



**Ministry  
of Defence**

**JSP 831  
Redress of Individual Grievances: Service  
Complaints**

**Part 1: Directive**

# Foreword

People lie at the heart of operational capability; attracting and retaining the right numbers of capable, motivated individuals to deliver Defence outputs is critical. This is dependent upon maintaining a credible and realistic offer that earns and retains the trust of people in Defence. In order to achieve this, all personnel must be confident that, not only will they be treated fairly, but also that their families will be treated properly and that Service veterans and their dependants will be respected and appropriately supported.

JSP 831 is the authoritative policy and guidance for all MOD Service personnel when making, responding to, advising on, investigating and deciding Service Complaints.

**Lt Gen James Swift**  
**Chief of Defence People**  
**People Functional Owner**

# Preface

## How to use this JSP

1. JSP 831 is intended as a guide for all MOD Service, MOD Civil Service personnel and civilians on the application of policy for Service Complaints. It is designed to be used by Service personnel when making a complaint and by all those responsible for handling and managing such complaints. This JSP contains the policy and direction on Service Complaints and guidance on the processes involved and best practice to apply.
2. The JSP is structured in two parts:
  - a. Part 1 - Directive, which provides the direction that must be followed in accordance with statute or policy mandated by Defence or on Defence by Central Government.
  - b. Part 2 - Guidance, which provides the guidance and best practice that will assist the user to comply with the Directive(s) detailed in Part 1.

## Coherence with other Policy and Guidance

3. Where applicable, this document contains links to other relevant JSPs, some of which may be published by different Functions or Defence Authorities. Where particular dependencies exist, these other Functions or Defence Authorities have been consulted in the formulation of the policy and guidance detailed in this publication.

Related JSPs	Title
<a href="#">JSP 763</a>	Behaviours and Informal Complaint Resolution

## Further Advice and Feedback - Contacts

4. The owner of this JSP is the CDP Service Complaints Team. For further information on any aspect of this guide, or to ask questions not answered within the subsequent sections, or to provide feedback on the content, contact:

Job Title/Email	Project focus	Phone
People-Sec-Complaints Pol 3	Service Complaints C1	0207 80 70077
People-Sec-Complaints Pol 2	Service Complaints C2	0207 80 78619

# Record of Changes

Version No	Authority	Date	Comments
1.0	Chief of Defence Personnel Service Complaints Team	1 Jan 2016	Fully revised in line with new Service Complaints Process effective from 1 Jan 2016 and new standard two-part JSP format.
1.1	Chief of Defence Personnel Service Complaints Team	22 Jan 2016	Minor formatting changes: <ul style="list-style-type: none"> <li>• contents page numbered.</li> <li>• hyperlinks added to contents page and link to glossary.</li> <li>• Annex F now attached.</li> </ul>
1.2	Chief of Defence People Service Complaints Team	16 Oct 2020	Major formatting and amendments to entire document: <ul style="list-style-type: none"> <li>• Articles 6(1)(c) and 6(1)(e) of the GDPR<sup>1</sup> and sections 8(c) and 8(d) of the DPA 18 defined.</li> <li>• updated contact details for single Service Secretariats and the SCO.</li> <li>• complaint withdrawal process outlined.</li> <li>• annex on transitional arrangements removed.</li> <li>• defining sources of support available to all parties.</li> <li>• confirmation of process for Respondents who are not Service personnel.</li> </ul>
2.0	Chief of Defence People Service Complaints Team	29 Jun 2021	Major formatting and amendments to entire document including but not limited to the following: <ul style="list-style-type: none"> <li>• amendment to para 1 of preface.</li> <li>• amendment to para 1a of Chapter 1.</li> <li>• Chapter 1, paras 5-8 – MOD Policy statement added.</li> <li>• Chapter 1, para 28 removed – transitional provisions.</li> <li>• Chapter 2, para 35 &amp; Chapter 3, para 22 – confirmation of process for Respondents who are not Service personnel.</li> </ul>

<sup>1</sup> [General Data Protection Regulation \(EU\) 2016/679](#).

# Contents

Foreword .....	i
Preface .....	ii
Record of Changes .....	iii
1 Introduction .....	1
2 The Service Complaints Process .....	7
3 The Service Complaints Appeals Process .....	13
4 The Service Complaints Ombudsman Process .....	16
Annex A: Glossary.....	22
Annex B: Excluded Matters .....	25
Annex C: Single Service Contact Points.....	29
Annex D: Service Complaints Process Flowchart .....	30

# 1 Introduction

## Legislative background

1. The legislation relating to the **Service Complaints** system for the redress of individual grievances is set out in the following primary and subordinate legislation:
  - a. Part 14A of The Armed Forces Act 2006 (Redress of Service Complaints) is the legal authority for the Service Complaints System and provides for the Defence Council to make procedures for its operation by way of regulations.
  - b. The Armed Forces (Service Complaints) Regulations 2015<sup>2</sup> set out the process and procedures for the present Service Complaints system.
  - c. The Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015<sup>3</sup> set out excluded complaints, who can be appointed to consider an appeal or reconsider a complaint and when an independent person must be appointed.
  - d. The Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015<sup>4</sup> explain when the SCO can conduct investigations.
  - e. Defence (Transfer of Functions) Act 1964 empowers the relevant single Service Board to discharge the functions of the Defence Council.

Together the Act and the Regulations provide the legal framework for the Service Complaints process and creates the office and sets out the powers of the **Service Complaints Ombudsman** (SCO).

2. Part 1 of this JSP sets out what must be included in the Service Complaints process based on the above legislation, and how the SCO operates. Other, relevant legislation is also covered in this part.
3. Part 2 of this JSP sets out the policy and guidance that is to be followed to give effect to the legislation. Separately, the SCO produces guidance about the practices and procedures that the SCO will adopt in carrying out investigations. This is available from the SCO's office and referred to in the parts of this JSP where relevant. The SCO's guidance can be found at: [www.scoaf.org.uk](http://www.scoaf.org.uk).

The SCO can also be contacted by:

email: [contact@scoaf.org.uk](mailto:contact@scoaf.org.uk)

phone: 020 7877 3450 (0300 369 0689 from 1 July 2021)

post to: SCO, PO Box 72252, London SW1P 9ZZ

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<sup>2</sup> <http://www.legislation.gov.uk/ukxi/2015/1955/contents/made>.

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2015/2064/contents/made>.

<sup>4</sup> <http://www.legislation.gov.uk/ukxi/2015/1956/contents/made>.

## Terminology and definitions

4. Terms shown in bold and underlined text are linked to the glossary. The full glossary is at Annex A.

## The purpose of the Service Complaints system and its key aspects

5. The aim of the **Service Complaints**<sup>5</sup> system is to provide Service personnel with a process that is efficient, effective and fair through which they can resolve valid grievances on matters relating to their service in the Armed Forces and can seek **redress**. It is the responsibility of all those involved in the process to ensure that complaints are handled fairly, promptly and correctly. The intent is that complaints are dealt with quickly and at the most appropriate level within the **Chain of Command (CoC)**.

