

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Select Committee on the Armed Forces Bill

## ARMED FORCES BILL

*Tuesday 24 November 2015*

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CLAUSES 1 to 20 agreed to.  
SCHEDULE agreed to.  
New clauses considered.  
Bill to be reported, without amendment.  
Written evidence reported to the House.

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STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY  
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IN GENERAL COMMITTEES

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**The Committee consisted of the following Members:**

*Chair:* JACK LOPRESTI

† Colvile, Oliver (*Plymouth, Sutton and Devonport*)  
(Con)  
† Cummins, Judith (*Bradford South*) (Lab)  
† Davies, Byron (*Gower*) (Con)  
† Ghani, Nusrat (*Wealden*) (Con)  
† Hollern, Kate (*Blackburn*) (Lab)  
† Hollinrake, Kevin (*Thirsk and Malton*) (Con)  
† Hopkins, Kris (*Vice-Chamberlain of Her Majesty's  
Household*)

† Howell, John (*Henley*) (Con)  
† Jones, Mr Kevan (*North Durham*) (Lab)  
† Malthouse, Kit (*North West Hampshire*) (Con)  
† Oswald, Kirsten (*East Renfrewshire*) (SNP)  
† Shuker, Mr Gavin (*Luton South*) (Lab/Co-op)  
† Smeeth, Ruth (*Stoke-on-Trent North*) (Lab)

Anna Dickson, *Committee Clerk*

† **attended the Committee**

# Select Committee on the Armed Forces Bill

*Tuesday 24 November 2015*

[JACK LOPRESTI *in the Chair*]

## Armed Forces Bill

10 am

*The Committee deliberated in private.*

10.4 am

*On resuming—*

**The Chair:** We now begin line-by-line consideration of the Bill. First we will first go through the Bill and then we will consider the new clauses that have been tabled. The selection list for today's sitting is available in the room. It shows how the selected new clauses have been grouped together for debate. New clauses grouped together are generally on the same or similar issues. A Member who has put their name to the lead new clause in a group is called first. Other Members are then free to catch my eye to speak on all or any of the new clauses within that group. A Member may speak more than once in a single debate. At the end of a debate on a group of new clauses I shall call the Member who moved the lead new clause again. Before they finish speaking they will need to indicate whether they wish to withdraw the new clause or seek a decision. If any Member wishes to press any other new clause in the group to a vote, they need to let the Chair know. We will begin with clause 1.

*Clauses 1 to 20 ordered to stand part of the Bill.*

*Schedule agreed to.*

### New Clause 2

#### REQUIREMENT TO PUBLISH STATISTICS ON SEXUAL ASSAULT AND RAPE

(1) Each service police force must collect and publish annually anonymised statistics on the number of allegations of sexual assault and rape made by and against members of the armed forces.

(2) The Director of Service Prosecutions must collect and publish annually anonymised statistics on the number of cases involving allegations of sexual assault and rape made by and against members of the armed forces, including but not necessarily limited to—

- (a) the number of cases referred from the service police forces;
- (b) how many of these cases were prosecuted; and
- (c) how many convictions were secured'.—(*Mr Kevan Jones.*)

*Brought up, and read the First time.*

**Mr Kevan Jones** (North Durham) (Lab): I beg to move, That the clause be read a Second Time.

**The Chair:** With this it will be convenient to discuss new clause 3—*Removal of Commanding Officer's discretion to investigate allegations of sexual assault—*

(1) Schedule 2 of the Armed Forces Act 2006 [Schedule 2 offences] is amended as follows.

(2) In sub-paragraph (12)(at), leave out "3, 66, 67 or".

**Mr Jones:** New clause 2, as we discussed in the evidence session, requires the service police to collect and keep an annual register of sexual assaults and rapes made against members of our armed forces and to publish the data annually. The register will include the number of cases referred to the service police, how many cases are prosecuted and how many convictions are secured.

People might ask why this is important. It is important because it is a practice that is conducted in civilian police forces. All the evidence we have taken on this Bill, and on the previous Bill that I had the honour of serving on, indicates that the Ministry of Defence's aim is to get service discipline and operations in line with the civilian police.

