

Former Members of the Armed Forces and the Criminal Justice System

A Review on behalf of the
Secretary of State for Justice

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Executive Summary

- The vast majority of those who serve in the Armed Forces return to civilian life without problem and are less likely than their civilian counterparts to commit criminal offences.
- A small minority have difficulties and find themselves in trouble with the law. Their offending behaviour is unlikely to have been directly caused by their service in the Armed Forces, but is sometimes contributed to by their experiences and, on occasion, made possible by their training. Many service charities offer help to these individuals.
- Post-traumatic stress disorder is an overused explanation for the behaviour of this cohort of offenders, but poor mental health and substance misuse often contribute to their offending, alongside other risk factors such as homelessness and unemployment.
- The Armed Forces Covenant, which exists to recognise the sacrifices made by those who serve, requires the identification and appropriate treatment of this offender group at the earliest possible stage, both for their benefit and that of their families, as well as the public. Offenders should in future be asked at every stage of the criminal justice system whether they have served in the Armed Forces.
- Policy makers have previously been hindered by the absence of robust data enabling the identification of pathways effective in preventing offending on the part of those who have served in the Armed Forces. Such data must in future be routinely collected.
- Knowledge on the part of criminal justice professionals as to the needs of former service personnel is patchy and appropriate training a matter of luck. In future, all criminal justice professionals should have access to appropriate resources and training to enable effective intervention with former service personnel who have committed criminal offences.
- Not every custodial facility in England and Wales deals appropriately with, or permits its officers time sufficient to deal with, prisoners who have served in the Armed Forces. This hinders rehabilitation

and resettlement efforts. The same is true of probation services. In future, appropriate schemes to deal with former service personnel serving custodial or community sentences must be rolled out on a national basis, drawing on current best practice in this area.

- Recently introduced Liaison and Diversion Schemes (which are due to be rolled out nationally in England by 2017/18) require the identification of effective pathways to prevent offending on the part of former service personnel. These efforts are important and should form a distinct part of the evaluation and development of best practice in this area.
- Lord Ashcroft's Veterans Transition Review contains a series of recommendations that are likely to have a positive effect in preventing offending by former service personnel. I understand from the Government's response to his review that many of these are now likely to be implemented.
- Some statutory agencies in England and Wales have established initiatives to identify and prevent offending behaviour on the part of former service personnel, principally by onward referral to third sector and other support agencies. These schemes appear valuable and similar provision should be implemented nationally.
- A lack of national guidance to statutory agencies has previously hindered effective working with offenders who have served in the Armed Forces and led to piecemeal provision across England and Wales. To ensure consistency, a senior civil servant within the Ministry of Justice should be tasked to co-ordinate national policy, with the Secretary of State reporting annually to Parliament on progress in dealing with this offender group.
- There is limited evidence that courts established in the United States dealing specifically with offenders who have served in the Armed Forces are effective. The likelihood is that any effectiveness is the result of focussed interventions rather than the creation of such courts. Given the court system in England and Wales and the UK's smaller Armed Forces, such special courts are unlikely to be suitable for introduction here.

1. Introduction

1.1 Background

There are around four million former service personnel living in England and Wales. Most have left the Armed Forces and gone on to lead successful lives in the civilian world. For a few, the transition proves to be a struggle and they find themselves involved with the criminal justice system.

My review is concerned with this small group of men and women. In accordance with my terms of reference, I have sought to identify the rehabilitation needs of former service personnel within the criminal justice system, to examine the support currently provided to them, and to see how it might be improved.

Current changes taking place in the Armed Forces render the review timely. The withdrawal of troops from Afghanistan, as well as increases in the number of reservists, will inevitably lead to greater numbers of former service personnel affected by issues of transition and resettlement.

The implementation by the Ministry of Justice of reforms to probation known as 'Transforming Rehabilitation' will also affect all offenders serving community and custodial sentences. That includes those who have served in the Armed Forces. We should not lose sight of their needs as these changes take place.

1.2 The Review

Following the announcement of the review by the Government in January 2014, Rory Stewart MP was initially appointed to undertake the work necessary to report to the Lord Chancellor and Secretary of State for Justice. Following his election to the Chair of the Defence Select Committee, I took over in June 2014 shortly prior to the commencement of the evidence sessions.

I am indebted to Mr Stewart for his oversight of the preparatory work necessary for the review to be conducted properly and effectively.

I am also indebted to the advisors appointed to assist me: the Rt. Hon. Lord Judge, the former Lord Chief Justice of England and Wales; Lord Ramsbotham GCB CBE, formerly HM Chief Inspector of Prisons for England and Wales; Sir John Nutting Bt. QC, who was commissioned by the Howard League for Penal Reform to conduct its enquiry into former armed service personnel in the prison population; Dr Hugh Milroy OBE, the Chief Executive of Veterans Aid (who also advised Sir John Nutting in relation to his enquiry); and Major General Michael Laurie CBE, a member of Lord Ashcroft's Veterans Transition Review Team.

I have been supported throughout by Kathryn Nichol from the Ministry of Justice, Alexandra Quinn, who was appointed as a researcher for the review, and Emma Salisbury from my office. The review could not have been completed without them.

1.3 Methodology and Scope

My terms of reference are at Appendix A. In seeking to meet them, over the last five months I have held various evidence sessions and questioned and spoken to former service personnel, academics, probation staff, police and prison officers, health practitioners and voluntary sector support workers.

The Review Team has visited four prisons, the Military Corrective Training Centre in Colchester, the National Probation Service and the Cheshire and Greater Manchester Community Rehabilitation Company, as well as three focus groups for former service personnel and numerous third sector organisations.

We have also worked closely with a team of analysts from the Ministry of Justice who are carrying out a rapid evidence assessment of the published material dealing with former service personnel in the criminal justice system.

Over fifty stakeholders have also kindly contributed. Responsibility for the review and for the recommendations that it makes nonetheless rests with me. Any errors are mine.

The scope of the review covers only former service personnel in England and Wales, although I have also considered best practice in Scotland. Examples of mental health interventions that I have considered relate to England only.

1.4 Previous Work

There is a considerable body of published work touching on the needs of former service personnel in the criminal justice system on which I have drawn.

This work includes Lord Ashcroft's 'Veterans Transition Review'; the Howard League for Penal Reform's 'Report of the Inquiry into Former Armed Service Personnel in Prison'; the work of the King's Centre for Military Health Research, particularly their paper 'Violent offending by UK military personnel deployed to Iraq and Afghanistan: a data linkage cohort study'; the HMIP findings paper 'People in prison: Ex-service personnel' and a September 2014 supplement; and the 'Fighting Fit' report prepared by Dr Andrew Murrison MP in 2010 addressing the mental health needs of those who have served in the Armed Forces.

Some of this material contains recommendations that have been or are in the process of being implemented. I have not sought to replicate those recommendations, though I draw attention to them where I consider them important.

1.5 Post-Traumatic Stress Disorder

The enquiry conducted by the Howard League for Penal Reform found that on leaving the Armed Forces, some service personnel struggle to reintegrate into civilian society. That is consistent with Lord Ashcroft's Review and with other evidence provided to me.

