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Chairman  
UK National Defence Medal Campaign

Sir Jonathan Stephens KCB  
Permanent Secretary  
Northern Ireland Office/  
Chair Honours, Decorations and Medals Committee  
1 Horse Guards Road  
London SW1A 2HQ

15<sup>th</sup> January 2018

*Dear Sir Jonathan,*

**COMPLAINT - MILITARY MEDAL REVIEW**  
**EVALUATION BY THE PARLIAMENTARY OMBUDSMAN**

1. In 2010, former Prime Minister David Cameron acknowledged that the military medal system had been the subject of much injustice. He therefore directed the outstanding claims from the various medal campaign groups should be addressed, with a line in the sand being drawn on the matter once and for all.
2. Prime Minister Theresa May also appears to be supportive of the recognition of veterans in her various statements to the media such as:

*“Those who serve our country deserve recognition for their sacrifice throughout their lives. I will continue to make sure they get it.”<sup>1</sup>*

3. It is therefore inconceivable the current Prime Minister is aware of the disrespect shown to veterans in the way their submissions for medallic recognition of service have been dealt with, both by the Ministry of Defence (MoD) and the Cabinet Office, or the issues surrounding the flawed Cabinet Office sponsored military medal review.
4. Factors surrounding this shambolic Cabinet Office medal review are much more serious than those which led Prime Minister Cameron to scrap the previous discredited MoD sponsored medal review in November 2011. Consequently, a more in-depth external evaluation is required. This may only be possible by

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<sup>1</sup> Theresa May's Facebook 13 December 2017; BBC News; TheSun.uk and the Daily Express et.al. 13 December 2017

placing the matter before the Parliamentary Ombudsman, as the conduct of two government departments and some senior individuals within those departments is in question. However, the first step is to try and resolve this matter by reopening the medal review through the Cabinet Office without such a referral to the Ombudsman. This may still require the direction of the Prime Minister.

5. On 31 July 2017 I wrote to you to express my concern about the standard of the investigation carried out in respect of my complaint, which I had made to the Minister for the Cabinet Office, with a copy to Prime Minister May on 14 February 2017. In addition, I informed you that I was not content with the investigation report dated 23 May 2017, which you released to me on 28 July 2017. I also made it clear that I would consider what avenues were now open to me in respect of laying bare the issues with the flawed medal review and how best to take this matter forward.
6. At that time, it is understood you were aware of the outstanding Freedom of Information Act (FOIA) requests from the various medal campaign groups being processed by the Cabinet Office, the Information Commissioner and the First-tier Tribunal (FTT)/Upper Tribunal (UT) judges respectively. This epitomised the dissatisfaction of veterans with the way their medallic submissions had been dealt with by the Cabinet Office sponsored review.
7. The points which are considered pertinent when reviewing the Cabinet Office sponsored independent military medal review are as follows:
  - a. Lack of independence of the Advisory Military Sub Committee (AMSC).
    - i. Sir John Holmes recommended in his July 2012 phase one report, that the AMSC should be established as a sub-committee of the Honours and Decorations Committee (HDC). He also recommended that in maintaining the independence of the review, the AMSC in addition to appropriate officials should be comprised of up to five outside members:
      - three experienced and credible figures not active in frontline politics and representing a broad spectrum of views;
      - an independent military expert;

- and a representative of the Armed Forces Covenant Reference Group.
- ii. This independent grouping was of significance considering the previous discredited and aborted MoD medal review, together with the fact that this sub-committee was in effect to be the ‘gatekeeper’ of the advice the HDC received, and from which this committee would form its decisions and make recommendations to Her Majesty the Queen.
  - iii. The recommendation to form the AMSC with five independent members was endorsed by Prime Minister Cameron. However, it was not constituted as recommended. Instead all its members were from the MoD except for just one independent member. It is unclear if this member attended the inaugural meeting of the AMSC in December 2012, but what is known is he did not attend the only other meeting of the AMSC in August 2013.
  - iv. It has not been possible to determine why or by whom the decision was made to disregard the recommended independent membership of the AMSC. However, from the moment that happened the medal review lost its openness, transparency, fairness and its credibility.
  - v. This situation should have raised concerns within the Honours and Appointments Secretariat who were leading on behalf of the Cabinet Office. The matter should also have been raised by Sir John Holmes, as he had made the recommendation on the constitution of this sub-committee, and was aware of the crucial importance of the independence of the AMSC.
- b. Loss of government department documents.
- i. A FOIA request to the MoD for the redacted minutes of the inaugural meeting of the AMSC, which took place on 5 December 2012, was initially turned down. However, on internal review the MoD stated that the minutes were being studied to determine if the information could be released. After a further two months the MoD

