It could be because they do experience more bullying, harassment and discrimination, but we also know from the AFCAS figures that of the people who could make a legitimate complaint, only a very small proportion actually do make a complaint; and the majority of people when they are asked, “Well, why don’t you make a complaint,” say things like, “I’ll be victimised for making a complaint,” or, “My life will be made a misery if I make a complaint.” So in a way, it makes you wonder whether if all the people, both female and ethnic minority, who could make a complaint did make a complaint, the number would be even more disproportionate.

Q26 **Martin Docherty-Hughes:** I am not equating them; I’m not saying that this is on the same level, but do you think the situation would be the same for the LGBT members of the Armed Forces?

Nicola Williams: It may well be, but with a lot of these groupings, people will have to self-declare. For example, someone’s ethnicity most often is obvious, but not always. Gender is—well, leaving aside the transgender issue, if you are born male or born female physically, that will be obvious. But LGBT status will only be known if people declare it, so it will be harder to get those types of figures.

Q27 **Martin Docherty-Hughes:** Thank you. As I said, the next question you have already answered, given that you have not seen the report. What more could be done to ensure that complaint handlers in the services have sufficient expertise in different types of complaint?

Nicola Williams: I think that comes down to training. In both my first and my second annual reports, I did make a number of recommendations on training. One recommendation, and forgive me if I cannot remember the exact wording, was that if women had made complaints about sexualised bullying—not sexual assault, but sexualised bullying—the person dealing with that should have some training in how to deal with those particular issues, because that is a much more loaded issue. So training, yes, we have actually recommended that.

Q28 **Martin Docherty-Hughes:** Do you have any data on complaints from foreign and Commonwealth personnel in the Armed Forces?

Nicola Williams: Not within my office. If you are asking about complaints that come to my office, no, but can I give you the reason for that? Again, people would have to self-declare. If we went through each of our



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complaints and did a manual count, we probably could do it, but unless people declare—you might have someone who is, let's say, a Kenyan soldier; he is complaining about something but he does not want it to be attached to the fact that he is Kenyan or that he is a foreign and Commonwealth soldier. He wants his complaint to be seen as separate from that. It may well be that his issue is connected with it, but he does not want to raise it.

- Q29 **Martin Docherty-Hughes:** That comes back to the premise that I was speaking about earlier. You mentioned the repercussions for speaking out. For me, speaking out leads to change and improvement. Change and improvement leads to a better working life and, in this sense, it would lead members of the Armed Forces to feel more respected and to probably be paid better, and you would have fewer complaints to deal with. I would therefore consider, as I said earlier, that having a representative body would assist in that process.

Can I ask a specific question? Do you also receive complaints from members of the Armed Forces who are part of the medical staff in the Armed Forces?

Nicola Williams: Yes we do. I cannot remember any particularly, but certainly if they are in uniform it does not matter what they do within the service; they can make complaints.

- Q30 **Martin Docherty-Hughes:** The reason I ask is because of some of the reports that have come to the Committee about the morale of members of the Armed Forces within medical units, and close to my own constituency, in Faslane—

Nicola Williams: I went to Faslane.

Martin Docherty-Hughes: The morale has plummeted; the reports are there for the senior command to look at. It would be interesting if you had any facts and figures about that. Finally, what worries me—

Nicola Williams: Do you want us to write to you on that?

Martin Docherty-Hughes: If you could provide that type of information, it would link up with the other information that we have.

Nicola Williams: That is about whether we get complaints from medical staff within the Services.

- Q31 **Martin Docherty-Hughes:** Yes, if you are able to provide it. To dot the i's and cross the t's, on the repercussions of speaking out, I asked the Chief of the Defence Staff in December, "On the issue of being really committed to HR, would that not be assisted by the members of the Armed Forces having access to an Armed Forces representative body" based on the Police Federation model? His first answer was that he would like to continue in the traditional way, but by the sounds of it the traditional way has failed members of the Armed Forces when it comes to issues such as terms and conditions and bullying, which you are having to deal with. Do you consider that the traditional way is not working?