6. Where possible and appropriate, attempts at resolving complaints at the lowest level should be made. This may not always be appropriate, for example, in cases involving the complainant's CoC or in instances where behavior may amount to a criminal or disciplinary offence, however many issues can be resolved informally, often without recourse to the formal process. This can result in issues being settled faster and good relations and operational effectiveness restored or maintained. Further information on the informal complaints process can be found in [JSP 763 - Behaviours and Informal Complaint Resolution](#).

7. There will also be instances where complaint resolution can be achieved through Special-To-Type (STT) complaints processes. These include processes for complaints about pay and allowances, healthcare and housing (this list is not exhaustive) and are to be exhausted prior to engaging the formal Service Complaints process. For more information about the STT complaints process please refer to JSP 831, [Part 2](#), Chapter 1, paragraphs 19-20.

8. The wellbeing of all parties at all stages of the Service Complaints system is of paramount importance. In addition to support and advice provided by the CoC throughout the process, a range of independent support is also available for people; see JSP 831, [Part 2](#), Annex P for further information.

9. The MOD does not tolerate any form of bullying, harassment, unlawful discrimination or victimisation. Everyone has a right to be treated with dignity and respect regardless of rank, grade or position. Everyone has a role in creating an inclusive, safe and supportive working and social environment.

10. On receipt by the CoC, **a statement of complaint** will first be assessed to decide whether it is admissible as a Service Complaint. Some matters are excluded from the system, and time limits apply. In the majority of admissible cases there will then be a decision and an appeal stage available. At the decision and appeal stages, a person or panel of people will be appointed to decide on the complaint. They will also have the necessary authority to decide the complaint fully and to grant any appropriate redress. In some cases, **Independent Members** (IM) must be appointed.

11. The SCO is able to review decisions taken which deny a grievance being admitted as a Service Complaint or from being appealed. The Complainant can apply to the SCO if not

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<sup>5</sup> Terms shown in bold and underlined text are linked to the glossary. The full glossary is at Annex A.

satisfied with the admissibility decision taken, and the SCO's decision following a review is binding on all parties.

12. The SCO also has an important role if the Complainant is not satisfied when the Service Complaint process has been completed. The Complainant can apply to the SCO for an investigation into the complaint itself or because the Complainant believes the complaint was not handled correctly, or both. If the SCO goes on to investigate, the SCO must make a report with findings and if appropriate to the investigation, recommendations, which the appropriate single Service is to respond to in writing. It is also possible for the Complainant to approach the SCO alleging **undue delay** before or during the handling of a complaint.

13. The office of the SCO is designed to give Complainants who are not satisfied an independent route to addressing their concerns, to increase the level of independent oversight and to provide a means for improving the process.

14. Anyone will be able to contact the SCO with an allegation that a wrong has been suffered by a Service person. The SCO can refer an allegation to the CoC, having first established that the Service person wishes to make a Service Complaint.

15. The SCO must produce an annual report about the operation of the Service Complaints process and the exercise of their functions during the year, which the Secretary of State for Defence must lay in parliament.

## **Employment tribunals**

16. A claim under the Equality Act 2010 may be presented to an Employment Tribunal by a Service person in connection with certain allegations relating to that Act. To be able to do so, the Complainant must have made (and not withdrawn) a Service Complaint under the Service Complaint procedures in respect of the same matter that is the subject of the claim to the Tribunal.

17. A Service person can also be deemed to have withdrawn the Service Complaint, this is where they do not lodge an appeal within the prescribed time frame. Or a Service person may miss the time limit for appealing an initial decision and either do not apply for a review of the decision that the appeal cannot proceed or apply unsuccessfully for such a review. Under section 123 of the Equality Act 2010 an Employment Tribunal can accept claims that would ordinarily be outside of the below timeframes where it is deemed just and equitable to do so but this is a discretionary judgment made by an Employment Tribunal Judge and efforts should be made to comply with the requirements and time limits set by the Service Complaints legislation and process and the Equality Act 2010.

18. Different time limits apply to types of claims under the Equality Act 2010:

- a. If a matter is or has been capable of being pursued as a claim under Chapter 3 of Part 9 of the Equality Act 2010 (discrimination claims), a claim may not be made about the matter after six months beginning with the day on which the matter complained about occurred or, where the matter occurred over a period of time, the final day of that period. It should be noted that the Armed Forces have an exemption in relation to claims on the basis of the protected characteristics of disability and age, and Employment Tribunal claims cannot be brought on the basis of these two protected characteristics.



b. If a matter is or has been capable of being pursued as a claim under Chapter 4 of Part 9 of the Equality Act 2010 (equal pay claims), a claim may not be made about the matter after the end of the qualifying period for a claim as determined in accordance with section 129 of that Act. The qualifying period is normally nine months.

19. To ensure that a Service person is not disadvantaged in being able to bring a claim to an Employment Tribunal within the time limits set out in the Equality Act 2010, the usual time limit for making a Service Complaint of three months is extended to six and nine months respectively for the types of claims set out above. Legal advice should be sought if it is unclear which time limit to apply to an individual complaint for which there has been or could be an application to an Employment Tribunal.

## Data Protection

20. Data protection when disclosing information: The principle of providing information and disclosure to the Complainant and any other person who might be affected by the outcome of the complaint, such as a Respondent, is an important aspect of the Service Complaints process. The **Decision Body** (DB) and **Appeal Body** (AB) (if applicable) will as a matter of policy disclose all relevant documentation and information relied on to decide a complaint prior to a decision being made.

21. There is a requirement for the DB or AB to give any subject of a complaint or other persons likely to be criticised in a decision an opportunity to comment on allegations about them in the complaint. Those comments must be given due weight in the making of decisions.

22. There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the GDPR<sup>6</sup> and sections 8(c) and 8(d) of the DPA 18<sup>7</sup>, provides the lawful basis to process personal data necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority. Privileged and protected information and advice is not to be disclosed or paraphrased, without discussing with the relevant expert advisers e.g. legal, security or information. If doubt exists on any aspect of disclosure, legal and MOD policy advice should be sought from the appropriate single Service Secretariat.

## Standard of proof

23. In assessing a Service Complaint, the DB and AB (if applicable) must establish if the complaint is well-founded. The basis for the decision is the standard of proof used in employment law, i.e. that it was more likely than not that the wrong alleged by the complainant occurred. This is known as 'on the balance of probabilities'. The decision reached by a DB or an AB will be on the basis of a unanimous decision or simple majority when more than one person has been appointed.

## Recurring aspects of the system

24. Role of the Defence Council and delegation of its functions: The **Defence Council**

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<sup>6</sup> [General Data Protection Regulation \(EU\) 2016/679](#).

<sup>7</sup> The Data Protection Act 2018 sets out the data protection framework in the UK, alongside the GDPR, supplementing, modifying and enforcing aspects of the GDPR: Data Protection Act 2018.

is constitutionally responsible for the decisions and appointments made in the Service Complaints system, but in practice will delegate the majority of its functions to individuals or panels / bodies. References made in this JSP to the 'single Service **Secretariats**', 'DB' and 'AB' relate to the Service acting on behalf of the Defence Council, based on delegations from the Defence Council that have been put in place to specified post holders (these are referred to as "nominated Defence Council delegates" in the rest of this part of the JSP to avoid confusion with the Defence Council itself).