There is no doubt that following the conclusion of their service, some leaving the Armed Forces experience family breakdown, homelessness, mental health problems and substance misuse. Much of this is often attributed by commentators and the media to Post-Traumatic Stress Disorder.

This attribution of offending behaviour to Post-Traumatic Stress Disorder is, however, an overused explanation of the wide range of mental health and other issues experienced by those who have served in the Armed Forces who subsequently find themselves in trouble.

The research available to me demonstrates that depression, often fuelled by alcohol misuse, is a much greater problem and it is on these aspects of mental health that interventions should largely focus.

1.6 The Armed Forces Covenant

The Armed Forces Covenant expresses the bond between members of the Armed Forces of the Crown and their families, the Government and the nation.

It contains an obligation of support for life and enshrines the concept that no one who has served in the Armed Forces, or their dependants, should face disadvantage because of that service. That has clear implications in areas such as access to healthcare, education and housing.

The impact of the covenant in other areas such as the treatment of offenders is less clear. Specifically, any suggestion that former service personnel who have offended should receive different treatment within the criminal justice system from their civilian counterparts runs the risk of undermining public confidence in the Covenant unless the offending behaviour in question can be shown to have been directly caused by service in the Armed Forces (which is rarely the case).

From the outset, I have therefore been concerned that the definition of those with whom this review is concerned should not be

drawn too widely. When considering who is a former member of the Armed Forces, the Government currently employs a definition (endorsed by many of the larger service charities) of 'all former members of all ranks of the Armed Forces who have received one day's pay'.

Lord Ashcroft's 'Veterans Transition Review' recommended that the Government re-examine the definition of the term 'veteran' and refine the criteria by which it is defined to produce an acceptable qualification with greater credibility and exclusivity. I agree.

For the purposes of this review, where I refer to former service personnel, I am therefore speaking of those who have at least completed basic training.

The application of any lesser requirement to define those who are entitled to be treated as former service personnel runs the risk of giving an impression that specialist treatment is available to those who have no justifiable entitlement to it.

Where a person has not completed even basic training, it is highly unlikely that their offending behaviour has arisen as a result of something that has taken place during their service.

1.7 'Veterans Courts'

I have not explored in detail the possibility of creating specialist 'Veterans Courts', as has been done in some jurisdictions in the United States of America. I am far from convinced that the creation of such courts would be viable in the United Kingdom with its smaller Armed Forces.

More importantly, any suggestion that former service personnel should be tried in different courts from their civilian counterparts raises the spectre of the creation of other special courts for other public servants in stressful roles, such as the police.

The criminal courts of England and Wales are well able to take into account (and make appropriate provision for) the special

characteristics of defendants tried before them. The fragmentation of criminal justice in the manner implied by the creation of 'Veterans Courts' is in my view unlikely to increase public confidence in the proper and equal administration of justice for all citizens of the United Kingdom.

1.8 Rehabilitation

Rehabilitation is a different matter. As a group, those who have served in the Armed Forces may well have different requirements from those who have not, particularly following release.

By way of example, I heard ample evidence that those who have served respond better as a cohort to tailor-made treatments than those who have not been subject to the discipline encountered in the services.

One example is the effectiveness of the 'buddy' system used in the United States, where former service personnel who have offended are mentored following release from custody by another individual who has also served.

As I heard from those in custody during my visit to HMP Manchester, such a system might well be effective here. As one prisoner put it, "On release if you were given another veteran to ring you up like a buddy to buddy system, it would be good. You just want that contact back."

Such schemes have been attempted on a local basis previously in various parts of England and Wales. Without co-ordination and support on a national basis the learning from these schemes has not been shared, developed and built upon.

One aspect of existing policy that my review has highlighted is, therefore, that there has previously been little national guidance or oversight in relation to the treatment of former service personnel in the criminal justice system.

However, the Armed Forces Covenant should mean that those who have offended are entitled to receive the same treatment and support in whichever part of the United Kingdom they live.

1.9 Terminology

The Armed Forces Covenant, like many service charities and third sector bodies, refers to those who have served as veterans. Whilst I fully accept that it is important not to pay too much attention to language for its own sake, most of the former servicemen and women who have given evidence or spoken to me do not associate with that term. They regard it as referring to those who served in the two World Wars (as, for that matter, do many professionals working in the criminal justice system).

Consequently, many of those who have served are unaware of the impressive array of help available through the service charities to which the public gives so generously. Throughout this review, I have therefore referred to those who have served as former service personnel, a term which sits more comfortably with the way in which those who have left the Armed Forces in recent decades identify themselves.

1.10 The Service Charities

There are more than two thousand charities in existence whose aim is to assist former service personnel. Several of these have outreach programmes dealing with those in custody who have served in the Armed Forces.

It is apparent that there is therefore a wide-ranging support network available to former service personnel who find themselves in trouble. The key to accessing these services, as with so much else, is through the identification of an individual as having served in the Armed Forces.

Presently however, many of those who have served in the Armed Forces only become aware of the help available to them once they have been referred by a third party, rather than as a diversion in the early stages of their return to civilian life.

1.11 COBSEO

Lord Ashcroft's Review made several of its own recommendations relating to welfare and the third sector, one of which was to 'encourage, through COBSEO (the Confederation of Service Charities), greater co-operation, collaboration and consolidation in the Armed Forces charity sector'.

This sentiment was echoed to me by staff from prisons, probation services, support groups and the charities themselves. There are, in fact, plenty of examples of initiatives of professionals working together to avoid duplication.

I have little doubt, however, that there is presently a duplication of services between too many well-meaning bodies, which leads to a lack of focus and a waste of resources.

Those former service personnel to whom I spoke in custody thus described incidents where they were visited by staff from two or more of the major charities about the same issues.

Lord Ashcroft's recommendation regarding greater co-operation between the service charities is therefore important, particularly for those in custody. The Government's response to his review highlights efforts to seek greater co-ordination and collaboration of the support offered to those who have served.

One example is the development, with COBSEO, of a shared Vision for Veterans which, amongst other matters, addresses the ongoing need for co-ordination of effort between organisations offering support to former service personnel. It is a principle that I endorse.

1.12 Future Work

This review, as originally overseen by Mr Stewart MP, has been organised, researched and completed within a short period. There are many topics either outside the scope of, or not directly relevant to, my terms of reference, which I have had no mandate to investigate in detail and on which further work is necessary.

One example, which arises from my conversations with those to whom I spoke in custody, relates to a concerning trend of Islamic radicalisation amongst the prison population with a consequent risk of violence towards former service personnel.

Some of those in custody who had served in the Armed Forces spoke to me of their reluctance to self-identify for fear of reprisal from other prisoners accordingly.

Whilst this evidence is anecdotal, more robust research must be undertaken by the Ministry of Justice to investigate this issue, along with the targeting of former service personnel by extremist right-wing organisations seeking recruits.

Another example of an area requiring further work is domestic violence. I have made a specific recommendation in this regard at paragraph 2.3 below.

The Government may also wish to examine war disablement pensions, which are outside my terms of reference but which I was told are withheld, at least in part, where a former serviceman or woman is sentenced to custody (though may be partly paid on release). This may provide a further barrier to the identification of those who have served on entering custody.

