

FOREWORD

The Government would like to thank Jackie Doyle-Price MP and the All Party Parliamentary Group (APPG) on Gurkha Welfare for leading an inquiry into grievances held by members of the Gurkha veterans' community. This inquiry has provided the Gurkha veterans' community an independent forum within which their grievances have been listened to, considered and ultimately debated in Parliament. The Government would like to pay tribute to the manner in which the Gurkha community have participated in this unique inquiry and taken the opportunity to present evidence about the grievances which some hold.

Gurkhas have made an outstanding contribution to the UK through their years of dedicated service to the Crown and are held in high esteem by the British Army and the public alike. They rightly deserve their reputation as amongst the bravest and most fearless of soldiers. The Government and the British people are hugely proud that Gurkhas continue to serve in the British Army and that today do so, with some small differences bespoke to the identity of the Gurkhas, on the same terms and conditions as their British counterparts. I am proud also that in 2009 the parties of the Coalition Government supported the historic decision to allow Gurkha veterans the right to settle in the UK. In 2015 we will mark the bicentenary of Gurkha service in the British Army, and at the same time celebrate the relationship between the UK and Nepal through a range of events in both countries.

The Tripartite Agreement signed between the UK and Nepal in 1947 continues to provide the basis for the service of Gurkhas in the British Army. This Agreement commits the British Government to treat Gurkhas fairly. Successive British Governments have always sought to do this and meet the aspirations of successive generations of Gurkha soldiers and their families. The origins of today's Brigade of Gurkhas, which stem from the independence of India in 1947, have meant that before 1 April 2007 Gurkhas served on different terms and conditions of service to other parts of the Army. It is these historic differences which some in the Gurkha community point to today as being unjust.

The Government does not accept that in all these cases an injustice does exist. As such it would not be possible for any Government to retrospectively provide enhancements to

arrangements and policies which were appropriate and legal for their time and the circumstances of Gurkha service, and would be above that received by other members in the British Army. However such is the strength of this nation's gratitude to the Gurkha community for their service that the Government believes there are measures that should be put in place to ensure that all Gurkha veterans have the opportunity to live in retirement with the further support and gratitude of the British Government.

As a sign of this commitment the Government has taken a historic decision to compensate those who left the Gurkhas as a direct result of marrying a non-Nepalese. When seen in a 21st Century context, the Government does not believe it reflected the values of the United Kingdom's Armed Forces. We will therefore set up a fund to compensate those affected, the details of which will be published in due course.

The Government has continued to use fines from the banking industry to support many Service charities to ensure serving members of the Armed Forces and veterans receive the support they rightly deserve. The provision of £5m over five years to the Gurkha Welfare Trust is a clear statement of this commitment and recognition of the work done by the Trust in support of Gurkha veterans. We will be working closely with the Gurkha Welfare Trust as they determine how best to apply this funding. We have also awarded over £900,000 from the Veterans Accommodation Fund to Gurkha Homes Limited for the provision of 32 safe, supportive and affordable homes for Gurkha veterans and their spouses or partners.

A handwritten signature in black ink, appearing to be 'AS', written over a horizontal line.

Anna Soubry MP
Minister for Defence Personnel, Welfare and Veterans

INTRODUCTION

Many of the grievances considered by this Inquiry relate to perceived pension inequalities. The Gurkha Pension Scheme (GPS) has its origins in the Tripartite Agreement between the UK and Nepal signed in 1947. This agreement provides the basis on which the Brigade of Gurkhas serve in the British Army, having previously been part of the British Indian Army before Indian independence in 1947. These origins are important when matters of historic Gurkha pay and pensions are examined because it is these origins which provide for the underlying parity against pay and pensions of the Indian Army which for many years determined Gurkha pay and pension benefits.

The Government believes that the GPS is a generous and fair scheme. It was designed and is maintained to provide Gurkha veterans with a very good standard of living in Nepal. It provides for a full pension on discharge of around £200 per month if a Gurkha has served a full 15 years of service. In contrast a soldier in the British Armed Forces would have had to serve a full 22 year commitment before 1975 to qualify for a pension at the point of discharge. In addition to paying a pension for life the GPS also includes disability elements for those injured during their military service and family pensions for dependants. Under the GPS any Gurkha made redundant either received a pension or a lump sum payment depending on their length of service.