25. Independent Members at the appeal and reconsideration stages: An AB, or a body reconsidering a complaint following a report by the SCO, must include one or more independent persons (an 'Independent Member') where the Service Complaint alleges the following Unacceptable Behaviours<sup>8</sup>:

- a. discrimination.
- b. harassment.
- c. bullying.
- d. dishonest or biased behaviour.
- e. a failure of the MOD to provide medical, dental or nursing care for which the MOD was responsible.
- f. the improper exercise by a service police officer of statutory powers as a service police officer.

26. An Independent Member may also be appointed in such Service Complaints at the DB stage where the DB, or the Secretariat, consider it best practice, and in the interests of achieving early resolution, to do so.

27. In the context used above, 'discrimination' means discrimination or victimisation on the grounds of colour, race, ethnic or national origin, nationality, sex, gender reassignment, status as a married person or civil partner, religion, belief or sexual orientation, and less favourable treatment of the Complainant as a part-time employee.

28. An Independent Member can be any person appointed by the Defence Council who is neither:

- a. a member of the Regular or Reserve forces; nor
- b. a person employed in the Civil Service.

29. Service of correspondence: To ensure that the Complainant is not disadvantaged, in any case where the Complainant is notified of a decision, that notification is deemed to occur on the second day after the day on which it was transmitted to the Complainant. Where the Complainant makes a statement of complaint, an application to the SCO or brings an appeal, these are treated as having been done on the day they were made or brought. All of these actions must be posted, sent electronically or delivered in person.

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<sup>8</sup> [2020DIN01-074: Understanding Unacceptable Behaviours.](#)

30. Similar provisions operate in respect of notifications by the SCO to the Complainant and to the nominated Defence Council delegate. There are further such requirements in relation to the SCO sharing draft and final reports. These actions must be posted and/or sent electronically.

### **Points of contact for the single Service secretariats**

31. A list of contact details is at Annex C.

# 2 The Service Complaints Process

## Who can make a Service Complaint?

1. A Service Complaint can be made by a serving Service person or by a former Service person, whether in Regular or Reserve service (hereafter referred to as a Service person).
2. A Service Complaint can only be made by an individual, but the same or a similar matter can be raised as a Service Complaint by others themselves; there are, however, no procedures for a complaint to be made by a group of people.

## What matters can and cannot be the subject of a Service Complaint?

3. If a Service person thinks they have been wronged in any matter relating to their service in the Armed Forces, they may make a complaint about that matter. A person who is no longer subject to Service law e.g. has left the Armed Forces, but thinks they were wronged in any matter relating to their service which occurred while they were still serving, may also make a complaint about that matter.
4. There are certain matters about which a Service Complaint cannot be made: these excluded matters are listed at Annex B. They include, for example, decisions taken by the Chain of Command in determining whether a statement of complaint is admissible or an appeal can proceed, and whether a Service Complaint or appeal is well-founded, and all decisions taken by the Service Complaints Ombudsman (SCO).

## Time limit for making a Service Complaint

5. A Service Complaint must be made within a period of three months, beginning with the day the matter complained of occurred (or the day that the **Special-To-Type** (STT) complaint process was exhausted – see paragraph 17 of this chapter). If the matter complained of occurred over a period of time, the complaint must be submitted within three months of the latest incident or the end of the period.
6. In most circumstances, a Service Complaint received by a **Specified Officer** (SO) more than three months after the matter complained of occurred will be ruled out of time. However, the SO can rule it in time if the SO considers that it is just and equitable to do so.
7. Different time limits may apply if the matter being complained of has or could be the subject of a claim to the Employment Tribunal. There is more information on this at paragraphs 15-18 of Chapter 1.

## How to make a Service Complaint

8. A Service Complaint is made by a Service person submitting a **statement of complaint** to an SO. The SO is the Complainant's **Commanding Officer** (CO) but in some instances may also be another Officer properly appointed to undertake the role of the SO. If a Complainant has left the Armed Forces, the complaint should be made to the CO of their last unit, or that officer's successor in post.

9. The Complainant must provide the following information when making a statement of complaint:

- a. how the Complainant thinks they have been wronged;
- b. whether the Complainant's CO or the CO's immediate superior in the Chain of Command is the subject of the complaint or is alleged to be implicated in any way in the matter, or matters, complained about (including any facts in support);
- c. whether the Complainant considers that the complaint includes allegations of the kind set out at Chapter 1 paragraph 24 (including any facts in support);
- d. if the complaint is not made within the three-month time limit (or that which applies due to the provisions of the Equality Act 2010), the reasons why;
- e. the **redress** sought; and
- f. the date on which the complaint is being made.

10. The Complainant must also state whichever of the following is appropriate to the matter(s) being complained about:

- a. the date on which, to the best of the Complainant's recollection, the matter complained about occurred or probably occurred;
- b. that the matter complained about occurred over a period, and the date on which, to the best of the Complainant's recollection, that period probably ended;
- c. that the matter complained about is continuing to occur; or
- d. that they are unable to recollect the date in a) or b).

### **Ombudsman's referral of allegations to the Chain of Command**

11. Anyone can contact the Service Complaints Ombudsman (SCO) with an allegation of wrongs done to a person who is or was subject to Service law. The SCO can decide to refer an allegation to the Officer who would have received the complaint had the Complainant raised the matter instead to their Chain of Command – that person would usually be the Complainant's CO as the SO in the Service Complaints process. Alternatively, the SCO may refer the matter directly to the relevant Secretariat.

12. Having referred an allegation, the SCO is to be notified by the appropriate Officer within three weeks of the day of the occurrence of each of any of the following matters:

- a. that the Officer has informed the person that the allegation has been referred.
- b. that the person has been made aware of:
  - (1) how to make a Service Complaint; and
  - (2) the time limits for making a Service Complaint.

- c. of whether the person wishes to make a Service Complaint about the allegation.
- d. of a decision taken by the SO that the subsequent Service Complaint is inadmissible.
- e. of a decision taken by a Decision Body (DB) as to whether the Service Complaint is well-founded and, if it is, what if any redress is appropriate.
- f. of a decision that an appeal has been made out of time.
- g. of a determination reached by an Appeal Body (AB) as to whether the complaint is well-founded and, if it is, what if any redress is appropriate.
- h. of the withdrawal of the Service Complaint.

### **Deciding whether the Service Complaint is admissible**

13. The SO has to decide whether all or part of a Service Complaint is admissible, they may prepare draft defined Heads of Complaint (HoC) and seek to agree these with the Service Person to assist with this stage of the process. It will not be admissible if:

- a. the complaint is not made by a serving or former Service person who is able to make a Service Complaint (paragraph 3 refers);
- b. the complaint is not about a Service matter (paragraph 3 refers);
- c. the complaint is made outside the time limit for making a Service Complaint, and having considered the matter it is not just and equitable to extend that time;
- d. the complaint is substantially the same as a complaint brought by the same person which has either been decided previously under the Service Complaints process or is currently being considered under the Service Complaints process; or
- e. it is about a matter that is excluded from the Service Complaints process (paragraph 4 refers).