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Nicola Williams: I am not trying to avoid the question, but I will answer it in this way. I am very aware that my mandate is, if you like, as the Service Complaints Ombudsman for the Armed Forces, and not the ombudsman for the Armed Forces generally. In other words, my mandate is tightly around Service complaints and the complaints that I get. With respect, for me to offer an opinion on what you have said would probably not be appropriate, because it is slightly outwith my mandate of dealing with the issues that I see.

Overall, I can tell you that any good ombudsman wants to make themselves obsolete, because you want to see a reduction year on year. Actually, in a new organisation, you tend to see that complaints go up before they come down, but you want to see a reduction year on year in the number of complaints that come to you. It will go to an irreducible minimum—it will not go lower than that—but you work to put yourself out of business. We are a long way from going out of business, but my term will finish at the end of next year in any event.

Martin Docherty-Hughes: It is a delight to hear someone say that they want to put themselves out of a job. We rarely hear that in evidence sessions. I often think, though, that there is also the opportunity to improve the delivery of your objectives, and I would have thought that one of those would be having a representative body for members of the Armed Forces. I do not expect an answer, but I think you have answered my question. Thank you.

- Q32 **Phil Wilson:** What should the Services do to change their negative culture towards complaints? How can you be sure that when a complaint is withdrawn, it is done voluntarily?

Nicola Williams: To answer your first question, you are right that there is a negative culture towards complaints. That is despite members of each of the Armed Forces, from the top down, making it clear that it is not a bad thing to complain, and that, in fact, if you make complaints, it highlights issues that can be dealt with. However, even though that message is coming from the top, I do not think it has permeated all the way down. It has hit permafrost, if you like, somewhere down the chain.

The thing that has to be changed is that—forgive the inelegant language—people need to know that someone is not a snitch or weak if they make a complaint, and neither is it a demerit or career limiting to receive a complaint. The thing that I as ombudsman would be concerned about would be if, for example, a commanding officer receives a complaint and does not deal with it in the proper manner. Making a complaint is not a negative thing. Being on the receiving end of a complaint is not necessarily a negative thing, particularly because we do not know whether it will be made out or not. This is about how we deal with a complaint.

Forgive me. Could you repeat your other question?

- Q33 **Phil Wilson:** If a member of military personnel withdraws a complaint, how sure are you that it is done on a voluntary basis?



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Nicola Williams: I am glad you asked that question. The only way that I would know whether it was done voluntarily or not is if the person who withdraws the complaint approaches my office and lets us know. Even with us being an alternative point of contact, some people are still happy to start their complaint within the chain of command and have the whole thing dealt with there. We do not hear about every complaint; we hear only about those that come to our office or, if I go on a visit—for example, my visit to Faslane—and someone comes and tells me if there are any issues. The only way we would know is if someone tells us that, but we are doing work on complaints that are informally resolved—that is not a formal complaint, but one that has either been mediated or informally resolved in some way to find out what those figures are.

Put it this way: if it were to come to light that somebody was in some way coerced into withdrawing their complaint, I would take an extremely dim view of that. The Service complaints system is not set up for people to be coerced into not following through a legitimate complaint, rather than a complaint that is forced ab initio. Sometimes somebody makes a complaint and feels genuinely aggrieved, but the evidence does not support them. That does not mean the complaint is frivolous or vexatious. However, if someone has a legitimate complaint and has in some way been dissuaded—however that is done—to not make that complaint, this office takes a very dim view of that. I have made that clear to the Services, and it is not something that would come as a surprise to them.

Q34 **Phil Wilson:** Do you think that message has got through throughout the Services and right down to the grassroots?

Nicola Williams: I do not know. Sadly, I think not, but that is certainly not for want of me or members of my team saying it. A big part of my mandate is outreach, and I and other people—both those sitting behind me and some who are not here—actively go out and about to speak on CODC courses and to people in junior ranks. We speak to everybody at every level. I have a lot of engagement with senior military personnel, but my engagement does not stop there. This is a rolling thing. Even if I went every week to a different military base within the United Kingdom between now and when my office terminates at the end of next year, I will not get to see everybody because there are so many places to go. We are trying to get that message out in other ways so that people can hear the view that we take on such matters, and hopefully that message will percolate down individually. We are doing a vodcast that can be embedded within the training that people in the Armed Forces receive at every rank, so that they can find out directly from us—

Phil Wilson: A vodcast?