Cross-checking whether an offender has served is another area in which additional work is necessary. At present, many service providers express concern that they cannot easily ascertain whether an offender who tells them that he or she has served in the Armed Forces is being truthful. The Ministry of Justice may wish to look, with the Ministry of Defence, at establishing suitable protocols to ensure that speedy verification is in future simplified.

2. Needs & Data

2.1 Service & Offending Behaviour

When it comes to offending behaviour generally, service in the Armed Forces is a protective factor. The majority of those who have served their country re-enter civilian life with higher rates of employment and lower rates of offending than the UK population as a whole.

I asked those former service personnel who provided evidence to the review whether they believed that the Armed Forces are to blame for their offending behaviour, or for the risk factors that may have contributed to it.

The overwhelming response was to the effect that their service was not a direct cause of their offending behaviour. Most regard their time in the forces as positive. Many regret leaving.

One offender, living at a Veterans' Aid Hostel, said this when asked whether his time in the army had led to his needing support: "It was my choice to do things I've done ... the army didn't train me to take drugs or go out and get smashed on drink every day of the week. That was my choice."

For the most part, I do not regard service in the Armed Forces as being of itself a causative factor in offending. As the evidence of the majority of those to whom I have spoken shows, it does, however, lead to experiences, both positive and negative, which set apart those who have served from those who have not.

2.2 Violent Offending

Some of the academic study that has been conducted focuses on violent offending by those who have served in the Armed Forces. Unlike the general population, where acquisitive crimes are the most common offences, for those who have served in the Armed Forces, offences of violence are the most common.

The most important predictors of violent offending in this cohort are sex, age, rank and pre-service violent offending. Deployment itself is not independently associated with an increased risk, but service in a combat role and exposure to traumatic events does increase the risk of violent offending.

2.3 Domestic Violence

One in four women experience domestic violence at some point in their lifetimes. Anecdotally at least, this is a specific issue for former service families.

Direct evidence for this is not easy to access, since most offences are charged as assaults. Current projects to tackle offending behaviour on the part of former service personnel nonetheless frequently target domestic abuse as well as the alcohol and substance misuse that fuel it.

Dr Deirdre Macmanus of King's College, London said this to me in her evidence, "If someone within a domestic set up has problems with anger and violence, the people in proximity to them are likely to be the victims."

Families pay a price for service by their loved ones in the Armed Forces. For some, that price clearly continues once service has come to an end.

The King's Centre for Military Health Research is planning a study looking specifically at domestic violence on the part of those who have served in the Armed Forces. That work is to be welcomed and should influence future policy in this area.

I recommend that within six months of the publication of the KCMHR research, the Secretary of State should make a statement to Parliament addressing the issue of domestic violence by former service personnel and the steps being taken across Government to address any issues identified as affecting this cohort of offenders and to prevent their offending.

2.4 Mental Health

Many former service personnel who find themselves involved with the criminal justice system have mental health problems. This review is not directly concerned with mental health, but I cannot ignore it.

The 'Fighting Fit' report prepared by Dr Murrison MP in 2010 focussed on mental health for current ex-servicemen and women, personnel transitioning out of the forces and currently serving regulars and reservists.

Dr Murrison found that most service personnel leave the forces with good mental and physical health, but that a few experience problems with Post Traumatic Stress Disorder (PTSD) and Mild Traumatic Brain Injury (MTBI). Linked with alcohol issues, these can become a root cause of unlawful behaviour.

I have heard evidence to the same effect, as, also, I have learned that there is too often a stigma associated with seeking help for mental health issues. That stigma is especially acute in those who have served in the Armed Forces.

The mental health of former service personnel is, however, principally a matter for the Ministry of Defence and the Department of Health, although there are plainly ongoing issues that affect the numbers of former service personnel who find themselves in trouble with the criminal justice system.

Both Dr Murrison's review and that conducted by Lord Ashcroft highlighted the need to improve co-operation between service charities in relation to mental health. That is another recommendation I echo.

Like Dr Murrison MP, the Forces in Mind Trust 2013 Report found that the majority of serving and former service personnel have good mental health, but that depression and anxiety disorders are the most common mental health issues amongst this cohort (as they appear to be in civilian society generally).

Evidence shows that nearly half of all prisoners have anxiety or depression, and nearly a third of all 13-18 year olds who offend

have a mental health issue. For many offenders who have a mental health issue or vulnerability, prison can make their situation worse.

The study published by the King's Centre for Military Health Research examined outcomes for around 4,000 people who left the Armed Forces at some point between 1991 and 2001. It too found that most had done well, but that those who were early leavers were more likely to suffer from mental health issues than those who had completed their service.

One of the best predictors of whether or not service leavers find employment is their mental health. Poor mental health thus gives a double disadvantage in making service personnel more likely to leave the Armed Forces but less likely to be in a position to find employment after their service has ended.

Time and again in speaking to former service personnel who have offended and professionals working with them, mental health issues, often caused or contributed to by alcohol misuse and, less commonly, by illegal drugs, come to the fore.

Every offender to whom I spoke at HMP Manchester self-reported mental health issues, ranging from anxiety and depression to full-blown paranoid and delusional behaviour. Some were prepared to acknowledge that the mental health had been worsened by substance abuse. Their experiences of the criminal justice system differed, with some reporting positive encounters with criminal justice professionals who had taken their service background and mental health into account, whilst others spoke of negative experiences where they perceived that one or both of these factors had been held against them.

Although mental health issues are the second most common cause of medical discharge from the Armed Forces, it is worth pointing out that the prevalence of mental health issues is also significant amongst the civilian population. At least one in four people will experience a mental health problem at some point in their life. One in six adults has a mental health problem at any one time. The problem is not exclusive to the Armed Forces.

As members of society, at least some of those who have served in the Armed Forces can therefore be expected to experience periods of poor mental health irrespective of their service. For a few, the evidence shows that poor mental health is caused by the experiences they have had during their service.

This is an ongoing issue. It is not, however, one in relation to which I can make any recommendations given my terms of reference, at least beyond recommendations affecting the criminal justice system. I address those further in Chapter 3.

2.5 Numbers

There is a great deal of controversy, not all of it helpful or necessary, over the exact number of former service personnel in custody.

Identification is not, presently, routine, and even in those places where it is common practice, many who have served in the Armed Forces have reservations about self-identifying, both because of a feeling of shame at behaviour contrary to the ethos of the Armed Forces and because of fears for personal safety given high profile attacks on former service personnel.

There is an Armed Forces identifier on the prison service database, PNOMIS, but it is not a field which must be mandatorily completed and it is often left empty.

I have not been able to ascertain with certainty whether this is because the question is not ordinarily asked on reception into custody and it would be difficult to do so. What is clear is that the question as to whether an individual has served in the Armed Forces should be asked whenever information is sought to enable PNOMIS data to be collected.

Similarly, the probation service database, NDelius, can also record whether an individual has served in the Armed Forces, though I understand that this is not a standard question asked by probation officers. It should be.

2.6 DASA & HMIP Data

Given the limitations in the available data, the most reliable recent source I have been able to find as to the number of former service personnel in custody is a 2010 data matching report between the Ministry of Defence's Defence Analytical Services and Advice (DASA) and the Ministry of Justice.