14. Following that consideration, the SO must notify the Complainant of the outcome in writing and refer to the nominated Defence Council delegate any part of or all the Service Complaint that is admissible.

15. If the SO decides that all or part of the Service Complaint is inadmissible, the SO must:

- a. treat any remaining matters as an admissible Service Complaint; and
- b. inform the Complainant in writing that the other matters are not ones about which an admissible Service Complaint may be made, stating the reasons for the decision and informing the Complainant of the right to apply for a review of that decision by the SCO.

16. Once the SO has confirmed that an admissible Service Complaint has been made, the Complainant cannot add matters to the complaint at a later date. Such matters would

have to be raised as a new complaint and be subject to the same admissibility consideration as in paragraph 13.

## **Completing a Special-To-Type process before making a Service Complaint**

17. The time limit for making a Service Complaint is normally three months from the exhaustion of a STT complaint process. If a Complainant submits a statement of complaint that appears to the SO to be about a matter for which there is a STT complaints procedure, the Complainant will not be able to pursue a Service Complaint about that matter until the alternative process has been exhausted<sup>9</sup>. The SO will stay the matter until that process is ended, at which point the Complainant can return to the Service Complaint process if they wish to. For more information about the STT complaints process please refer to JSP 831, [Part 2](#), Chapter 1, paragraphs 19-20.

## **What to do if the Complainant is dissatisfied with a decision on admissibility**

18. It is the Complainant's right to apply to the SCO to seek a review of the SO's admissibility decision.

19. The Complainant must submit the application to the SCO within four weeks of receiving notification of the admissibility decision. The application will not be considered by the SCO outside this time limit unless the SCO determines that it would be just and equitable to allow the application to proceed.

20. The SCO must notify both the SO and the Complainant of the determination in writing, giving reasons for the determination. The SCO's decision is binding on the Complainant and the SO.

21. If the SCO finds that the complaint is admissible, the SO is to refer the complaint to the nominated Defence Council delegate of the Service that is providing the SO with advice and support.

## **How a Decision Body is appointed and how the Service Complaint is decided**

22. The nominated Defence Council delegate is to appoint a Decision Body (DB), consisting of a person or panel of persons or of the Defence Council itself, after the admissibility decision has been received from the SO (whether that decision has been made by the SO or following a review by the SCO).

23. A person or panel of people can only be appointed to consider the Service Complaint where:

- a. the person, or all the persons in the body, are authorised to decide the matters and to grant appropriate redress; or

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<sup>9</sup> There may be some circumstances where a STT process does not need to be exhausted and the SO can proceed to make an admissibility decision however legal advice should be sought where this course of action may be deemed necessary.

b. authorisation is given to that person or all persons.

24. The following must not be appointed to decide a Service Complaint:

a. a person who is the subject of the complaint, or is alleged to be implicated in any way in the matter, or matters, complained about; or

b. an officer of the Naval Chaplaincy Service, the Royal Army Chaplains Department or the Royal Air Force Chaplains Branch.

25. Where the nominated Defence Council delegate determines that a Service Complaint requires the Defence Council itself to decide the complaint, they must also inform the Complainant that, in such circumstances, the Complainant does not have the right to make an appeal against the Defence Council's decision on the complaint. The Complainant does, however, retain the right to make an application to the SCO at the end of the Service Complaints process.

26. If the DB wants to, it can authorise another person to carry out the Service Complaint investigation such as an Investigating Officer (IO) or Harassment Investigating (HIO) where the Complaint includes bullying, harassment, discrimination or any Unacceptable Behaviours<sup>10</sup>. It is for the DB however to decide the complaint.

27. The DB must decide whether the Service Complaint is well-founded, and, if it is, what redress (if any) is appropriate, and grant such redress.

28. The DB will decide the complaint on a simple majority basis when more than one person has been appointed.

29. If the DB does not get a response from a Complainant or any other person to a request to supply information or produce documents usually within ten working days, the DB can go on to reach a decision based on the information or documents available to it.

30. There is a requirement for the DB to give any subject of a complaint or other persons likely to be criticised in a decision an opportunity as part of the disclosure process to comment on allegations made about them in the complaint. Those comments should be received within ten working days and be given due weight in the making of decisions.

31. The DB must notify the Complainant in writing of its decision, giving reasons for the decision, and of the Complainant's right to appeal the decision if an appeal is available (or of the right to apply to the Ombudsman - see paragraph 25).

### **What if the Complainant withdraws their Service Complaint?**

32. Where a Complainant, at any stage of the Service Complaints process, decides to withdraw their complaint and a reason for withdrawal is not initially provided, the Complainant will be expected to provide a reason which must be logged accordingly.

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<sup>10</sup> [2020DIN01-074: Understanding Unacceptable Behaviours.](#)



## What if the Complainant or Respondent is dissatisfied with the decision?

33. Where an appeal route exists, the Complainant can submit an appeal if not satisfied with the decision that has been taken.

34. There is no provision in the legislation for a **Respondent** or any other person involved in a complaint to appeal the decision. A Respondent or other person can however raise their own complaint for consideration as a Service Complaint if they are a Service Person, by raising the matter in writing with an SO (see [Chapter 2](#) of this part of the JSP). The Service Complaint cannot be a challenge to the decision reached in the other case, but it can be about how they were treated.

35. If a Respondent or any other person involved in a complaint is not a Service person they are still able to complain about how they were treated during the Service Complaint process. They may consider following MOD's Civilian grievance process, if applicable, or by complaining to the MOD directly if they are neither a Service Person nor an MOD employee.

# 3 The Service Complaints Appeals Process

## Time limit for making an appeal

1. An appeal must be brought within six weeks beginning with the day on which the Complainant is deemed to have received the Decision Body's (DB) decision. The time limit may be extended on receipt of an appeal from the Complainant, if it is considered just and equitable to do so.

## How to submit an appeal about a decision on the Service Complaint

2. An appeal must be made by the Complainant **in writing**, be dated, and state those aspects of the decision that the Complainant does not agree with and why.

3. If the appeal is submitted beyond the six-week time limit, the Complainant must set out why that is the case.

## Deciding whether an appeal can proceed

4. The nominated Defence Council delegate must decide whether the appeal application is admissible. If the appeal is made outside the time limit, the delegate is to decide whether it would be just and equitable for the appeal to proceed.

5. The Complainant must be notified in writing if the decision is that the appeal cannot proceed, giving reasons for that decision and informing the Complainant of the right to apply to the Service Complaints Ombudsman (SCO) for a review of that decision.

## Action taken by the Service Complaints Ombudsman on review of a refusal to allow an appeal

6. The SCO can review a decision to determine an application for appeal as inadmissible if the Complainant is dissatisfied with the decision and applies to the SCO in writing seeking a review.

7. The SCO must determine whether the decision to determine the appeal as inadmissible was reasonable or not. The SCO must notify both the nominated Defence Council delegate and the Complainant in writing of the determination, giving the reasons for it.