Nicola Williams: Yes, it is a trendy young term, apparently.

Mrs Moon: He does them. He is trendy and young, in parliamentary terms.



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Nicola Williams: You are probably trendier than me. Basically it is a video podcast, but importantly, in the places that I and my staff cannot physically get to, at least people will hear directly what we can and cannot do, as well as what is appropriate to complain about and what will happen in the instance that you have given and if someone feels in any way coerced into withdrawing their complaint.

- Q35 **Chair:** Turning to the other side of that particular coin, we have had some quite detailed written evidence sent in by several respondents in reply to our advertisement of the fact of this inquiry. One of them suggested that there might sometimes be complaints made out of malice, or that attempts might be made to undermine commanding officers with meritless complaints. That is not a suggestion I have heard before. Is it something you have come across?

Nicola Williams: We have complaints that are not substantiated by evidence, which is not the same as saying that they are malicious complaints, as I am sure you will appreciate. I will group together malicious, frivolous or vexatious complaints for these purposes. We have come across those, but they are very few and certainly do not take up the majority of the time in my office. In the rare instances that we find those, we give them incredibly short shrift, because we know what our mandate is. As you know from our staffing issues, we barely have enough staff to deal with complaints that have merit.

However, I make the distinction that there is a difference between a complaint being malicious from the beginning and a matter that is just not supported by evidence. The view that that person submitted is interesting to hear, but in the experience of my office, the overwhelming majority of the work that we see does not fall within that area.

- Q36 **Chair:** You kindly offered to write in with responses to any further queries that we may have. It might be useful, if you would not mind, if you could cast your eye over the relevant section of the website and look at some of the individual submissions we have had, in case anything strikes you as particularly relevant. Your views would be much appreciated.

Nicola Williams: Do I write to you, as Chair, or to the individuals who made those submissions?

- Q37 **Chair:** No, to us, to help us in our inquiry. That would be greatly appreciated. Looking at the figures, there have been considerable improvements within the Services since they did away, I believe, with the second stage of the appeal process. I have the figures in front of me for the RAF, which improved from taking 167 days on average in 2016 to 58 days in 2017. For the Army, it was 730 days, going down to 246 days. However, that is still a huge amount of time, and I would have thought it enough to deter any person who was not most determined from putting a complaint forward. Why do you think there is that wide variation between those two Services?

Nicola Williams: There is also the senior Service, which you have not mentioned.



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Chair: We do not have the figures for that at the moment.

Nicola Williams: Neither do I. However, I imagine that their figures would be more closely aligned to the RAF's than the Army's. The Army is bigger, and a bigger organisation will have a bit more delay as a result of its size. If I have understood your question, you effectively want to know why it is taking so long for matters to be resolved.

Q38 **Chair:** This, presumably, is the length of time it may take before the complaint even comes into your bailiwick. Is that right?

Nicola Williams: Yes and no. In terms of the conclusion of the complaint, you are right that there used to be three levels within the internal system, but there are now two. Under the new system, people can come to my office at the very beginning if their matter has been ruled inadmissible. For example, if the Service says that it is not taking a Service complaint, for whatever reason, people can come to us about that, and they do. People can come to us during the lifetime of the progression of their complaint through the internal system regarding undue delay, and they do.

The matters that are the most serious, I suppose, are those that have been concluded within the internal system and have then come to us, either regarding maladministration or the substance or merits of the complaint. I assume, for the moment, that those figures refer to the matters that have completely concluded within the internal system.

Why is it taking so long? That takes me back to the earlier question, when I talked about delay. Delay is the one thing that, certainly since the inception of the Complaints Commissioner in 2008, has absolutely bedevilled the Service complaints system, and I am sure long before there was independent oversight of the Service complaints. How do we get to the bottom of it? That is an issue that I am still trying to get to grips with myself.

Q39 **Chair:** Would there be any merit in trying to impose some sort of deadline for the duration of the handling of the complaint?

Nicola Williams: In a way, 90% of complaints to be resolved in 24 weeks is a deadline, but it is a deadline that none of the Services has actually hit. They have not got anywhere near it, sadly. I certainly would not seek to identify any of the Services any more than that. Unless you push me, Chair, I would not seek to identify particular Services because it may or may not be fair on them. I will say that, as you mentioned the RAF, in 2017 they had the highest percentage of cases that were decided in under 24 weeks. That is as much as I will say. I like to say good things rather than bad. The average Tri-Service is 52% of matters resolved within 24 weeks, when it should be 90% resolved in 24 weeks.