The situation in which a member of the armed forces comes under a body of law that is different from the normal criminal and civil law is unique. That is understandable, because of the circumstances in which we ask members of the armed forces to serve. However, we need to go back to the horrendous issues at Deepcut and, unfortunately, some of the recent cases, despite the advances that have been made in all three services to try to address sexual harassment and sexual assault.

I commend General Sir Nick Carter, who has a clear determination not only to change the culture, but to make a difference. The new clause will help in that process by enabling the prevalence of sexual harassment and complaints to be monitored. That is important because we know that people who are convicted of sexual assaults usually have a history of minor misbehaviour in the lead-up to the assault. It is important for the police to have the discretion to look at an individual's history.

The idea that this is not happening in the armed forces is not the case. The 2015 report on harassment showed that 39% of servicewomen questioned said that they had received unwelcome comments about appearance and sexual activities, compared with 22% of servicemen. Some 33% of servicewomen had received unwelcome attempts to talk about sexual matters, compared with 19% of servicemen. It is concerning that 12% of servicewomen received unwanted attempts to touch them, compared with only 6% of servicemen.

As General Carter said in his evidence, such behaviour is not acceptable. The document he put before us, "The Army Leadership Code: An Introductory Guide", which is for all new members of the Army, makes it clear that UK criminal law should apply to all soldiers serving abroad and that there is zero tolerance of anyone who steps outside the law. I think that everyone would agree that this is not a party political issue.

Without a central register, we are leaving our armed forces at a disadvantage. I do not understand the resistance to the proposals. This is not a matter of collecting statistics for statistics' sake; in some cases this could make an important evidential contribution to someone's conviction. More worrying is the investigation

by Her Majesty's inspectorate of constabulary, which found that no criminal register exists in the service police forces. Civilian police forces can look at the civilian register to see what crimes have been committed, but no such transparency about what is going on exists for the armed forces.

10.15 am

As I have said, a register is important not only because we can monitor individuals or use the evidence about them, but because it would help the armed forces to see whether some of the zero-tolerance policies put in place by General Carter are being adhered to. Without one, we are at a disadvantage. I do not want to burden the service police with something that is unachievable, but it can be done for civilian police forces, which deal with larger populations than the service police. A register should not be onerous, but a great advantage; therefore, we should have one. If we do not, the armed forces will leave themselves open to the accusation that they are backward looking or have something to hide, which is not the case. That is important.

New clause 3 is about the ability of a commanding officer to investigate allegations of sexual assault. As a veteran of previous Armed Forces Bills, I know that our military have an in-built tendency—it in their DNA—to argue that nothing should interfere with the chain of command. In general, I sympathise, because the ability of commanding officers to discipline and manage those under them, whether or not on operations, is important and part of the ethos of our armed forces. However, to put allegations of sexual assault alongside other misdemeanours in behaviour, for example, is wrong.

When the issue was highlighted in our evidence sessions, we were told by General Carter and by the Under-Secretary of State for Defence, the hon. Member for Milton Keynes North (Mark Lancaster) that commanding officers have access to legal advice. People who have received legal advice know that any advice they receive depends on what was said originally to the lawyer or individual giving it. To ensure that victims, or potential victims, feel that their complaints are being taken seriously, that is important. Commanding officers are also put in a difficult position because they are not individuals who are, or ever could be, up to date—we would not expect them to be—on what is considered to be a sexual assault. That is a problem in facing those individuals.

This comes back to whether we can change the culture. Again, we could look at that in the context of whether sexual assault, minor or otherwise, is somehow being ignored, or in the light of the importance of putting the victim at the heart of such cases, which has changed radically in the treatment of sexual assaults in civilian cases. If we take such cases away from the commanding officer and escalate them up to the service police, one might think that the number of cases will increase or that frivolous or vexatious cases will be taken forward. I do not think that will happen. As we know, vexatious and unfounded allegations are unfortunately made in civilian walks of life, but the investigating officers, who have a lot of expertise, usually address them very quickly and find them to be unwarranted.