The process undertaken, as I understand it, matched personal details of adult prisoners against DASA's service leavers database. A second draft of DASA's report estimated that 3.5% of the proportion of prisoners in England and Wales were former service personnel, a figure which was criticised in evidence to me as being too low, but which I have no concrete basis to dispute.

Whilst it is therefore true that Her Majesty's Inspectorate of Prisons produced a findings paper in March 2014 – 'People in prison: Ex-service personnel' – which reported that 7% of those in custody identified themselves as having served in the Armed Forces, as the paper itself stressed, the survey data was self-reported and service histories were not verified.

The data was collected from 29 prisons inspected between 2011 and 2013. It is likely, in my view, that there is an over-represented sample of high security prisons due to the inspecting practices of HMIP, something supported by the fact (as acknowledged in the report itself) that 'the highest proportions of ex-Service personnel were located in high security prisons and category B training prisons (each 13%)'.

If it matters, although the HMIP report — supplemented in September — is more recent, the DASA figure remains, to my mind, the more robust. The HMIP paper nonetheless reinforces the fact that in the male prison population, former service personnel may well comprise the largest occupational cohort in custody.

What all this information does do is to reinforce the findings of the Howard League for Penal Reform that 'the significant majority of the sample we interviewed had been incarcerated for violent crime (including sexual offences)'.

Where have they come from? Again, the DASA survey contains a comprehensive outline of the characteristics of these individuals, and indicates that of the 2,820 former service personnel identified, 77% had served in the Army, 92.3% were from non-commissioned ranks, 99.6% were male and 51% were 45 or older.

In relation to the offences for which they had been sentenced to custody, the two largest offence groups were 24.7% for sexual crimes and 32.9% for violent crimes (ranging from assault to murder).

2.7 Other Data & Evidence

Work carried out by King's College London as part of their data linkage cohort study reflects these statistics, although there is a greater emphasis on the fact that those under thirty who have served in the Armed Forces are more likely to commit violent offences than those over that age.

This ongoing research follows a similar format to the DASA study but on a broader scale, linking data from 13,856 randomly selected military personnel (both serving and in civilian life).

It finds that violent offending is most common in young men of non-commissioned rank in the Army and that offending is strongly associated with a history of violence before joining the military. Factors that may increase the risk of violent behaviour include serving in a combat role and traumatic experiences during deployment.

The key risk factors in any offending – difficult family background, low educational attainment, gender, age and whether the person has offended previously – appear from all the evidence to apply in equal measure to former service personnel.

Those who have served are susceptible to precisely the same triggers for offending as civilians, whether the issue is one of unemployment, finance, accommodation, breakdown of relationship or substance misuse.

Whilst serving, most of these factors are taken care of. On discharge, they are not. Several of Lord Ashcroft's recommendations, when implemented, will go some way to ensuring that those who have served are better equipped to deal with their re-entry into civilian life when they leave the Armed Forces.

2.8 Future Data

In paragraph 1.6, I noted that the official definition of former service personnel employed across Government, and in particular by the Ministry of Defence, merely requires service of at least one day in the Armed Forces. That is also the definition used by many third sector organisations (though not by me in this review).

The data that presently exist are based upon this definition. As I have noted, those data indicate that somewhere between 3.5% to 7% of the current prison population is comprised of former service personnel. Policymakers of the future nonetheless require an accurate figure.

I recommend that data as to the numbers of those who have served in the Armed Forces and find themselves either in custody or subject to intervention by the probation services should in future be routinely captured by the Ministry of Justice.

As I have noted, using such data as presently exist, nearly all former service personnel currently in custody or under supervision by the probation services are from the non-commissioned ranks. The majority spent their service career in the army.

Those in custody for indictable offences are most likely to have committed sexual or violent crimes. Those supervised in the community for indictable offences are most likely to have committed violent crimes or theft.

However, a wide range of other offences are also represented in both groups, suggesting that there is no such thing as a typical offence committed by a former member of the Armed Forces.

In addition to knowing the number of former service personnel in custody or subject to supervision by the probation services, policymakers also need to know how this offending is likely to have been caused.

I recommend that data as to the risk factors and characteristics of those who have served in the Armed Forces and find themselves either in custody or subject to intervention by the probation services, as well as the offences they have committed, is also in future routinely the subject of capture and analysis by the Ministry of Justice.

2.9 Identification of Former Service Personnel

A number of published studies made available to me suggest that those who have served in the Armed Forces do not regard their service as a material characteristic of their identity when it comes to their offending.

Being a former member of the services is merely one label amongst many for some offenders, who can equally well be described, often more appropriately, by reference to particular risk factors which may or may not be associated with their service, such as drug and alcohol misuse.

These factors are usually identified at key points during interaction with the criminal justice system. Drug and alcohol issues, for example, are usually noticed by the police at or shortly after arrest and the offender diverted out of the criminal justice system if appropriate. For those who do proceed to trial and conviction, pre-sentence reports ordinarily identify important offending factors, as well as needs, such as health or housing.

Status as a former serviceman or servicewoman is at all stages of the criminal justice system less likely to be identified, particularly for those who do not receive immediate custody following conviction. This can make it difficult for offenders to access support from third sector and statutory bodies which specialise in helping those who have served.

The identification of offenders as former service personnel is absolutely critical, both for their chances of rehabilitation and for proper policy making in the future.

As almost every criminal justice professional giving evidence to me made clear, the question as to whether an individual has served in the Armed Forces should be asked, frequently and persistently, at every stage that an interaction with the criminal justice system takes place, whether that is by a custody sergeant, a solicitor, defence counsel, a receiving officer in a custodial facility, a prison officer responsible for custody or those responsible for discharge from custody and supervision.

An individual's service record may always have some bearing on their offending behaviour. To stand the best chance of preventing any recurrence of that behaviour, those responsible for rehabilitation must know whether or not an offender has served in the Armed Forces.

As I was therefore told again and again during the evidence sessions which I held, the most important recommendation that I can make is that the question as to whether an offender has served in the Armed Forces should be asked at every stage of the criminal justice system as a matter of routine. It is therefore the principal recommendation that I do make.

I recommend that at every stage of an interaction between an offender engaged with the criminal justice system and a professional working within that system, information is captured and recorded as to whether or not that offender has formerly served in the Armed Forces.

If this recommendation is implemented and appropriate training afforded to criminal justice professionals as to its importance, I have little doubt that outcomes for offenders who have served in the Armed Forces will be improved.

This is because the mere fact that an offender is a former member of the Armed Services opens up a plethora of interventions which might not otherwise be available and which necessarily have an impact on levels of reoffending.

3. Interventions

3.1 The Present Position

Various projects designed to assist former service personnel who have fallen foul of the law and find themselves engaged with the criminal justice system exist in some parts of England and Wales.

The expertise located within these projects – many developed locally by hard-working volunteers and staff who give up their own time – is invaluable for the purposes of any national strategy dealing with interventions within this offender group.

Throughout this review, I have met a number of individuals who are delivering interventions across England and Wales to small groups of former service personnel who have found themselves in trouble. I have been universally impressed by them, and by their commitment to rehabilitating these offenders.

