PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
COMMITTEES

Select Committee on the Armed Forces Bill

ARMED FORCES BILL

First Sitting

Thursday 25 March 2021

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 29 March 2021

The Committee consisted of the following Members:

Chair: JAMES SUNDERLAND

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Antoniazzi, Tonia *(Gower)* (Lab)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Dines, Miss Sarah *(Derbyshire Dales)* (Con)
† Docherty, Leo *(Aldershot)* (Con)
† Docherty-Hughes, Martin *(West Dunbartonshire)* (SNP)
† Henry, Darren *(Broxtowe)* (Con)
† Hodgson, Mrs Sharon *(Washington and Sunderland West)* (Lab)
† Holden, Mr Richard *(North West Durham)* (Con)
† Jones, Mr Kevan *(North Durham)* (Lab)
† Lopresti, Jack *(Filton and Bradley Stoke)* (Con)
† Mercer, Johnny *(Minister for Defence People and Veterans)*
† Monaghan, Carol *(Glasgow North West)* (SNP)
† Morgan, Stephen *(Portsmouth South)* (Lab)
† Wheeler, Mrs Heather *(South Derbyshire)* (Con)

Yohanna Sallberg, Matthew Congreve, *Committee Clerks*

† attended the Committee

Select Committee on the Armed Forces Bill

Thursday 25 March 2021

[James Sunderland *in the Chair*]

Armed Forces Bill

2 pm

The Chair: Before we begin, I remind Members that *Hansard* colleagues would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk.

To indicate that you wish to speak next, please raise your hand in front of the camera or use the "hand up" function in Zoom. To intervene or to make a point of order, please unmute and state that. Members being intervened on are reminded to repeat any part of their speech that may have been interrupted by the intervention.

We now begin line-by-line consideration of the Armed Forces Bill. The grouping list for today's sitting has been circulated to Members and is available on the Committee's web page. It shows how the amendments have been grouped together for debate. Amendments grouped together are generally on the same or a similar issue.

Please note that decisions on amendments take place not in the order they are debated but in the order they appear on the amendment paper. The grouping list shows the order of debates. Decisions on each amendment are taken when we come to the clause to which the amendment relates.

As a reminder and perhaps for those watching, this is the first time that Parliament has conducted virtual line-by-line scrutiny of any Bill. This is the first time for all of us. We will go carefully. We will make sure that we are slow and deliberate.

Clause 1

Duration of Armed Forces Act 2006

Question proposed, That the clause stand part of the Bill.

The Minister for Defence People and Veterans (Johnny Mercer): Thank you, Mr Sunderland, and for all the comments—I have watched the sessions, which have been very interesting. I am more than happy to engage in debate on any of the amendments that have been tabled.

May I get some guidance from you, Mr Sunderland, and the Clerks? Clearly, I think the clause should stand part of the Bill, but we will then go through the amendments, as I understand it. Is that right, or would you like me to speak to the amendments straight up?

The Chair: Minister, I urge you to speak to clause 1. The order will be: Minister to lead, then Labour spokesperson, SNP spokesperson, anyone else to come in at will, and the Minister to wrap up. We might cover each of the clauses quickly, but people might wish to speak to them. Certainly, Minister to open and to move clause 1.

Johnny Mercer: The primary purpose of the Armed Forces Bill is to provide for the continuation in force of the Armed Forces Act 2006, which would otherwise expire at the end of 2021. The clause provides for the continuation of the Act for a year from the date on which the Bill receives Royal Assent and allows further renewal thereafter by Order in Council for up to a year at a time, but not beyond the end of 2026. Crucially, the 2006 Act confers powers and sets out procedures to enforce the duty of members of the armed forces to obey lawful commands. The central effect of the expiry of the Armed Forces Act would be to end the powers and provisions to maintain the armed forces as disciplined bodies. That is all I have to say on clause 1.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

Constitution of the Court Martial

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider the following:

That schedule 1 be the First schedule to the Bill.

Amendment 1, in schedule 1, page 38, line 11, at end insert

"or lower ranks after a minimum service of 3 years".

This amendment would extend Common Law rights for people to be tried by a jury of their peers to be extended to those in the Armed Forces.

Clause stand part.

Clauses 3 to 6 stand part.

Johnny Mercer: Following the recommendations of the Service Justice System review, changes are being introduced in the Bill to allow more senior non-commissioned officers to sit as lay members, to change the number of lay members to six or three, and to introduce qualified majority voting. Those changes will have the effect of aligning the court martial system more closely with a civilian jury.

Currently, only officers and warrant officers can be lay members of a court martial. The clause will allow OR-7 ranks to be lay members—that is, chief petty officers, colour sergeants, staff sergeants and flight sergeants. That broadens the pool from which court martial lay members can be drawn, while preserving the seniority of lay members to fulfil the disciplinary role needed by the court martial.

Currently, there can be anywhere between three and seven lay members sitting on a court martial to decide on the verdict and then, if appropriate, on sentencing with the judge advocate. The clause will fix the numbers to either six or three lay members sitting on a court martial board. The intention is that serious cases will be dealt with by boards of six lay members, which is half the usual number on a civilian jury. The intention is that court martial rules will provide that six-member boards are needed where the defendant could be sentenced to more than two years' imprisonment.

The clause would also introduce qualified majority voting on verdicts where there is a board of six lay members. At least five lay members must agree if there are six lay members, or four if the board reduces to five due to illness or another reason. Those numbers are roughly in proportion to the way in which qualified majority verdicts work in the civilian jury system.

The Chair: I am aware that Martin Docherty-Hughes wishes to speak to amendment 1, but I ask first whether the Labour spokesperson wishes to comment.

Stephen Morgan (Portsmouth South) (Lab) *indicated dissent.*

Martin Docherty-Hughes (West Dunbartonshire) (SNP): I thank the Minister for moving the clause. I note the Government's willingness to align the military judicial process so that it is more akin to a civil jury. The concern of my colleagues on the Opposition Benches is that, in the evidence recently given by Judge Lyons to the Committee, he stipulated:

> "I believe, in the modern world, that the maintenance of discipline is in everyone's interests, and as a first step I would wish to see it opened to OR-7. I think opening it further is a step too far at this stage."

What concerns me and my SNP colleagues is that when pushed on the rationale for such an opinion, Judge Lyons was unable to substantiate why someone with substantial service under OR-7 should be excluded. Therefore, the judicial process, in terms of peer judicial decision, does not reflect the reality of military life.

I hope that the Government will consider accepting the amendment. There are those who have substantial service in the armed forces, not just in the sense of command but in lived experience of being in the Army. Some of the evidence given to the Defence Committee's Sub-Committee on Women in the Armed Forces, and the armed forces ombudsman's evidence in recent Defence Committee meetings, reflected that the judicial processes of the armed forces are not held in high regard by many serving and former service personnel. The amendment would—at least in some sense—go some way to rectifying that, ensuring that the military process is reflective of the reality of military life. At this point, if the Government are unwilling to accept the amendment, I will press it to a vote.

Mr Kevan Jones (North Durham) (Lab): I wish to speak in support of the amendment. The issue was quite clearly looked at by Judge Lyons in his report. As has just been said, there is no rationale for why other rank 7 was seen as a particularly relevant cut-off point. The important thing is that we make the move to mirror the civilian justice system, although I certainly accept that there are differences between the two because of operational issues.

To be judged by one's peers is a fundamental right. The provision would exclude large numbers of individuals, including some who may have many years of experience in the armed forces and of sitting on courts martial. I do not think that a good enough reason for excluding those individuals has been put forward in evidence. One possible justification was that people would not understand the procedures. Well, I find that rather patronising for non-commissioned officers, some of whom have been in the armed forces for many years. I would draw a parallel with civilian courts, where there is no qualification process or aptitude test for sitting on a civilian jury. It is for them to weigh up the evidence.

I think that Judge Lyons was basically saying in his report that the movement he outlined was all that he could get away with in the military legal system. I think that he was pushing for further change, but quite clearly did not want to offend or cause things not to go further. I think that he certainly saw this as a step towards, possibly, allowing other ranks to sit on courts martial.

The important point is to ensure that the individuals being tried feel that they get a fair hearing. In the hierarchical way that courts martial are judged at the moment, individuals might not perceive the process as fair because they are judged by more senior officers who determine promotion and other prospects for lower ranks, and might not only have limited understanding of the individual's life experience, but could ultimately influence the outcome of the individual's career, for example. I do not think a good enough reason has been put forward for why this cannot be extended, and I therefore support the amendment.

Carol Monaghan (Glasgow North West) (SNP): I will say just a couple of words in support of my colleague's amendment. The Bill should be seen as an opportunity to modernise and to introduce some fairness—or perceived fairness—into service justice.

To include the NCOs and lower ranks is a step towards a more equitable method of delivering service justice, and how that is viewed by personnel is important. It is important that those sitting on a court martial board understand the experience of the people before them. Unfortunately, the experiences of commissioned and non-commissioned personnel can often be quite different. This is a real chance to build greater fairness, and perceived fairness, into the system. I urge the Government to consider the amendment carefully.

2.15 pm

Mr Richard Holden (North West Durham) (Con): The evidence on this point was interesting. It was clear from the judge's comments that we are moving a step in the right direction. However, it is only just a step. A review of this measure in five years' time, at the next opportunity, is the right thing to do. The Committee heard evidence, and I questioned the judge, on the essential nature of this being different to a civilian court and the idea of discipline in the forces. The judge's recommendations and the expansion, but not total movement, on this point, provide a sensible level. I urge Committee Members to oppose the amendment.

Johnny Mercer: I have read the amendment. It seeks to increase lay membership of court martial boards beyond the rank of OR-7 and the changes we are making, as set out in the clause, apply to all service personnel, irrespective of rank, after serving for a period of three years.

The amendment seeks to bring the court martial board closer to the membership of a jury of a civilian Crown court in England and Wales, entitling all ranks to be tried by their peers. The amendment does not, however, take account of the key difference between the civilian courts and the court martial board. It is only the latter that has a part to play in determining the sentence with the judge.

[Johnny Mercer]

I should first make it clear that we very much welcome the recommendation on this matter in the service justice review. Increasing the range of ranks from warrant officer to chief petty officer staff sergeant who can sit on a board as recommended is the right thing to do. It increases diversity of experience and also increases the pool of personnel eligible to sit on a board. Very careful consideration was given as to where we should draw the line on eligibility. A key factor in that was the role that the board has in determining the appropriate sentence to be awarded.

As I have already explained, the court martial board deliberates with the judge on the sentence to be awarded and the judge is relying on the collective service experience of those board members to assist in deciding the appropriate sentence. The sentence in the court martial fulfils a number of purposes, including punishment, the maintenance of discipline and deterrence. It must also take into account what is in the best interests of the service and the maintenance of operational effectiveness.

Martin Docherty-Hughes: I recognise the move to include at least OR-7, but for the benefit of those watching our proceedings today, by going no further than OR-7, we are not just excluding privates, we are excluding lance corporals, corporals and sergeants, who probably have substantial life experience and military experience. While we are taking a step forward, there is substantial evidence from the ombudsman and the Defence Committee over the last 10 years that we are not going forward fast enough. Does the Minister not recognise that some of the profound issues the military justice system faces would be assisted by the amendment?

Johnny Mercer: I am afraid I do not agree. We need to take this sequentially. It is an important move down to OR-7, and it will be reviewed again in due course. We want to make this the fairest justice system available, and if that includes moving beyond OR-7, we will do so in future, but at this time I do not agree with the hon. Gentleman. An appreciation of these factors comes with experience and, to a certain extent, with rank and the exercise of leadership and command over others. That is not the same as having served a specific period of time in the armed forces, as proposed in the amendment. In the light of that, we concluded that those at the rank of OR-7 and above are most likely to have the breadth of experience necessary to undertake the required role in sentencing. I have considered and answered the hon. Gentleman's points. I hope, following these assurances, he will agree to withdraw the amendment.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 7

Concurrent jurisdiction

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): I beg to move amendment 19, in clause 7, page 4, line 26, at end insert—

'(4A) Guidance under (3)(a) must provide that murder, manslaughter and rape must be tried in civilian court when offences are committed in the UK.'.