I pay tribute to General Carter, because I think he is trying to change the culture. We want an inclusive armed forces that is open to all members of society,

and he is committed to increasing the level of female participation in our armed forces. The evidence suggests that this issue predominantly affects female recruits and members of the armed forces, so it is important that there is an independent investigation and that accusations of sexual assault are taken seriously.

If the commanding officer gets it wrong—not because he wants to cover it up, but because he does not have the expertise, takes the wrong advice or does not investigate properly—damage is done to the armed forces' reputation. We should put in place a system that is both robust and in line with what individuals expect in civilian life. That brings me back to the main point—I think we have made great changes to this over the past few years—that service discipline and procedures should be, where possible, in line with what is expected in civilian life.

**The Vice-Chamberlain of Her Majesty's Household (Kris Hopkins):** I want to respond to the two new clauses. I acknowledge the sentiment with which the hon. Member for North Durham articulated their content, but we are not convinced of the need to incorporate them, and I want to reassure the hon. Gentleman and the Opposition on that matter.

We do not believe it necessary to put into legislation the publication of data that are set out in new clause 2. Civilian authorities are under no such duty; nevertheless, they publish such information. It may reassure Committee members if I briefly set out the existing requirements within the service justice system for the collection and publication of crime statistics. The Service Police Crime Bureau, which acts in all three services, already records allegations of rape and sexual assault that are made to service police. That information is released regularly in response to parliamentary questions and freedom of information requests. In addition, it is uploaded on to the Ministry of Defence's online publications scheme, where it can be freely accessed. It therefore gives a good picture of the extent of that type of offending within the services. However, work is ongoing to improve the way that the service police record crime, and a crime register is being established—as mentioned in the supplementary note added by the Ministry of Defence—which will lead to further improvements. Essentially, a register is going to be put together that will build upon the information already out there.

For each year, the service prosecuting authority records the number of cases referred to it, the number of cases referred that involve charges and the number of cases where conviction is secured. In addition, the Military Court Service regularly publishes on the internet details of every case heard at the court martial, including offences, outcomes and punishments. Those data give a strong indication of the proportion of cases referred from the service police to the Service Prosecuting Authority that were prosecuted and the conviction rate in each case.

In conclusion, information about the types of crimes and the prosecution of them is available, and the MOD is actively working to improve the way in which those data are put forward. What came through from last week's evidence was the leadership being offered in the service to make sure people are transparent. General Carter's leadership on this demonstrated that people want to be open and to make sure the information is

[Kris Hopkins]

available, and it is appropriate that they are already actively seeking mechanisms to help them be more transparent. I therefore urge the hon. Gentleman to withdraw new clause 2.

New clause 3 is not necessary. The armed forces already have procedures in place to ensure that allegations of offences covered by the new clause, including sexual assault, are handled appropriately, and the commanding officer's duties in that respect are clear. The starting point is that if a commanding officer becomes aware of an allegation, or of evidence, that would indicate to a reasonable person that a service offence may have been committed by someone under his command, he must ensure that it is investigated appropriately. That is already a specific statutory duty under section 115 of the Armed Forces Act 2006, and the commanding officer must therefore refer the matter to the service police if that would be appropriate.

In so far as allegations of sexual misconduct are concerned, there is a specific requirement in the manual of service law that a commanding officer take legal advice in such cases. In addition, the Army has adopted a belt-and-braces policy, which requires that any complaint or allegation involving a sexual element be passed to the service police for investigation and that legal advice be obtained if there is any doubt.

It is important to note that the service police can and do act on their own initiative, so what happens is not dependent just on the behaviour or activity of the commanding officer. If a witness or victim believes they have not had the commanding officer's support, or they want to go directly to the civilian police or the service police, they can do that. The service police will actively go in pursuit of a perpetrator they come across, whether they are out patrolling or have been passed information by the civilian police.

It is important for many people out there observing these things to note that the commanding officer does not blindly go into a situation. They are trained and taken to a highly competent level in terms of understanding their obligations, and the requirements on them, as a leader. Given the standard of the training, and the victim's opportunity to bypass the commanding officer and to go directly to a civilian police officer or a service police officer to gain support, the new clause is not required. I therefore urge the hon. Gentleman not to press it.