claimed the minutes had been lost or it was possible they never existed.

- ii. The loss of this key inaugural meeting document is extraordinary as the military medal review was categorised by government as, “*the most far ranging independent review of military medals for a generation.*” It is understood this meeting was attended by senior civil servants of the MoD and former senior officers. They would have been expected to have discussed the terms of reference of the newly formed AMSC and the way it would deal with the Holmes report and subsequent follow up studies within the medal review. It is understood that Sir John Holmes also attended the meeting, this made the loss of the minutes even more remarkable.
  - iii. The AMSC had been specifically established as a sub-committee of the HDC to fully scrutinise Sir John Holmes findings on all the medallic submissions and provide advice to the HDC. In addition, the Head of the Honours and Appointments Secretariat was also the Secretary to the HDC. It is therefore difficult to understand how all the copies of the minutes of this key inaugural meeting both in the MoD and the Cabinet Office could have been lost or that official minutes were not recorded, without it raising concerns within the Honours and Appointments Secretariat.
- c. Failure of the AMSC to appropriately review the medal submissions.
- i. A FOIA request to the MoD on 27 August 2014 sought the release of the redacted minutes of the AMSC meeting which took place on 29 August 2013. This was initially refused but eventually obtained after two years of correspondence on 30 August 2016, although only after the direction of the FTT judge.
  - ii. The redacted minutes of the 29 August 2013 meeting portrayed a lack of objectivity by AMSC members, with similar statements made as those which had contributed to the previous MoD medal review being discredited and aborted by the Prime Minister.

- iii. In addition, the redacted minutes of this two-hour meeting, which had to deal with 21 medal submissions, showed that some submissions had not actually been reviewed by Sir John Holmes. Other submissions such as that for the British Cold War medal had not been appropriately reviewed by the AMSC and some not reviewed by them at all. This displayed a lack of due diligence by the sub-committee and a disrespect for the service that veterans had provided to the Nation, in keeping it safe and secure since the ending of the Second World War.
  - iv. Details of the abrogation of the responsibilities of the AMSC collectively and the conduct of its individual members (obtained through FOIA requests) question the veracity of the advice provided to the HDC, the subsequent soundness of the decisions made by this prestigious committee and its recommendations to Her Majesty the Queen.
  - v. On 13 October 2017 the MoD confirmed (in response to a further FOIA request) that there had been no further meetings of the AMSC since August 2013.
  - vi. Such alarming shortfalls in the military medal review call into question the credibility of oversight exercised by the Honours and Appointments Secretariat on behalf of the Cabinet Office, who had been entrusted with this important responsibility of sponsorship by the Prime Minister.
- d. The HDC made decisions based on unsound advice.
- i. The HDC were made aware that the AMSC had provided unsound advice for their meetings in correspondence between medal campaign groups and the Honours and Appointments Secretariat. It was this correspondence which led to the National Defence Medal (NDM) being an agenda item of the HDC February 2015 meeting.
  - ii. A redacted version of the discussions at this meeting was the subject of an FOIA request in April 2015. The Cabinet Office refused to release the information sought. However, after progress

through the various FOIA tiers of review, an FTT judge on 10 January 2017, directed the information be released into the public domain.