This amendment will ensure that the most serious crimes – including murder, manslaughter, sexual assault, and rape - are tried in the civilian courts when committed in the UK.

The Chair: With this it will be convenient to discuss the following:

Amendment 2, in clause 7, page 6, line 27, at end insert—

'(ca) Justice Directorate in Scotland'.

This amendment equalises the requirement for all the devolved administrations to be consulted.

Clause stand part.

Mrs Hodgson: It has been a pleasure to serve under your chairmanship throughout this Committee, Mr Sunderland, and to be able to participate virtually. I am aware that this is the first time that line-by-line has been done this way. We are pioneers, and I am sure we are doing a grand job for others who will no doubt follow. I hope the Minister will carefully consider all the amendments, which are based on the evidence we have heard and received from experts and stakeholders throughout the process.

Amendment 19 would ensure that the most serious crimes, including murder, manslaughter, sexual assault and rape, are tried in the civilian courts when committed in the UK. The first recommendation in His Honour Shaun Lyons's 2020 service justice system review was:

"The Court Martial jurisdiction should no longer include murder, manslaughter and rape when these offences are committed in the UK, except when the consent of the Attorney General is given."

Judge Lyons told the Committee in oral evidence that he felt it was not Parliament's intention for murder, manslaughter and rape that happened in the UK to be tried in the service justice system. Indeed, in 2006, Lord Drayson, the then Government spokesperson in the Lords, said:

"I have already told the House that we do not propose that, under the Bill, murder, rape or treason alleged to have been committed by a serviceman in the United Kingdom will normally be investigated and tried within the service system."—[*Official Report, House of Lords,* 6 November 2006; Vol. 686, c. 587.]

During the Select Committee on the Armed Forces Bill 2006, Major General Howell, head of the Army Prosecuting Authority, also said that he understood that courts martial would be used in exceptional situations. Despite that, the protocols do not reflect that intention or the Lyons review recommendation; the amendment takes account of that.

Throughout the evidence sessions we heard about the culture and archaic views around victims of sexual harassment and rape, with perpetrators being described as being of "good character" but had just had a bit too much to drink and made a mistake. We have to tackle that perception, and that is why I wholeheartedly agree with the written evidence that we received from Tony Wright from Forward Assist:

"Sexual assault…is sexual assault and rape…is rape, it should not be minimised by calling it unacceptable behaviour."

That culture, coupled with low conviction rates for rape cases at court martial—at just 10% between 2015 and 2019—means that there is little trust in the system that should be there to provide justice. The civilian courts are not perfect but, during the same period, the conviction rate for rape was 59% in civilian courts, with considerably more cases being tried each year in those courts. Yesterday, the Minister said to the Committee:

"I am comfortable, with that protocol in place",

and that it provides

"a resilient route to justice for those who need it."

A low conviction rate of 10% for rape, however, does not match the Minister's words.

Trying the most serious offences that occur in the UK in the civilian courts would help to improve conviction rates and, as Professor Sir Jon Murphy told this Committee, it would put the victim "at the heart" of the system. The Government have an opportunity with the Bill and the amendment to do just that. They cannot continue to brush serious crimes under the carpet as an inconvenient truth not to be dealt with because it could affect the defendant's career. Sexual assault and rape affect all aspects of a victim's life for many, many years, and the victim must be the priority.

A judge-led inquiry, the Victims' Commissioner, the founder of the Centre for Military Justice and Forward Assist all agree that murder, manslaughter and rape should not be tried in the military system, unless in exceptional circumstances. I hope the Minister will join us to make that happen with the amendment.

Martin Docherty-Hughes: I fully support the hon. Lady and her amendment. If it comes to a Division, I and my SNP colleagues will vote with Labour.

On amendment 2, it is clear in the Bill that the judicial systems of these islands are included. For example, in proposed new chapter 3A, the "Guidance on exercise of criminal jurisdiction" for England and Wales includes the Secretary of State and the Attorney General. We then go to Northern Ireland, and the measure is clear about including the Northern Ireland judicial service. Within the process, the guidance mentions the criminal jurisdiction in Northern Ireland, which is the Secretary of State and the Department of Justice in Northern Ireland.

When the Bill comes to the process in Scotland, however, with "Guidance on exercise of criminal jurisdiction" in Scotland, there is a glaring omission: we see the Secretary of State, but not the Justice Directorate of Scotland. Given that the directorate covers a completely different judicial process and system, that is a glaring omission. I hope that the Government are willing to include what my hon. Friend the Member for Glasgow North West and I have proposed, the insertion of the Justice Directorate of Scotland, to bring the clause into line with the rest of the Bill, as it is for England and Wales, and Northern Ireland.

I hope the Minister will accept the amendment of that small anomaly, to ensure clarity—he will forgive me for using the terminology—unity and unanimity across the process. I might be willing to consider what the Government say before pressing for a vote.

2.30 pm

Johnny Mercer: I will deal with the amendments in reverse order. Amendment 19 seeks to ensure that the most serious crimes—murder, manslaughter and rape—are tried in the civilian courts when committed by a service person in the UK. It seeks, through statutory guidance, to undermine the current legal position, which is that there is full jurisdictional concurrency between the service and civilian justice systems. I want to take this opportunity to explain clearly why the Government do not consider that to be the right approach.

To begin with, it is important to be clear that the amendment goes further even than the service justice system review recommended. It would mean that murder, manslaughter and rape committed in the UK could never be dealt with in the service justice system. The Lyons review recommended that such cases could continue to be tried in the service justice system with the consent of the Attorney General. Even some of those who were critical of such offences being retained in the service justice system seemed to accept at least some ongoing role for the service justice system. For example, there is general consensus that cases including cross-jurisdiction elements—offending both overseas and in the UK—would be appropriately tried in the service justice system.

The Government resist the amendment on that basis alone; however, as is now well known, the Government are also unable to accept the Lyons review recommendation directly, and have instead opted for an alternative and improved approach. As explained on Second Reading, the decision to retain jurisdictional concurrency was taken after full and careful consideration. The Government are confident that the service justice system is capable of dealing with all offences, whatever their seriousness and wherever they occur, bolstered by the improvements recommended by the Lyons review.

One of the most detailed examinations of the way the service police deal with cases of domestic abuse and serious sexual offences was contained in an audit by retired Detective Superintendent Mark Guinness in 2018 as part of the Lyons review. That audit found that service police have the necessary training, skills and experience to carry out investigations into such cases. The service prosecutors and judiciary are trained, skilled and experienced. Victims and witnesses receive support that is comparable to that received in the civilian system, for example through the armed forces code of practice for victims of crime.

Members have referred to statements by Ministers to Parliament during debates on what became the Armed Forces Act 2006. Ministers at the time said that murder, manslaughter or rape committed in the UK would normally continue to be tried in the civilian system; however, those were policy statements made nearly 15 years ago by Ministers in a different Government. Those policy statements did not alter the legal position set out in the Act: that of concurrent jurisdiction. We are considering what the position should be today and for the future, not what the position was 15 years ago.

In the light of that, the Government have concluded that it is right that the current legal position of jurisdictional concurrency is maintained in principle. The service justice system exists to support operational effectiveness and discipline, and to do that effectively it needs flexibility. That is why the Government have concluded that decisions on where cases should be tried should be taken on a case-by-case basis by independent prosecutors.

Clause 7 places a duty on the heads of the service and civilian prosecution authorities to agree guidance relating to how decisions are made where there is concurrent jurisdiction. That will bring much needed clarity on how decisions on jurisdiction are made, and will ensure that decisions on jurisdiction are transparent and independent of the chain of command and Government. The director of service prosecutions in his evidence to the Committee stated that in cases of murder, manslaughter or rape, service and civilian prosecutors will need to

[Johnny Mercer]

consult on where the proper jurisdiction lies. The Bill makes it clear that where a disagreement over jurisdiction cannot be resolved the civilian prosecutors will have the final say.

To be clear, the aim of that approach is not to increase the number of serious crimes being tried in the court martial; it is to ensure that the service justice system is able to deal with those offences in principle when committed by a service person in the UK, and that there is a transparent, robust and independent way of resolving where jurisdiction lies. I hope that that explains the rationale for the Government's approach and the safeguards that exist, and that, following those assurances, the hon. Member for Washington and Sunderland West will agree to withdraw her amendment.

Amendment 2 seeks to include the Justice Directorate in Scotland as one of the statutory consultees that must be consulted by the issuing authorities of the protocol regarding the exercising of concurrent jurisdiction in Scotland. The hon. Members for Glasgow North West and for West Dunbartonshire have stated that the purpose of the amendment is to ensure that devolved Administrations are appropriately consulted.

New section 320B of the 2006 Acts provides for the Lord Advocate and Director of Service Prosecutions to agree a protocol for the exercise of concurrent jurisdiction in Scotland. Subsection (8) requires them to consult all authorities listed there before agreeing the protocol or any revision to it. Those listed for Scotland are the Secretary of State, the Chief Constable of the Police Service of Scotland, or any other person whom the issuing authorities think appropriate. Corresponding provision is made for England and Wales in new section 320A, and for Northern Ireland in new section 320C.

The constitutional frameworks for criminal justice are different between England and Wales, Scotland and Northern Ireland. As a result, the office holders responsible for agreeing the three protocols with the DSPs and the list of consultees are designed to reflect those differing arrangement in each jurisdiction. In relation to Scotland, the clause was drafted in consultation with the Scottish Government and the Crown Office and Procurator Fiscal Service. The role of the Lord Advocate agreeing the protocol and the list of Scottish consultees reflects those comments prior to introduction. On the involvement of the Scottish Government in developing the protocol, it is of course the case that the Lord Advocate is a member—

Martin Docherty-Hughes: Will the Minister give way?

Johnny Mercer: Yes, but the hon. Gentleman's last intervention simply reiterated his point. I accept that, but I will take interventions only if they add to the point something that we have not already covered.

Martin Docherty-Hughes: I do hope so. The Minister mentioned the Scottish Government. My amendment relates to the civil service through the Justice Directorate, so there is a clear differentiation, and it is not necessarily an engagement with the Government, but with the civil service and differing legal system of Scotland. That is why it is clear that it is about the Justice Directorate and not, for example, the Cabinet Secretary for Justice.

Johnny Mercer: I appreciate that point, but the outcome that we are trying to achieve will be similar. The clause was drafted in consultation with the Scottish Government and the Crown Office and Procurator Fiscal Service. The role of the Lord Advocate in agreeing the protocol reflects those comments prior to its introduction. We have been around the houses and got those people's views.

On the involvement of the Scottish Government in developing the protocol, the Lord Advocate is of course a member of the Scottish Government, so there is no question of the Scottish Government not being involved in the creation of the protocol in Scotland. In addition, new section 320B(8) of the 2006 Act provides that the Lord Advocate and the Director of Public Prosecutions may also consult anyone else thought appropriate.

I hope that helps to explain how we have designed the clause in a way that is sympathetic to the differing constitutional arrangements across the UK, and I hope that hon. Members will withdraw their amendments.

Mr Jones: May I begin by thanking Justice Lyons for his review? In his evidence to the Committee, he clearly outlined why amendment 19 is needed. I am a veteran of the 2006 Bill Committee, and it is quite clear, as Judge Lyons said in evidence, that when this amendment was made to that Bill, the intention was not for the wholesale movement towards serious crimes being heard in courts martial in the UK. They were for exceptional circumstances in which, for example, one crime had been committed overseas and one in the UK, given the ability of the court martial to deal with such cases. That was a sensible way forward because the service police would clearly be the lead authority in the investigation of such serious crimes committed abroad as murder, rape or manslaughter,.

The problem, which my hon. Friend the Member for Washington and Sunderland West outlined eloquently, is to do with confidence in the system. When the system was outlined, I do not think courts martial were meant to deal with these serious crimes. I support the military justice system, and I do not think the amendment would do anything to damage it. I think it would boost confidence in it.

The problem with the current system has been outlined. The conviction rate for rape is not satisfactory—I accept there are problems not just in the military system but in civilian life as well—and one of the key issues is investigation. The Minister said he was confident that the service police have the capacity to investigate such serious crimes. I would not want to criticise professional individuals, but, as with anything, the more specialism someone has and the more cases they deal with, the more expertise they get in gathering evidence and in supporting victims.