Q40 **Chair:** So a long way to go.

Nicola Williams: Yes.

Q41 **Chair:** Do you get a significant number of complaints from Reservists, and do they have a different experience within the complaints system as far



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as you know?

Nicola Williams: In my last annual report in 2017, we did a whole section about Reservists. That came to light because we had found on more than one occasion that an issue about which a Reservist could legitimately complain happened when they were in uniform. They have three months from the date of the complaint to make it. When they went back to their civilian life and wanted to make the complaint, they were told wrongly that they could not make the complaint because they were not in uniform at the time they were making the complaint. In other words, the wrong information that they had received was that the complaint had to occur when they were in uniform and the time that they made the complaint had to occur when they were in uniform. That was wrong and it has now been accepted by the Services that that was wrong information. That is what caused us to look at the particular experience of Reservists.

There are two things I would observe. First, the ResCAS and AFCAS figures, particularly around fairness at work, are not exactly the same. I think that might change this year, but, as of the end of the last reporting year, 2017, they were not the same. In other words, they were not figures about the experience of Reservists in terms of fairness at work, which they were under the AFCAS figures. Secondly, with the Reservists, if they really are upset, they will just stop being a Reservist. Particularly at a time when we know the Secretary of State is talking about a whole-force approach, you cannot have people who will just decide, "I have a matter about which I can legitimately complain. The system is taking too long," or, "I think I'm going to be disadvantaged in some way if I make that complaint. I know what I'll do: I'll just stop being a Reservist," because that is what we as a nation and we as Defence do not want.

- Q42 **Martin Docherty-Hughes:** On Reservists saying they would leave the Reserves, a substantial number of Reservists have been Reservists for a long time. Many of them will have served in Iraq, Afghanistan and other places, and therefore their commitment to the Armed Forces is probably 100%, making them likely not to leave. On the quandary about Reservists being able to complain, is it as simple as they might just leave or will a lot of them just stay and get on with it? As a Reservist, they might also be working in the Reserves, so it is more like a job.

Nicola Williams: Yes, indeed. There are Reservists who have their civilian life and then they have the Reserves. Then you have effectively full-time Reservists. You are right: it is like their job. The overwhelming majority of not only Reservists but of Regulars are very pleased and proud to be in the Armed Forces. I always say, because it is true, that you can go through your entire Service life and never have the need to make a complaint. We are not here to ambulance chase for complaints. We are just here so that if something happens, the members of the Armed Forces, whether they are Regulars or Reservists, deserve a system that works.

- Q43 **Martin Docherty-Hughes:** But your stats show—again, on terms and conditions—that the traditional method of engaging with the Armed Forces, with the chain of command is failing fundamentally. You are



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telling us that people do not want to step up and speak out because of the fear process, whether they are a Reservist or a Regular, is exactly the same.

Nicola Williams: Yes, that is absolutely the case. The only difference, when I said that if a Reservist is that unhappy and does not want to make a complaint or thinks that the negative repercussions would be too great for them, is that they will just decide not to be a Reservist anymore. Not that they would want to do that—people are very committed to being Reservists. I suppose that is an option that they have and can exercise in a way that a Regular might not, but the issues they face are the same.

Q44 **Martin Docherty-Hughes:** So it is not looking good for an Armed Forces looking to have more Reservists, is it?

Nicola Williams: If a Reservist has an issue where they feel they have been wronged in their Service life, then someone says, "Well, you're a Reservist. I'm thinking about joining the Reserves. What do you think?" and then they tell them their bad experience, it will discourage other people from wanting to join the Reserves. When I do my focus groups and visits in my role as the Ombudsman, I speak to both Regulars and Reservists. I emphasise to them that our office is there for them as well: if they want to access our office, they absolutely have the right to do that.

Q45 **Chair:** Are you content with the pace at which the MoD implements the recommendations that you make in your report?

Nicola Williams: No.

Chair: Can you expand on that a little?