8. The SCO will not consider an application made by a Complainant more than four weeks after the date on which the Complainant received the decision that the appeal could not proceed, unless the SCO considers it is just and equitable to allow the Complainant to apply outside that period.

9. A determination by the SCO in relation to such a review is binding on the Complainant and the nominated Defence Council delegate.

## How an Appeal Body is appointed and how the appeal is determined

10. Where the nominated Defence Council delegate or, following a review, the SCO decides that an appeal can proceed, the delegate must appoint an Appeal Body (AB).

11. Anyone appointed to determine an appeal must have or be given authority to determine the appeal and to grant appropriate redress. There may be some elements of redress that require additional approval such as consulting with Her Majesty's Treasury (HMT) for certain financial payments.

12. The following must not be appointed to determine an appeal:

- a. a person who is the subject of the complaint, or is alleged to be implicated in any way in the matter, or matters, complained about;
- b. a person who was appointed to decide the complaint, or who was otherwise involved in the investigation or consideration of the complaint for the purposes of deciding the complaint; or
- c. an officer of the Naval Chaplaincy Service, the Royal Army Chaplains Department or the Royal Air Force Chaplains Branch.

13. It may be necessary to appoint one or more independent persons to determine the appeal. Chapter 1 paragraph 24 sets out when an **Independent Member** (IM) will be required.

14. The AB appointed to consider the appeal must determine whether the Service Complaint is well-founded, and if it is, what redress (if any) is appropriate, and grant any such redress.

15. If the AB does not get a response from a Complainant or any other person to a request to supply information or produce documents usually within ten working days, the AB can go on to reach a determination based on the information or documents available to it.

16. There is a requirement for the AB to give any subject of a complaint or other persons likely to be criticised in a decision an opportunity to comment on allegations about them in the complaint. Those comments must be given due weight in the making of decisions.

17. If the AB wants to it can authorise another person to carry out the Service Complaint investigation such as an Investigating Officer (IO) or Harassment Investigating (HIO) where the Complaint includes bullying, harassment, discrimination or any Unacceptable Behaviours<sup>11</sup>. It is for the AB however to determine the appeal.

18. The AB will determine the complaint on a simple majority basis when more than one person has been appointed.

19. The AB appointed to consider and determine the appeal must notify the Complainant in writing of its determination and give the reasons for it. The Complainant must also be informed of the right to apply to the SCO for an investigation if they believe that there were

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<sup>11</sup> [2020DIN01-074: Understanding Unacceptable Behaviours.](#)

mistakes made in the handling of the complaint (maladministration) or the decision reached was incorrect (substance).

### **What if the Complainant or Respondent is dissatisfied with the determination?**

20. Once the determination has been received, if the Complainant is dissatisfied with the outcome of the complaint or how it was handled, or both, the Complainant has the right to apply to the SCO for an investigation to be carried out.

21. The Respondent or any other Service person who has been criticised in relation to their character or reputation cannot apply to the SCO if dissatisfied. A Respondent or other person can however raise their own complaint for consideration as a Service Complaint if they are a Service Person, by raising the matter in writing with an SO (see [Chapter 2](#) of this part of the JSP). That Service Complaint cannot be a challenge to the decision reached in the other case, but about how they were treated.

22. If a Respondent or any other person involved in a complaint is not a Service Person, they are still able to complain about how they were treated during the Service Complaint process. They may consider following MOD's Civilian grievance process, if applicable, or by complaining to the MOD directly if they are neither a Service Person nor an MOD employee.

# 4 The Service Complaints Ombudsman Process

## On what matters can an application be made to the Service Complaints Ombudsman?

1. An application to the **Service Complaints Ombudsman** (SCO) can be made on only the following grounds, for an investigation into:
  - a. the Service Complaint, when the complaint has been **finally determined** and the Complainant is dissatisfied with the outcome of the internal process; **substance**.
  - b. an allegation of **maladministration** (including **undue delay**), when the complaint has been finally determined and the Complainant is dissatisfied with the way the complaint was handled by the internal process.
  - c. an allegation of undue delay in the handling of a Service Complaint that has been made but has not yet been finally determined under the internal complaints process and so is still active.
  - d. an allegation of undue delay that occurred before a complaint was made, whether or not the Complainant went on to make a complaint. The matter that they would however have complained about must have been an issue that would have been admissible as a Service Complaint.
2. An application can also be made for a review of a decision not to accept, in whole or in part, a Service Complaint or appeal (**Admissibility Decisions**).
3. In addition, where the SCO investigates a Service Complaint or alleged maladministration, the SCO can go on to investigate other, non-alleged maladministration where the possibility that such maladministration may have occurred becomes apparent during the course of the investigation.

## Time limit for making an application

4. A Complainant whose Service Complaint has been finally determined has six weeks to apply to the SCO for an investigation, starting from the date that the Complainant is deemed to have received the final decision on the complaint. The SCO can accept an application that is made after six weeks if the Ombudsman considers that it is just and equitable to do so. There is no statutory time limit for applying to the SCO under the reasons at paragraph 1c or 1d above.

## Who can make an application to the Service Complaints Ombudsman?

5. Only the person who made the Service Complaint (or who could have made or could still make one, in connection with 1c can apply to the SCO on the grounds set out at paragraph 1.

## How to make an application

6. An application to the SCO must:
  - a. be made in writing and dated.
  - b. set out the kind(s) of investigation which the Complainant is requesting the SCO carry out.
  - c. where asking for an investigation into the outcome of the Service Complaint, state those aspects of the decision or the appeal determination (as appropriate) that the Complainant disagrees with and why and what redress the Complainant considers appropriate.
  - d. where asking for an investigation into maladministration, set out what that maladministration consists of, any injustice that the Complainant considers has or may have resulted, and any facts in support.
  - e. where asking for an investigation into matters set out at paragraph 1 c) or d) above, state the undue delay that is alleged, any injustice that has or may have resulted, and any facts in support.
  - f. include copies of the decision and any final appeal determination letters in connection with the Service Complaint, where the Service Complaint has been finally determined, or any related copies of decisions made where the Service Complaint has been reconsidered following an earlier investigation by the SCO.
  - g. if the application is not made within six weeks of the Complainant having received notification of the final determination on the Service Complaint, or of the decision following reconsideration, state the reasons why the application was not made within that period.

## What happens next?

7. The SCO has wide discretion to start, continue or stop an investigation following receipt of an application from a Complainant, and how to conduct individual investigations.
8. What the SCO is seeking to establish during an investigation (the findings) and what recommendations might be made (to put right what has been found) depends on what the Complainant has asked the SCO to look at:
  - a. where the SCO investigates the subject matter of a Service Complaint, the purpose of the investigation is to decide whether the complaint is well-founded and, if the SCO thinks it is, to consider what if any redress would be appropriate and make recommendations about any redress.
  - b. where the SCO investigates alleged maladministration in connection with the handling of a complaint, the purpose of the investigation is to decide whether the allegation of maladministration is well-founded and, if the SCO thinks it is, to decide whether the maladministration has or could have resulted in injustice to the Complainant, and to make any recommendations as a result of the findings.

c. where the investigation is into alleged undue delay, the purpose is to decide whether the allegation is well-founded and, if the SCO thinks it is, to decide whether the undue delay has or could have resulted in injustice to the Complainant, and to make any recommendations as a result of the findings.

