

**REPORT ON THE REVIEW OF THE EXCLUSION OF WOMEN
FROM GROUND CLOSE-COMBAT ROLES**

(November 2010)

REVIEW OF THE EXCLUSION OF WOMEN FROM GROUND CLOSE-COMBAT ROLES

Introduction

1. In 1997, the then Secretary of State for Defence announced in Parliament¹ that, following a comprehensive review of policy on the employment of women in the Army, it was decided that the number of posts open to women in the Regular Army would be increased. At the same time, it was announced that a study would be carried out to determine whether opportunities for women across the Armed Forces could be expanded, whilst taking account of the potential impact on combat effectiveness which the introduction of women to forward units could cause. A subsequent report entitled “*Women in the Armed Forces*” set out the results of the study including an assessment of the performance and suitability of women in close-combat roles. The then Secretary of State announced in Parliament on 22 May 2002² that, taking account of this report and drawing upon the advice of the Chiefs of Staff, the case for lifting the restrictions on women serving in ground close-combat roles had not been made. This was on the basis that there was no way of knowing whether mixed gender teams could function as well as all-male teams in a ground close-combat environment. Empirical evidence on this subject could not be obtained and there was no way to replicate the conditions of close-combat by any other means, short of risking personnel in battle. The MoD and Armed Forces were not prepared to take that risk. Women are therefore currently excluded from ground combat units where the primary role is to close with and kill the enemy. This meant that cap-badged posts in the Royal Marines general service; the Household Cavalry and Royal Armoured Corps; the Infantry; and the Royal Air Force Regiment remained closed to women.

Legal Basis for Excluding Women from Ground Close-Combat Roles and Requirement to Review

2. Under United Kingdom legislation, Section 85(4) the Sex Discrimination Act 1975 (SDA 75) provided an exemption for the purpose of ensuring the combat effectiveness of the Armed Forces. Similar provision is made at Schedule 3, Part 1, para 4 of the Equality Act 2010. This exemption allows women to be excluded from those posts where the military judgement is that the employment of women would undermine and degrade combat effectiveness.

3. In October 1999, the European Court of Justice found, in the case of *Sirdar versus the Army Board and the Secretary of State*³, that the exclusion of women from service in combat units, such as the Royal Marines, may be justified by reason of the nature of the activities in question and the context in which they are carried out. The Equal Treatment Directive⁴ did not preclude such exclusions where they were proportionate, appropriate and necessary for the purpose of guaranteeing public security. The key role of proportionality in determining the scope of a derogation from the fundamental right of equal treatment was confirmed in *Kreil versus Bundesrepublik Deutschland (2000)*.

4. Whilst the *Sirdar* ruling (see para 3 above) indicates that the continued exclusion of women from certain ground close-combat roles in the Armed Forces can be justified, the United Kingdom is also bound by European Community (EC) law to reassess such occupations periodically in order to decide, in the light of social developments, whether there is justification for maintaining the exclusion of women from them. The United Kingdom must notify the European Commission of the results of such reassessments periodically, but at least every eight years⁵.

¹ Official report: 27 October 1997 Col 616

² Official Report: 22 May 2002 Cols 363W-364W

³ The *Sirdar* Case related to the refusal to allow Mrs Sirdar, an Army chef who had been made redundant, to serve as a chef in the Royal Marines.

⁴ Council Directive 76/207/EEC.

⁵ This requirement is set out in Article 9 of the EC Equal Treatment Directive.

5. In 2008, the Department's Legal Advisers advised that the Armed Forces could not continue to exclude women from ground close-combat roles indefinitely on the basis of the Secretary of State's statement of 22 May 2002 and, following QC's advice received by the Army Legal Service in December 2007, agreed that a review during 2009-2010 would be appropriate to meet the requirements of EC law (see para 4 above).

Conduct of the Review

6. The Terms of Reference for the review are at Annex A and agreed definitions used in the review are at Annex B. The review comprised three main workstrands:

- i. a review of recent research literature (ie. published since 2002) on the effectiveness of mixed-gender teams in a combat environment;
- ii. an assessment of women's roles in recent operations;
- iii. consideration of the experience of other nations in employing women in ground close-combat roles.