**Mr Jones:** That comes as no surprise—I was a Minister at the Ministry of Defence, and this is my third Armed Forces Bill. What we seem to be getting from the Ministry yet again is the idea that it agrees that there is a case for the two new clauses, but that they will somehow inhibit us in terms of the current position. What we have seen with previous amendments is that the MOD will finally get to our position. We have not had a great deal from the hon. Member for Keighley in terms of arguing why the new clauses are not needed. I will seek the Committee's leave to withdraw new clause 2, but I give notice that we may return to these amendments on Report. I beg to ask leave to withdraw the clause.

*Clause, by leave, withdrawn.*

#### New Clause 4

##### CIVILIAN INVESTIGATIONS AND PROSECUTIONS RELATING TO MURDER, SEXUAL ASSAULT, AND RAPE

(1) The Armed Forces Act 2006 is amended as follows.

(2) After section 118 [Duty of service policeman to notify CO of referral to DSP] insert—

“118A Civilian investigations and prosecutions relating to murder, sexual assault, and rape

(1) Criminal investigations into allegations of murder, sexual assault, and rape by and against members of the Armed Forces shall be undertaken by the relevant civilian police authorities.

(2) Criminal prosecutions of charges involving murder, sexual assault, and rape by and against members of the Armed Forces shall be undertaken by the Crown Prosecution Service.”—  
(*Mr Kevan Jones.*)

*Brought up, and read the First time.*

10.30 am

**Mr Jones:** I beg to move, That the clause be read a Second time.

The important issue is whether the service police have the capability to deal with rape and serious sexual assault. There was a time in the UK, which I think many can remember, when civilian police forces dealt with rape in a very unsatisfactory way. All police forces have made great advances and take rape seriously. They have dedicated officers and ensure that the victim is treated with the respect that he or she requires. That includes ensuring that victims are not made to feel guilty about what is an horrendous act.

As to expertise, anyone who has met police officers who deal with victims of rape or serious sexual assault will know that they are highly trained and that they are also vetted to make sure they are the correct individuals to undertake the work. Not too long ago, it seemed quite acceptable in civilian life for male officers to deal with female rape victims. The issue addressed by the new clause is whether, when individuals in the armed forces make accusations of rape or serious sexual assault, the service police have the right expertise—I do not question the officers' integrity—to investigate allegations at the level that would happen in civilian life.

The figures speak for themselves. In 2013, the three service police forces referred 26 cases involving rape and 56 involving sexual assault to the Service Prosecuting Authority. In London, the case load of an individual officer dealing with sexual assault or rape is between 12 and 31 cases. Not only do civilian police have training and expertise but, given the number of cases they deal with, they clearly see a wider range, which has an effect on their ability to investigate. If records are not kept—as they would be under new clause 2—victims of serious sexual assault or rape need to be confident that it will be properly investigated when they report it. Any doubt about that could lead to a reluctance to come forward.

The Ministry of Defence and the military need to deal with the fact that service police are members of the armed services. There may be a perception by victims—although it may be mistaken—that the military investigates the military. Allowing civilian police to have precedence in investigating these cases would reassure the potential victim that there is a degree of independence. It would be wrong for anything to lead to a victim of sexual

assault or rape not to come forward because they felt that in some way their allegations would not be taken seriously or investigated properly.

Given the numbers of cases that the three service police forces deal with, can we really expect them to develop the expertise that we expect in civilian life today? I am not sure we can, not only because of the cost of training individuals, but because of the number of cases that the three service police forces deal with, which is thankfully quite small, in terms of the overall service community.

**Kris Hopkins:** This is an extremely serious matter, and it is right that we examine it. I hope to give some reassurance to members of the Committee, including the hon. Member for North Durham, that our house and the MOD's house is in order and that we can address these issues.

I believe the service police and the Service Prosecuting Authority have the necessary expertise and independence to effectively investigate and prosecute offences of murder, rape and sexual assault by and against service personnel. The service justice system has been scrutinised by the UK courts and by Strasbourg, and it has been held to be compliant with the European convention on human rights for both investigations and prosecutions within the UK and abroad, where the civilian police do not have jurisdiction. The service police have been held by the courts to be structurally and in practice independent of the chain of command.