9. The SCO must decide whether to begin an investigation and notify the Complainant and the nominated Defence Council delegate of the decision giving reasons. If the SCO decides to investigate, a copy of the application must be sent to the nominated Defence Council delegate. The SCO must also give reasons if the decision is taken to begin an investigation when the application was made beyond the six-week time limit.

10. The SCO can decide whether to investigate a Service Complaint or an allegation in whole or in part.

11. If the SCO decides to investigate any non-alleged maladministration that becomes apparent during an investigation into the substance of a complaint or its handling, the SCO must notify the Complainant and the nominated Defence Council delegate in writing and give reasons.

## **The conduct of investigations**

12. The SCO may hold an Oral Hearing as part of an investigation. A hearing must be conducted in private, unless the SCO considers that it is necessary to hold all or part of the hearing in public. If it is in public, the SCO may impose such restrictions on attendance at, or the reporting of, that hearing, as the SCO considers reasonable.

## **Reimbursement of expenses**

13. The SCO is able to pay such expenses or allowances for loss of time as the SCO deems necessary and reasonable to anyone asked to attend in connection with an investigation or to provide information or material.

## **Decisions on access to legal advice**

14. It is for the SCO to decide whether anyone involved in an investigation can be represented, including legally represented. The SCO will not reimburse the cost of any legal fees incurred.

## **Withdrawing an application**

15. A Complainant may withdraw an application at any time before an investigation has been completed by the SCO. Notice of the withdrawal must be made in writing and be shared by the SCO with the nominated Defence Council delegate. It will be for the SCO to decide whether to then begin, continue with or to discontinue that investigation, notifying the Complainant and the nominated Defence Council delegate of the decision in writing and giving reasons.

## **Opportunity to comment during an investigation**

16. Having decided to begin an investigation, the SCO must give an opportunity to comment to:

- a. the nominated Defence Council delegate.
- b. any person alleged by the Complainant in their application to have been responsible for maladministration (including any undue delay) in connection with the handling of the Service Complaint.
- c. any person who the SCO considers is a subject of the Service Complaint.
- d. any person who the SCO considers is likely to be the subject of criticism in relation to that person's character or professional reputation in the findings or recommendations in the SCO's report.

## **Responding to the Service Complaints Ombudsman's requests for information**

17. The SCO can carry on with an investigation and prepare a report even if information or other material that has been requested is not forthcoming within the period that the SCO has specified as being reasonable in the circumstances. The SCO can also specify the form and manner in which documents or information that has been requested should be provided.

## **Service Complaints Ombudsman's power if information is being unlawfully withheld**

18. The SCO has the same powers as the High Court in respect of the production of documents or the attendance or examination of witnesses for the purposes of an investigation. Where there is a serious failure to comply with a request, the SCO has the power ultimately to ask the High Court to investigate whether in withholding material requested by the SCO there has been a contempt of court, and for the court to consider whether action should be taken against anyone for that. Information can only be withheld from the SCO where it is lawful to do so.

## **Service Complaints Ombudsman's discretion to share a report in draft**

19. It is open to the SCO to share a copy of a draft report for comment with any of the people set out at paragraph 15. Any comments received must be given due weight in the final report along with the SCO's response to them.

## **Content and distribution of Service Complaints Ombudsman's final report**

20. Having completed an investigation, the SCO must produce a report setting out findings and any recommendations resulting from those findings.

21. The nature of findings in a report and of the subsequent recommendations is dependent on the type of investigation that has been conducted by the SCO. Paragraph 7 sets out what the SCO's findings and recommendations are to cover.

22. The SCO must include in a report the reasons for each of the findings and recommendations.



23. The SCO must send a copy of the final report to:
- a. the nominated Defence Council delegate;
  - b. the person who made the application to the SCO;
  - c. the subject, if any, of the Service Complaint; and
  - d. any person who is, in the opinion of the SCO, the subject of criticism in the report's findings or recommendations in relation to that person's character or professional reputation.

24. It is open to the SCO to place confidentiality obligations on any person to whom the SCO sends a copy of the draft or final report, where the SCO considers it would be appropriate to do so on the grounds of national security or for someone's safety.

### **Acting to correct errors in a published report**

25. The SCO is able to issue a letter correcting any clerical mistakes or other errors in a published report arising from an accidental slip or omission. A copy of the letter must be sent to the Complainant, the nominated Defence Council delegate and any person to whom a copy of the final report was sent.

### **Considering the Service Complaints Ombudsman's published report**

26. The nominated Defence Council delegate must consider a report that has been issued by the SCO following an investigation. The SCO and the Complainant must be notified in writing:

- a. of the action (if any) the nominated Defence Council delegate has decided to take in response to the findings and recommendations made by the SCO, and the reasons; and
- b. why it has decided to reject a recommendation if that is the case.

### **Implementing the Service Complaints Ombudsman's recommendations**

27. Where the nominated Defence Council delegate decides in response to a recommendation that a Service Complaint should be reconsidered to any extent, the following considerations must be taken into account in deciding who to appoint:

- a. whether the reconsideration should be carried out by a person or panel of persons, or by the Defence Council itself, and then if any of those persons should be independent for the reasons set out at Chapter 1 paragraph 24.
- b. the person or panel appointed must have the authority to consider and decide the complaint, to determine any appropriate redress and to grant it.
- c. the following cannot be appointed to reconsider the Service Complaint:
  - (1) a person who is the subject of the complaint, or is alleged to be implicated in any way in the matter, or matters, complained about.

(2) an officer of the Naval Chaplaincy Service, the Royal Army Chaplains Department or the Royal Air Force Chaplains Branch.

28. Following reconsideration of a Service Complaint, the decision is to be sent to:
- a. the Complainant;
  - b. the SCO; and
  - c. any person to whom the SCO sent a copy of the published investigation report on the complaint in question.

### **What if the Complainant, Respondent or other party is dissatisfied with the final report or MOD's response?**

29. The Complainant can take the matter to the courts for a judicial review at their own expense if they are not satisfied with the outcome of the SCO's investigation. There is no provision in the legislation for any other person involved in the complaint to take the matter up with the SCO or with MOD.

### **Can a Complainant apply to the Service Complaints Ombudsman again about the same complaint?**

30. If the SCO has investigated the substance of a Service Complaint or its handling, and that Service Complaint has been reconsidered by the Chain of Command following a report by the SCO, the Complainant may make a subsequent application to the SCO for an investigation into the substance or handling of the same Service Complaint. The subsequent application can only relate to proceedings at the reconsideration stage. There is a six-week time limit for making a subsequent application, starting from when the Complainant receives the decision that has followed reconsideration of the complaint. An application can be considered by the SCO beyond this period if the SCO considers that it is just and equitable to do so.

31. If the Complainant has approached the SCO for an investigation into pre-complaint delay, or into undue delay in relation to an on-going Service Complaint, there is nothing to prevent the Complainant from applying to the SCO for an investigation into its substance or handling once the Service Complaint has been finally determined.

