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1 What You Need to Know

This Policy has been developed in accordance with legislation and trusted sources of information.

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. The introduction of the My Complaint application offers Service Personnel a digital solution to submit and track the progress of their Service Complaint, thus improving the experience and transparency for users. JSP 831 is the authoritative policy and guidance for all MOD Service personnel when making, responding to, advising on, investigating and deciding Service Complaints.

1.1 Introduction

1.1.1 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 2015¹, as amended by the Armed Forces (Service Complaints) (Amendment) Regulations 2022², set out the process and procedures for the present Service Complaints system.
- c. The Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015³ 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 2015⁴, as amended by the Armed Forces (Service Complaints Ombudsman Investigations) (Amendment) Regulations 2022⁵, explain when the SCOAF can conduct investigations.

¹<http://www.legislation.gov.uk/uksi/2015/1955/contents/made>

²<https://www.legislation.gov.uk/uksi/2022/494/contents/made>

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

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

⁵<https://www.legislation.gov.uk/uksi/2022/496/contents/made>



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e. Defence (Transfer of Functions) Act 1964 empowers the relevant single Service Board to discharge the functions of the Defence Council.

f. 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 for the Armed Forces (SCOAF).

1.1.2 This JSP sets out what must be included in the Service Complaints process based on the above legislation, and how the SCOAF operates. Other, relevant legislation is also covered. The guidance to be followed, to give effect to the legislation is in the Procedure document.

1.1.3 Separately, the SCOAF produces guidance about the practices and procedures that the SCOAF will adopt in carrying out investigations. This is available from the SCOAF's office and referred to in the parts of this JSP where relevant. The SCOAF's guidance can be found at: www.scoaf.org.uk. The SCOAF can also be contacted by: email: contact@scoaf.org.uk, phone: 0300 369 0689, post to: SCOAF, PO Box 72252, London SW1P 9ZZ.

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

1.2.1 The aim of the Service Complaints⁶ system is to provide serving and former Service personnel with a process that is efficient, effective and fair so they can resolve valid grievances on matters relating to their service in the Armed Forces and seek redress. It is the responsibility of all involved in the process to ensure complaints are handled fairly, promptly and correctly. The intent is that complaints are dealt with quickly and at the most appropriate level.

1.2.2 Where possible and appropriate, attempts at resolving complaints at the lowest level should be made. This may not always be appropriate, for example, in complaints involving the Complainant's Chain of Command (CoC) or in instances where behaviour may amount to a criminal or disciplinary offence. However, many issues can be resolved, often without using the formal process, resulting in issues being settled faster. Further information on the informal complaints process can be found in [JSP 763 - the MOD Behaviours and Informal Complaint Resolution Policy](#).

1.2.3 There will also be instances where complaint resolution can be achieved through Special-To-Type (STT) complaint processes. These include complaints about pay and allowances, healthcare and housing (this list is not exhaustive) and are to be exhausted prior to using the formal Service Complaints process. For more information about the STT complaints processes, please refer to the Procedure part of this document, Chapter 2, paragraph 2.6.

⁶ Terms shown in bold and underlined text are linked to the glossary. The full glossary is at Annex A.



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1.2.4 The wellbeing of all parties at all stages of the Service Complaints system is important. In addition to support and advice provided by the CoC throughout the process, a range of independent support is also available; see the Procedure part of this document, Annex Q for further information.

1.2.5 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.

1.2.6 On receipt of a statement of complaint by the relevant single Service Secretariat (sSS) Central Admissibility Team (CAT), it will be assessed by a Specified Officer (SO) to decide whether it is admissible, i.e. allowed, as a Service Complaint. Some matters are excluded from the system, and time limits apply. At the decision and appeal stages, a person or panel of people will be appointed to decide the complaint. They will have the necessary authority to decide the complaint and grant any appropriate redress. For some complaints, Independent Members (IM) must be appointed.

