

Written evidence submitted by Nicola Williams, Service Complaints Ombudsman for the Armed Forces

Defence Committee Questions – written responses

Dear Tobias

I hope you and your Committee members are well.

May I begin by expressing my thanks for having the opportunity to appear before you and your fellow members on 13 October – my last in role as the Service Complaints Ombudsman. Thank you also for your kind letter of the same date, thanking me for my service.

On 19 October I received an email from the Committee, requesting the following additional information by today's date (2 November):

- 1. Please can you expand on your thoughts for an Armed Forces Ombudsman (Q7 and Q51)*
- 2. Further information the new IT system and also whether it will allow complaints to be made online (Qq17-18 and Qq67-68)*
- 3. Please expand on your comments on the proposed Chief Executive role and why you would prefer a post of Deputy Ombudsman (Qq23-27)*
- 4. Further information on your engagement with under-18 Service personnel, including data on number of contacts from that cohort and types of complaints raised.*

My responses to these questions are as follows:

1. My thoughts about the role and viability of an Armed Forces Ombudsman

Currently the powers of the Service Complaints Ombudsman (SCO) apply to the internal Service complaints process only. This is a narrow remit. Neither I as Ombudsman, nor SCOAF as an Office, has the powers to undertake own motion, or own initiative, investigations; to consider or investigate issues faced by veterans (including historic cases) except in very rare and particular circumstances; to investigate complaints made against the Military Police; or to investigate requests from immediate family members on behalf of a former or Serving person.

I believe an Armed Forces Ombudsman (AFO), either including the role of the SCO or as a separate Ombudsman, would be a good thing tri-Service, both for regulars and reservists. However, it would not be without its challenges, particularly if the role of SCO were to expand to include an AFO. The move to an Armed Forces Ombudsman would be a challenge both legislatively but also resource wise. My office would have to grow exponentially to be able to carry out the increased powers/functionality.

The Canadians have an Ombudsman for Armed Forces and National Defence. As part of their mandate the persons from whom they can accept complaints include (not exhaustive):

- A current or former member of the Canadian Forces
- former and serving members of the cadets,
- a member of the immediate family of any of the above
- An individual on an exchange or secondment with the Canadian Forces

An Armed Forces Ombudsman may have broader powers to initiate own motion investigations. As the Committee will recall from my appearance in February 2019, this is a power I believe the SCO should have currently. For example if my office currently held those powers we may have been able to investigate the overrepresentation of women and BAME Service personnel within the Service complaints system – and certainly would have done it more quickly (this recommendation to the MOD, one of the earliest ones I made in my role as Ombudsman, has been outstanding since April 2017). It would also provide increased scope for more in depth and granular consideration, particularly with regard to issues contributing to delay and even with regard to issues concerning bullying, harassment and discrimination with regard to Service personnel.

My organisation can only accept applications from current and, exceptionally, some former Service personnel, and even then the alleged wrong must have occurred post 2008 (introduction of Service Law.) Consequently, for most veterans, even if they have only recently become aware of their alleged wrong, they would not be able to approach my office if their complaint pre-dated 2008 as it would fall within the complaints process of their respective Service. Since my time in post, there have been a number of instances where we have been approached by veterans who wished to complain about something that happened in their Service life but we have been unable to assist.

One of the areas that was debated when my Office was being established was the ability to accept applications from family members, particularly where an individual had an on-going Service complaint but had subsequently died in Service. While I believe that, in the main, any complaint of a wrong in the course of Service life should be made by the Service person themselves, I do feel it is important to allow for exceptions. These could sit within a broader Armed Forces Ombudsman, but equally could be considered as part of wider SC Reform. I believe that where an individual is unable to make a Service complaint due to incapacity or they are unable to continue with the complaint due to death, there is merit in considering introducing flexibility to allow for a family member or legal guardian to be able to pursue this on their behalf. Eligibility would need to be clearly defined in law.

Another area that could fall under an Armed Forces Ombudsman are Special-To-Type complaints. These currently have their own mechanism for investigation and cover complaints about Service healthcare, housing, and pay and allowances. Cadets or their legal guardian (on their behalf) could make a complaint. Given the complexity of pensions, I do not advocate these falling under the remit of an Armed Forces Ombudsman.

As you know the reasons for creating a Commissioner and now Ombudsman were as a result of the tragic deaths at Deepcut and the Review which followed. The Australian Defence Force has a remit that provides a confidential mechanism to report serious abuse for those who feel unable, for whatever reason, to do so internally. They can report anonymously to help identify systemic issues. The Wigston review also highlighted issues in relation to bullying, harassment and discrimination, so having this functionality could be useful and bring us more in-line with why my role was created originally.

I think it would provide more “clout”/gravitas than SCOAF currently has.

