

JOHNNY MERCER MP  
PARLIAMENTARY UNDER-SECRETARY OF STATE AND MINISTER  
FOR DEFENCE PEOPLE AND VETERANS

MSU/4.8.2.3

13 April 2021

Dear Kevan,

During the Select Committee's line-by-line consideration of the Armed Forces Bill on 25 March, you asked a couple of questions on which I undertook to write. Your first question was related to clause 11, which deals with Service Police complaints. Your second concerns clause 19 and its effect on the Royal Gibraltar Regiment (RG).

In relation to Service Police complaints, you asked for clarity as to whether civilians, including contractors employed on military bases, or families of Service personnel, would be able to lodge a Service Police complaint. Please be reassured that there will be a mechanism for complaint, as I said in my speech:

'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.' **(HC Deb (25 March 2021). SCAFB (Bill 244) 2019 – 2021. col. 29)**

For the avoidance of doubt, this includes civilians and the families of Service personnel as long as they have been adversely affected. This is consistent with the approach taken in the civilian police complaints system in England & Wales and overseen by the Director General of the Independent Office for Police Conduct. Under the civilian regime persons who have been adversely affected by the conduct are able to complain and we will follow the same approach. Family members, MOD civilian staff and contractors could all potentially make a complaint.

Regarding Clause 19, you enquired as to the circumstances and the number of occasions in which section 357 Armed Forces Act 2006 (AFA06) would be applied to the Royal Gibraltar Regiment.

First, let me explain what section 357 of the AFA06 does. It essentially operates as a UK law 'hook' to allow British overseas territory forces, which fall outside of the normal remit of the AFA06, to adopt the Act with or without modification. This allows such forces to enforce discipline by 'plugging in' to the UK service justice system, rather than having to establish their own equivalent discipline structure – with the result that disciplinary cases from the Overseas territories can be heard within the UK Court Martial system.

The Rt Hon Kevan Jones MP  
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The Government of Gibraltar wishes to apply the UK service justice system to the RG in Gibraltar law. This is the first time that section 357 will be used to create an applied Overseas territory regime and will ensure broad equivalence of treatment in disciplinary matters as between the RG and UK Armed Forces. Clause 19 is a technical provision which amends section 357 to confirm that the Government of Gibraltar can rely on the section to apply the AFA06 to the RG, notwithstanding that the AFA06 does not extend to Gibraltar. The Government considers that Gibraltar is already able to rely on section 357 in this way: clause 19 is clarificatory in nature and is intended to put this beyond doubt.

Accordingly, to answer your specific questions, section 357 will be used once by the Government of Gibraltar in order to apply the AFA06 in Gibraltar law thereby bringing the RG within the scope of the UK service justice system. Thereafter, the RG's disciplinary matters will be determined within the UK service justice system as they arise. The RG is approximately 300 strong, including reservists. In terms of impact, it is not envisaged that bringing the RG into the system will substantially increase the volume of cases to be addressed. It is anticipated that there will be a minimal increase in cost to the system.

I am copying this letter to other Members of the Select Committee and a copy will be placed in the Library of the House.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a series of loops and a final flourish.

**JOHNNY MERCER MP**