Since 1 April 2007 any Gurkha joining the British Army receives the same pay and pension benefits as their counterparts in the wider British Army with some very small exceptions designed to satisfy the Government of Nepal. In addition this Coalition Government is proud that both parties supported the historic decision in 2009 to permit all those who have served in the Gurkhas to settle in the UK.

The Government's approach to pension matters is shaped by the long standing principle held by successive Governments that individuals qualify for pensions according to the rules of that pension scheme at the time that an individual qualifies for their pension. Successive Governments have also held to a general principle of not introducing improvements to public sector pension or compensation schemes retrospectively. Making retrospective changes to pension schemes would have financial implications across the public sector and therefore for the national exchequer. No Government which

has the strength and sustainability of the nation's finances at its core can agree to retrospective changes to pensions of the type sought by some Gurkha veterans. The Government is grateful for the support given in Parliament to this principle during the debate on this Inquiry on 11 September 2014 and notes that the Inquiry has taken no position on this issue.

The remainder of this response will address the APPG's individual recommendations in turn.

Recommendation. Ultimately we [the APPG] take the view that whatever is written in the Tripartite Agreement, the most important point is that Britain treats the Gurkha veterans fairly and with dignity.

The Government accepts this recommendation. The Tripartite Agreement commits the British Government to treat Gurkhas fairly and with dignity. Successive British Governments have always sought to do this by meeting the aspirations of successive generations of Gurkha soldiers and their families, and actively seeking ways to ensure they are not disadvantaged through their service. This Government has gone further than any in enshrining the rights and obligations the nation owes to all those who serve in our Armed Forces, including the Gurkhas, in statute through the Armed Forces Covenant.

The Government recognises that the origins of today's Brigade of Gurkha reflect the circumstances under which the Tripartite Agreement was signed with Nepal and India in 1947. Gurkha service in the British Army has undergone significant changes since, including the change in role from service in the Far East to being based in the UK. The Government would welcome the opportunity to discuss with the Government of Nepal how the changes that have occurred can best be reflected.

Recommendation. We would like to see an appeal process where all those in receipt of welfare pensions could seek review. Those who were made redundant or unfairly dismissed should have a formal entitlement to a pension, as should those who were medically retired. We believe that there should be a review of the Hawaiian incident to examine whether any personnel were unfairly dismissed.

The Government does not accept this recommendation. Any Gurkha who was medically discharged with an injury or illness that was caused, or made worse, by service in the Army should have received a disability pension. Those Gurkhas who were medically discharged for an injury or illness that was not caused, or made worse, by service in the Army would have received an invaliding pension if they had served for at least 10 years. Those that had served less than 10 years received a lump sum payment. There is also no need to re-examine the system by which a pension or lump sum payment was awarded to those either made redundant or medically discharged. It remains the case that where any individual feels that they were incorrectly discharged, or have not received

the appropriate pension or lump sum payment, they may write to their Member of Parliament, or direct to the MOD, stating why they feel they have a justified reason to seek a review. Given this the Government does not believe that it is necessary to create a bespoke appeal or review process.

In 1986 111 Gurkhas were discharged from service on the grounds that there had been an irreparable breakdown in trust between them and the Army chain of command, this became known as the 'Hawaii incident'. The personnel were discharged for failing to assist a Royal Military Police inquiry into an assault on two officers serving in the Brigade of Gurkhas. By failing to give evidence these men obstructed the prosecution of an offence where it was their civic duty to help the police discover and apprehend offenders. The decision to discharge the men concerned was referred through the chain of command and ultimately to the then Secretary of State for Defence the Rt Hon George Younger MP. The then Parliamentary Under Secretary of State for the Armed Forces, the Rt Hon Roger Freeman MP, made a statement¹ in the House of Commons on the incident and the discharge of the individuals concerned. A key part of the statement was:

“Faced with a very serious disciplinary offence which could not be ignored or condoned and with which it was not possible to deal by court martial proceedings, the Army authorities had no alternative but to recommend the administrative discharge of all the 123 members of support company. In identical circumstances, exactly the same action would have been taken in a company of British soldiers, the key issue being that without the bond of trust a soldier is militarily ineffective.”