Clearly, the service police deal with a limited number of serious cases, so I would have thought that, when such alleged crimes are committed in the UK, it would be important to involve the local civilian police, who deal with serious sexual assaults, rapes, manslaughter and murder more often. Because of that experience not only in gathering evidence but in dealing with victims, they should have primacy. I am old enough to remember the Deepcut inquiry undertaken by Lord Justice Blake and know those cases in detail. I accept that is going

back a number of years, but the clear problem there was the way in which evidence was not gathered—in some cases it was ignored or destroyed—and the assumption, without rigorous investigation, that suicide was the main cause of death in all cases.

The amendment is really about the system's integrity and getting confidence for victims as well. As we saw in evidence from Forward Assist and retired Lieutenant Colonel Diane Allen, there is an issue in ensuring that, first, those who complain think they will be listened to as victims, and secondly, the armed forces' hierarchical structure is not an impediment to the proper investigation of serious accusations. I can see the reason for courts martial dealing with cases in exceptional circumstances, as outlined in the 2006 Act, such as those that take place overseas and in this country, but I cannot see why routine cases in the UK are not dealt with by the civilian courts. I therefore support the amendment.

The Minister said it is a policy decision, but I am not sure. The intention was there, and I do not think much has changed in the past 15 years. What we need to do now is to ensure that, as was outlined in evidence we heard from the Victims' Commissioner and other witnesses, the victim is at the centre of any system we put in place.

Carol Monaghan: I will say a few words in support of the amendment. The Defence Sub-Committee has been taking evidence on the experience of women in the armed forces. We know there are a whole range of issues specific to female personnel. When we are looking at serious crimes such as rape, so many different issues have to be considered —we need to consider consent and whether there is a proper reporting structure—and those who make complaints must have confidence in the system.

We have already discussed the membership of the court martial board. How can someone have confidence in a trial when those who are deciding the outcomes are likely to be male and of higher ranks, and not likely to have any understanding of the woman or the victim's experience? In other words, they will not have anything in common with the person who is bringing forward the complaint.

2.45 pm

It is far more likely that there will be clarity, diversity and understanding among members of the jury in a civilian court. I therefore ask the Minister to reconsider the measure. The amendment is important. If we hope to increase diversity in the armed forces and improve the experience of different groups, including women, we need to take it seriously.

Martin Docherty-Hughes: I, too, support the shadow Veterans Minister and the Labour amendment. I sit on the Defence Sub-Committee on Women in the Armed Forces chaired by the hon. Member for Wrexham (Sarah Atherton), who represents the Government party. We are going through extraordinary evidence submitted by women who have served in the armed forces over many years, and the amendment would go some way towards tackling the profound issues they have faced.

Mrs Hodgson: I have listened carefully to the Minister, my right hon. Friend the Member for North Durham and other hon. Members. I am minded to withdraw the amendment, while reserving the right to bring it back at a later stage. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Does the hon. Member for West Dunbartonshire wish to press amendment 2 formally? It has just been debated.

Martin Docherty-Hughes: Not at this stage, though we might bring the amendment back at a different stage of the Bill.

The Chair: Before we move on to deciding clause 7, I will make a couple of process announcements. We are feeling our way with this first ever virtual sitting of line-by-line scrutiny and I wish to make two points. First, for the avoidance of doubt, the decision on amendment 1 to schedule 1, which we debated earlier, will be made later, when we reach the schedules, which are on page 2 of the selection list. The amendment was grouped for debate, but the decision will be made separately, later in proceedings.

Secondly, I am very happy with how interventions have worked so far. Rather than coming through me as the Chair, I am happy for Members to intervene virtually, as Mr Martin Docherty-Hughes has already done successfully, directly on the person speaking.

Clause 7 ordered to stand part of the Bill.

Clause 8

ARMED FORCES COVENANT

Stephen Morgan: I beg to move amendment 7, in clause 8, page 9, line 16, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

This amendment, with Amendments 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 widens the scope of the Bill to address all matters of potential disadvantage for service personnel under the Armed Forces Covenant including employment, pensions, compensation, social care, criminal justice and immigration.

The Chair: With this it will be convenient to discuss the following:

Amendment 8, in clause 8, page 9, line 17, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 3, in clause 8, page 9, line 19, at end insert—

"(aa) a relevant government department;".

This amendment, with Amendments 4, 5 and 6 would place the same legal responsibility to have 'due regard' to the Armed Forces Covenant on central government and the Devolved Administrations as the current drafting requires of local authorities and other public bodies.

Amendment 12, in clause 8, page 9, line 24, at end insert—

"(3A) The Secretary of State may, after consulting the Welsh Ministers, make regulations by statutory instrument to—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Amendment 9, in clause 8, page 9, line 29, at end insert—

"(3A) The Secretary of State may by regulations made by statutory instrument—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Amendment 10, in clause 8, page 11, line 13, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

See explanatory statement for Amendment 7.

Amendment 11, in clause 8, page 11, line 16, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 4, in clause 8, page 11, line 18, at end insert—

"(aa) a relevant department in the devolved administration in Wales;".

See explanatory statement for Amendment 3.

Amendment 13, in clause 8, page 12, line 27, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

See explanatory statement for Amendment 7.

Amendment 14, in clause 8, page 12, line 30, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 5, in clause 8, page 12, line 32, at end insert—

"(aa) a relevant department in the devolved administration in Scotland;"

See explanatory statement for Amendment 3.

Amendment 15, in clause 8, page 13, line 1, at end insert—

"(3A) The Secretary of State may, after consulting the Scottish Ministers, make regulations by statutory instrument to—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Amendment 16, in clause 8, page 13, line 43, after "subsection (3)" insert—

"or by regulations under subsection (3A)".

See explanatory statement for Amendment 7.

Amendment 17, in clause 8, page 14, line 2, at end insert—

"(d) a relevant employment function,

(e) a relevant pensions function,

(f) a relevant compensation function,

(g) a relevant social care function,

(h) a relevant criminal justice function, or

(i) a relevant immigration function."

See explanatory statement for Amendment 7.

Amendment 6, in clause 8, page 14, line 4, at end insert—

"(aa) a relevant department in the devolved administration in Northern Ireland;"

See explanatory statement for Amendment 3.

Amendment 18, in clause 8, page 14, line 18, at end insert—

"(3A) The Secretary of State may, after consulting the relevant department in the devolved administration in Northern Ireland make regulations by statutory instrument to—

(a) specify the person or body in relation to whom the relevant functions in paragraphs (d) to (i) of subsection (3) apply, and

(b) define what each relevant function in paragraphs (d) to (i) of subsection (3) means.

(3B) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

See explanatory statement for Amendment 7.

Clause stand part.

Stephen Morgan: It is a pleasure to serve under your chairmanship, Mr Sunderland. I rise to speak initially to amendments 3 to 6, which are in my name.

The amendments are designed to ensure that central Government and devolved Governments have the same due regard to the covenant that the Bill places on local authorities and other public bodies. The amendments go to the very heart of Labour's prescription for a Bill that attempts to outsource Ministers' responsibilities for delivering the armed forces covenant for all service personnel, veterans and their families. As drafted, the Bill places significant new legal responsibilities to deliver the covenant on everyone from local councils to NHS foundation trusts, clinical commissioning groups and school governors, but not to Departments or Ministers.

Over the past few months, I have met many groups named in the Bill, including council leaders and armed forces champions from across the country, and I have been repeatedly struck by the good work that they are doing in places such as North Tyneside, which in 2018 became the first local authority to fund an armed forces

officer, and Rushmore, which is closer to home for me, in Hampshire, where the Labour council is pioneering innovative ways to reach armed forces communities to ensure that their views are heard. Their good work, however, is often limited by the lack of resource and direction from the centre. I have also spoken to forces families in my constituency and to organisations such as SCiP Alliance—the Service Children's Progression Alliance—as well as service charities. They, too, are clear that there should be a consistent approach and that national Governments should be subject to the same duty as councils.

It is true that in some places there is low awareness of the covenant, but many of the policy areas in which members of the armed forces community experience difficulty are clearly the responsibility of national Government, or are based on national guidance provided to other delivery partners. Ministers say that they do not want to be too prescriptive about the outcomes, for fear of stifling innovation at local level, so let me provide some real-world examples of the ways in which that approach damages outcomes for veterans.

I have campaigned for some time to ensure that coroners record veterans' suicides. In doing so, I saw answers from responsible Ministers and the coroners themselves. Each considered it to be the responsibility of the other to set policy on the issue. Such Catch-22s are allowed to persist and prevent us from making the well-meaning promises of the covenant a reality. The Minister has spoken of his desire to raise the floor of what is delivered by the Bill, which is a commendable aspiration, but that can only happen when central Government are responsible. Ministers could then set measurable, enforceable standards, which are ultimately responsible for delivering.

The current drafting also means that serving personnel, for whom many services are the responsibility of the MOD, will not benefit from the Bill. Government will therefore continue to evade any real responsibility to raise the standard of service accommodation, which we have heard from witnesses is in an appalling state. That will create a two-tier covenant that applies to some in forces communities, but not others, and will risk reinforcing the postcode lottery that the Minister himself concedes is the experience of many veterans.

The Minister also let the cat out of the bag that the Government are not serious about delivering for our armed forces with this Bill. At Defence questions in February, the Minister said that

"the legislation is very clear that it does not specify outcomes, but simply ensures that a set of principles is adhered to."—[*Official Report*, 1 February 2021; Vol. 688, c. 668.]

Without the statutory guidance that will underpin the legislation, our armed forces are without the principles and without the outcomes, and this Government will be allowed to get away from responsibility for delivering.

Amendments 7 and 18 are also in my name. Amendment 7, as grouped with amendments 8 to 18, is designed to widen the scope of the Bill to include all areas of potential disadvantage for service communities. The Minister has previously said that the narrow focus of the Bill on housing, healthcare and education is because they are the areas of greatest concern for armed forces communities. Although those are undoubtedly critical areas for the armed forces community, the Bill does not fully cover them, and many areas of disadvantage are totally left out, including employment, pensions, compensation, social care, criminal justice and immigration. We heard from the witnesses who came before the Committee what, in practice, that omission will mean: nothing on social care, where service charities continue to highlight fundamental problems with the availability and cost of care; nothing on the shameful scandal of Commonwealth veterans forced to pay eye-watering fees for UK citizenship, despite their service to our country; and nothing for the cohort of war widow pensioners who, according to the Defence Committee, continue to endure a "grotesque injustice".

In short, Ministers risk creating a two-tier armed forces covenant and a race to the bottom on standards in those areas that have been omitted. The amendments seek to ensure that areas of disadvantage that have been persistently highlighted in armed forces covenant annual reports will be finally addressed. We are challenging the Government to deliver on their promise to enshrine all of the covenant into law, not just pick and choose based on their opinion. Given that the statutory guidance, which will give real meaning to the Bill, will not be published until after Royal Assent, it is still unclear to what extent the limited areas included in the Bill will be addressed.

As I noted earlier, functions that sit within the MOD, such as service accommodation, are also out of scope. Section 343 of the Armed Forces Act 2006 contains powers for the Secretary of State to add bodies and functions. That rare oversight is welcome, but it is not clear in what circumstances those powers would be used. With Ministers suggesting that the Bill will not have prescribed outcomes, there seems to be no review mechanism that would trigger or consider the addition of new public bodies. Service charities such as the Royal British Legion and Help for Heroes would be keen to see some clarity on that, so perhaps the Minister can speak to that in his response.

I strongly expect that the Minister will reject the amendment, but both he and I know that in doing so he will be concealing that he has not truly fulfilled his party's manifesto commitment to enshrine the armed forces covenant into law.

Johnny Mercer: I think some of that speech was written before my evidence session yesterday, where I promised to ensure that statutory guidance is available as soon as possible. I will try to accelerate that, because I want Members to have a copy. We need to look at how it has been done before and what the regulations are around this stuff, but I am keen that we all work as a team to try to get this done.

Clause 8 amends part 16A of the Armed Forces Act 2006 by inserting six new sections, which will impose on certain public bodies across the UK a duty to have due regard to the three principles of the armed forces covenant, and provide for the Secretary of State to issue guidance and widen the scope of the new duty.