- iii. The Cabinet Office appealed against the FTT judgement to the UT. This case was eventually heard by three judges at the UT on 26 October 2017. Their decision on the Cabinet Office appeal to resist the release of the redacted minutes is still awaited.
- iv. A further FOIA request to the Cabinet Office was submitted in February 2017 seeking details of which HDC members **did not** attend the HDC meetings which dealt with the military medal review in January 2014, July 2014 and February 2015.
- v. The Cabinet Office refused to release this information. It claimed, *“regardless of whether the individuals are physically at the meeting their views are represented in writing or through a senior representative”*. The Cabinet Office also expressed their concern that if the names of the members of the HDC who did not attend were released, *“disclosure could be used to infer a lack of rigour or questionable decision making”*. On 7 December 2017 the Information Commissioner dismissed these claims by the Cabinet Office and directed the release of the names within 35 Calendar days i.e. by 11 January 2018.
- vi. On 12 January 2018 the Head of Legal at the Information Commissioner’s Office confirmed that the Cabinet Office had lodged their intention with the FTT to appeal. No details for the grounds of the appeal have yet been made against the Information Commissioner’s decision but the Cabinet Office have been provided more time by the Tribunal to prepare their papers.
- vii. The cost both in time to staff of the Cabinet Office and in legal fees expended by the Cabinet Office over almost one year in this matter is likely to be significant. It also indicates that some HDC members were absent from the meetings which discussed the findings of, *“the most far ranging independent review of military medals for a*

*generation.*” Just how many members were absent and whether it included the Chair of the HDC at the time, has yet to be revealed.

- viii. It is not known what each of the HDC members were aware of in respect of each of the military medal submissions. However, written statements by absentee HDC members or representation by their senior staff, does question the rigour of discussion at the HDC meetings; the soundness of the decisions made, and further questions the credibility of the Cabinet Office sponsored military medal review.
- ix. The fact that members of the HDC were not in attendance at meetings which discussed the advice provided to it by the AMSC, also confirms that the Honours and Appointments Secretariat misled MPs, veterans and members of the public in their correspondence, when it stated the committee (HDC) had carried out *thorough, lengthy, full and careful discussions* prior to making its decisions.
- x. Where unsound decisions have been arrived at based on inaccurate and erroneous advice and promulgated through misleading information, the continued right to claim a ‘safe space’ in which to formulate and develop policy is questioned. Such a situation is considered to invalidate any exemption claimed by the Cabinet Office from releasing further information about the medal review into the public domain once the public interest test is applied.
- e. An inadequate independent investigation and derisory report. It is spectacularly mindboggling that such an inadequate investigation was carried out and such a derisory report produced that was subsequently endorsed by the Cabinet Office.
  - i. The complaint I submitted on 14 February 2017 related to the failure of the Cabinet Office senior civil servants to exercise their overarching responsibilities of the military medal review with due diligence. This included compliance with the independence of the AMSC membership and the soundness of advice presented to the HDC from which it made its decisions and subsequent recommendations to Her Majesty. The complaint was also about

the spurious information that had been disseminated to MPs, veterans and members of the public, which also misled Parliament.

- ii. In a letter to a Member of Parliament, the Honours and Appointments Secretariat designated the investigation as being both “*independent and external*”. The person selected to carry out the investigation was a former senior civil servant. His name was not revealed to me prior to or during the investigation and was redacted on the investigation report dated 23 May 2017, which was released to me on 28 July 2017. Only when details were requested for submission of papers to the UT, in respect of another matter concerning the medal review, did the Cabinet Office release details of the investigator in September 2017. This identified that the investigator had worked as a senior civil servant in the Cabinet Office until 2015 and had previously held senior appointments in the MoD.
- iii. The investigator had access to all documents appertaining to the military medal review, many of which contained judgements by the Information Commissioner and FTT judges together with details of cases that were still the subject of a review by these organisations. He was aware that the previous MoD medal review had been discredited and aborted by the Prime Minister in late 2011. The investigator was also aware of government policy and the directive of the former Prime Minister on openness and transparency and the significant requirement not only for independence of the review to exist but to be seen to exist.
- iv. Despite all the evidence available, the investigator concluded there was no case to answer by any senior civil servant within the Cabinet Office.
- v. In addition, the investigator construed that although the composition of the AMSC did not comply with the Holmes review recommendation at phase one, it was reasonable to have delegated the responsibility to the MoD as he considered the purpose of the AMSC was to provide expert military advice to the HDC. He disregarded totally the rationale for the independent composition of the AMSC membership. The investigator also ignored the reasons

why the medal review had been removed from the MoD in 2011 and placed under the sponsorship of the Cabinet Office in 2012.