Nicola Williams: I certainly do not want to do a disservice to the MoD. I think I know the exact figure, but I would probably talk about it in more general terms. In the 2016 and 2017 reports, we made 22 recommendations. I think I know the exact figure, but all I will say is that the majority of those have not been substantially complied with, so the pace is very slow. We are thinking—

Q46 **Chair:** Sorry to interrupt, but have they indicated in general that they intend to comply with them and it is just a matter of pace, or is it a matter of their not wishing to implement what you are recommending?

Nicola Williams: No, to be absolutely fair to the MoD, which speaks on behalf of the Services, I have never had anyone say that they will not comply with my recommendations. They also know that, as I have said, my findings are binding in individual complaints, but my recommendations are not. It also applies to the recommendations in the annual report, but I do not think that the MoD would want to be in a position of refusing to comply with a reasonable recommendation made by the Ombudsman's office. No one has refused to comply. I believe that they have every intention of complying, but the fact of the matter is that the vast majority of the recommendations made in the 2016 and 2017 reports are still outstanding.



- Q47 **Mrs Moon:** You said you need more money for an in-house lawyer and external counsel. Would you like to give us a response to that in writing, or is it something that you could deal with here?

Nicola Williams: I can deal with it in both ways, if I may. In my submission I said that, ideally, we would want our own in-house lawyer—not external counsel. We might need to instruct external counsel anyway. There are two reasons. I might expand a bit more on the first in writing. People know that I am a lawyer and sit part-time as a judge, but I am also the Ombudsman, so my role is not to give legal advice as well, because I could be conflicted out if I did that. If we need legal advice, we can instruct lawyers within the Government Legal Department. The person we use the most is an excellent lawyer, but we have had two occasions when we were prevented from using any lawyers employed by the Government Legal Department. The second reason is a principle of independence: whether we are an independent office. I get my salary from the MoD, but I am a Crown appointment. My staff get their salaries from the MoD. You would be hard pressed to find any ombudsman's organisation within the United Kingdom without a lawyer on staff. As you know, impartiality, independence and integrity are the three bylines of our report, and they are words with a meaning—they are not there just because it looks good. To underscore our independence, we would need that.

I also think that as the office matures and the cases that we deal with become more complex, the likelihood is that we will get challenged more by way of judicial review, either by the complainant or by the respondent—by which I mean the Service—if they are unhappy with the decision that we have made. You may or may not be aware that one fully contested or fully argued judicial review can pretty much exhaust our entire legal budget.

- Q48 **Mrs Moon:** If you want to expand on that, please do write to us. In my next question, I will give you carte blanche to write to us afterwards to expand on your answer.

What improvements would you like to see in your office and in the Service complaints system as a whole? By the sound of it, you have a long list, so please give us your recommendations—not least the things that you have already recommended to the MoD, but that are on the “Yeah, we’ll get round to them eventually” list.

Also, you said in answer to Phil Wilson that you are coming to the end of your time as the Ombudsman.

Nicola Williams: Yes, on 31 December 2020.

- Q49 **Mrs Moon:** Your term is non-renewable. You have certainly had a rough ride in terms of staffing issues and the higher profile of the office with the new powers.

Nicola Williams: Yes. When you are the first of anything, it is difficult, definitely. I seem to thrive on stress.

Chair: Tell us your secret, please!

Nicola Williams: I don't know—maybe I might just collapse after this.

- Q50 **Mrs Moon:** That is a little worrying, because I looked at the terms and conditions of a number of ombudsmen around the UK—how long they are appointed for and how often they are renewable. Do you think your position should be renewable, so that someone has the capacity for a period of learning the lessons and carrying them on? Is the reason that it is not renewable that it is so absolutely exhausting that no one would want to carry on, or is it that there is almost an incentive to resist you because eventually they will get rid of you and start again with somebody else? Is there a resistance to the change because it is a one-term post and they can wear you out in that one term? Could you comment on that a little? Time is tight, so if you want to add more later, please do.

Nicola Williams: Thank you. I would like to address this now, but I am happy to address it in more detail in writing.

I should preface this by being very clear that I am not saying it in relation to myself. I would not want anyone to think that I had come here to argue that my term should be extended—I really am not saying that—but the point that you raise is interesting.