The review also assessed whether the conclusions reached on physiological issues in the *Women in Combat Study 2002* remain unchanged.

The Defence Science and Technology Laboratory (Dstl) was employed to undertake workstrands (i) and (iii), while Berkshire Consultancy Limited (BCL) was appointed as an independent research organisation to assist with workstrand (ii).

7. The Equality and Human Rights Commission were notified at the outset about the review and its views are at Annex C.

Results of the Research

8. The reports on the research commissioned in support of the review (see para.3 above) are being published alongside this report. The reports are published in full and have not been amended or redacted.

Reaching a Decision on the Review

9. The full rationale for the decision taken in 2002 to exclude women from ground close-combat roles is at Annex D. The key question that the 2009 – 10 review has addressed is whether the conclusions of the new research commissioned in support of the current review are such as to provide sufficient evidence to warrant a change to the policy announced in 2002.

10. The Minister for Defence Personnel, Welfare and Veterans(DPWV) met with the Service Chiefs in October 2010 to consider the results of the research. In assessing the research, they not only evaluated the evidence that the individual pieces of research provided but also considered the relative weight that needed to be accorded to each of the conclusions.

11. In assessing the results of the research under workstrand (ii), Minister(DPWV) and the Service Chiefs noted that:

- the research provided evidence of the effectiveness of women in ground close-combat situations (ie. one-off events). But this evidence did not address ground close-combat roles (ie. engaging in such activities on a daily basis). It was necessary to consider how far effectiveness in the former could be taken as indicative of likely effectiveness in the latter;

- the questionnaires were designed to assess the effect of women on team cohesion in ground close-combat situations against a pre-designed measure of team cohesion⁶.

12. Minister(DPWV) and the Service Chiefs judged that, overall, the conclusions to be drawn from the research are mixed and do not provide the basis for a clear recommendation either way as to whether the current policy of excluding women from ground close-combat roles should be retained or rescinded. The Service Chiefs' view were clear that women are fundamental to the operational effectiveness of the UK Armed Forces, bringing talent and skills across the board, and in some areas they are better than men. Their capability in almost all areas is not in doubt, they win the highest decorations for valour, and demonstrate that they are capable of acting independently and with great initiative. But these situations are not those typical of the small tactical teams in the combat arms which are required deliberately to close with and kill the enemy. The consequences of opening up these small tactical teams in close combat roles to women are unknown. Other nations have very mixed experiences.

Conclusion

13. In the light of the inconclusive nature of the research and the views of the Service Chiefs, and taking into account the views of the EHRC (Annex C), Minister(DPWV) decided that a precautionary approach was necessary. Accordingly, the current policy of excluding women from ground close-combat roles whilst ensuring that the maximum numbers of trades are available to provide opportunity to those women who wish to serve their country should continue. Minister(DPWV) was satisfied that the continued exclusion of women from ground close-combat roles was a proportionate means of maintaining the combat effectiveness of the Armed Forces and was not based on a stereotypical view of women's abilities but on the potential risks associated with maintaining cohesion in small mixed-gender tactical teams engaged in highly-dangerous close-combat operations. This view was subsequently endorsed by the Secretary of State for Defence.

Announcement of the Outcome of the Review

14. Minister(DPWV) announced the outcome of the review to Parliament in a Written Ministerial Statement on [November 2010] and that formal notification of the European Commission to meet the UK's statutory obligations would take place in due course (see para.4 above).

⁶ The MoD Occupational Psychologist who oversaw this work has advised that the relatively low response rate does not invalidate the conclusions reached.

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TERMS OF REFERENCE

The Ministry of Defence is obliged to assess whether the justification for excluding women from ground close-combat roles can be maintained and to notify the European Commission of the results of the assessment. The policy was last reviewed in 2002. On the advice of the Ministry of Defence's Legal Advisers, The Secretary of State has agreed that a review of this policy should be carried out in 2009-2010.

The focus of the review will be on the exclusion of women from ground close-combat roles. Other roles, such as the exclusion of women from service in submarines, will not be considered. It is not the intention to re-evaluate work carried out as part of the previous review in 2002 but to build upon it.