The principles of the armed forces covenant are: the unique obligations of, and sacrifices made by, the armed forces; that it is desirable to remove disadvantages arising for service people from membership, or former membership, of the armed forces; and that special provision for servicepeople may be justified by the effects on such people of membership, or former membership, of the armed forces.

[Johnny Mercer]

Proposed new sections 343AA to 343AD to the 2006 Act impose the duty in each of the four nations of the United Kingdom. The new duty will apply where particular types of public body are exercising certain of their public functions in key areas of health, housing and education that are vital to the day-to-day life of our community. The bodies and functions specified in each of those sections are different because they reflect the different systems in place in each of our four nations. However, they aim to cover those bodies that are responsible for developing housing allocation policy for social housing, homelessness policy and the administration of disabled facilities grants, which can be vital for injured veterans.

In education, we know that our service families face difficulties, due to their mobility, in getting children into schools and, more troublingly, in ensuring access to the necessary assessments and support when they have children with special educational needs or disabilities, as it is described in England. We know that service children have specific wellbeing needs. The duty will target those who are responsible for that, ensuring that they understand and consider the very specific needs of our community's children.

In healthcare, again, much has already been achieved, but service families and veterans still experience disadvantages, often as a result of their mobility and other healthcare requirements caused by military service. This duty will apply to all bodies that are responsible for commissioning and delivering healthcare services across the UK.

3 pm

New section 343AE provides:

"The Secretary of State may issue guidance relating to the duties imposed".

He must consult with the respective devolved authorities, where relevant, and other stakeholders before publishing the guidance. That guidance will be crucial to ensure that the bodies subject to the new duty understand the principles of the covenant and the ways in which members of our armed forces community can suffer disadvantage arising from service.

Finally, new section 343AF provides that the Secretary of State may widen the scope of the new duty to include additional functions and bodies in other areas. Before doing so, he would be required to consult with the relevant devolved authorities and other stakeholders, and any amendment would have to be made by way of affirmative regulations, requiring the express consent of Parliament. I will therefore resist the amendment.

Amendments 3 to 18, which I will move on to now, make effectively the same four changes to the sections imposing a new duty in each of the four nations of the United Kingdom. These amendments appear to have three main aims: to include central Government Departments and the devolved Administrations in the list of bodies subject to the duty; to widen the policy areas to be covered by the new duty to include employment, pensions, compensation, social care, criminal justice and immigration; and to give the Secretary of State power to make regulations, subject to the affirmative procedure, to determine which public bodies and public functions would be covered in the new areas.

Clause 8 covers public functions in healthcare, housing and education, exercised by the local and regional bodies that are responsible for these services. These are key areas of concern for our armed forces community. Our experience shows that the most important factor that enables the successful delivery of those services for our community is awareness of the covenant and of how disadvantages can affect the ability of service personnel to access those services. The services are delivered at the local level across the UK by public bodies with a knowledge of their area and an understanding of the needs of their community, which is why they are included in the scope of the proposed duty. However, the serving armed forces are very mobile, and it is vital that all who deliver these key services are aware of the challenges that service personnel can face in avoiding experiencing disadvantage because of their service. That is why we are focused on improving service delivery and raising awareness of the covenant at the local level in this legislation.

Central Government's delivery of the covenant is regularly scrutinised through parliamentary processes, such as Defence oral questions, the House of Commons Defence Committee and all-party parliamentary groups, and through the Covenant Reference Group, which includes external partners from the service charity sector. Other public bodies are not subject to this level of scrutiny. In addition, at present the Armed Forces Act 2006 requires the Secretary of State for Defence to lay an annual report before Parliament to cover the effects of membership or former membership of the armed forces on servicepeople, their families, and veterans in the fields of healthcare, education and housing, and in the operation of inquests. Devolved Administrations and other bodies are required to be given an opportunity to contribute their views to this report. This duty to report will remain a legal obligation, and it remains the key, highly effective method by which the Government are held to account for delivery of the covenant.

Our legislative proposals build on that by introducing a duty to have due regard to the covenant principles in the three areas that make the most difference to the lives of the armed forces community. I do not question the importance of the additional policy areas that these amendments seek to add to the scope of this duty: they are clearly very important areas for the serving and veteran communities. Indeed, this legislation will sit alongside a range of existing initiatives and programmes aimed at supporting this group. For example, the Department is currently piloting a guaranteed interview scheme to support veterans applying for jobs in the civil service. We also, of course, support those transitioning from service through the career transition partnership and the new defence transition service, which provide bespoke services supporting service leavers. The Government work with veterans and employment charities, and we recognise the important role that service charity partners play in supporting veterans into employment.

In relation to pensions and compensation for the armed forces community, the armed forces pension scheme is one of the best in the public sector, and—almost uniquely—is non-contributory. Our compensation schemes, the war pension scheme and the armed forces compensation scheme compensate for injury, illness or death caused by service on a no-fault basis. The independent medical expert group advises the Government on the medical and scientific aspects of the compensation schemes and

related matters, and it provides independent assurance that armed forces compensation scheme policy and decision making reflect contemporary medical understanding of the causation and progress of disorders and injuries.

The importance of social care is also recognised. As the Government set out in the spending review, we are committed to the improvement of the adult social care system, and we will bring forward proposals this year. Our objectives for reform are to enable an affordable, high-quality and sustainable adult social care system that meets people's needs while supporting health and care to join up services around people. We therefore do not believe that it would be appropriate to include social care in this measure at present, not least because our experience suggests the social care issues that all veterans can face are most often linked to their age, rather than to their service. It should be remembered that social care provision is already considered on a case-by-case basis, so we expect that those delivering such care are already taking service into account where that is necessary.

Clause 8 already includes a power in new section 343AF for the Secretary of State to widen the scope of the duty to additional public bodies and functions in the same or additional areas following a consultation. That renders unnecessary the suggested new clause to allow the Secretary of State to make regulations to define which bodies and which specific functions in the new areas are covered by the duty. I therefore hope that right hon. and hon. Members will agree not to press the amendments.

Mr Jones: I rise to support the amendments and to say to the Minister that he has read his civil service brief well—if he could do it a bit more slowly, we might be able to follow it. I do not think he addressed any of the points in the amendments. Again, like a lot of things that the Government do, the spin and presentation is very different from what will actually be put into practice. We should not be surprised by that, because we have a Prime Minister who is an expert at saying one thing and doing another.

The Bill would put the covenant into law, but there is very limited movement on that, with an emphasis on local authorities and the local level. I accept that the delivery of services is done at local or regional level, but we have to recognise that a lot of the policy areas are influenced by national decisions.

The Minister might care to read the 2008 Command Paper entitled "The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans," which was the origin of the covenant report and was launched by the then Minister for the Armed Forces, Bob Ainsworth. Its key point is to ensure that armed forces personnel, veterans and their families are not disadvantaged because of their service to the nation. I implemented it, and we had armed forces champions across main Government Departments. The main emphasis was to try to hardwire support for the armed forces community, including veterans, serving personnel and their families, into policy making. By excluding Whitehall Departments, the Bill will make it very difficult, even with the best will in the world, to ensure that some Departments have due regard to those things when they consider policies. If it is good enough for local authorities and local health boards, it should be good enough for the national Departments.

The scope of the Bill needs extending if the covenant is to have teeth in practice. As my hon. Friend the Member for Portsmouth South has mentioned, that move would be supported by the Royal British Legion and the British Armed Forces Federation, because a lot of the issues that affect members of the armed forces are completely outside the scope of local authorities, the devolved Administrations and others. One issue that has been raised—I know a later amendment addresses this—is around foreign and Commonwealth soldiers. That is a Home Office policy in which due regard has clearly not been given to those brave servicemen and women who have loyally served this country, and who will be disadvantaged, because of their service, in getting leave to remain. I do not understand the idea that the main Government Departments should not be covered.

The Minister says that those Departments are scrutinised by Parliament and various Select Committees, and so on, but if we had "due regard" in law it would mean that when policy was being determined within Departments, they would have to have due regard to the effect on service personnel, their families and veterans. That would have a strengthening effect, which was certainly what was intended when the idea was launched in 2008. An opportunity is being missed to ensure that the main Departments will be covered by the legislation.

Another issue that has been raised is something that lets off the MOD. The Minister says that most of the areas in question concern things that are delivered locally by local authorities, but one of the biggest complaints that the service family federations have raised is armed forces housing. There are examples of local provision not being fit, so that it would not be accepted if was provided in the public sector. There are areas that fall within the remit of the MOD that are not covered by "due regard", and so those things will continue.

An opportunity in the Bill is being missed and the publicity around it—that it will be a sea change—is not being lived up to. The onus is being put on local authorities and providers. I support that, but they are not the problem, to be honest. As with a lot of things in this country, the delivery of local services is often to be commended. The innovation in local authorities and the things we heard about in evidence from the devolved Administrations are light years ahead of what happens in Whitehall.

As to the importance of local delivery, I accept that it might be patchy and might vary, but that came out of the work of the MOD pilot on the welfare pathway, which I think worked very well. It was taken up by the coalition Government and renamed the armed forces covenant. There has been a willingness on the part of local authorities and local bodies to make change. However, if it is good enough for them, it should be good enough for Departments, and I have not yet heard a good reason why those responsibilities should not fall to central Departments as well.

I understand how Whitehall works, and that civil servants might not like that to be part of the checklist that they have to check off when they develop policies. However, it would certainly strengthen the position with respect to making sure that armed services personnel and their families, and veterans, are not disadvantaged, and that they are at least taken into consideration and given due regard when new policies are brought forward.

[Mr Kevan Jones]

The Minister talks about the statutory guidance, and I thank him for the draft that we have been sent. We will perhaps talk about it later, but it will only be as good as the enforceability for veterans, service personnel and their families, so that they actually get redress when things go wrong.

As I have said, I think that this is an opportunity missed, and I cannot yet see a good reason why what I have suggested should not be covered. If the amendments were accepted, the Government could quite rightly say that the armed forces covenant had been put into law. Without them, there will be very limited scope for the armed forces covenant to have any legal backing at all. With that, I conclude my remarks.

3.15 pm

Johnny Mercer: I hear what the right hon. Gentleman says. I respect him and the points he has made, but I disagree with him.

Stephen Morgan: I listened very carefully to what the Minister had to say, and I think it is clear that the Government cannot do half a job in fulfilling their manifesto commitment to enshrine the covenant in law. Nor should Ministers be allowed to outsource the delivery to cash-strapped local authorities and other stretched public bodies, especially during a pandemic. They must take responsibility themselves. I will not press amendments 3 to 6 and 7 to 18 now, but I give notice that we may return to them on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 8 ordered to stand part of the Bill.

Clause 9

RESERVE FORCES: FLEXIBILITY OF COMMITMENTS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 2 be the Second schedule to the Bill.

Johnny Mercer: Clause 9 amends sections 24 and 25 of the Reserve Forces Act 1996 to replace the existing full-time service commitment, which enables members of a reserve force to volunteer to undertake a period of full-time service, with a new continuous service commitment. The amendment will also clarify the basis on which a reservist can perform additional duties.

The new continuous service commitment will in future enable members of a reserve force to volunteer to undertake a period of full-time service or part-time service, or a combination of both, under one commitment, allowing for the first time seamless movement between full and part-time service. These important modernising steps will help to attract and retain people who have the key skills that Defence needs and who want to serve in a way that better suits their personal circumstances. The measures will also allow Defence greater freedom in how it generates military capability, by utilising reservists in a more effective and agile way.

Failure to implement these measures and increase the utility of reservists would be a counterproductive step. It would risk sending a message that Defence does not wish to achieve its goal of a whole-force approach, and that it is not listening to the people who serve our nation so well. It would restrict Defence's ability to improve the offer to reserve personnel in tandem with the offer to regular personnel. It would delay the introduction of important modernising changes that will bring benefits both for reservists and their families and for Defence.

Mr Holden: I support exactly what the Minister has said. After spending time in the MoD as a special adviser myself, I know that it is vital that we do everything possible to ensure that our reserve forces are part of the whole force approach. This clause is in that category, so I support it.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

SERVICE COMPLAINTS APPEALS

Mrs Hodgson: I beg to move amendment 20, in clause 10, page 20, line 17, leave out subsection (4).