There are advantages and disadvantages to being a one-term Ombudsman. If you know that you have only one term that will not be renewed, you can just go for it, which is really what you should do anyway. I can tell you that whether I had one term or more than one, my approach would be exactly the same. I have been an Ombudsman for a really long time; I think I have reached quite an advanced stage, so I have done quite a lot of things. Sometimes people try to wear you down, so that you think, "I don't ever want to do work like this again." That was the situation in my last job, which was abroad as the Ombudsman for the Cayman Islands.

In principle, it tends to go one of two ways. If you have a term of five years or less, you can renew it for at least one term; as the incumbent, you have the option to apply with everybody else in open competition, and if you are deemed suitable you can be reappointed. Alternatively, you can have one long tenure of either seven or 10 years, and then that is it—I think the Parliamentary and Health Service Ombudsman falls within that category. This one falls betwixt and between, because it is a five-year appointment but is not renewable. I think that this office should be brought in line with other ombudsmen's offices—in other words, if it is five years, you should have the option to renew—but I want to make it absolutely clear that I am not saying this out of any self-interest at all. I want to make that very clear. I am happy to expand upon on that.

- Q51 **Mrs Moon:** Thank you. We would also like you to expand on own-initiative and own-motion investigations, because we would like to see how they would work. We would like to know more about how you see those working, and what a difference it would make to the system.



Nicola Williams: I am happy to expand upon that in writing. May I just very quickly say that if you want to see real change, and to really get to some systemic issues, that is the way to do it? Of course, they are not easy to do. I actually led three of them in my previous life, and a hybrid version of that when I was at the then IPCC. Certainly in my time in the Cayman Islands, that was what made real change.

Q52 **Chair:** Can you just explain a little what these initiatives involve, for the benefit of those of us not familiar with the terminology?

Nicola Williams: Forgive me, Chair. Own-motion investigations, or own-initiative investigations, mean that, for example, if there were an issue of particular concern in any part of the Armed Forces, I would not have to rely on the particular Service using their own investigators to get to the root of it, with people then coming to me afterwards. I could have my own investigators go in and take over. "Take over" sounds a bit aggressive, but we would get involved at a very early stage, and could then look maybe not just at that issue, but at wider issues arising out of it.

For example, if there were very serious bullying, and one person had made a complaint, but they said that there were a number of other people on the same base or within the same unit who wanted to make the same complaint, that would be something that we could look at. However, they are very resource-intensive. You have to work out which ones you take on and which ones you don't.

We have already talked about staffing issues with my office. Certainly at the current staffing level, we couldn't do that, because you need more staff to do it. The other work of the office still has to carry on while you are doing those. On average, you probably would not be able to do more than one a year properly, I would imagine. That is roughly what it is, and thank you, Chair, for giving me the opportunity to at least outline what they are.

Q53 **John Spellar:** Would that not run against the principle that I run into with all ombudsmen, which is that you have to have exhausted domestic procedure first before you can take the case to the Ombudsman?

Nicola Williams: With respect, I do not think it runs against that. I said that my office is a member of ICOAF, which is basically the world body of military ombudsmen. We are also a member of the International Ombudsman Institute, which is ombudsmen writ large, all over the world, and 72% of IOI members have the power to do own-motion or own-initiative investigations.

Q54 **John Spellar:** True, but here in the UK all the ombudsmen that I deal with as a Member of Parliament for constituency casework prescribe that the individual has to have exhausted the domestic procedure first before they will consider their case.

Nicola Williams: Absolutely—they do. I do not think it runs against it. I am trying to think of an example in my working life. I will give a close example. It is not an exact example, but a close one. When I worked with



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the IPCC, which is now the IOPC—they might operate in a very different way now; I'm not sure—we would deal with matters just in the way that you said: they would have to exhaust an internal process and then come to us.

Many of them would be members of the public complaining about alleged police misconduct, but if they were matters of what we called national public importance—that was the definition—where we knew that it was an issue that would affect a wide number of people, we could deal with those in a different way. That is why you have to be very careful how you do it.

It is certainly not a matter that you would ever do lightly. It takes an awful lot of resource. You would have to be able to say at every stage why you were acting in the way that you were acting. That is why it is a power that should be open to an ombudsman, but is definitely not something that should be done lightly. I would be more than happy to expand upon that.