1.2.7 The SCOAF can review decisions which deny a complaint being admitted as a Service Complaint or from being appealed. The Complainant can apply to the SCOAF if they are not satisfied with the admissibility decision taken. The SCOAF's decision following a review is binding on all parties.

1.2.8 The SCOAF has an important role if the Complainant is not satisfied when the Service Complaint process has been completed. The Complainant can apply to the SCOAF for an investigation into the complaint itself (Substance investigations) or because they believe the complaint was not handled correctly (Maladministration investigations), or both. If the SCOAF goes on to investigate, they must produce a report with findings and, if appropriate to the investigation, recommendations which the relevant single Service is to respond to in writing. It is also possible for the Complainant to approach the SCOAF alleging undue delay before or during the handling of a complaint.

1.2.9 The SCOAF gives Complainants who are not satisfied an independent route to addressing concerns.

1.2.10 Anyone can contact the SCOAF with an allegation that a wrong has been suffered by a Service person. The SCOAF can refer an allegation to the relevant sSS CAT (known as a SCOAF Referral), having first established that the Service person wishes to make a Service Complaint.

1.3 Employment Tribunals

1.3.1 A claim under the Equality Act 2010 may be made to an Employment Tribunal (ET) by a Service person in connection with certain allegations relating to that Act. 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.



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1.3.2 A Service person can also be deemed to have withdrawn the Service Complaint, where they are aware there are grounds to bring an appeal, but do not lodge an appeal within the prescribed time frame - for further guidance on the grounds for appeal, see the Procedure part of this document, Chapter 2, sub-paragraph 2.13.4. A complaint will also be deemed to have been withdrawn if the Service person either does not apply for a review of a decision that the appeal cannot proceed because it is out of time or applies unsuccessfully for such a review.

1.3.3 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, victimisation and harassment 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 ET 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 claims⁷), 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.

1.3.4 Under section 123 of the Equality Act 2010 an ET can accept claims that would ordinarily be outside of the above timeframes where it is deemed just and equitable to do so but this is a discretionary judgment made by an ET 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.

1.3.5 To ensure a Service person is not disadvantaged in being able to bring a claim to an ET 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. If the subject matter of a Service Complaint alleges disability or age discrimination, the time limit will be three months, because of the Armed Forces exemption in relation to ET claims on the basis of the protected characteristics of disability and age. 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 ET.

1.4 Data Protection

1.4.1 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

⁷ Equal pay means men and women in the same employment performing equal work must receive equal pay.
Ministry of Defence – Redress of Individual Grievances: Service Complaints
Policy v4 dated 08 April 2024



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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.

1.4.2 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.

1.4.3 There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the General Data Protection Regulations⁸ and sections 8(c) and 8(d) of the Data Protection Act 2018⁹, 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.

1.5 Standard of proof

1.5.1 In assessing a Service Complaint, the DB and AB (if applicable) must decide if the complaint is well-founded. They will use the same 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 AB will be on the basis of a unanimous decision or simple majority when more than one person has been appointed.

1.6 Recurring aspects of the system

1.6.1 Role of the Defence Council and delegation of its functions: The Defence Council 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' 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).

1.6.2 Independent Members (IM) at the appeal and reconsideration stages: An AB, or a body reconsidering a complaint following a report by the SCOAF, must include one or more

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

⁹ 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.



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independent persons (an 'Independent Member') where the Service Complaint alleges the following [Unacceptable Behaviours](#)¹⁰ :

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

'Discrimination' means discrimination 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. 'Victimisation' means treating an individual badly (subjecting them to a detriment) because they have done or it is believed that they have done or are going to do a 'protected act'. A list of 'protected acts' is provided in JSP 763, Part 1 and para 2.37.

1.6.3 An IM may also be appointed to a Service Complaint at DB stage where the DB, or sSS, consider it best practice to do so. For example, where a Service Complaint includes allegations of a sexual nature, an IM should be included at the DB stage.