This amendment will remove attempts to reduce the amount of time service personnel have to make appeals in service complaints cases from six weeks to two weeks.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

That schedule 3 be the Third Schedule to the Bill.

New clause 9—*Service complaints*—

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

(2) In section 340A (who can make a service complaint?) after subsection (1) insert—

"(1A) If a person to whom the Armed Forces Covenant applied find themselves wronged in any matter relating to the Armed Forces Covenant, the person may make a complaint."

(3) In section 340A (who can make a service complaint?) at end insert—

"(4A) Not withstanding any regulation made under subsection (4), a person may make a complaint about the delivery of the Armed Forces Covenant.""

This new clause would expand the powers of the Service Complaints Ombudsman to include matters relating to the Armed Forces Covenant. This would provide service personnel and veterans with an avenue through which they can report and arbitrate disputes regarding its delivery.

Mrs Hodgson: Amendment 20 would remove attempts to reduce the amount of time that service personnel have to make appeals in service complaints cases from six weeks to two weeks. New clause 9 would expand the powers of the service complaints ombudsman to include matters relating to the armed forces covenant. This would provide service personnel and veterans with an avenue through which they could report and arbitrate disputes regarding its delivery. If I may, I will start with amendment 20 on the time to appeal.

During the evidence sessions, we heard about delays at the front of the complaints system, at level 1. The target is that 90% of complaints are dealt with in 24 weeks, but that is not being met and the former service complaints ombudsman, Nicola Williams, says

that that is not an appropriate metric if it cannot be met. The delays at the front of the system are the reason why people do not have confidence in it. In my previous speech, I mentioned the culture and archaic views that still persist about perpetrators, but also victims, which makes them often reluctant to come forward with a complaint. Nicola stated:

"If the initial process is taking not months but sometimes years before a level 1 decision, and then you ask the complainant to keep to a two-week appeal timeframe, with reasons, you can see how that is not exactly going to engender further confidence in the service complaints system, either from a complainant or from a respondent."

Retired Lieutenant Colonel Diane Allen also supported that and said that reducing the right to appeal

"would not in any way help the system we have at the moment."

She went on to say that it would be "profoundly unfair", given that the complainant will receive MOD legal documents and be expected to understand them within just two weeks, without legal representation.

Nicola Williams said that reducing the time to appeal would:

"come across…as if you are trying to prevent people from exercising their right to appeal".

I am sure that it is not the Minister's intention to reduce or remove people's right to appeal, so will he set out what his intention was, given that we have heard that the issue with delays is at the front of the system and not at the back?

New clause 9 would expand the powers of the service complaints ombudsman to include matters relating to the armed forces covenant. This would provide service personnel and veterans with an avenue through which they could report and arbitrate disputes regarding its delivery. The Minister has previously said that the covenant would be enforced via judicial review. Only one in 10 judicial reviews succeed, and the cost of unsuccessful judicial reviews is upwards of £80,000. That is why we have tabled this amendment—to ensure that access to redress is easy and accessible.

The Army Families Federation set out in written evidence that

"there is little value in a review and remediation process that might take months, or even years, to resolve."

Stakeholders, including Cobseo, back our calls for an appropriate ombudsman to enforce the covenant. Given that complaints to the local government and social care ombudsman on the covenant are mostly about things like school transport and admissions, service families do not have the time to wait years for the outcome of a judicial review. They need an immediate response. I thank the Minister for providing a draft copy of the statutory guidance last night. I note that on page 4 there is a suggestion that the complaints process may include an ombudsman. Will that be instead of or as well as judicial review?

Mr Sunderland, both amendment 20 and new clause 9 seek to ensure that service complaints and disputes about the enforcement of the covenant are dealt with quickly and effectively, to ensure that serving personnel, veterans and their families get the best possible service as a result of the Bill. I hope the Minister will take these amendments on board.

Johnny Mercer: In answer to the Opposition's veterans spokesperson, I can say that that option is being considered as well as judicial review, not instead of. But these options are being considered at the moment as we try to find a way forward. Clause 10 and schedule 3 are part of wider reforms to support service personnel through the complaints system and to increase efficiency and reduce delays within the service complaints process.

This clause will be complemented by a programme of other changes that do not require primary legislation. The Wigston review into inappropriate behaviours highlighted a lack of confidence in the current system. The previous service complaints ombudsman for the armed forces has also made an assessment in her annual reports that the service complaints system is not yet efficient, effective or fair. It is crucial that our service personnel feel confident that complaining will not adversely impact them. Therefore, complaints must be dealt with appropriately and in a timely fashion to build that trust further.

It is key then that legislative changes are implemented to ensure that the service complaints system is more efficient. Ensuring that complaints are resolved in an appropriate timescale is part of a wider package of reform to increase trust. Clause 10 changes the minimum time limit that can be set out in regulations for submitting an appeal against a first level decision or for making an application to the service complaints ombudsman to two weeks. I should point out that bringing the minimum time limit down to two weeks does not mean that all appeal applications will be limited to two weeks regardless of the circumstance. Where a serviceperson's duties mean that this will not be appropriate, additional time will be provided.

Clause 10 also provides the ability to set out in regulations the grounds on which appeals can be brought, for example where correct process has not been followed or where new evidence has come to light which may have had a significant impact on the original decision. At present, an appeal can be brought against a decision body where the complainant does not agree with its decision for any reason, with no limits on what that reason can be. This legislation will ensure that an appeal can be brought only where there are procedural errors or where new evidence is provided.

Schedule 3 makes a consequential amendment to equality legislation to make sure that procedural requirements remain consistent with the changes in this clause. Service personnel will not be penalised by this clause and mechanisms will be in place to ensure that individuals requiring extra time to submit an appeal will be able to do so where appropriate. We must ensure that we modernise and reduce delay in the service complaints system, creating, where we can, a consistent experience across defence and following best practice from other parts of the public sector.

Mr Jones: The important thing to say is that everyone wants the complaints system to be efficient. It is in the interest of the complainant. It is in the interest of someone who is accused that they get a swift resolution. The evidence, as my hon. Friend the Member for Washington and Sunderland West highlighted, is that the delay does not help anyone. Part of it is due to not only the complexity of some of the cases but, in some cases, the inefficient way in which the armed services, particularly the Army, deal with them.

3.30 pm

I do not see anything to be gained from reducing the appeal time from six to two weeks. The Minister talks about modernising the system. This seems very one-sided against the complainant. He also stated that others things that do not need legislation will be brought in to improve the complaints system. I would welcome that. It would be interesting to see them as the Bill is going through, so that we can see the whole picture. What I do not want is for the reduction to, as retired Lieutenant Colonel Diane Allen said, put people off making legitimate appeals. That does not help the individual or the military. Often lessons learned come out of disciplinary cases that can then change procedure and the way that they operate. An efficient way of dealing with them should be put in place, but not at the expense of the person making the appeal.

On new clause 9, an issue that emerged throughout our evidence sessions was how we ensure that individuals who are not receiving due regard have some way of complaining. I commend the work of the armed forces ombudsman. I remember the reaction from some people in the armed forces when that legislation went through. It was as if an independent ombudsman would cause the world to stop. It has not. It has led, rightly, to people having independent recourse when they are not happy with things that the chain of command do. From reading her annual reports, there is a long way to go.

Given that our intention in the Bill is to put the armed forces covenant partly into law as a system of redress, the Government's initial approach—that people go down the judicial review process—is not correct for most people. It is not only time consuming but it would be beyond the financial capacity of most individuals. In its evidence, Cobseo made the important point that it wishes to see some type of redress system, which at present is an omission from the Bill. It would certainly improve things.

On ensuring that we have action, the local government and social care ombudsman said that he was already dealing with, I think, 36 complaints, mainly since 2015, relating to school transport and school admissions. I do not suggest that we should ensure that a large number go through to the ombudsman. Hopefully, if the system is working properly, the complaints should be dealt with by local councils, health authorities or others through their internal complaints procedures.

However, we all know as Members of Parliament that in some cases, with the best will in the world, the best complaints systems and the best endeavours by individuals, people do not get redress at local level. It is an omission from this Bill, and I am glad that the Minister is looking at it. I am not yet convinced that the service complaints ombudsman is the correct way to do this, or if we should extend the role of the local government and social care ombudsman or another ombudsman, and the relevant ones in Scotland—I accept that they are different in Scotland and Wales—to ensure that they have jurisdiction for this. Without that, it will be an omission that could lead to frustration that we are agreeing in law that people should not be disadvantaged and that authorities should have due regard for the covenant, but accepting that people will have nowhere to go if they do not get the service that they expect and, in some cases, should get.

It will be interesting to see what proposals the Minister brings forward. I strongly urge him to look at this area, because it will improve the Bill, not only in terms of redress but in the way in which we can ensure that people are not disadvantaged as a result of serving their country, and that there is some form of redress if that is not achieved.

Mrs Hodgson: I have listened carefully to the Minister's response, but due to the strength of the evidence that we received from witnesses I would like to test the will of the Committee and press amendment 20 to a vote.

The Chair: The question is that the amendment be made.

Martin Docherty-Hughes: On a point of order, Mr Sunderland. Could the Clerks advise whether we should make sure that Members turn their videos on when they are voting?

The Chair: Thank you. We have agreed that. Could all Members have their microphones and their videos turned on when voting? We have a few technical issues, so please bear with us.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 1]

AYES

Antoniazzi, Tonia	Jones, rh Mr Kevan
Carden, Dan	Monaghan, Carol
Docherty-Hughes, Martin	
Hodgson, Mrs Sharon	Morgan, Stephen

NOES

Anderson, Stuart	Holden, Mr Richard
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather

Question accordingly negatived.

Clause 10 ordered to stand part of the Bill.

Clause 11

SERVICE POLICE: COMPLAINTS, MISCONDUCT ETC

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 4 be the Fourth schedule to the Bill.

Johnny Mercer: The service police are members of the armed forces who perform for the armed forces, wherever they are in the world, broadly the same role as their civilian counterparts in police forces across the UK. The recent service justice system review recommended that the MOD set up an independent complaints system to deal with complaints against the service police.

Each of the provost-marshals operates complaints procedures, but there is no legal requirement to do so. Currently, only MOD policy requires that, which leaves those who are unhappy about the actions of the service

police without a legal right for their complaint to be dealt with. It also means that there is no one independent of the service police who can investigate serious complaints about them.

The clause therefore amends the Armed Forces Act 2006 to create a new regime for complaints against the service police and related matters. It does so by establishing the service police complaints commissioner and enabling the creation of a regime for complaints, conduct matters, and death or serious injury matters, which is modelled on the regime for the civilian police in England and Wales. That regime is overseen by the director-general of the Independent Office for Police Conduct.

The clause also contains provisions in relation to recent changes to the England and Wales regime that allow for super-complaints and whistleblowing to be made. Those will enable us to replicate the civilian regime here, too. *[Interruption.]* Sorry, Chair, would you mind putting yourself on mute? I keep thinking someone is trying to intervene, and I do want to let people intervene.

The new independent service police complaints commissioner will oversee the new complaints regime, and in particular will carry out investigations into the most serious allegations against the service police. The commissioner will also have overall responsibility for securing the maintenance of suitable arrangements for making complaints and dealing with other serious matters. The creation of that new oversight regime brings the service police into line with their civilian counterparts.

In making its recommendation, the service justice system review did not set out what the new regime should look like. However, it did suggest some areas for consideration. First, the service justice system review considered who would be able to make a complaint and when. It proposed that people who are able to make a complaint should include all those subject to the Armed Forces Act and all those who have been subject to that Act. Under the new regime, anyone will be able to make a complaint so long as they have been adversely affected by the matter complained of.

With regards to time limits, the service justice review suggested that the MOD should consider a time limit to be set on bringing complaints. The new regime will aim to replicate the civilian one wherever possible, and so there will be no time limit for complaints that occur after the SPCC is established. For historical matters, which will apply to incidents that may happen today, in addition to something that may have occurred in the 1970s, for example, we will look at the Police Reform Act 2002 model, but need to give greater consideration as to how that will work. Parliament will have an opportunity to scrutinise that in detail when we bring forward regulations under new section 340P of the Armed Forces Act, which is proposed in this clause.