I want to talk about capability. The service police are trained and able to carry out investigations into the most serious offences at home and abroad. Training takes place at the Defence College of Policing and Guarding. All prospective members of the special investigation branch, which investigates serious crimes, must pass a serious crime investigation course before being selected for that unit. Officers receive specialist training on handling sexual offences, investigative techniques, forensic awareness, dealing with witnesses and suspects, the preservation of evidence and interacting with victims. In addition, selected service police attend a range of specialist and advanced detective training courses at the DCPG or externally, at the College of Policing or at training providers accredited by the college.

Prosecutors at the Service Prosecuting Authority must undertake the training necessary to effectively prosecute serious cases. For example, the prosecution of serious sexual offences requires attendance on the Crown Prosecution Service's rape and serious sexual offences specialist training course, and the SPA ensures that decisions on charging in such cases are only taken by prosecutors who have undertaken that training.

It is important to address the issue of independence raised by the hon. Gentleman. The Director of Service Prosecutions is an independent civilian office holder, exercising statutory powers under the superintendence of the Attorney General.

The Service Prosecuting Authority is created by statute, and the three main elements consist of the creation of the office of Director of Service Prosecutions and his appointment by Her Majesty, with the director appointed on the basis of a fair and open competition; the provision for who may act on his behalf, with the director specifying those lawyers who may act on his behalf; and the

necessary statutory powers in relation to prosecutions in service courts being given to the director personally, not the chain of command. The service police and the Service Prosecuting Authority have the necessary expertise and the independence to effectively investigate and prosecute the full range of offences overseas and at home. Therefore, I urge the hon. Gentleman to withdraw the new clause.

**Kit Malthouse** (North West Hampshire) (Con): I, too, acknowledge the sentiments in the new clause tabled by the hon. Member for North Durham. I underline the fact that they are important, but it is also important that the armed forces retain the ability and the expertise to investigate these offences when they occur, not least because they may occur overseas from time to time, where civilian police authorities will not be present.

From my history with the police, I know that when an allegation of rape has been made, the first 24 to 48 hours are critical in gathering forensics, preserving evidence and handling the victim. It is critical that that is done correctly. Any delay after an allegation leads to a serious diminution in the possibility of any kind of conviction. If we had been presented with evidence that showed that conviction rates were significantly lower in the military than in the civilian police force, I might have had a bit more sympathy with the new clause, but the truth is that there is no evidence to that effect.

The hon. Gentleman referred to workload. The greater workload among civilian police is a negative, not a positive. I was responsible for prompting a restructure of the Metropolitan police's rape command, not least because I became aware in my role as deputy mayor for policing that there was a huge backlog of rape cases awaiting investigation. As I have said before, the longer the wait, the less likely a conviction. The fact that a civilian police officer might be handling a caseload of 26 to 35 cases is a bad thing, not a good thing. It means that quite a lot of cases are not getting the attention that they need. I acknowledge the hon. Gentleman's concern and certainly share it, but, for all those reasons, it is critical that the military police retain the ability, and therefore must have the training and expertise, to deal with these cases.

**Mr Jones:** I hear what the hon. Members for Keighley and for North West Hampshire said. However, the fact of the matter is that it is wrong for anything to be in place that ensures that victims—even if it is just one case—do not come forward because they think that the service police are part of the military chain of command, although I accept what the hon. Member for Keighley said about the separation of the two. We will look at the matter in more detail.

I also accept what the hon. Member for North West Hampshire said about resources and the pressures on individual police officers dealing with multiple cases, but expertise must be an issue. If someone investigates, for example, one rape or sexual assault allegation only every two or three years, even with the best training in the world, their expertise could be limited compared with someone who does so regularly. I beg to ask leave to withdraw the clause.