Some of these initiatives are described in more detail in this chapter. They are not the only ones that exist; nor, necessarily, the best ones, a judgment I am not qualified to make.

What the projects that I have chosen to describe do, however, is to provide examples of the types of good practice that have been developed and delivered in parts of England and Wales, often with limited resources.

The examples given span the criminal justice agencies and I hope that drawing attention to them will encourage the sharing of knowledge and experience in this area for the benefit of those who need it.

3.2 The Veterans in Custody Support Scheme (VICS)

The Veterans in Custody Support Scheme or VICS was developed by Mr Nick Wood, a prison officer at HMP Everthorpe. It was originally launched by the National Offender Management

Service and the Ministry of Defence in 2009. It led the following year to the publication of a guide to working with former service personnel in custody. That guide is still in use. I was told that a similar guide dealing with offenders being dealt with in the community had been prepared, but was never published.

The aim of VICS is to identify offenders who have served in the Armed Forces at the earliest opportunity possible in a custodial setting, and then to refer them to community ex-service organisations for resettlement assistance. Identification can take place at reception into custody or subsequently, for example by the resettlement team in a prison.

VICS works alongside and contributes to offender management and can facilitate access to numerous resettlement resources available to former service offenders, who are given an identified point of contact or Veterans in Custody Support Officer (VICSO) in each custodial establishment. The VICSO acts as a liaison between Offender Supervisors and the community ex-service organisations contributing to sentence planning and resettlement arrangements with community Offender Managers.

Some VICS schemes also provide support networks and facilitate peer support within a custodial setting. The evidence I received is that many offenders who have served can benefit from the camaraderie this offers.

Mr Wood gave evidence to the review, as did Mr Nicholas Pemberton, the VICS officer at HMP Winchester. They highlighted the effectiveness of VICS in explaining to those working in prisons the particular needs that former service personnel may have on resettlement, as well as the support available to them during custody.

VICS also deals with prison in-reach and offers guidance as to what a scheme operating in any custodial establishment addressing the needs of former service personnel should contain.

The evidence I received was almost universal in its praise of VICS and its effectiveness. Also near universal was the expression of grave concern as to a lack of consistent application

across the custodial estate, as well as surprise that no similar guidance has ever been published for offenders dealt with in the community.

Most prisons visited by the Review Team see VICS as being important, but not essential. It was clear during my visit to HMP Manchester that officers gave up their own time to VICS without which the scheme could not operate, something which should in future change.

Those former service personnel in custody to whom I spoke were clear that an established scheme in every custodial facility would assist with rehabilitation. Given all the evidence, I agree.

I therefore recommend that within 12 months the National Offender Management Service, (a) refreshes its guidance on working with former service personnel in custody, and (b) publishes additional guidance addressing the needs of former service personnel who have offended and are being dealt with in the community.

To ensure the effectiveness of VICS and its proper implementation nationally, I further recommend that the Ministry of Justice makes mandatory such elements of the scheme as are necessary to embed it within the custodial and probation services. Ongoing training and staff awareness is, moreover, critical, and must be offered to all criminal justice professionals working in these areas.

3.3 Liaison & Diversion

Liaison and Diversion (or L&D) services operate by identifying, assessing and referring offenders who have mental health problems, learning disabilities, substance misuse issues or other vulnerabilities, to an appropriate treatment or support service.

They operate when offenders first come into contact with the criminal justice system, so that they can either be supported through the appropriate pathways or diverted into a treatment programme, social care service or other relevant intervention.

The services aim to improve health outcomes, reduce re-offending and identify vulnerabilities at an early stage.

The most important areas of operation for L&D services are therefore identification, screening and assessment, and referral.

Identification: Where a professional from a criminal justice agency, particularly the police or probation services, forms an opinion that an offender displays possible signs of poor mental health, a learning disability and/or substance misuse, the offender can be referred to an L&D practitioner. This identification should occur as early as possible.

Screening: Once an offender has been identified as having a mental health problem or other vulnerability, a screening exercise is conducted which will indicate whether a more in-depth assessment is required. The screening identifies the need, level of risk and urgency of further intervention.

If necessary, an L&D practitioner will undertake a more detailed assessment of the offender and their vulnerability, which informs the offender's needs and whether they should be referred onwards to treatment or further support.

Referral: Following assessment, an L&D practitioner may refer an offender to appropriate mainstream health and social care services and other relevant interventions and support mechanisms. This will also include support to their first appointment and the capturing of outcomes from treatment.

Throughout the L&D pathway, data as to the health needs of the service user are captured and used by agencies like the police, prosecutors, judges and probation services. Informed decisions can then be taken about case management, sentencing and disposal.

L&D services also provide a route to treatment for those whose offending behaviour is linked to their illness or vulnerability, underpinned by the principle of preventing crime, reducing re-offending and providing better and more timely information to all agencies in the criminal justice system.

At court, L&D practitioners may be asked to provide information directly to a sentencing judge. Information and recommendations regarding suitable treatment for an offender can be contained within a pre-sentence report previously prepared, or can be given verbally.

I understand that the first national service specification for L&D has now been developed to ensure a consistent approach and to provide the public with confidence in the system. In January 2014, the Department of Health announced an investment of £25 million for existing L&D provision and the testing of the service specification in ten trial schemes during 2014/15.

The present intention, I am told, is that the standard service specification will be rolled out further to cover 50% of the population in England by 2015/16, before full implementation, subject to the approval of HM Treasury, in 2017/18.

L&D is for all offenders, not just those who have served in the Armed Forces. The standard service specification nonetheless requires all L&D schemes to identify former service personnel and to develop specific pathways for them. Evidence suggests that in the trial areas, particularly Merseyside, schemes are developing and refining links with local service providers focussing on those who have served in the Armed Forces.

If L&D schemes are to be effective for former service personnel who have offended, it is important that any service in the Armed Forces is identified, and that there is close liaison with agencies and third sector bodies providing support to those entitled to receive it.

It is too early in the process of the roll-out of L&D schemes for me to make detailed recommendations in this regard.

However, I do recommend that all L&D schemes should develop pathways specific to those who have served in the Armed Forces, and that the assessment of such pathways should form a distinct part of the evaluation and development of best practice.

3.4 Mental Health: Other Interventions

Ten National Veterans' Mental Health Network teams were set up in 2010. They see around 3,500 former service personnel each year and are tasked with ensuring that they (and their families) receive the right treatment and support.

The ten teams are spread across England, and include a range of health workers, including full-time doctors, nurses, psychiatrists and family relationship professionals. I was told that they take self-referrals from former service personnel and that all referrals are assessed and worked with to develop an appropriate treatment plan.

NHS England took over the running of health services for the Armed Forces in April 2013, with the aim of improving outcomes for former service personnel as well as raising awareness of mental health problems within the community.

With the development of the National Veterans' Mental Health Network, it is likely that more mental health professionals within the NHS who understand the nature of service life are now available to support those who have served in the Armed Forces.

My understanding is that the same is also likely to be true in Scotland, Wales and Northern Ireland, where similar schemes have been set up to enhance access to mental health services generally.

Recommendations addressing the mental health of former service personnel prior to their interaction with the criminal justice system are outside the scope of my terms of reference and do not fall within the responsibility of the Ministry of Justice.