Finally, the service justice system review suggested that a clear distinction should be drawn between which complaints fall to the SPCC and which to the service complaints ombudsman. Further details as to how the new regime will operate will be set out in regulations under proposed new section 340P, which will be subject to the affirmative procedure, with full parliamentary scrutiny.

Forgive me if I missed any interventions, Mr Sunderland. You might have had to keep your line open. I do not mean to ignore everyone, and I am sorry if I have.

The Chair: Thank you, Minister. We are having mute problems here and are just going to bear with it as best we can. Just to reiterate, if any Member wishes to intervene on anybody who is speaking, please do so directly. Can you hear me okay now?

Johnny Mercer: I can hear you okay. It was just that I could hear someone talking and I thought they might have been trying to intervene. I then realised that it was you and asked you to mute, but you were not able to do so. Then I heard the noise again and assumed it was you, so I carried on. If it was someone trying to intervene, I am sorry.

The Chair: It was probably us here. I think the mute button here is not working, or we have an issue with it. We are doing our best to stay very quiet, but there is lots of movement in the room. Please bear with us.

3.45pm

Mr Jones: I welcome this proposal, because I think it is a huge step forward in terms of having oversight of the service police. I support the idea of having a separate ombudsman or complaints procedure, rather than the current police complaints procedure. Obviously, it will be a learning curve for whoever is appointed and for the system.

I want to ask about the way in which it will be formed. Obviously, as the Minister has outlined, it will mirror some of the systems that are already in place for oversight of the civilian police force. It will be helpful in terms of understanding how service personnel can make complaints.

There are two aspects that I would like some clarification on. One is about how this is going to be communicated to service personnel. It will be a new departure, and an important point will be to ensure that service personnel know that this is open to them, in terms of making a complaint if they are dissatisfied with the way in which service personnel deal with a complaint or any other concerns they have regarding issues relating to their service.

I would also like some clarity about complaints from civilians. In many cases, civilian contractors are employed on Army bases, RAF stations and naval facilities. Many civilian personnel also live at armed forces facilities if they are married to or are in a relationship with members of the armed forces. This is about whether or not they will be able to make complaints as well. Clearly, there may be situations involving civilians who are dissatisfied with the way in which service police investigate something or the way they are tret. I would be interested to know what the remit is.

The other area relates to families of service personnel. I accept that much has changed since Lord Justice Blake's report on Deepcut, but I spoke to the families of the four young people who tragically lost their lives, and one of the issues was their huge criticism of the way in which the service police conducted those investigations. Will there be an option for the families of service personnel, especially in cases where someone loses their life, to make a complaint to the new ombudsman if they are not satisfied?

Overall, I welcome this proposal. I think it is a movement in the right direction. I think it will not only help service personnel, but help drive up standards in terms of the way in which service police operate.

The Chair: I call the Minister to wrap up.

Johnny Mercer: I have nothing further to add at this stage.

The Chair: The question is—

Mr Jones: Chair, wait a minute. I asked some questions—I'd expect the Minister to reply to at least some of them.

Johnny Mercer: I think that the questions you asked have been answered in the speaking note that I just went through.

Mr Jones: With the greatest of respect, they haven't.

Johnny Mercer: Which one do you feel hasn't been answered?

Mr Jones: The issue around civilians, in terms of the jurisdiction and families being able to complain. I know you're just reading the notes out, but it might be worthwhile just thinking, when you're reading them, that some people might want to scrutinise this, rather than have to listen to you reading what the civil servants have told you.

Johnny Mercer: The reality is that that question around jurisdiction has been answered. I am happy to repeat the answer, but it has been answered already.

Mr Jones: I don't think it has.

Johnny Mercer: Okay. Would the Clerks like to come in and confirm whether or not it has been answered?

Mr Jones: It is not for the Clerks to do that.

Leo Docherty (Aldershot) (Con): Beg to move formally.

Johnny Mercer: I beg to move formally, Chair.

Mr Jones: No—could I have an answer?

The Chair: Minister, are you happy to wrap up?

Johnny Mercer: I am happy to wrap up.

The Chair: It is your prerogative to wrap up.

Johnny Mercer: I will wrap up there. Thank you very much.

Mr Jones: Chair, can I make a suggestion to help the Minister? If he does not know the answer to that question now, could he possibly write to Committee members to answer the points that I have raised? They are perfectly legitimate points. We are not hostile in any way; it is just that the Minister is clearly not on top of his brief.

Johnny Mercer: As ever, I am hugely appreciative of the advice from Mr Jones. I am more than happy to write another letter on any of these issues. I am more than happy for him to have a copy of everything I have said today, and if he still has questions, I would be more than happy to sit down with him and go through them.

The Chair: Mr Jones, I thank you for your intervention, but it is the Minister's prerogative to wrap up and he has done so.

Mr Jones: If he knew what he was talking about, it might help, Chair.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 12

POWER OF COMMANDING OFFICER TO AWARD SERVICE DETENTION: ROYAL MARINES

Question proposed, That the clause stand part of the Bill.

The Chair: With this, it will be convenient to consider clauses 13 to 17 stand part, and that schedule 5 be the Fifth schedule to the Bill.

Johnny Mercer: A discrepancy currently exists within the Armed Forces Act when it comes to the sentencing of personnel of equivalent rank in the Royal Navy. Under the current law, commanding officers are empowered at summary hearing to award a sentence of detention to personnel up to and including the rank of leading hand. However, this does not apply to the Royal Marine rank of corporal, a position that is equivalent to that of a leading hand. Should a commanding officer decide at summary hearing that an offence, if proven, might attract a sentence of detention for a Royal Marine corporal, that individual would have to be referred to the court martial, where such a punishment could be imposed.

As a result of this discrepancy, there is a lack of clarity in how discipline is administered for all equivalent ranks within the Royal Navy under the terms of the Armed Forces Act. This clause seeks simply to remove that disparity by aligning sentencing powers available to commanding officers of leading hands and Royal Marine corporals at summary hearing.

Question put and agreed to.

Clause 12 accordingly ordered to stand part of the Bill.

Clauses 13 to 17 ordered to stand part of the Bill.

Johnny Mercer: On a point of order, Mr Sunderland. Clearly, I want to answer everybody's questions. I have checked with my team and there was no question from the right hon. Member for North Durham, but we will go over *Hansard* again, and if I have missed anything, I will go back to him to ensure that he has the answers he requires.

The Chair: Thank you for that point of order, Minister, which is on the record.

Mr Jones: Further to that point of order, Mr Sunderland. If the Minister had listened to the speeches, he might have got the questions.

Johnny Mercer: I do not think that is a point of order; it is a personal opinion.

Mr Jones: It's not for you but for the Chair to decide that.

The Chair: Order.

Clause 18

POSTHUMOUS PARDONS IN RELATION TO CERTAIN ABOLISHED SERVICE OFFENCES

Question proposed, That the clause stand part of the Bill.

Johnny Mercer: Clause 18 reflects the Government's commitment to the fair and equal treatment of lesbian, gay, bisexual and transgender armed forces personnel. The clause amends section 164 of the Policing and Crime Act 2017 to extend posthumous pardons for very old, abolished service offences.

Presently, section 164, in so far as it relates to the armed forces, refers only to historical service offences from before 1881 of men who served in the Navy, but not of those who served in the Army or the Royal Marines, the latter being when ashore. The amendment will ensure that those who served in the Army or Royal Marines before 1881 and were convicted at court martial for now abolished service offences can be pardoned for those offences. The RAF is not affected by the amendment because it was not constituted until 1917 and is already covered in the existing provisions of section 164. I am pleased that through this clause, we continue to address historic injustice and demonstrate that the military is a positive place to work for all who choose to serve.

LGBT personnel have made, and continue to make, significant contributions to the armed forces. I hope that the Committee has seen the work that we have done over the past 12 months to try to right the horrendous wrongs that were done to that community during their time in service.

Carol Monaghan: How will the Minister determine who is in that group? Many people in the LGBT community left the armed forces, but not because they were convicted of being LGBT. They left under other circumstances—in some ways, to make it easier for the military to get rid of them. Can he give a bit more detail on how he will identify those affected? That has to be done.

Johnny Mercer: The hon. Lady makes a really good point, and there is a lot to work through in that space. There is also the question of those who would have received the medal for long service and good conduct but were asked to leave because they were part of the LGBT community. I have been clear that the apology and medal restoration is a first step. We are working through the legal ramifications of addressing some of those historical wrongs. That is ongoing, but I am unable to comment on the progress at the moment.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Clause 19

POWER OF BRITISH OVERSEAS TERRITORIES TO APPLY AFA 2006 ETC

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clauses 20 and 21 stand part.

4 pm

Johnny Mercer: Clause 19 confirms that a British overseas territory can rely on section 357 of the Armed Forces Act 2006 to apply the UK service justice system to a British overseas territory force even if the section does not extend to that territory. The clause is necessary as the UK Government and the Government of Gibraltar have been working on Gibraltar legislation, which would bring the Royal Gibraltar Regiment into the UK service justice system in reliance on section 357.

Mr Jones: Chair, can the Minister slow down? He is going at a rate of knots here.

Johnny Mercer: Sorry—was that an intervention, or a complaint?

Mr Jones: It is a complaint to the Chair, asking the Minister to slow down; he is rabbiting on at such a rapid rate of knots that I cannot hear a word.

Johnny Mercer: I do not think that is rabbiting on. I think that is a very personal insult, Chair. Is there a point of order or an intervention, or shall I carry on?

The Chair: Order. Minister, please carry on. I urge you to slow down in accordance with the Member's wishes.

Johnny Mercer: I will of course slow down my speaking to make sure my hon. Friend can clearly understand what I am saying.

Mr Jones: Right hon. Friend, actually.

Johnny Mercer: I am terribly sorry—my right hon. Friend, with emphasis on the friend.

The clause is necessary because the UK Government and the Government of Gibraltar have been working on Gibraltar legislation, which would bring the Royal Gibraltar Regiment into the UK service justice system in reliance on section 357. This is the first time that a British overseas territory has made use of section 357.

Unlike other British overseas territories, as a result of amendments made in 2011 and 2016, the Armed Forces Act 2006 no longer extends to Gibraltar. This clause therefore confirms that the Government of Gibraltar can make use of section 357 of the Armed Forces Act 2006 to apply the service justice system contained in the Act, with or without amendment, to the Royal Gibraltar Regiment.

Mr Jones: I have a question about the circumstances under which the Royal Gibraltar Regiment would use the powers and on what occasions. How many times is it envisaged that it will do so?

Johnny Mercer: Is my right hon. Friend asking me to predict the future? Is he asking how many times they are going to use this power?

Mr Jones: I want to know on what type of occasions they will use the power and whether the Department has done any estimates of how often it will be used.

Johnny Mercer: The clause simply brings the Royal Gibraltar Regiment and the use of section 357 of the Armed Forces Act into line with our other overseas territories. It is simply about aligning what happened when the 2006 Act came in. The amendments that were made in 2011 and 2016 no longer extend to Gibraltar, because of changes in the overseas territory. We are simply realigning Gibraltar with the rest of the overseas territories at this time.

Mr Jones: Will the Minister write and explain on what occasions it would be applied and if any number of cases have been envisaged?

Johnny Mercer: I would be delighted to write to my right hon. Friend.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clauses 20 to 26 ordered to stand part of the Bill.

New Clause 1

AGE OF RECRUITMENT

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

(2) Section 328, subsection 2(c): leave out "without the consent of prescribed persons."—*(Carol Monaghan.)*

This new clause would raise the age of recruitment into the Armed Forces to 18, in line with NATO allies and UN standards.

Brought up, and read the First time.

Carol Monaghan: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 2—*Equalising the Minimum Term for Service in the Army*—

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

(2) In section 329, subsection 2(c) substitute "or to transfer at a prescribed time to a reserve force" with "or to transfer to a reserve force after a prescribed number of years from the date of their enlistment without regard to his age on that date".

This new clause ensures that service personnel aged under 18 are not required to serve for a longer period than adult service personnel.