The Government does therefore not accept the suggestion that Gurkhas are dealt with unfairly or in a way which a British unit would not have been. While not a direct comparison, similar incidents have occurred in recent history including 16 personnel in an infantry battalion, two of whom were sentenced to detention and then discharged and 14 others sentenced to detention. The main difference with this group is that they carried out their action in front of others. There were therefore many witnesses and disciplinary action could be taken. With the Gurkhas, there was not enough direct evidence to secure convictions, so disciplinary action was not pursued.

¹ Official Report HC Deb 21 October 1986 vol 102 cc822-3W

All the men to be discharged were given the opportunity to make appeals for redress, and were informed in Nepali of their rights of representation and of the availability of free legal advice at the time. 36 representations were made, of which nine were upheld and discharge was rescinded. Three further cases also had their discharge rescinded. To assist those dismissed further, an office was established in Dharan in Eastern Nepal, where the Gurkhas came from, to assist with any appeals for redress of complaint. These additional measures were explained to the men concerned.

The Government is therefore satisfied that the incident was properly investigated at the time and that those affected by the decision were both supported and given the opportunity to challenge it.

Recommendation. We expect the British Government to consider the rates of pension in comparison with those of Indian veterans to establish whether the current rates of Gurkha pension are fair.

The Government accepts this recommendation. The Government believes that the current rates of Gurkha pensions are fair. In 2000 Gurkha pension rates were set at double (100% above) the highest band of Indian Army pension rates against which rates of pension for those on the GPS are set. GPS rates are examined at ten yearly intervals when the Indian Government publishes its Central Pay Commission findings. They are also kept under review to ensure that any other changes made to Indian Army pensions are reflected in the GPS.

The last Ministry of Defence (MOD) report of 2 March 2009 shows that the majority of Gurkha pensions were already above double the rate of the new Indian Army pensions in 2006. Those pensions that were below double the new Indian Army rates were brought up to that level. The MOD will continue to monitor changes to the Indian Army pension arrangements and alter the GPS accordingly. The Government reaffirms its commitment to maintain Gurkha pension rates at double (100%) above the rates of the Indian Army.

Recommendation. We believe that for those on [attributable] disablement pensions, the Government should review and consider whether their settlement is sufficiently generous.

The Government is not yet able to respond formally to this recommendation. Pensions policy is a complex area and work to review the disablement pension elements of the Gurkha Pension Scheme is not complete. We will respond formally to this recommendation once that work is complete.

Recommendation. We believe that those who have suffered financial loss by transferring to the Armed Forces Pension scheme should have their cases reviewed and be compensated accordingly.

The Government does not accept this recommendation. In 2008 retired members of the Gurkhas were invited to choose between whether they remained part of the GPS or transfer to the Armed Forces Pension Scheme (AFPS). Some 600 retired members opted to remain in the GPS. All individuals were supplied with offer to transfer literature which set out the potential factors which could affect the value of pensions over time; it also set out that the decision to transfer to a different pension arrangement could not be changed at a later date. They also had access to an on-line calculator. As with other Offers to Transfer the individual member made a decision based on the information available at that time; it cannot be reversed. Decisions can be reviewed where a member can show that a mistake in the transfer literature or calculator led them to make a wrong decision. However this is different to allowing members to re-visit a decision simply because their decision to take the Offer to Transfer has not worked out in their favour. The Government does not believe that it would be right now to conduct a review for some members as to do so would likely generate calls for equality of treatment for all those who have opted to transfer from one public sector pension scheme to another and not benefitted from doing so.

The Government is aware of two cases where the rate of pension appears to have reduced on transfer to the AFPS. These cases are being reviewed under the AFPS internal dispute resolution procedure. Any member who believes that the pension they are being paid is incorrect can ask Defence Business Services - Veterans UK to check their entitlement. Veterans UK can be contacted either by telephone: 0808 1914218 or by email: DBS-JPAC@dbspv.mod.uk

Recommendation. Given the misleading nature of the dummy NI number we would ask the Government to consider whether all Gurkhas have received their full entitlement to NI credits and whether those issued with dummy numbers should be given backdated credits.

The Government does not accept this recommendation. Neither the MOD nor individual Gurkhas were liable to pay National Insurance Contributions before 1997. This is because the Gurkhas were not based in the UK. In around 1995 Gurkha pay statements were annotated with a 'dummy' National Insurance Number by the MOD for administrative purposes.