The review will be based on the premise that any recommendations for changes to the existing policy need to be gender-free.

The review will comprise:

- iv. a review of recent research literature (ie. published since 2002) on the effectiveness of mixed-gender teams in a combat environment;
- v. an assessment of women's roles in recent operations. This will include an analysis of incidents where women have been involved in ground close-combat situations either as a result of the need to defend themselves or as a result of them undertaking forward roles where women are already employed eg. on combat logistic patrols, as Forward Observation Officers, etc.) The review will examine the attitudes of the men and women involved in such incidents, together with those of the commanders on the ground, in order to assess the potential impact of mixed-gender teams on team cohesion and combat-effectiveness;
- vi. consideration of the experience of other nations in employing women in ground close-combat roles. This will also take into account of the work being undertaken through the Committee on Women in NATO Forces (CWINF).

The review will also ensure that the conclusions reached on physiological issues in the Women in Combat Study 2002 remain valid.

Hd SP Pol SCW will be responsible for the overall direction of the review.

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DEFINITIONS

Cohesion. Joint Doctrine Publication 0-01 defines moral cohesion as:

“a source of moral fortitude to fight and to keep on fighting...Cohesion occurs when individuals want, or are encouraged, to work together, normally to share tasks, provide each other with support and to achieve a common enterprise. Moral cohesion depends on cultural solidarity, shared experiences, a common sense of worth, appropriate discipline and an expressed collective identity, which is sustained by shared common values and standards. It embodies genuine and deep comradeship that endures, notwithstanding violence and fear of death and injury.”

Combat Effectiveness. Based on the definition in JDP 0-01 Edn 7, Jun 06 and including a statement on cohesion:

“The ability of a unit/formation/ship, weapon system or equipment to carry out its assigned mission, role or function. The cohesion of a unit is a vital factor in its combat effectiveness.”

Definition of Ground Close Combat Roles :

“Roles that are primarily intended and designed with the purpose of requiring individuals on the ground to close with and kill the enemy’.

Definition of Ground Close Combat:

“Ground close combat is combat with the enemy over short range on the ground.”

Supporting Comments. *For the purposes of this review, the key distinction is the matter of unit role, the primary function or purpose. Units with ground close combat roles have ground close combat as the defining element of their function and ethos and it is at times actually sought. It involves not only the use of weapons such as assault rifles and machine guns, but also grenades, bayonets and hand to hand fighting. By contrast, in units with other roles (many of which roles are warlike and operationally vital), an individual could be ‘involved in’ an incident of ground close combat as an incidental result of delivering their outputs, despite their role not being a ‘ground close combat role.’*

REVIEW OF THE EXCLUSION OF WOMEN FROM GROUND CLOSE-COMBAT ROLES**TEXT OF LETTER FROM THE EQUALITY AND HUMAN RIGHTS COMMISSION DATED 18 NOVEMBER 2009**

Thank you very much for the opportunity to contribute to this review.

The Commission's views on this issue remain unchanged since its submission to the Defence Select Committee Inquiry on Recruitment and Retention in 2008 (the Committee's 14th Report of 2007 – 8). Rather than repeat the content of the submission in this letter, I have attached the relevant extract from it (see below).

In addition to the points made in that submission, the Commission believes that in carrying out the Review the Armed Forces and MoD need to ensure:

- compliance with the Gender Equality Duty and, in particular, the positive obligations which the Duty imposes on the Armed Forces and the MoD to promote equality of opportunity;;
- it has regard to the clear steer from the courts at both UK and European levels that any exclusions from the principle of gender equality must be narrow in their scope, address a legitimate aim and be a proportionate means of achieving that aim;
- ensure that the justification for a continued exclusion does not rely on societal attitudes towards the idea of women being involved in close-combat. The Commission's view is that such views are themselves manifestation of stereotypical attitudes towards women and their roles. Any continued exclusion should be based on tangible, objective evidence on 'combat effectiveness' at ground level rather than on such stereotypes.