- Q55 **Chair:** Does that not create a slight problem, though, in relation to what you said about staffing? If you only do these very occasionally, and if you need extra staff when you do them, you will be in a bind as to how you recruit your establishment.

Nicola Williams: No, Chair. I actually think that in order to do them we would need to get the extra staff first. We basically need to get our staff quotient up to deal with the work that we are currently mandated to do, and then to be able to deal with issues like that, as and when they arise.

The big problem with matters that you look at like that would be to decide which one makes the grade, because a complainant could say, "You're treating this one as an own-motion or own-initiative investigation, but you're not treating my complaint like that. I don't see what the difference is. Why is this one getting"—as it might be perceived—"special treatment and this other one not?"

It is something, if you like, that would be on my Ombudsman wish list. I would be very happy to write more fully to the Committee about that. But I do think it is a matter, probably because I've seen it happen. If you want to make real, substantial, lasting change that is a very good tool to do it.

Chair: We are right at the end now because we need to wrap up within the next five minutes. Martin, very briefly.

- Q56 **Martin Docherty-Hughes:** Briefly, most people do not approach an ombudsman about their terms and conditions. They go through their trade union, wouldn't you agree?

Nicola Williams: Are you talking about non-military, civilian ombudsmen?

- Q57 **Martin Docherty-Hughes:** Most ombudsmen, which Mr Spellar spoke about. Most folk don't approach them about their pay.

Nicola Williams: Yes, I would imagine that, because if they are effectively workplace issues.



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Q58 **Martin Docherty-Hughes:** If they are employees.

Nicola Williams: If they are employees and their issues are workplace issues, and if they are non-military—not my office—but civilian ombudsmen.

Q59 **Martin Docherty-Hughes:** Given your statistics, members of the Armed Forces are not allowed to call themselves employees, but most of your complaints are about terms and conditions.

Nicola Williams: Yes.

Martin Docherty-Hughes: Thank you.

Q60 **Chair:** You have kindly agreed to write to us on a number of issues.

Nicola Williams: Yes, I hope I have got a complete list.

Q61 **Chair:** Before we close, is there anything you would like specifically now to add or update the Committee on in anticipation of your next annual report?

Nicola Williams: No. Perhaps I could have said that in a softer way. I am very aware that it would not be right to talk to the Committee about matters the Services are not aware of. Depending on what happens on 29 March, our annual report should be out the first week in April. We know we are very much in the hands of Parliament as to when that happens.

Q62 **Chair:** Indeed, something relating to that, namely a statement by the Prime Minister, is due in eight minutes' time.

Nicola Williams: Yes, I understand that.

Chair: Oh, I'm getting the final, final bid from Madeleine.

Q63 **Mrs Moon:** When you write to us, could you deal with two things that niggle at me? The £500 compensation always has the risk that it could be seen as, "Go away, be quiet. Here's 500 quid." Could you tell us where that sits within the process, when you write to us? Secondly, perhaps it's just me, but the Service Police role in the investigations has come up to me as a source of complaint a number of times. I wonder if you have come across that and, if so, could you expand on that?

Nicola Williams: I would be happy to.

Q64 **Mrs Moon:** Finally: sexual offences where people have left and then three months later they come back. Are sexual offences disproportionately high in that respect? Again, a number of people tell me that they have left the Armed Forces because of sexual offences when they have been told, "Stay quiet. It could wreck your career." They have decided to leave rather than to do that. I would welcome any comments on that. I know you don't have the right to investigate those.

Nicola Williams: Thank you very much. I would be happy to do that. Can I just ask, Chair, if this has been a useful process? I hope so.



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Q65 **Chair:** Yes. I wanted to conclude by saying that we very much appreciate the positive relationship we have had with your office and you personally, going right back to the initial occasion when you appeared before a previous incarnation of the Committee.

Nicola Williams: Yes. I remember you and Mrs Moon very well from that.

Q66 **Chair:** Indeed. So your endorsement by that Committee has been vindicated during the lifetime of this one.

Nicola Williams: Thank you very much.

Chair: Thank you very much for appearing today and I thank your staff very much for the support you have given to Nicola. With that, the session is concluded.