Gurkhas were not disadvantaged or discriminated against by this practice. Possession of a National Insurance Number does not prove a right to work or entitlement to benefits and does not on its own suggest that National Insurance has been paid or credited. Providing additional backdated National Insurance credits to Gurkhas because they were given dummy National Insurance Numbers would create a precedent for claims by other workers. This would include workers of other nationalities who may have been in possession of a temporary or actual National Insurance Number but who have not paid contributions.

The Government therefore does not believe this is sufficient reason to provide additional backdated National Insurance credits. Were the Government to do so, this would place Gurkhas in an advantageous position in comparison to other workers issued with National Insurance Numbers but who have not paid contributions.

Recommendation. We believe that the management deduction from Gurkhas serving in Brunei is questionable and that there is a case for examining whether such deductions should be refunded.

The Government does not accept this recommendation. Under the Tripartite Agreement Gurkhas were entitled to a cost of living allowance to cater for the increased costs of living overseas. This allowance was set according to the costs of the country they were stationed in. When the Brigade of Gurkhas was based in Hong Kong, for those Gurkhas stationed in Brunei and Hong Kong the allowances were set by local costs of a basket of

goods. For those stationed in the UK the allowance was set so that after tax Gurkhas received broadly the same net take home pay as their British comparator. On 1 July 1997 the Brigade of Gurkhas became UK based. At this time a single allowance known as Universal Addition, was paid to all Gurkhas regardless where they were serving. A fundamental principle of Universal Addition was to ensure Gurkhas received broadly comparable pay with British counterparts so they were not disadvantaged against others.

In the calculation of the rates of Universal Addition abatements for tax, National Insurance Contributions, food and accommodation were made to arrive at a broad equivalence with the net take home pay of their British comparator. These abatements were made in the calculation of rates, and were not deducted from individuals. There were no sums of money generated in the process and no organisation received any funds from it. The Government is satisfied, that while complex, the use of certain additions and deductions to calculate the net pay of Gurkhas has not deprived any individual of monies which they were legitimately entitled to.

Recommendation. We believe that reduced pay during annual leave appears consistent with the Tripartite agreement.

The Government accepts this recommendation and welcomes recognition that this matter was dealt with in accordance with the Tripartite Agreement. In 2003 a Judicial Review found in favour of the MOD on this point and the judgment was subsequently upheld at the Court of Appeal. The Government therefore considers this matter to have been concluded.

Recommendation. We believe that the policy with regard to mixed marriage was illegal and that the soldiers concerned were unfairly dismissed and deserve redress. Where there are outstanding issues which are properly the matter for the courts, we would consider that the Government should consider granting legal aid for them to pursue the cases.

The Government accepts this recommendation in part. The Government does not accept that this policy was illegal in the circumstances under which this occurred. However the Government believes that the practice of discouraging marriage to non-Nepali women by

Gurkhas did not match the values of the Armed Forces and is not therefore something that should have been accepted within the Brigade of Gurkhas, irrespective of the reason why such a policy was adopted.

The Government will therefore take steps to set up a fund to compensate those small numbers of individuals who were directly affected by this practice. Details of how to submit a claim and the terms under which an individual may be eligible for such a payment will be published in due course and made available to the Gurkha community both in the UK and in Nepal.

Recommendation. We would encourage the Gurkha Welfare Trust to consider the welfare of elderly Gurkha migrants in the UK.

The Gurkha Welfare Trust (GWT) is an independent charity. The Government provides financial support to the GWT by means of an annual grant in aid. However the Trust's activities and operations are independent of the MOD and welfare payments to needy Gurkha veterans are funded by public donations. As such the Government does not intend to respond to this recommendation. However, as set out below, the Government is contributing additional funding to the GWT to fund projects in Nepal and for Gurkha Veterans Housing in the UK.

Recommendation. We ask the Government to consider making Gurkhas eligible for full funding for ESOL classes.

The Government recognises that for many Gurkha veterans and their families who have settled in the UK since 2009 spoken English remains a challenge; many of them had never served in the UK before the right to settle in the UK was granted. However, the Government does not accept this recommendation. English for Speakers of Other Languages funding is prioritised for people on work-related benefits who need to improve their English language skills in order to find employment. Claimants on other benefits, including Gurkhas, may still be eligible for full or 50% funding at the discretion of the training provider.