*Clause, by leave, withdrawn.*

### New Clause 6

#### REVIEW OF COMPENSATION AVAILABLE TO VETERANS SUFFERING FROM MESOTHELIOMA

‘Within 12 months of the passing of this Act, the Secretary of State must commission a review of how former members of the armed forces who have contracted mesothelioma as a result of exposure to asbestos in the course of their military service are compensated, and must lay the report of this review before both Houses of Parliament.’—(*Mr Kevan Jones.*)

*Brought up, and read the First time.*

**Mr Jones:** I beg to move, That the clause be read a Second time.

New clause 6 addresses an issue that has been raised recently on the Floor of the House—the treatment of veterans and service personnel suffering from mesothelioma. Anyone who has met individuals who suffer from this terrible asbestos-related cancer will know that those diagnosed have not only a short lifespan, but a horrible and cruel death. I have experienced this as a former trade union official dealing with asbestos victims in the engineering and shipbuilding industries.

10.45 am

The other cruel side to mesothelioma is that it is quite a random killer, in that some people can be exposed to quite high levels of asbestos and not develop mesothelioma, while others do, and it can develop up to 40 years later. Advances were made with the Mesothelioma Act 2014, but members of the Armed Forces cannot sue because of the Crown Proceedings (Armed Forces) Act 1987. However, they are entitled to a 100% war pension if diagnosis is agreed.

The Royal British Legion has run a campaign because of the legacy and the long period over which mesothelioma can develop, and I pay tribute to its work. It estimates that some 2,500 mainly naval veterans will develop mesothelioma in the next 40 years. I accept that in industry and the MOD huge changes have been made in the way that we use asbestos and the protection of individuals working with it. We have legacy cases, where we have to remove asbestos from buildings and equipment. I accept that the MOD, along with other public bodies, has made great strides in ensuring that the individuals handling asbestos are properly protected and warnings are given.

The 2014 Act allowed for a lump-sum payment. I accept that that will not apply to these cases, where individuals are given a 100% war pension, but the Royal British Legion raises an issue about single and divorced individuals and widowers. This is a probing new clause, but it is an important issue, which we need to address. As someone who, as a Minister, made changes to the War Pensions Acts, I welcome the fact that the Government have set up an expert group to look at these individual cases. We cannot always get everything right with such legislation and it is important to keep it under review.

Although a commitment has been given and an expert group set up to review this, the problem with the MOD's current position is the timescale on which that will be undertaken. My probing new clause seeks to put on the record that this needs to be addressed—although it is being addressed by the MOD—to ensure that a timely resolution is found. Many of these individuals, once diagnosed, do not have life expectancy beyond a year to

18 months, so it is important that this is addressed quickly, although I accept that the MOD needs expert evidence to deal with the cases together.

**Kris Hopkins:** Again, I find myself recognising the sentiment and the importance of this issue. It is important to recognise that the new clause would introduce an obligation on the Defence Secretary to instigate a review of compensation for veterans with this asbestos-related cancer, but our view is that such a step does not require legislation and, in fact, will be overtaken by events.

As the hon. Member for North Durham said, the Under-Secretary of State for Defence, my hon. Friend the Member for Milton Keynes North (Mark Lancaster), responded to an Adjournment debate on 19 November—the day after the last gathering of this Committee—and clearly indicated that he would speak to and report to ex-service organisations in the coming weeks; in fact, December was what he indicated. I completely understand the hon. Gentleman's point about the long period before this terrible disease manifests itself and the short life expectancy creating an urgency for the Minister to respond, but the fact that he has said that, within the next few weeks, he will meet those service organisations and specifically respond on the issue of lump-sum moneys is very important. This matter is already on the record. Therefore, I urge the hon. Gentleman to withdraw the new clause.

**Kirsten Oswald (East Renfrewshire) (SNP):** I am in favour of the new clause that the hon. Member for North Durham has tabled. This is a simple issue of inequity, and I am happy to hear that there seems to be consensus on that. After speaking in the Adjournment debate last week, I received an email from a veteran who is affected by mesothelioma. That very dignified gentleman knows that nothing can be done to help him now, but he urged me to ensure that we do everything we can to try to help others in his position. It is incumbent on us to listen to such individuals and to try to resolve this unfair situation, which causes people very great difficulty at the end of their lives.

I agree with the hon. Member for Keighley that time is an issue. If things are overtaken by events, that is great and to be encouraged—so be it—but we were assured, with all kinds of positive reasons, that these matters would be resolved quickly, and they have not yet been resolved. I am sure that there is a will to resolve them, but I think that supporting the new clause is a sensible and useful way to ensure that we move forward to support these veterans.