This is a complex area on which I have not heard detailed evidence or received extensive submissions. It is apparent, nonetheless, that work is ongoing to formulate policy permitting appropriate interventions in an area which has too often been hidden from view in the past. I offer no recommendations in this context beyond noting that such work is clearly desirable.

3.5 A National Directory

As the available research demonstrates, vulnerability to poor health outcomes is more likely amongst those who leave service early, and more likely amongst those who experience problems with other areas such as housing, employment and other welfare issues.

Lord Ashcroft recommended that the full package of resettlement support be extended to all service leavers who complete basic training. I am encouraged by the Government's response indicating that the enhanced support recently extended to early service leavers will be reviewed.

Lord Ashcroft also recommended the creation of a directory of accredited third sector providers offering healthcare to former service personnel.

I understand that this recommendation is being developed and I recommend that the directory includes all relevant or accredited specialist support services and service providers offering interventions for former service personnel who have found themselves engaged with, or are at risk of engagement with, the criminal justice system.

3.6 Project Nova

Project Nova is a pilot joint venture between RFEA – The Forces Employment Charity, Walking with the Wounded, Anglia Ruskin University, Norfolk and Suffolk police and the Forces in Mind Trust, who are working together in the east of England to support former service personnel who have entered police custody.

The project offers advice, guidance and support to those who have served in the Armed Forces using a network of military charities and organisations in Norfolk and Suffolk that can offer assistance based upon individual need.

The overriding intention is to provide a comprehensive support programme and tracking function (following release) for former

service personnel who find themselves in police custody, with the aim of identifying and understanding the root causes of their offending behaviour and reducing reoffending rates.

Case Study — Project Nova

D, a former serviceman, was picked up as part of Project Nova after his third arrest in as many months due to alcohol and homelessness. He was subsequently sentenced to six months custody and Project Nova continued to engage with him whilst he was serving his sentence in HMP Peterborough.

Prior to his release, housing was found for D from a service charity and bedding and basic household supplies were provided by the Royal British Legion. Contact was also made with another military charity, Forward Assist, who were able to provide long term support. When D was released from prison, he was met by a Forward Assist representative who drove him to his new flat and helped him settle in.

D is now working with Forward Assist on a regular basis, engaging in support group meetings, art exhibitions and recreational activities. He became involved with his local AA chapter and has not consumed alcohol since his release.

D has also been linked in with offender-friendly employers, and subsequently had a job interview. His integration with the local community continues to grow, and he is currently volunteering with a local social enterprise sourcing books for disadvantaged people in his area.

Where appropriate, referrals are made to other military and civilian support organisations via a consortium of local partners (employment, housing, welfare, finance, families, PTSD, drugs, employment and training).

Identification is key. At the pre-release point, those in custody are asked whether they have ever served in the Armed Forces. All of those answering 'Yes' are referred to the Project Nova coordinator by the relevant police force, who can then connect the offender to the various support organisations offering help.

3.7 Live at Ease

As part of their health screening process, police officers in Cheshire routinely ask all detainees in police custody whether they have served in the Armed Forces.

Those who answer in the affirmative are then referred to the 'Live at Ease' programme, which has been commissioned by the NHS to connect former service personnel to the support networks and other agencies providing assistance, such as the Royal British Legion, Combat Stress and SSAFA.

I was told that in the three month period June 2014 to August 2014, Live at Ease received forty-eight referrals from custody suites in Cheshire, all of whom went on to receive help. The majority of the offences committed by those referred have involved alcohol, an issue particularly susceptible to early intervention by caseworkers from Live at Ease offering practical one-to-one support.

Live at Ease caseworkers also offer support to the partners, children or other family members of former service personnel.

The programme offers another example of a local programme which is likely having an effect in reducing offending behaviour on the part of former service personnel who find themselves on the wrong side of the law.

3.8 Roll-Out Nationally

The two schemes identified in paragraphs 3.6 and 3.7 offer examples of early intervention projects where third sector bodies are working with the police to prevent further offending behaviour on the part of former service personnel.

I am aware that there are other examples operating slightly differently in other parts of the UK, but provision is not universal. Plainly, it should be.

I recommend that the Ministry of Justice works with the Home Office to ensure that every police force in England and

Wales implements a specific programme of training for officers to assist in the identification and referral of former service personnel in police custody to support services able to assist in preventing their offending behaviour.

3.9 Court Diversion & Peer Mentoring

An Armed Forces Court Diversion and Peer Mentoring scheme has been operating in Hampshire since April 2012. It aims to divert former service personnel from the criminal justice system into more appropriate support settings, such as mental health services, substance misuse services or service charities.

For those with convictions, the scheme aims to assist with reintegration into community life by accessing appropriate support networks and reducing the risk of reoffending accordingly.

Case Study — Diversion

T is a 56 year old man who served in the army for 23 years. He was arrested for domestic assault, and was likely to be remanded as he had no accommodation due to his domestic situation. Liaison with the local council resulted in T being offered temporary accommodation. His solicitor was informed and he was given bail.

A mental health assessment revealed T was experiencing low mood linked to his home situation, self-reported symptoms of PTSD and a poor ability to cope. He was unlikely to meet the criteria of secondary mental health services, but he was informed of the monthly drop-in Veterans Outreach Service in Portsmouth.

He now receives help and advice from VOS(P) where he discovered he knew people from his service days. T no longer feels that he needs support from mental health services.

A court report was provided detailing the support T is receiving and his progress. He is now living back with his family and progressing well.

I understand that court diversion workers link directly with police custody suites and work with those who have identified them-

selves as having served in the Armed Forces. Case workers draw on the service charities for support, but can also offer direct assistance through referrals to substance misuse programmes or mental health services.

Case workers also provide court reports and are able to attend sentencing hearings to provide information about issues that might have affected the offending behaviour of individuals referred to them.

The peer mentoring scheme on offer in Hampshire appears especially effective. Former service personnel are trained as volunteers to work with those who have served and offended and find themselves on probation or licence.

Not only are they afforded a point of contact with someone they see as understanding the issues they face, but they are sign-posted to appropriate support in the community to meet their needs and prevent further offending.

I recommend that in conjunction with other government departments and police forces across the country, the Ministry of Justice implements a court diversion and peer mentoring scheme centred on the major criminal justice centres within each circuit in England and Wales.

3.10 Probation Interventions

Although, as I have noted, no national programme has been implemented addressing the needs of former service personnel engaging with probation services, a number of schemes are operational across several areas.

The scheme operating in Durham Tees Valley Probation Trust: is typical. Within each local delivery unit there is a Veterans' Champion who advises staff and sees former service personnel undergoing probation within ten days of their identification.

Staff are required to record contacts with former service personnel on NDelius. Any contact with Veterans in Custody Officers

is also recorded so that information on the services that have been accessed whilst in custody is available.

There is also a Veterans' Champion in the Trust's court team, who has enhanced training to assist staff and the judiciary. The mental health diversion teams have also received training and assist with assessments of former service personnel.

The professionals involved in delivering the scheme meet together as a specialist team on a regular basis to develop the Trust's response to this cohort of offenders. This facilitates discussion and the sharing of best practice across the Trust.