- vi. The findings of this investigation were astonishing in respect of the complaint surrounding the lack of objectivity of the AMSC in carrying out its role and tasks and failure to review the medal submissions appropriately or not at all. In his report the investigator assessed the AMSC review of all the medal cases merited a statement of it being both “*thorough and full*”. These conclusions are at variance with the situation portrayed in the AMSC August 2013 meeting minutes.
  - vii. Failure to provide openness and transparency of the medal review in accordance with government policy and the Prime Minister’s directive was deduced by the investigator to be the responsibility of the HDC and not the Cabinet Office senior civil servants. He appeared to indicate that this was acceptable but made no mention as to whether it was an individual decision or collective decision of the HDC to ignore both government policy and the PM’s directive.
  - viii. In respect of the allegation of spurious and misleading correspondence being disseminated by the Honours and Appointments Secretariat to MPs, veterans, members of the public and Parliament over a period of three years, the investigator assessed it all to be “*innocuous*”.
  - ix. Comments in respect of the investigation into the erroneous cost of the NDM are below at sub paragraph 7f as they are more extensive.
- f. Production and promulgation of erroneous NDM costs.
- i. In commenting on the erroneous statement of the institution of the NDM costing four hundred and seventy-five million pounds (£475M), made to Parliament by different Ministers representing the Cabinet Office on two separate occasions in April 2016, the investigator confirmed this had been an error. He further explained in his report that the £475M had been attributed incorrectly to the review (as opposed to the MoD) and recommended Parliament should be informed at the earliest possible time of the error.

- ii. In addition, the investigator concluded that affordability of the NDM had not been a factor and did not influence the HDC's decision in turning the submission down as they had not considered the cost of the medal. Unfortunately, he failed to mention that the erroneous, estimated cost of the NDM, had been a significant factor for the members of the AMSC in their deliberations as evidenced by the August 2013 meeting minutes. It is therefore inconceivable that the erroneous cost of the NDM was not postulated in advice to the HDC by this committee.
- iii. Four months later, the investigator's conclusions were contradicted in an email (dated 13 September 2017) from the Head of Honours Policy in the Cabinet Office. In response to an FOIA request she stated that the estimated figure of £475M had been correctly reported, came from the MoD Options paper<sup>2</sup> and formed part of the evidence considered by the HDC.
- iv. There can be little doubt that the AMSC advice and the HDC decision making process was part of the overall medal review. Therefore, the accuracy of the investigator's findings on the erroneous £475M in his report is questioned, as is his conclusion that the HDC did not consider the erroneous NDM costs.
- v. The subsequent Ministerial Correction - Written Statement to Parliament (HCWS138) dated 14 September 2017, made by the Minister for the Constitution on behalf of the Cabinet Office, aimed at addressing the misinformation previously provided to Parliament, actually further misled Parliament. Whether the erroneous cost of £475M is attributed to the MoD or the Medal Review per se, the statement by the Minister is wrong.
- vi. The cost of the NDM from a UK reputable manufacturer, using British materials, is just £5.00 per medal including ribbon and box. This would cost twenty million pounds (£20M), spread over five to

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<sup>2</sup> The Options paper formed part of the Ministerial statement on the Medal Review conclusions to the House of Lords on 29 July 2014 as the House of Commons had risen the day before for their summer recess.

seven years, if four million veterans were to apply. Not **£475M**, which is a significant difference.

g. Misuse and failure to account for taxpayers' money.