# Annex A: Glossary

<b>Annex F</b>	A Service Complaint Form (Annex F to Part 2 of this JSP) which captures key information about the matters being complained about and the redress that is being sought.
<b>Appeal Body (AB)</b>	One or more individuals (who might include an Independent Members (IM)) who have been appointed by a single Service Complaints Secretariat to consider and to make a determination on an appeal
<b>Assisting Officer (AO)</b>	A person who is appointed by either the Specified Officer (SO), Deciding Body (DB) or Appeal Body (AB) to provide help and support to a Complainant or a Respondent. A Complainant or Respondent can also nominate someone to act as their AO.
<b>Chain of Command (CoC)</b>	Chain of Command is the line of authority and responsibility along which orders are passed within a Service unit and between different units.
<b>Commanding Officer (CO)</b>	The Commanding Officer (CO) is the Officer who has been appointed by the appropriate authority to be in command of and to exercise discipline over a ship, unit or establishment.
<b>Complainant</b>	A serving or former Service person who has made a Service Complaint.
<b>Decision Body (DB)</b>	One or more individuals who have been appointed by a single Service Complaints Secretariat to investigate and make a decision on a Service Complaint.
<b>Defence Council</b>	The Defence Council is the senior departmental committee. It is chaired by the Secretary of State and comprises the other ministers, the Permanent Under Secretary, the Chief of Defence Staff and senior Service Officers and senior officials who head the armed services and the department's major corporate functions. It provides the formal legal basis for the conduct of defence in the UK through a range of powers vested in it by statute (such as in relation to redress) and Letters Patent.
<b>Diversity and Inclusion Adviser (D&amp;I (A))</b>	D&I (A)'s are MOD civilian and military personnel who are a focal point for impartial advice and support on all D&I related issues. This includes alleged bullying, discrimination, harassment and/or abuse and MOD's formal and informal complaints procedure outlined in JSP 831 and JSP 763 respectively
<b>Finally determined</b>	A complaint that has been completed in the internal process – i.e. a decision has been taken on the complaint by the Decision Body (DB) and, if an appeal is available, there has been a determination by the Appeal Body (AB). In some cases, there will be a decision stage with no appeal because of the seniority of the DB. A complaint has not been finally determined for the purposes of a Service Complaints Ombudsman (SCO) investigation if an appeal is available and the Complainant chooses not to pursue it.
<b>Harassment Investigating Officer</b>	An individual appointed to investigate formal complaints of bullying harassment and discrimination.

<b>In writing</b>	Many of the formal steps in the process such as making the application and the Complainant being notified of decisions need to be 'in writing'. This includes email.
<b>Independent Member (IM)</b>	A person who is not a member of the Armed Forces or the Civil Service, who has been recruited by MOD on a fee earning basis to provide an independent view on appointment to complaints of a specific type. Those types of complaint are set out at paragraph 21 of Part 1 of this JSP.
<b>Internal process</b>	The process that is handled by the Services from receiving a Service Complaint through to making a final decision.
<b>Investigator</b>	An individual appointed by a Decision Body (DB) or Appeal Body (AB) to investigate any complaint on its behalf and to report back with findings of fact.
<b>Joint Personnel Administration (JPA)</b>	JPA is the intranet-based personnel administration system used by the Services to log all complaints dealt with under this JSP. All complaints must be entered by the Complainant's unit admin staff at the earliest opportunity after submission.
<b>Maladministration</b>	Maladministration is a broad term with no set definition in law. However, it generally means that there has been a failure to follow procedure and can include, but is not limited to, delay; failure to take action; incorrect action; providing misleading information; broken promises; inadequate record-keeping or inadequate liaison or consultation.
<b>Mediation</b>	A private, informal dispute resolution process, in which a neutral third person (the mediator) helps the disputing parties to reach an agreement which resolves the dispute.
<b>Principles of Fairness</b>	The principles of fairness set out the good behaviour that should be followed to help ensure Service Complaints are handled confidently, fairly, promptly and correctly in the best interests of all those involved.
<b>Redress</b>	The remedy sought by the Complainant, or that determined by the Decision Body (DB) or Appeal Body (AB) to be an appropriate remedy in answer to a Service Complaint which has been upheld or partially upheld. A DB or AB is obliged to consider appropriate redress which may differ from the redress requested by a Complainant.
<b>Respondent</b>	A person who is the subject of a Service Complaint.
<b>Secretariat</b>	The complaints process is supported by a secretariat which has two main components: a central secretariat and the secretariats of three single Services. The central secretariat is part of the central staff reporting to CDP through Director AFPP and Hd People Secretariat. The single Service secretariats are embedded within their single Service Chains of Command in their separate locations.
<b>Service Complaint</b>	A grievance submitted in writing as a statement of complaint/Annex F which is deemed admissible as a Service Complaint.

<b>Service Complaints Ombudsman (SCO)</b>	The Service Complaints Ombudsman (SCO) is independent of MOD. The appointment is approved by The Queen on the recommendation of the Secretary of State for Defence. The SCO is required to produce an annual report on the operation of the Service Complaints process and can investigate certain matters on application by a Complainant.
<b>Special-to-Type (STT)</b>	Special-to-Type (STT) complaint procedures exist to resolve certain types of complaint. These include complaints about Service health care for which the services operate distinct informal procedures; housing complaints for which a review panel has been established by DIO and housing contractors; pay and allowances complaints for which the Pay and Allowances Casework and Complaints Cell (PACCC) has been established within the Joint Personnel Administration Centres. This list is not exhaustive.
<b>Specified Officer (SO)</b>	The person to whom a Complainant submits a statement of complaint/Annex F at the start of the Service Complaints process. The SO will decide if the matter is admissible as a Service Complaint. The SO is usually the Service person's Commanding Officer (CO).
<b>Statement of complaint</b>	The document in which a Service person must set out the particulars of their Service Complaint. The SO will decide if the matter is admissible as a Service Complaint.
<b>Undue delay</b>	There is no legal definition of undue delay, as what constitutes such delay is dependent on the circumstances of each individual case. Undue delay is more than simply a delay in the handling of a complaint or exceeding a time limit or target, which may not be desirable but can be justified.
<b>Victimisation</b>	Under the Equality Act 2010, victimisation means treating an individual badly (subjecting them to a detriment) because they have done a 'protected act'. Victimisation also means subjecting a person to a detriment because it is believed they have done or are going to do a protected act; the person does not actually need to have done the protected act.

# Annex B: Excluded Matters

The following matters are excluded from being raised as a service complaint under the Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015 regulation 3 and the schedule.