Carol Monaghan: New clause 1 establishes age 18 as the minimum age for recruitment into the UK armed forces. Each year, the British armed forces enlist over 2,000 young people aged 16 and 17, mostly for the Army, and particularly for the infantry. It is notable that most Army recruits are 16, more than any other age. The United Kingdom is out of step with many of its allies in allowing enlistment at 16, and in a response to a written question from the right hon. Member for Dwyfor Meirionnydd (Liz Saville Roberts), we find that underage recruits require longer training. We also know that they warrant more complicated duty of care plans and demonstrate a greater frequency of attrition.

In the three-year timeframe from 2015 to 2018, the Army enlisted just under 5,300 16 and 17-year-olds, and of this cohort, nearly a third dropped out before they completed their phase 2 training. As the Army's accredited educational requirements for under-age recruits are limited to basic literacy, numeracy, and information and communications technology courses, it is clear that many 16 and 17-year-olds who withdraw from their training will re-enter the civilian world without immediate access to further employment, training and education. Typically, it has been commonplace for the Army to recruit young people from economically deprived areas, and while military service is a fruitful and fulfilling career for many of our service personnel, it is undeniable that encouraging 16 and 17-year-olds to remain in full-time education generates considerable benefits. Full-time education until the age of 18 should be the norm for all young people, and the opportunities for professional and personal development are indisputable, alongside the invaluable psychological, emotional and social growth that full-time education facilitates.

On top of these considerations, it also makes clear economic sense to increase the age of recruitment to 18, as the large drop-out rate that I have previously mentioned is costly in terms of both resources and time spent on training. Finally, adopting such a policy stands to bring the UK into line with the vast majority of its international contemporaries. Three quarters of states worldwide now have armed forces personnel who are exclusively aged 18 and over, including most of our NATO allies. While 16 and 17-year-olds cannot serve on the frontline, recruitment at the ages of 16 and 17 is detrimental to international efforts to end the use of children in military settings. The UN convention on the rights of the child has urged the UK to increase its minimum recruitment age to 18. If, as this Government have often stressed, we are entering an era of a truly global Britain, it seems appropriate that the UK should align with its global partners in the international community.

Adopting an adults-only enlistment policy would also be welcome domestically. The Children's Commissioners for the UK's four nations, the UK Joint Committee on Human Rights and numerous trade unions and health professionals have expressed their support for adult-only recruitment. If we are to safeguard the wellbeing, development, educational opportunities and physical safety of our young people, it is crucial that we change the minimum age for armed forces recruitment to 18.

New clause 2 would ensure that service personnel aged under 18 would not be required to serve for a longer period than adult service personnel. Most of the Committee's discussion up to now has centred on removing any disadvantage experienced by service personnel in relation to their civilian counterparts, but we have not yet discussed the age discrimination that exists within the armed forces. The Bill does nothing to ensure that personnel recruited under the age of 18 experience no disadvantage compared with those recruited as adults.

At present, Army regulations that define a minimum service period discriminate against younger recruits. An Army recruit has a right of discharge for a fixed period of time after enlistment, but, once that period has expired, a recruit who enlisted at age 18 or above must serve for at least four years from the date of their enlistment. However, for recruits who enlisted at age 16 or 17, the clock restarts at age 18, so they must serve until they turn 22 at least—another four years. That commits them to up to six years of service when they are still a minor. As result of that disparate treatment, young recruits have to serve longer to have the right to leave the Army.

That inconsistency on service relates solely to the Army; it does not exist in the Navy or RAF. Only due to an armed forces exemption in the Equality Act 2010 is that allowed to remain. Such age discrimination would be prohibited in the civilian workforce, and new clause 2 would correct that by equalising the minimum service period for all recruits across the Army, ensuring that recruits under 18 experience no disadvantage compared with their adult counterparts.

The new clause builds on comments in the Army's 2019 review of its junior entry policy that considered new terms of service to align the minimum commitment length of recruits aged under 18 to those who joined over the age of 18. The review commented on how a change in this area could attract potential young recruits and their parents and

"would mitigate some external criticism and provide greater consistency."

In addition, the review mentioned that the change could make the process of leaving the Army as an under-18 "more transparent" and easier to understand. As such, the new clause would be an entirely reasonable and straightforward addition to the Bill and bring a consistent and logical approach to the minimum length of service across the armed forces. I urge the Committee to consider it carefully.

Martin Docherty-Hughes: I recognise that the Minister will oppose the new clauses, especially on the age of recruitment—I am sure we disagree on that principle—but I hope the Government and members of the Committee will recognise the age discrimination for those under 18 who remain in the armed forces and the detriment caused through their service not being recognised. I hope we can agree in a collegiate way that anyone who remains in the Army once they reach 18 must have that prior service calculated in their long-term service in the armed forces. Anything else is a detriment to them and also underscores our lack of commitment to them, with their military service not being counted.

4.15 pm

Mr Jones: I understand that there are individuals who wish to support a ban on those under 18 joining the Army. I know that that has been campaigned on for quite a while now. Those individuals draw an analogy between what the Army does and the situation of child soldiers around the world. I do not agree with that, and I must say I do not agree with the provisions of the new clause.

It is quite clear now that individuals under 18 cannot be sent into combat, which I totally support and think is right, but we must balance that against the opportunities that recruiting 16 to 17-year-olds gives those individuals. I suggest that anyone who wants to see the positive way individuals can and do improve their lives visits the Army Foundation College in Harrogate.

Many of those individuals, as the hon. Member for Glasgow North West highlighted, come from deprived communities; many have been failed by the education system, so credit to the Army particularly for the work it does at the Foundation College, giving people a second chance, which the education system has failed to do. On my visits there, what appalled me was the fact that the education system had failed individuals, but the Army had given them a second chance with raising basic numeracy and literacy skills. Individuals who would possibly not have had an opportunity to have a fulfilled career were able to do so through the work undertaken at the Army Foundation College.

The other issue raised is the duty of care for those individuals, but we have come a long way on the duty of care for under-18s. There was a huge problem with the way under-18s were supervised and looked after, especially those who joined the armed forces who came from care, for example. Mr Justice Blake's reforms following Deepcut had a huge amount to do with that.

Martin Docherty-Hughes: We will disagree, I am sure, on the age of recruitment, but on new clause 2 on minimum service terms, does the right hon. Gentleman recognise that, if under-18s who are recruited at 16 remain within the armed forces, that minimum service should be included? While we may disagree on the recruitment age, should that minimum service not be included within their service period?

Mr Jones: I will come on to that—I was going to address that in the second part of my contribution.

There has been change in terms of the duty of care of individuals. Ofsted, for example, now inspects places such as the Army Foundation College, and the practices that the Army has in place to ensure that there is a duty of care around those young people set an example that many other institutions could follow. In terms of the opportunity it gives people, I would not want, by banning under-18s, to stop many young people getting the positive move forward in their lives and the opportunities that the Army gives them.

There are two issues on which I do agree with the hon. Member for Glasgow North West, relating to early service leavers. That is not just an issue for under-18s, but for those who join post 18. To be fair to the armed forces, they have done quite a lot on ensuring that early service leavers have support. That is an issue that I raised when I was in the Ministry of Defence, because some of those individuals end up in the social services network, homeless and so on.

The question is about when people leave, if they are under 18 and decide that the armed forces, or the Army in particular, are not for them. I stand to be corrected if I am wrong, but I think there is a package around those who have left care and joined the armed forces. Anything that can be done to improve their experience is the right thing to do.

I am not against new clause 2, but we need to look at what happens in practice. There are quite good reasons why people have to sign on for a certain period of time, because of the commitment. From my experience, however, there is a mechanism to enable most people who do not want to stay in the Army and other armed forces to leave. I do not think it is such an onerous straitjacket as has it been described by some individuals.

I understand where the hon. Member for Glasgow North West is coming from, and I accept that there is a difference of opinion, but overall, my experience is that service in the armed forces gives great opportunities to many young people who would not get them if we did not recruit under-18s. The important thing to say is that many people who join at that age go on to have very good and fulfilling careers in the armed forces, and they

[Mr Kevan Jones]

also gain life skills and technical skills that they use when they leave the Army and move into civilian life. That is why I do not support the new clauses.

Mr Holden: I agree with a lot of what the right hon. Gentleman has said. I have had constituency cases of young people who have really benefited from going to Harrogate at age 16, who are thoroughly enjoying and making the most of their time in the armed forces, and who have been joining up with our local regiment, the Rifles, as part of that. I urge hon. Members to think properly about the new clauses and the impact that they will have on some young people who have found a real path in the Army, with the extra training and support that it can provide both educationally and more broadly.

Johnny Mercer: The new clauses seek to raise the age of recruitment to the armed forces to 18, and to ensure that recruits under 18 serve the same period of time as those who enlisted at the age of 18. We remain clear that junior entry offers a range of benefits to the individual, the armed forces and society, providing a highly valuable vocational training opportunity for those wishing to follow a career in the armed forces.

We take our duty of care to entrants aged under 18 extremely seriously. Close attention has been given to this subject in recent years, especially after the tragic deaths at Deepcut. We have robust, effective and independently verified safeguards in place to ensure that under-18s are cared for properly. The provision of education and training for 16-year-old school leavers provides a route into the armed forces that complies with Government policy on education while also providing a significant foundation for emotional, physical and educational development throughout an individual's career.

There is no compulsory recruitment into the armed forces. Our recruiting policy is absolutely clear: no one under the age of 18 can join the armed forces without formal parental consent, which is checked twice during the application process. Additionally, parents and guardians are positively encouraged to engage with the recruiting staff during the process. Service personnel under the age of 18 are not deployed on hostile operations outside the UK, or indeed on operations where they may be exposed to hostilities.

The hon. Member for Glasgow North West is concerned that people who join the armed forces before their 18th birthday serve longer than those who join after their 18th birthday. However, this is not a matter of length of service, but a matter of discharge. The rules on statutory discharge as of right—DAOR—allow all new recruits, regardless of age, to discharge within their first three to six months of service if they decide that the armed forces is not a career for them. Additionally, service personnel have a statutory right to claim discharge up to their 18th birthday, subject to a maximum three-month cooling-off period. These rights are made clear to all on enlistment.

Ultimately, service personnel under the age of 18 have a statutory right to leave the armed forces up until their 18th birthday and without the liability to serve in the reserve, as an adult would. However, the benefits of an armed forces career, including for under-18s, are very clear. The armed forces remain one of the UK's largest apprenticeship providers, equipping young people with valuable transferrable skills for life. Irrespective of age, all recruits who need it receive education in the key skills of literacy and numeracy; and, also irrespective of age, over 80% of all recruits enrol in an apprenticeship programme, equipping them with the skills that they need to succeed and which they will continue to build on throughout their careers, serving them well when they leave.

The armed forces offer apprenticeships across a broad range of specialisations, including the engineering disciplines, digital and communication technologies, construction, catering, human resources and administration. Ofsted regularly inspects our initial training establishment, and we are very proud of the standards that we achieve. Indeed, over the last 10 years, Ofsted has documented significant improvements in, among other things, support with English and maths, under-18s and care leavers, injury reduction, retention rates, communication with parents and staff selection, training and development.

Despite that record, we guard against complacency and recognise that there is always more that we can do. One example is the new inspection framework that we have agreed with Ofsted to align more closely with the unique challenges of initial military training.

Mr Holden: I recognise what the Minister says about Ofsted, but I want to highlight a concern of a family in my constituency, whose son, Dan Bravington, was at Harrogate and has gone through basic training. As part of parental buy-in, one of the great things that they like to see is the passing-out parades at the end. When will those parades restart? They are an important way of binding families, especially those of young people, into the broader military family.

Johnny Mercer: My hon. Friend is right that passing-out parades are a huge part of the journey of our forces' families through the system. He will be aware, though, that generally we align with Public Health England's advice and the Government's direction. We are looking to get those parades going as soon as possible, and I am acutely aware of the effect on families of not attending them. Guidance will be issued in due course in line with the Government's expectations on a relaxation of restrictions.

We welcome the independent scrutiny of Ofsted and the confirmation that it provides that we treat our young recruits well. Our armed forces provide challenging and constructive education, training and employment opportunities for young people, as well as fulfilling and rewarding careers. Following those assurances, I hope that the hon. Member for Glasgow North West will agree to withdraw the amendment, but I thank her for her careful consideration. I know that her husband is a veteran, and I am extremely grateful for the thoughtful way in which she applies herself to these subjects. I look forward to engaging with her further on these important issues down the road.