- i. The various medal campaign groups, representing tens of thousands of British Service veterans from across the UK and those living overseas, have only ever wanted (and still do want) an open, transparent and fair medal review, which carefully assesses their various submissions and results in either a recommendation being made to Her Majesty for the institution of their medal or factual reasons clearly articulated as to why this should not be the case.
- ii. Instead, the MoD and Cabinet Office have spent an inordinate amount of taxpayers' money, especially on legal representation, in a murky process, which has involved: the loss of government documents; a failure to appropriately review military medal submissions; unsound advice presented to the HDC; an attempt to disguise the lack of thoroughness of discussions by HDC members; inaccurate and misleading statements to Members of Parliament; together with the likelihood that misinformation has been presented to Her Majesty.
- iii. It is estimated somewhere in the region of £200,000.00 may have been expended by the MoD and Cabinet Office in their endeavours to keep out of the public domain, information that was of public interest, about a medal review which the former Prime Minister had directed should be open and transparent. This expenditure is the equivalent of the cost of 40,000 National Defence medals.
- iv. However, it is unlikely the true cost will ever be known. For example, in response to a FOIA request for details of how much taxpayers' money had been expended over a two-year period on legal representation, in a specific case which the Cabinet Office had elevated through their appeals to the Upper Tribunal level, the Cabinet Office stated that such information could not be provided as they did not keep either manual or electronic records of such expenditure. This calls into question the rigour of accounting, audit and governance by the Cabinet Office of these public funds.

- v. Various medal campaign groups are still involved with FOIA requests that are either with the Information Commissioner or the FTT/UT. In all cases the Cabinet Office are needlessly continuing to expend taxpayers' money on legal representation, by refusing to release information about the medal review.
8. The situation portrayed in this medal review process does not make for good reading but does need to be addressed. Regardless of what government departments or individuals within those departments may subjectively think about the institution of various medals; those who have contributed to keeping this Nation and its interests safe and secure since the ending of the Second World War have earned the right to expect an open, transparent and fair review of their submissions.
9. There appears to be two options available to address the myriad of issues surrounding what has been shown to be a flawed military medal review, sponsored by the Cabinet Office:

Option One. The military medal review is reopened as requested in my complaint of 14 February 2017. All medal submissions (which were turned down by the review) are revisited by an AMSC, which is constituted as recommended in the Holmes phase one report. The process of the AMSC deliberations is an open, transparent and fair process, as promised by former Prime Minister Cameron. The advice of the AMSC is then appropriately discussed at a meeting of the HDC, which its members attend, with justifiable reasons made public as to why specific medals are to be either recommended to Her Majesty or turned down.

Option Two. The matter is referred to the Parliamentary Ombudsman through the appropriate channels with a request for an in-depth evaluation of the whole Cabinet Office sponsored independent military medal review process, with the aim of reopening the military medal review.

All medal submissions, which were turned down by the review are revisited by an AMSC, which is constituted as recommended in the Holmes phase one report.

The process of the AMSC deliberations is an open, transparent and fair process as promised by former Prime Minister Cameron.

The advice of the AMSC is then appropriately discussed at a meeting of the HDC, which its members attend, with justifiable reasons made public as to why specific medals are to be either recommended to Her Majesty or turned down.

10. Option One is considered the most constructive, economical and least time consuming of the two options available, therefore may be considered the most appropriate in rectifying the situation that currently exists. Perhaps a discussion within the next few days between your private secretary and myself may help in taking this matter forward.
11. I have copied this letter as an attachment to my correspondence with the Prime Minister, Secretary of State for Defence and Minister responsible for the Cabinet Office. A copy has also been sent to Sue Gray for information and any action she may deem necessary. In the interests of openness and transparency this letter will also be posted on the NDM website on 1 February 2018 and therefore in the public domain from that date.

Copy to:

The Rt Hon Theresa May MP - Prime Minister

The Rt Hon David Lidington MP - Minister for the Cabinet Office

The Rt Hon Gavin Williamson CBE MP -Secretary of State for Defence

Sue Gray The Cabinet Office Director General, Propriety and Ethics