Extract from the Commission's submission to the Defence Select Committee's Inquiry into Recruitment and Retention of Service Personnel

4.9 The Commission acknowledges (as did the EOC) that nothing should be done to jeopardise the combat effectiveness of the Armed Forces. That principle is recognised by s85(4) of the Sex Discrimination Act 1975 (SDA) which provided that nothing in the SDA should render unlawful an act done for the purposes of ensuring the combat effectiveness of the Armed Forces.

4.10 The EOC in its engagement meetings with the Armed Forces prior to the launch of the formal investigation in 2005 did press the Armed Forces to ensure that any restriction placed on women's roles in the Armed Forces was strictly necessary to ensure combat effectiveness. The EOC's particular concern was that such restrictions should not be based on stereotypical views of the abilities of women to cope with pressures of frontline fighting or notions of 'societal attitudes' being unwilling to accept a notion of women closing and killing the enemy.

4.11 The Commission acknowledges that the majority of roles within the Armed Forces are open to women. Despite restrictions on roles involving 'closing and killing' with the enemy endorsed by the 2002 report on Women in the Armed Forces women do play a frontline role in the Armed Forces. A vivid illustration of this was the award of the Military Cross to Private Michelle Norris in March 2007, the first time that a Military Cross has been awarded to a woman.

4.12 However, the Commission believes it is important to constantly re-evaluate and vigorously test any restrictions on the role of women in the Armed Forces. The report of the 2007 Servicemen's survey identified a need to address stereotypical views of the relative qualities of servicemen and servicewomen. The report suggested that one means of doing this would be to publicise the contribution of servicewomen on the frontline. The Commission believes that the report finding also points to a need for the Armed Forces to regularly re-examine restrictions to ensure they are not themselves rooted in stereotyped views of women's capabilities.

4.13 Section 10.2 of the same report notes the evidence that greater experience of working alongside women 'is linked with more positive attitudes towards working with women and less agreement that the stereotypical and biological differences between men and women pose challenges to mixed teams'. This underlines the 'virtuous circle' that can be created by not only increasing the number of women recruited but ensuring they work alongside servicemen. The findings suggest that the more this happens, the better the attitude of service men towards women. This will, in the Commission's view, contribute towards a decrease in the level of sexual harassment, which should in turn feed into encouraging more potential female recruits to join the Army.

RATIONALE FOR THE DECISION TAKEN IN 2002 TO EXCLUDE WOMEN FROM GROUND CLOSE-COMBAT ROLES

'The Secretary of State is satisfied that as some women will certainly be able to meet the standard required of personnel performing in close combat roles, the evidence of women's lower physical capacity should not, in itself be a reason to maintain the restrictions. Nor are the identified psychological differences between men and women, or the gap in the capacity for aggression, compelling evidence that women would perform less well in close combat.

The key issue is the potential impact of gender mixing in the small teams essential to success in the close combat environment. The small size of the basic unit in ground combat, coupled with the unrelenting mental and physical pressure extending over days or weeks, sets them apart from other military roles. Even small failures in a high-intensity close combat environment can lead to loss of life or the failure of the team to meet its objectives. None of the work that either has been, or could be, done can illuminate the key question of the impact of gender mixing on the combat team in close combat conditions.

Given the lack of direct evidence, from either field exercises or from the experience of other countries, the Secretary of State concluded that military judgement must form the basis of any decision. The military viewpoint was that under the conditions of a high intensity close-quarter battle, group cohesion becomes of much greater significance to team performance and, in such an environment, the consequences of failure can have far-reaching and grave consequences. To admit women would, therefore, involve a risk with no gains in terms of combat effectiveness to offset it.

The above arguments have been considered in relation to each of the units and roles in question - the Royal Marines General Service, Household Cavalry and Royal Armoured Corps, Infantry and the RAF Regiment – to decide whether or not they apply equally to them all. As all the roles necessitate individuals working together in small teams which have to face and engage the enemy at close range, the Secretary of State for Defence concluded that the case for lifting the current restrictions on women serving in combat roles has not been made for any of the units in question. Taking the risk that the inclusion of women in close combat teams could adversely affect those units in the extraordinary circumstances of high intensity close combat cannot be justified.'