In paragraph 3.2, I recommended that the National Offender Management Service publishes guidance addressing the needs of former service personnel who have offended and are being dealt with in the community by probation services.

That guidance will need to take into account the Transforming Rehabilitation agenda. Specifically, it must inform consideration by both the National Probation Service and the various Community Rehabilitation Companies as to how best to engage with offenders who have served in the Armed Forces and are being dealt with in the community.

3.11 The Ministry of Justice

Most of the initiatives that I came across during the review involve referrals by statutory agencies to third sector bodies. Those referrals are presently piecemeal and depend very much upon the location in which former service personnel find themselves. It is apparent, however, that there are a plethora of services available for those who have served in the Armed Forces who find themselves in trouble, wherever they live.

Presently, whether or not those services can be accessed is largely a matter of luck. The focus of my recommendations is therefore on changing that, by ensuring the co-ordination, through national guidance, of best practice in dealing with offenders who have served in the Armed Forces across England

and Wales. How schemes are implemented locally is not a matter for me. As I made clear to a number of the stakeholders who engaged with me during this review, I am concerned more with outcomes than their mechanisms of delivery.

To ensure that those outcomes are achieved however, national coordination within the Ministry of Justice is essential.

I therefore recommend that the National Offender Management Service works with service charities and other bodies (possibly including the cross-government Covenant Reference Group) to ensure the coordination of support from both statutory agencies and service charities to former service personnel who have offended.

I further recommend, (a) that the Ministry of Justice appoints a senior civil servant within the department to have responsibility in this area, reporting directly to the Secretary of State, with the aim of ensuring an identifiable national strategy implementing best practice across England and Wales for dealing with this cohort of offenders, and (b) that the Secretary of State report annually to Parliament on the progress which has been made in addressing the needs of former service personnel who find themselves engaged with the criminal justice system.

I have considered whether the second of these recommendations could better be achieved by ensuring that the annual statement made to Parliament on the Armed Forces Covenant was required to deal with the needs of former service personnel within the criminal justice system.

As it seems to me however, responsibility for dealing appropriately with this discrete cohort of offenders lies specifically with the Ministry of Justice and there is a danger of a loss of focus in addressing the needs of former service personnel unless an annual statement is made to Parliament by the Secretary of State.

I recognise that the Government may take a different view. At the very least, it seems to me that the annual statement to Parliament on the Armed Forces Covenant should therefore in fu-

ture deal with the matters that I have recommended are dealt with in an annual statement by the Secretary of State for Justice.

3.12 The Judiciary & Legal Representatives

Responsibility for training the judiciary of England and Wales, which is ultimately shared by the Secretary of State and the Lord Chief Justice, lies with the Judicial College.

The College has a number of training packs and resources dealing with diversity and fair treatment, including mental health and other issues, but I was told that there are no specific training materials dealing with those who have served in the Armed Forces.

That is not to say that magistrates, judges and justices' clerks are unaware of the Armed Forces Covenant or of the issues facing former service personnel who find themselves in trouble. But there is no standard awareness-raising activity.

Pockets of activity in this area do exist. A recent Diversity Conference in the Thames Valley included speakers from SSAFA and Combat Stress. In Hampshire, there has been at least one training day offered to members of the judiciary raising awareness of the court diversion scheme to which I drew attention in paragraph 3.9.

I recommend that training as to the issues affecting former service personnel is offered to all levels of the judiciary and that publications dealing with diversity and fair treatment are in future amended to deal with this group of offenders.

I have not had the opportunity during this review of speaking with criminal defence solicitors or counsel who practice in this area. However, neither I nor those advising me are aware of specific training (particularly in terms of mandatory continuing professional development) in this area.

Of those in custody to whom I spoke in HMP Manchester, only one was asked by their legal representatives if they had served

in the Armed Forces. A positive answer led to the preparation of a psychiatric report, which I was told had informed sentencing options.

In the vast majority of cases, the service history of a defendant is unlikely to change the outcome of a prosecution or the sentencing of those who are convicted. For some individuals, it could make a difference. Ultimately, it is for a court to decide what (if any) weight to give to such information, but in order for it to do so, this information must be before the court.

I recommend that training as to the issues affecting former service personnel is therefore encouraged for criminal defence solicitors and counsel as part of the fulfilment of their continuing professional development requirement.

3.13 ‘Veterans Courts’ in The United States

As I explained in paragraph 1.7, I have not explored in detail the possibility of creating special courts in England and Wales dealing with former service personnel, as has happened in some jurisdictions in the United States. Part of the impetus for this review has nonetheless been occasioned by the advocacy of some for such courts here, and at least one of my advisors has experience of them.

I understand that there are now over a hundred such courts in the United States, the first having been established in Buffalo, NY in 2008. At least initially, these courts took as their standard model the problem solving approach of specialist drugs courts, with the aim of facilitating a comprehensive approach to offenders to ensure short and long-term behavioural change.

Such courts arguably have a better understanding of the needs of former service personnel, although that is dependent upon the knowledge of those staffing them and the frequency with which they sit. Other benefits alleged are the creation of camaraderie between an offender and criminal justice practitioners, many of whom have themselves served in the military, and the

availability of a 'one-stop shop' addressing all the causes of an offender's behaviour in one forum. Most such courts in the United States do not, however, deal with violent and sexual offences, though some do.

Insofar as there is justification for the creation of special courts dealing with former service personnel, the exclusion of jurisdiction for violent and sexual offences is surprising given their prevalence, and undermines some of the justifications offered for the creation of a parallel system of criminal justice for those who have served in the Armed Forces.

US personnel who are eligible to be tried in these special courts are usually assigned both a probation officer and an mentor who has also served in the Armed Forces. Further attendance at court following sentencing is routine, to monitor progress (as it is for some offenders in the ordinary courts of England and Wales). The focus throughout is on the management of the factors causing offending behaviour, which is something many of the judiciary in this jurisdiction are already trained to deal with.

A further element of the US model is centred on sanctions and rewards — the so-called 'stair step' approach, with offenders moving up and down between various 'levels', subject to progress. Moving up a 'level' is likened to 'loosening the reins' — less frequent hearings, drug testing and so on. Moving down a 'level' occasions a strengthening of requirements

The issue of special courts for former service personnel tends to polarise opinion. The rapid evidence assessment conducted by the Ministry of Justice alongside this review finds that there is limited evidence of effectiveness in preventing re-offending where special courts are used, but it seemed to both me and those advising me that even if that is so, it is more likely to be the result of the focussed nature of the interventions which these courts deliver rather than their mere existence which ensures that outcome.

A not dissimilar approach to that taken by these specialist courts in the United States has previously been tried in England and

Wales, albeit not in the context of former service personnel. The North Liverpool Community Justice Centre opened in September 2005 and brought together a magistrates court, a youth court and crown court, together with other criminal justice agencies and a range of problem-solving services (such as drug and alcohol services). It was designed as a one-stop shop for tackling offending in the local area.

A number of analyses, including sensitivity testing, were subsequently conducted on the NLCJC re-offending data. None of these demonstrated evidence of a statistically significant difference in re-offending rates between matched offenders in the relevant group and a comparator across the rest of England and Wales. There were no statistically significant differences found in the frequency of re-offending between these two groups.