Carol Monaghan: It is interesting to hear Members talking about the positive experiences of young people. Many Members will know that I am a teacher by profession. A number of the young pupils I taught went on to join the Army at age 16. Some of them had an extremely positive experience, as I highlighted in my comments; however, we need to look at the 30% who are dropping out. Why is there such a high drop-out rate?

For that 30% of 16 to 17-year-olds, some of whom do not have the strongest educational or family backgrounds, all they have from joining the Army is another failure under their belt. They have missed out on educational opportunities in the period they have been in the Army, and it is difficult to rejoin the education system after having dropped out of the Army. Also, there are under-18s who are on active service. They might not be on the frontline, but they serve in the Royal Navy on submarines.

On new clause 2, the Minister said that up to the age of 18, people can drop out. We understand that, but the problem is that once they turn 18 the clock starts again, and it is then four years beyond that before they can drop out. That is what they are signing up to. Their entire service is a six-year commitment, essentially, rather than a four-year one. If we were to equalise the opportunity for the youngsters who are joining up in comparison to adults who join aged 18, they should be able to leave sooner. They should simply be committing to another two years, not another four.

4.30 pm

Mr Holden: I understand the spirit and the background that the hon. Member brings to this. I think everyone knows that because of the unique circumstances of someone who joins at 16, where they can drop out at any point until they are 18, it is very different from the situation of someone who formally joins at 18 for another four years. Those things are slightly conflated in the new clause.

Carol Monaghan: I thank the hon. Gentleman, but that is not the case in the Navy and the RAF, so there is already a disparity.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 9.

Division No. 2]

AYES

Docherty-Hughes, Martin	Monaghan, Carol

NOES

Anderson, Stuart	Jones, rh Mr Kevan
Dines, Miss Sarah	Lopresti, Jack
Docherty, Leo	Mercer, Johnny
Henry, Darren	Wheeler, Mrs Heather
Holden, Mr Richard	

Question accordingly negatived.

New Clause 3

REPORT ON HEALTH AND EDUCATION OUTCOMES

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

(2) In section 343A, after subsection 7, insert—

'(7A) Particular descriptions of service people as set out in subsection 7 shall include service people aged under 18, in respect of whom the Secretary of State shall consider:

(a) whether as a consequence of their service any disadvantage arises regarding their mental and physical health and their attainment of accredited educational qualifications in comparison with civilians of the same age; and

(b) whether their service is consistent with their best interests.'"—*(Carol Monaghan.)*

This new clause requires the Secretary of State to use the annual Armed Forces Covenant report to assess (a) the health and educational outcomes of personnel under age 18 and (b) the service of personnel under age 18 in relation to the Convention on the Rights of the Child article 3.

Brought up, and read the First time.

Carol Monaghan: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 12—*Mental health report—*

"(1) No later than 12 months following the day on which this Act is passed, and every 12 months thereafter, the Secretary of State must publish a report which must include—

(a) a definition of what constitutes 'priority care' as set out in Armed Forces Covenant and how the Secretary of State is working to ensure that it is being provided, and

(b) a review of waiting time targets for service personnel and veterans accessing mental health support.

(2) The first report published under this section must also include a resource plan to meet current Transition, Intervention and Liaison Service waiting time targets for the offer of an appointment in England and set new targets for mental health recovery through the veterans mental health pathway."

This new clause would require the Government to produce a definition of 'priority care' to help primary care clinicians deliver the commitments in the Armed Forces Covenant, conduct a review of mental health waiting time targets for service personnel and veterans, and produce a resource plan to meet current waiting time targets.

Carol Monaghan: The new clause would require the Secretary of State to use the annual armed forces covenant report to assess the health and educational outcomes of personnel under the age of 18 and the service of personnel under the age of 18 in relation to article 3 of the convention on the rights of the child.

The time in a young person's life from the ages of 16 to 18 is significant, and this transition to adulthood is typified by expanding opportunities and capabilities. These years also bring substantial risks and vulnerabilities. Research undertaken by UNICEF has shown that adolescents are more vulnerable to external pressure, influence and risk taking than adults are because of the processes of neurocognitive and psychological development. To ensure the transition between adolescence and adulthood as a time for healthy development and resilience building, 16 and 17-year olds must be in an environment that facilitates sustained learning, skills development, respect for individuality, social support and strong relationships. The UN convention on the rights of the child recognises the needs and vulnerabilities of adolescents and it consequently defines every person below the age of 18 as a child. This convention obliges all public or private social welfare institutions, courts of law, administrative authorities or legislative bodies to always consider the best interests of the child in any matter which concerns them.

I do not consider 16 and 17-year olds to be children; I would consider them as young people. However, the same applies here. For the reasons I have stated, we have a moral and legal duty to pay particular attention to the experiences and outcomes of those who join the armed forces before they turn 18. Those under 18 in the military take on risks and obligations just like their adult colleagues, which may put them at a disadvantage relative to their civilian peers in areas such as health and education.

[Carol Monaghan]

While Army recruits are not sent to the frontline until they turn 18, the impact of military employment at such a young age, particularly on recruits from a stressful childhood background, has raised numerous human rights and public health concerns. Among those who have raised concerns have been the UN Committee on the Rights of the Child, the Children's Commissioners for the four jurisdictions of the UK, and the Joint Committee on Human Rights. The Ministry of Defence does not collect information about the socioeconomic profile of armed forces personnel. However, other research has found that Army recruits under the age of 18 generally come from England's poorest constituencies, with recruitment concentrated in urban fringe areas in the north of England.

Official data from the MOD shows that the youngest recruits tend to have underdeveloped literacy. Education for the youngest Army recruits is largely restricted to basic literacy, numeracy and IT. As I have already mentioned, with 30% of 16 and 17-year-old recruits leaving before finishing phase two training, that presents an immediate risk to their employment, education, training and social mobility prospects, and it certainly puts them at a disadvantage compared with their civilian peers.

As for health, those recruited under the age of 18 are more likely to die or be injured in action over the course of their military career, and they are at greater risk of mental health-related problems, such as alcohol abuse and self-harm. The additional rights and protections of 16 and 17-year-olds under the law and the need to ensure positive health and educational outcomes for this age group is a clear justification for the MOD to consider the impact of military service on personnel aged under 18.

As such, new clause 3 would require the Secretary of State to use the annual armed forces covenant report to assess the health and educational outcomes of personnel under the age of 18 and to consider whether service is in their best interest. Such annual reporting carries no risk to the effectiveness of the armed forces, rather it would solely ensure that those entering the armed forces under the age of 18 are given the consideration they require.

When we are considering the issue of no disadvantage in health and education, this should include proper consideration of the disadvantage that young recruits may experience compared with other 16 and 17-year olds. As these years are crucial in shaping life outcomes, it is important that the Ministry of Defence treats the welfare of service personnel under the age of 18 with the highest priority and comes forward freely to report on their outcomes.

Mrs Hodgson: It is a pleasure to follow the hon. Lady. New clause 12 would require the Government to do three things: first, to produce a definition of "priority care" to help primary care clinicians to deliver on the commitments in the armed forces covenant; secondly, to conduct a review of mental health waiting time targets for service personnel and veterans; and, finally, to produce a resource plan to meet current waiting time targets. I shall address each in turn.

"The Armed Forces Covenant Annual Report 2020" acknowledges the confusion about what priority care means. It says that

"in practice this remains inconsistent, and there is a lack of clarity about the interpretation of the policy by government, clinicians, and the NHS."

During oral evidence to this Committee, Ray Lock, from the Forces in Mind Trust, said that

"anything you can do to provide greater certainty would be helpful."

The first part of this new clause therefore seeks to do just that and provide a definition as to what the Government really mean when they talk about priority care and treatment.

Moving to the second part of the new clause, on a review of mental health waiting time targets for service personnel and veterans, I have already written to the Minister regarding waiting times under TILS—the veterans' mental health transition, intervention and liaison service—which have not been met. The average waiting time to be offered a face-to-face appointment for TILS in 2019-20 was 37 days, which misses the target of 14 days. Conducting a review of mental health waiting time targets for service personnel and veterans would establish why they are not being met and—to move to the final part of the new clause—what action needs to be taken to address that gap.

I know that the Minister is proud of the launch of Operation Courage, but I urge him to continue to seize this moment to make real and measurable change to the mental health services for serving personnel and veterans. This new clause would bring much-needed clarity to the priority care promised through the covenant and is designed to address the issue of waiting times not being met. I know that the Minister will want to resolve those issues and I therefore hope that he takes the opportunity offered by the new clause.

Johnny Mercer: I pay tribute to the hon. Member for Washington and Sunderland West and her dogged support for these issues. The problem that the Government have with new clause 12 is the fact that this stuff is already covered in the annual covenant report, as required by the Armed Forces Act 2006. On the issue of waiting time targets and resource plans, I refer hon. Members to the armed forces covenant report, which contains that suite of metrics concerning physical and mental health service provision.

I recognise that the hon. Lady has written to me, and I am investigating the figures that were presented in the House. I have a dashboard that shows me waiting times in TILS, the CTS, which is the complex treatment service, and HIS, the high intensity service, across the country. If it is wrong, I will write to her and correct the record, but above that, I will do everything I possibly can to drive down those waiting times.

The metrics assessing health service performance are kept under constant review to ensure that they continue to usefully measure the state of health service provision in England. Separate reporting in this case would be disproportionate. Although I appreciate the desire to pin down in general terms the definition of "priority care", we must be circumspect in doing so or risk the possibility of unduly binding those public bodies that are in scope to a model that would not necessarily meet

the needs of the local population. It is for that reason that we designed the legislation around a duty to have due regard. That ensures that service deliverers have the flexibility to cater for local requirements, while ensuring an increased awareness and understanding of the armed forces covenant.

The Department will be developing guidance with a wide range of stakeholders over the next year. It will include an explanation of the unique features of service life and the sacrifices made by the armed forces community. It will explain how these obligations and sacrifices can cause disadvantage for the armed forces community in respect of their ability to access goods and services.

4.45 pm

Healthcare bodies will be able to use this additional information about potential areas in which members of our armed forces face disadvantage when considering standard needs assessments and prioritisation policy. For instance, because service personnel are required to be mobile, they may experience disruption in a course of treatment. This will ensure that such policies are developed with an enhanced understanding of the impact on service personnel and their families. We have and will continue to communicate with these key stakeholders through initiatives such as the MOD/UK Departments of Health Partnership Board, as well as directly to the armed forces community through a dedicated communications strategy.

Turning to new clause 3, I previously outlined the excellent training and education the armed forces deliver as one of the country's largest apprenticeship providers, working with industry and the Department for Education to deliver the recognised transferable qualifications. The training is just one of many benefits available to all recruits as part of a military career, including those under 18 years old. I also referred to our long-standing relationship with Ofsted and our track record of consistent improvement. Ofsted offers independent scrutiny and challenge. Its independent reports on armed forces training are published annually and are publicly available. We feel that that is the proper way to report on educational achievement and intend to continue this relationship under the terms of recently agreed new inspection framework.

I obviously reject the implication in the proposed new clauses that an armed forces career results in any disadvantage to our under-18 service personnel. The reality is that the armed forces provide a compelling and high-quality career, founded on superb training and the highest standards of care for each and every one of them. I hope, given these assurances, the hon. Members for Glasgow North West and for Washington and Sunderland West will agree to withdraw their new clauses.

Carol Monaghan: For the reasons I have already stated, we have a moral and legal duty to pay particular attention to the experiences and outcomes of those who join the armed forces before they turn 18—both for those who remain in service and those who choose to leave early. While the Minister highlighted some of the work that has been done in this area with Ofsted and the MOD, surely it would not be difficult to make a specific report on the outcomes of the 16 and 17-year-old recruits? They have very specific needs and requirements. I cannot see any reason why there cannot be a statement on the health and educational outcomes of these personnel in the annual report. At the moment, however, I am happy to withdraw the new clause. I thank the Minister for his comments, and I hope he will consider my contribution. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: Order. We are drawing today's session to a close. We meet again on 31 March.

4.48 pm

Adjourned till Wednesday 31 March at Nine o'clock.