**Mr Gavin Shuker (Luton South) (Lab/Co-op):** I am grateful to the hon. Member for Keighley, who has clearly laid out the Government's position that this is under review and, we hope, will get some positive direction. One of the most positive Acts of the previous Parliament, of course, faced up to the scale of mesothelioma concern in the country. This involves a huge number of people. Of course, when someone is diagnosed with mesothelioma, that is an incredibly shocking piece of news, but it is followed by a very short tail. Most sufferers will last for only between 18 and 24 months after diagnosis, so making that time as comfortable as

possible is vital and knowing that one's family will be looked after in the event of one's passing is hugely significant.

I want to mention the Royal British Legion's rightful campaign on this subject, in the hope that the Government will respond directly to it. It advocates that every veteran should be offered a choice between receiving a traditional war disablement pension or a lump-sum payment, obviously recognising that there is a huge disparity in the family and financial circumstances of those who suffer. That idea certainly seems to have a logic to it. The Royal British Legion provides the practical example of a 63-year-old civilian sufferer, who can receive about £180,000 in compensation under the Government's wide-ranging diffuse mesothelioma scheme, whereas a veteran of the same age can receive at present as little as £32,000 if they have no spouse or partner to pass their compensation on to.

In the light of that, I support my hon. Friend's new clause. I acknowledge that the Government realise that there is a disparity in the current situation. We owe a great debt of gratitude to those who have served in some of the most difficult circumstances, who may survive a conflict only to have the choices made by previous Governments rendered unto them 30 or 40 years hence, so I hope that the Government will give us some positive news on the matter in the near future.

**Kit Malthouse:** The new clause is close to my heart, not least because Catherine Crawford, the first and last chief executive of the Metropolitan Police Authority, with whom I worked closely and who became a great friend, died of mesothelioma only last year. She had spent her career in government buildings and did not know where she contracted the disease from, but somewhere along the line, she did.

I am, however, with my hon. Friend the Member for Keighley in not supporting the new clause, because it is, quite frankly, a bit vague. Instead of commissioning a review without any notion of independence, where it would be commissioned from or what the timeframe would be—it would have to be commissioned within 12 months, but it could take 10 years after that to complete—I would much rather that other weapons in Parliament's armoury, such as Adjournment debates, Back-Bench business and all the rest of it, were used to press the Government into swift action, and such action has been promised. I acknowledge that the Government have been a bit slow to deal with this issue, but I am not sure that putting something into legislation adds anything to the urgency. Nothing would necessarily happen post the review; the Government would not be compelled to take any action after the review.

I wonder whether the hon. Member for North Durham would consider withdrawing the new clause in the hope that he might return to the issue on Report. That would give the Government a window to announce what they are actually going to do. If the matter comes before the whole House, he may find that there is more sympathy for his proposal if the Government have not laid out any specific plans.

**Mr Jones:** I am not in the habit of helping the Government, but I think that the hon. Member for North West Hampshire makes a constructive suggestion. We have debated the new clause today, and when we

discuss this issue again on the Floor of the House, we will be interested to see whether the Government have moved forward as the hon. Member for Keighley has suggested that they might. I beg to ask leave to withdraw the clause.

*Clause, by leave, withdrawn.*

### New Clause 7

#### HOMOSEXUAL ACTS NO LONGER TO CONSTITUTE GROUNDS FOR DISCHARGING A MEMBER OF HM ARMED FORCES (No. 2)

'(1) The Criminal Justice and Public Order Act 1994 is amended as follows.

(2) In section 146(4), omit the words "discharging a member of Her Majesty's armed forces from the service or" and the words "or, in the case of a member of Her Majesty's armed forces, where the act occurs in conjunction with other acts or circumstances,".