There are elements of the specialist courts dealing with former service personnel in the United States which may be capable of being translated in the criminal justice context in England and Wales. Peer mentoring, in relation to which I have made a recommendation in paragraph 3.9, is a good example.

However, on the evidence available to me, I do not accept that the creation of such courts is generally appropriate in the United Kingdom. Our Armed Forces are smaller than those of the United States, and in England and Wales (and I have no reason to suppose that the position is any different in Scotland and Northern Ireland), the criminal courts are already well able to take into account and deal appropriately, whether by ongoing supervision or otherwise, with the special characteristics of defendants appearing before them.

Limitations in terms of time and resources have not permitted me detailed examination of this area. What I can say is that the evidence presently available does not support the creation of special courts for former service personnel in the United Kingdom. Even if it did, as I noted in paragraph 1.7, the creation of such courts would run the risk of undermining public confidence in the equal administration of justice for all offenders.

4. Conclusion

4.1 Improving Outcomes

The evidence and submissions that I have received during the course of this review indicate that former service personnel who fall foul of the law and find themselves engaged with the criminal justice system form a discrete cohort of offenders for whom reoffending rates could be reduced by the implementation nationally of interventions that are presently a matter of luck.

For many offenders in this group, service in the Armed Forces has been the most positive experience of their lives. Finding themselves as offenders can cause depression and occasion behaviours that are likely to lead to further offending.

The public is generous in its funding of service charities, recognising the debt owed to those who have served in the Armed Forces.

However, I have the impression that whilst many of these charities are willing to help former service personnel who have offended to turn their lives around, they presently find it difficult to identify how and where their significant resources should be deployed.

Identification, and partnership working between statutory agencies and the third sector, is in my view the key.

Presently, far too many former service personnel who offend are simply not identified by criminal justice professionals, either because the question is not asked, or because when it is, they are reluctant to self-identify, either due to feelings of having let themselves and the services down, or because of a fear of the consequences of identification.

Almost every professional to whom I spoke pointed out that training police officers, prison officers and others just to 'ask the question' (and to insist in future that it is asked at every stage), is likely to have a discernible effect on reoffending rates. Ensuring

that happens is relatively straightforward and cost effective. So too, ensuring that best practice, presently ongoing in some areas but not others, is rolled out nationally.

That best practice largely involves the delivery of services by the third sector and is likely to cost Government very little. The potential rewards are, however, significant.

4.2 Funding

Specific funding that could be committed in this area does exist. In June 2013, the Chancellor announced that £10m annually would be made available to support the commitments contained in the Armed Forces Covenant. I understand that this money is ring-fenced within the overall Defence budget.

Whilst the overarching purpose of this fund — the LIBOR fund — is to support the delivery of the Covenant through the funding of third sector bodies, the areas in which I have made recommendations (other than those which require specific departmental action) fall within the purposes for which the fund exists.

My final recommendation is, therefore, that the issue of former service personnel within the criminal justice system and of their offending should be considered as one of the priorities for the 2015/16 annual £10m LIBOR fund.

4.3 Recommendations

A list of all of the recommendations that I make is at Appendix B.

Appendix A — Terms of Reference

You, Stephen Phillips QC MP, are invited to conduct an independent review of veterans within the criminal justice system.

You should consult with the cross Government Covenant Reference Group and report to me, Chris Grayling – Lord Chancellor and Secretary of State for Justice, making such recommendations as appropriate, within 6 months.

In conducting the review, you will have full access to relevant government documents and support from Ministry of Justice officials coordinated by a nominated lead official.

The methodology of the review should be at your discretion but should consider the following:

- (1) The rehabilitative needs of ex-service personnel convicted of criminal offences and sentenced to a custodial or community sentence, and the current rehabilitation available to them.
- (2) The process whereby ex-service personnel are identified following conviction.
- (3) Best practice relating to the rehabilitation of ex-service personnel offenders including evidence of effective interventions in other countries.

The report and these terms of reference will be published and copies will be placed in both libraries of Parliament.

18 June 2014

Appendix B — Recommendations

- (1) Within six months of the publication by the King's Centre for Military Health Research of their study examining domestic violence on the part of those who have served in the Armed Forces, the Secretary of State should make a statement to Parliament addressing the issue of domestic violence by former service personnel and the steps being taken across Government to address any issues identified as affecting this cohort of offenders and to prevent their offending.
- (2) Data as to the numbers of those who have served in the Armed Forces and find themselves either in custody or subject to intervention by probation services should in future be routinely captured by the Ministry of Justice. Alongside such data, details of the offences committed and the risk factors associated with, and characteristics of, offenders should be analysed.
- (3) At every stage of an interaction between an offender engaged with the criminal justice system and a professional working within that system, information should in future be captured and recorded as to whether or not that offender has formerly served in the Armed Forces.
- (4) Within twelve months, the National Offender Management Service should, (a) refresh its guidance on working with former service personnel in custody, and (b) publish additional guidance addressing the needs of former service personnel who have offended and are being dealt with in the community.
- (5) To ensure the effectiveness of the Victims in Custody Support Scheme and its proper implementation nationally, the Ministry of Justice should make such elements of the scheme as are necessary to embed it within the custodial and probation services mandatory. Ongoing training should be offered to all criminal justice professionals working in these areas.

- (6) All Liaison and Diversion schemes should develop pathways specific to those who have served in the Armed Forces. The assessment of such pathways should form a distinct part of the evaluation and development of best practice.
- (7) Any directory of healthcare services and providers which is created in accordance with the recommendations of Lord Ashcroft's Veterans Transition Review should be extended to include all relevant or accredited specialist support services and service providers offering interventions for former service personnel who have found themselves engaged with, or are at risk of engagement with, the criminal justice system.
- (8) The Ministry of Justice should work with the Home Office to ensure that every police force in England and Wales implements a specific programme of training for officers to assist in the identification and referral of former service personnel in police custody to support services able to assist in preventing their offending behaviour.
- (9) In conjunction with other government departments and police forces across the country, the Ministry of Justice should implement a court diversion and peer mentoring scheme for former service personnel, centred on the major criminal justice centres within each circuit in England and Wales.
- (10) The National Offender Management Service should in future work with service charities and other bodies (possibly including the cross-government Covenant Reference Group) to ensure the coordination of support from both statutory agencies and service charities to former service personnel who have offended.
- (11) A senior civil servant within the Ministry of Justice reporting to the Secretary of State should be appointed to have responsibility for former service personnel engaged with the criminal justice system, with the aim of ensuring an identifiable national strategy implementing best practice across England and Wales for dealing with this cohort of offenders.

- (12) The Secretary of State should report annually to Parliament on the progress which has been made in addressing the needs of former service personnel who find themselves engaged with the criminal justice system.
- (13) Training as to the issues affecting former service personnel should be offered to all levels of the judiciary, and publications dealing with diversity and fair treatment should be amended to deal with this group of offenders.
- (14) Training as to the issues affecting former service personnel should be encouraged for criminal defence solicitors and counsel as part of the fulfilment of their continuing professional development requirement.
- (15) The issue of former service personnel within the criminal justice system and of their offending should be considered as one of the priorities for the 2015/16 annual £10m LIBOR fund.