2. Further information the new IT system and also whether it will allow complaints to be made online

Complainants can currently complete our application forms either electronically or by paper format and email or post them to us. We will send an acknowledgement within 2 working days of receipt.

The link to our website: <https://www.scoaf.org.uk/>

We are currently working with an external provider to design a bespoke portal. It is intended that the portal will reduce the need to send electronic copies of the application form by email and post. The portal will also allow Service personnel to confidently enter personal sensitive information onto a secure system.

The creation of a portal is expected to be operational by the end of the year.

3. My views on the proposed Chief Executive role and why I would prefer a post of Deputy Ombudsman

No doubt you recall that when I appeared before you on 13 October I expressed my views on this firmly and clearly, and I stand by them. My understanding from those within the MOD who are proposing this is that the role of the Chief Executive within SCOAF would be solely concerned with the running of, and financial accounting for, the office as the delegated Accounting Officer, with no role in casework. They would be accountable for the delivery of the support function and responsible for the line management of civil servants in SCOAF.

As my office is currently organised the Chief of Staff, a B2 civil servant, is responsible for managing the running of the organisation (excluding case work), for example delivery of the support function, SCOAF's Business Plan and oversight of the budget, ensuring that appropriate approval processes are in place to comply with the financial authority delegated to my office. They are also responsible for supervision of certain projects, including the office move and associated IT changes.

The Chief of Operations, a B1 civil servant, has line management responsibility for staff. Recruitment is conducted by the appropriate managers. Currently the Ombudsman would be required to be involved in any recruitment for the Chief of Operations due to the grade of the role. However, any other recruitment is conducted by managers under civil service recruitment procedures. SCOAF at most has 23 civil servants (NOTE: currently not at full complement) and so is a small organisation.

I am therefore at a loss as to what a Chief Executive could add to SCOAF that the current B2 and B1 cannot, both of whom have been carrying out their roles as described above for years.

With regard to the specific role of a Deputy Ombudsman, as you are aware SCOAF has a backlog of case work. Signing off investigation reports is only one aspect of my role as Ombudsman, the others being setting the strategic direction of the office and being the external face of SCOAF.

I do not believe that the latter two can be delegated to someone else and should remain a key part of the Ombudsman's role. Visits to units, meetings with senior military personnel, presentations to service personnel and media interviews are all time consuming and take me out of the office, away from other pressing issues including investigation reports. Members of staff are able to support the Ombudsman on visits but I believe the presence of the Ombudsman has a greater impact and raises the profile of the work of my office.

I envisage the role of the Deputy Ombudsman would be to provide support to the Ombudsman where it is really needed, namely casework. There is precedent with other Ombudsman organisations having deputies for example the Northern Ireland Public Service Ombudsman. At the Parliamentary and Health Service Ombudsman one individual holds the role of Chief Executive Officer and Deputy Ombudsman.

A Deputy Ombudsman or a combined Chief Executive Officer / Deputy Ombudsman could be more beneficial to SCOAF than a sole CEO. They would for example, be able to support the Ombudsman in the discharge of the functions of the office by acting under delegated authority of the Ombudsman

across the full range of their statutory and managerial responsibilities. This would allow for continuity of casework in the Ombudsman's absence – and, should the Ombudsman demit office, would provide cover whilst recruitment takes place, thereby avoiding a gap. A Deputy Ombudsman would be able to play a central role in the delivery of high quality and timely investigations whereas a Chief Executive could not. They would be able to work with the new Ombudsman in developing and delivering the organisation's Strategic Objectives and Business Plans including financial performance. In addition the role could include monitoring and reporting to the Ombudsman on the performance of the Investigation teams and corporate services function against agreed standards and targets.

However, I still believe that, above all, additional investigators would be more beneficial to SCOAF to help resolve our continuing backlog of substance and maladministration cases.

4. Further information on your engagement with under-18 Service personnel, including data on number of contacts from that cohort and types of complaints raised

SCOAF does not record the ages of applicants to this office. Although we have figures on Officer Cadets, the numbers are too small and not representative of under 18's.

For information, with regard to this specific cohort I have visited the Army Youth Outreach Team on a visit to Sandhurst in 2018 and the Britannia Royal Naval College (Dartmouth) in 2017, this covered officer cadet training; a focus group with Cadet Reserves etc. I also visited RAF Cranwell back in 2015 which is the RAF home for new recruits (trainees/cadets).

It has been both an honour and a privilege to have been not only the first Service Complaints Ombudsman, but also the first ever Ombudsman within UK Defence. I hope my eventual successor will build upon the work I and my team have started, not only on deciding complaints but also with the necessary stakeholder engagement to ensure that the Service complaints process continues to get closer to the day when it can be adjudged to operate efficiently, effectively and fairly.

Nicola Williams
Service Complaints Ombudsman for the Armed Forces

2 November 2020