(3) In section 147(3), omit the words "discharging a member of Her Majesty's armed forces from the service or" and the words "or, in the case of a member of Her Majesty's armed forces, where the act occurs in conjunction with other acts or circumstances,".—(*Mr Kevan Jones.*)

*Brought up, and read the First time.*

**Mr Jones:** I beg to move, That the clause be read a Second time.

New clause 7 is a bit of tidying up of legislation, but it is an important one. Reference is still made in law to a homosexual act being deemed to be a criminal offence, but no reference is made to heterosexual acts. It might be useful if I gave the Committee some history to explain how we have got to this position.

Sections 146(4) and 147(3) of the Criminal Justice and Public Order Act 1994 contain provisions relating to a homosexual act constituting grounds for the discharge from service of a member of the armed forces. The 1994 Act repealed provisions relating to male homosexual acts and the armed forces in the Sexual Offences Act 1967. Homosexuality is clearly no longer an instant dismissal offence, and I think that that is broadly supported as a move forward. However, the legislation still contains that reference to a homosexual act, but there is no reference to the fact that heterosexual activity could lead to someone being dismissed from the armed services.

I am not suggesting that anyone who engages in homosexual acts in an inappropriate way while in service could not be dismissed. Likewise, anyone who is involved in heterosexual activity in service in an inappropriate way could also be dismissed. That is not the case at the moment, since reference is only to homosexual activity.

The purpose of sections 146(4) and 147(3) was explained by Viscount Cranborne at Third Reading as,

"to put on the face of the Bill a statement to the effect that the decriminalisation of homosexuality in the services and the Merchant Navy would not affect their ability to discharge homosexuals"—*[Official Report, House of Lords, 19 July 1994; Vol. 557, c. 190.]*

Since that has now been superseded, quite rightly, there is no need to have it in the current law. Getting rid of this from the statute book would be a way forward, so that we are not, in any way, discriminating against anyone because of their sexuality.

11 am

**Kris Hopkins:** I find myself agreeing with the hon. Member for North Durham again.

**Mr Jones:** It is habit forming.

**Kris Hopkins:** I know. It is important to lay out where we are and why we cannot support the new clause, but to provide a solution to the situation as well. Our view is that sections 146(4) and 147(3) of the 1994 Act are redundant. They have no legal effect and their existence is inconsistent with the Department's policy on homosexuality within Her Majesty's armed forces, and the Government's equality and discrimination policies more generally. Although there is no reason to retain these provisions, the wording of both sections 146(4) and 147(3) applies not only to the discharge of members of Her Majesty's armed forces but to the dismissal of members of the crew of a UK merchant ship. The latter is not restricted to defence purposes. Accordingly, it would appear unfair and inconsistent to amend the provisions in the 1994 Act only on behalf of the armed forces.

We are therefore seeking an appropriate legislative vehicle that would enable sections 146(4) and 147(3) to be repealed in full. One option would be to refer these provisions to the Law Commission, recommending that they give consideration to including them in the next statute law repeals report. On that basis, I urge the hon. Gentleman to withdraw the new clause.

**Mr Jones:** I hear what the hon. Member for Keighley says. It is a constructive way forward, but it is wrong to have such legislation still on the statute book. I do not want to press this to a vote, but I reserve the right to bring it back later, on Report. If the Government would produce with their agreed position on moving forward, that would be helpful. I do not think there is any disagreement that this needs dealing with, but if we had a suggested route forward, via the Law Commission or by some other method, it would be helpful. I beg to ask leave to withdraw the clause.

*Clause, by leave, withdrawn.*

**The Chair:** The final question I must put is that I do report the Bill to the House. I thank everybody for their work and their contributions. It has been a pleasure. It has been my first and maybe not my last Bill Committee. I thank the officials for their support, and Anna, in particular, for enabling me to be an effective Chairman.

*Bill to be reported, without amendment.*

11.4 am

*Committee rose.*

**Written evidence reported to the House**

At Ease

Child Soldiers International

Mr David Anderson MP

Fire Brigades Union

ForcesWatch

Isle Of Man Government

Professor Paul Johnson (Professor of Sociology, University of York) and Mr Duncan Lustig-Prean (Former Lieutenant Commander, Royal Navy)

Liberty

Ministry Of Defence

Ministry Of Defence (supplementary)

Brigadier (Rtd) Anthony Paphiti

Peace Pledge Union