Recommendation. We believe that the Home Office should look with sympathy on those cases of adult dependents who might have entered the country before they were 18 had the law changed sooner. We welcome the commitment from the Immigration Minister to review the current discretionary policy on adult dependent relatives in the light of recent case law.

The Government accepts this recommendation. The Government has reviewed its policy on the adult children of former Gurkhas. A revised policy was published on 5 January 2015, which can be found [here](#).

Recommendation. We believe that the Government should increase its contribution to the Gurkha Welfare Trust (GWT) to cover the cost of free healthcare.

The Government accepts this recommendation in part. In 2015 we will celebrate the bicentenary of Gurkha service to the UK. This Government recognises the immense contribution and sacrifices Gurkhas have made on behalf of the UK serving in our Armed Forces. The Government also recognises that there are some instances where Gurkhas have not in the past had the opportunity of support and services available to their serving British counterparts. Although when pensions were doubled in 2000 this was in part to cover medical support in Nepal. The Government is proud that Gurkhas now have both the right to settle in the UK and that those serving today do so on the same terms as their UK counterparts and with access to the provisions of the Armed Forces Covenant. However the Government believes that more should be done to recognise the service provided by Gurkhas to this nation.

The Government has therefore decided to make available £5m from LIBOR fines over the next five years to the GWT to support Gurkha welfare projects in Nepal or the UK. The Government has agreed to work closely with the GWT, who deliver Gurkha welfare services in Nepal, to ensure that this money can be used to the benefit of as many Gurkhas as possible and in line with the GWT's objectives. This additional funding will be able to support areas such as healthcare and wider social support, offering the most benefit to those members of the Gurkha community in Nepal or the UK who really need this support.

In addition to this funding the Government has also awarded £960,000 from the LIBOR funded Veterans Accommodation Fund to Gurkha Homes Limited. This money will be used to provide 32 homes in four key locations across the UK for up to 64 Gurkha veterans and their spouses or partners. The locations of these homes will be selected with both Gurkha cultural sensitivities in mind but also to ensure they can integrate successfully into the local community.

Recommendation. We believe that DFID should look favourably on funding aid projects in Nepal. We have a longstanding relationship with Nepal which remains a country with high levels of poverty. Such investment will benefit Gurkha veterans and the wider Nepalese population.

The Government accepts this recommendation and we are already meeting it. The UK, through overseas development assistance, has been investing in the health sector in Nepal for nearly 17 years. Nepal is a Department for International Development (DFID) priority country and the Government has increased development funding for Nepal significantly since 2012/13.

DFID has contributed over £19.7m to the Rural Water and Sanitation Programme (RWSP) of the GWT. This support has provided more than 270,000 people with access to high quality water and sanitation facilities. This helps ensure that ex-Gurkhas, their families and their local communities are better protected from cholera, typhoid and other serious but preventable waterborne diseases. In January 2014, DFID approved £10m of support over the next five years in order to set the RWSP on a clearer, long term footing.

As well as the work already done on sanitation alongside the GWT, DFID will continue to support health care nationally in Nepal ensuring that the Nepali population has access to free basic healthcare. Such investment also benefits Gurkha veterans. Since 2004, the UK has been directly supporting the Government of Nepal, with technical and financial assistance, to improve health service provision on a nationwide scale. This has included a particular focus on ensuring that people in poorer, remote areas, especially women and girls, have access to better primary health services within their communities. The health programme is the largest in DFID Nepal's portfolio at over £20m annually and has helped

the country to make remarkable strides in health provision, including being on target to meet most of the health related Millennium Development Goals. DFID Nepal will continue to support health service provision for the foreseeable future.

The Government is committed to supporting Nepal's development over the medium to longer term. DFID's current Operational Plan already commits up to £331m of UK official development assistance during the period 2011-2015 and this support now totals around £90 to £100m per annum. By 2015 the UK's development assistance, in partnership with the Government of Nepal, will have created 230,000 jobs; lifted 570,000 people out of poverty; averted 400,000 unwanted pregnancies, ensured 250,000 people benefit from safe latrines; supported seven million people to vote in elections and have made four million people better able to cope with natural disasters.

Recommendation. We would ask the GWT to reflect on what more it can do to become more transparent and whether they could do more to engage with Gurkha veterans to assuage any concerns they might have.

The GWT's activities and operations are independent of the MOD; as such the Government does not intend to respond to this recommendation.