

SARAH Bill is in conflict with the Armed Forces Covenant

'Aims of the Bill would be better achieved through greater education of society on the law'

The controversial SARAH Bill may be exploited by employers, such as the Ministry of Defence (MoD), so as to escape liability for negligence.

A solicitor who has represented Armed Forces personnel since 1987, Hilary Meredith, CEO of Hilary Meredith Solicitors, is only too aware of the difficulties servicemen and women already face in obtaining compensation for injuries sustained while representing their country.

Speaking at the Association of Personal Injury Lawyers' (APIL) Autumn conference, Meredith, said: "The Social Action, Responsibility and Heroism Bill (SARAH) is a grand a title and as long as the Bill is short. It has been considered a piece of nonsense."

She continued: "At best it is a piece of PR. At worst it sends a message. It would have been better off being sent from Grayling's Twitter account. I would suggest removing clauses 2, 3 and 4 so that the remaining two clauses would fit into a tweet."

"Without a doubt, Grayling's perception of the compensation culture plays at large here. The Bill's aim is to encourage participation by society as people are deterred from entering into activities because they are afraid of being sued. Yet there is no evidence to suggest people are deterred from volunteering because of fears over liability."

She added: "We have searched through the archives for any 'hero' who has been sued and we couldn't find anybody. So what is its true aim then?"

Vicarious liability

Meredith suggested the proposed legislation is likely to be used by employers to exploit and avoid liability for injury to their employees.

"My fear is that it might be used by the Ministry of Defence," she warned. "Given the current appetite for legislation to define combat immunity, and bring back Crown immunity, there is a concern that the Bill unintentionally allows for an expansion of combat immunity, enabling the MoD to escape vicarious liability through the back door."

Meredith said that SARAH arguably puts members of the armed forces at a disadvantage compared to civilians who are injured. "Is this a three pronged attack by the MoD to avoid liability? At the very least this is a breach of the armed forces Covenant."

The covenant was published in May 2011 along with a document called 'Today and Tomorrow' which lists almost 100 commitments the government has made to the armed forces community.



The covenant itself, though not a legal document, has had its key principles enshrined in law in the Armed Forces Act 2011. The legislation obliges the defence secretary to report annually on progress made by the government in honouring the covenant.

Meredith suggested that, by its very nature, the MoD will always satisfy clauses 2, 3 and 4, and consequently SARAH would be in conflict with the covenant.

"The potential implications of this Bill for such injured personnel are catastrophic," said Meredith. "The aim of the Bill would be better achieved through greater education of society on the law."

Concluding her presentation, Meredith called on practitioners to "continue to gather support for opposition" to the Bill in parliament.