## Excluded complaints

3. (1) A person may not make a service complaint about a matter within the Schedule.
- (2) A person may not make a service complaint about:
  - (a) a decision under regulations made for the purposes of section 340B(4)(a) (admissibility of the complaint);
  - (b) a decision under regulations made for the purposes of section 340C(2) (decision on the Service Complaint);
  - (c) a decision under regulations made for the purposes of section 340D(2)(c) (decision relating to whether an appeal has been brought before the end of the specified period);
  - (d) a determination of an appeal brought under regulations made for the purposes of section 340D(1) (appeals);
  - (e) alleged maladministration (including undue delay) in connection with the handling of his or her Service Complaint;
  - (f) a decision by the Ombudsman for the purposes of any provision of Part 14A of the Act;
  - (g) the handling by the Ombudsman of a Service Complaint;
  - (h) a decision for the purposes of regulations made under section 334(2) whether a Service Complaint could be made about a matter;
  - (i) a decision under regulations made for the purposes of paragraph (b) of section 334(5) whether a Service Complaint, or an application referred to in that paragraph, could be made after the end of a prescribed period.

1. Subject to paragraph 2, a matter is within this Schedule if it:
  - (a) is or was capable of being the subject of a complaint under the internal disputes resolution procedures established for the armed forces in accordance with section 50, 50A and 50B of the Pensions Act 1995<sup>(8)</sup>;
  - (b) is or was capable of being the subject of an appeal to the Discretionary Awards Panel;
  - (c) is or was capable of being the subject of an appeal to the Discretionary Awards Appeals Panel;
  - (d) is or was capable of being the subject of a review under rule D.8 of the scheme set out in the Armed Forces Pension Scheme Order 2005<sup>(9)</sup>;
  - (e) is or was capable of being the subject of a review under regulation 58 of the scheme set out in the Armed Forces Pension Regulations 2014<sup>(10)</sup>;
  - (f) is or was capable of being the subject of an appeal to a service appeals panel under paragraph 59 of the Criminal Injuries Compensation (Overseas) Scheme<sup>(11)</sup>;
  - (g) is about any decision made under the scheme set out in the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011<sup>(12)</sup>;
  - (h) is about any decision made under the scheme set out in the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006<sup>(13)</sup>;
  - (i) is or was capable of being the subject of an appeal under section 141;
  - (j) is or was capable of being the subject of an appeal under the Courts-Martial (Appeals) Act 1968<sup>(14)</sup>;
  - (k) is a decision of a judge advocate under any provision in or made by virtue of the Act;
  - (l) is a decision of the Director of Service Prosecutions, or of a prosecuting officer exercising a function of the Director of Service Prosecutions, under any provision in or made by virtue of the Act or in relation to the exercise of a right of review under the

(8) 1995 c. 26; section 50 was substituted with new sections 50, 50A and 50B by section 273 of the Pensions Act 2004 c. 35, to which further amendments were made by S.I. 2005/2053 and section 16 of the Pensions Act 2007 c. 22.

(9) S.I. 2005/438; relevant amending instruments are S.I. 2006/717, 2009/544.

(10) S.I. 2014/2336, to which there are amendments not relevant to these Regulations.

(11) The Criminal Injuries Compensation (Overseas) Scheme is a non-statutory, Ministry of Defence scheme under which lump sum payments may be made to members of the armed forces and their eligible dependants who in certain circumstances are killed or injured overseas as a result of a crime of violence.

(12) S.I. 2011/517, amended by S.I. 2012/1573; there are other amending instruments but none is relevant.

(13) S.I. 2006/606, relevant amending instruments are S.I. 2008/679, 2013/241.

(14) 1968 c. 20.

Schedule to the Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015<sup>(15)</sup>;

(m) is a decision of the court administration officer made in exercise of a function of his under a provision in or made by virtue of the Act;

(n) is a decision of a service policeman under any provision in or made by virtue of Chapter 1 of Part 5 of the Act or in relation to the exercise of a right of review under the Schedule to the Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015;

(o) is a decision of a commanding officer under Chapter 1 or 2 of Part 5 of the Act or in relation to the exercise of a right of review under the Schedule to the Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015;

(p) is a decision under:

(i) section 152 (review of summary findings and punishments);

(ii) section 177 (review of service compensation orders);

(iii) section 251(3) or (4) (time for payment of, or directing payment by instalments of, a fine or service compensation order);

(iv) section 267 (power of court to remit fine); or

(v) section 276 (compensation for miscarriages of justice).

(q) is or was capable of being the subject of an appeal to a reserve forces appeal tribunal under section 81(4), 83(4) or 84(3) of the Reserve Forces Act 1996<sup>(16)</sup>;

(r) is a decision of the Security Vetting Appeals Panel in relation to the complainant;

(s) is or was capable of being the subject of an appeal by the complainant to the Security Vetting Appeals Panel;

(t) is or was capable of being the subject of a claim for clinical negligence against the Ministry of Defence; or

(u) is or was capable of being the subject of a claim for personal injury against the Ministry of Defence.

(15) S.I. 2015/1811.

(16) 1996 c. 14.



2. Nothing in paragraph 1 shall prevent a person making a service complaint about anything referred to in regulation 5(2) which he or she alleges has occurred in connection with a matter specified in paragraph 1.

The following explanation of regulation 3 (1) does not form part of the legislation and is provided for guidance:

- (a) is a decision made by the specified officer on admissibility. This can be reviewed instead by the Service Complaints Ombudsman.
- (b) is a decision made by a decision body on whether the service complaint is well-founded. This can instead be raised as an appeal or, depending on the circumstances, with the Ombudsman.
- (c) is a decision made by a single Service secretariat that an appeal cannot proceed. This can be reviewed instead by the Service Complaints Ombudsman.
- (d) is a decision made by an appeal body that a complaint is not well-founded. This can be the subject instead of an application to the Service Complaints Ombudsman.
- (e) is an allegation by a complainant that their service complaint is being or was delayed unduly. This can be the subject instead of an application to the Service Complaints Ombudsman.
- (f) is any decision taken by the Ombudsman on a review or in relation to an investigation. This can instead be taken to the courts.
- (g) is self-explanatory.
- (h) is a decision that was taken by a prescribed officer under the service complaints process that was in place up to 31 December 2015, that a service complaint had been submitted about a matter that was excluded under the previous system from being raised as a service complaint. This is excluded from being raised as a new service complaint under the process in place from 1 January 2016, because the complainant can apply instead to the Service Complaints Ombudsman for a review of the prescribed officer's decision.
- (i) is a decision that was taken by a prescribed officer under the service complaints process that was in place up to 31 December 2015, that a service complaint had been submitted too late. This is excluded from being raised as a new service complaint under the process in place from 1 January 2016, because the complainant can apply instead to the Service Complaints Ombudsman for a review of the prescribed officer's decision.

# Annex C: Single Service Contact Points

## Naval Service:

Email: [NAVYLEGAL-CASEWORKMAILBOX@mod.gov.uk](mailto:NAVYLEGAL-CASEWORKMAILBOX@mod.gov.uk)

## Army:

Email: [APSG-ArmySCSec-Group@mod.gov.uk](mailto:APSG-ArmySCSec-Group@mod.gov.uk)

Telephone: 94391 2005 (01264 382005)

## RAF:

Email: [Air-COSPers-PolSCTGpMlhx@mod.gov.uk](mailto:Air-COSPers-PolSCTGpMlhx@mod.gov.uk)

Telephone: 95221 5696 (01494 495696)

# Annex D: Service Complaints Process Flowchart