1.6.4 An IM 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.

1.6.5 To ensure a Complainant is not disadvantaged, in any case where they are notified of a decision, that notification is deemed to occur on the second day after the day on which it was transmitted to them. Where a Complainant makes a statement of complaint, an application to the SCOAF 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.

¹⁰ [JSP 763 - The MOD Behaviours and Informal Complaint Resolution Policy](#)



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

1.6.7 Points of contact for the sSS are provided at Annex C.



2 The Service Complaint System – what you need to know.

2.1 Who can make a Service Complaint?

2.1.1 A Service Complaint can be made by a Service person, in Regular or Reserve service, or a former Service person (hereafter referred to as a Service person).

2.1.2 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. A complaint cannot be made by a group of people.

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

2.2.1 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.

2.2.2 There are certain matters about which a Service Complaint cannot be made: these excluded matters are listed at Annex B.

2.3 Time limit for making a Service Complaint

2.3.1 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 2.7.1 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.

2.3.2 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 they consider it is just and equitable to do so.

2.3.3 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 paragraph 1.3 of Chapter 1.

2.4 How to make a Service Complaint

2.4.1 A Service Complaint is made by a Service person submitting a statement of complaint to a Specified Officer (SO). The SO will be an officer within the relevant single Service Secretariat Central Admissibility Team (CAT), who is outside of the Complainant's direct CoC, and properly appointed to undertake the role - see Annex C for single Service points of contact.



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2.4.2 To make a statement of complaint, a Service Person should complete a Service Complaint Form on the My Complaint application (accessible via Defence Gateway) - this is the recommended route. Alternatively, you can submit a Service Complaint in writing using the form found at Annex F and send this to your single Service Secretariat (sSS) Central Admissibility Team (CAT) - each CAT is outside of the Complainant's direct Chain of Command (CoC), and properly appointed to undertake the role. Details on the information required when making a statement of complaint can be found in the Procedure Part of this document at Chapter 2, sub-paragraphs 2.7.2 - 2.7.3.

2.5 Ombudsman's referral of allegations to a single Service Secretariat Central Admissibility Team (CAT)

2.5.1 Anyone can contact the Service Complaints Ombudsman for the Armed Forces (SCOAF) with an allegation of wrongs done to a person who is or was subject to Service law. The SCOAF can decide to refer an allegation to the relevant sSS CAT who would have received the complaint had the Complainant raised the matter directly to them.

2.5.2 Having referred an allegation, the SCOAF is to be notified by the appropriate sSS CAT within three weeks of the day from the occurrence, of any of the following matters:

- a. the sSS CAT has informed the person that the allegation has been referred.
- b. 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. whether the person wishes to make a Service Complaint about the allegation.
- d. a decision taken by the SO that the subsequent Service Complaint is inadmissible.
- e. 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. a decision that an appeal has been made out of time.
- g. 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. the withdrawal of the Service Complaint.

2.6 Deciding whether the Service Complaint is admissible

2.6.1 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.



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2.6.2 Information on when a complaint is considered not admissible as a Service Complaint can be found in the Procedures part of this document at Chapter 4, subparagraph 4.9.1.

2.6.3 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 SCOAF.

2.6.4 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 per sub para 2.6.1 above.

2.7 Completing a Special-To-Type process before making a Service Complaint

2.7.1 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 Service Complaint should not proceed until the STT process has been exhausted¹¹. The SO should stay the matter until that process is ended, then the Complainant can return to the Service Complaint process if they wish to. For more information about the STT complaints process please refer to the Procedure part of this document, Chapter 2, paragraph 2.6.

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

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

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

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

¹¹ There may be some circumstances where the SO considers that there are good reasons to allow the Service Complaint to proceed before the STT has been exhausted; however, legal advice should be sought where this course of action may be deemed necessary.



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2.8.4 If the SCOAF finds that the complaint is admissible, the SO is to refer the complaint to the nominated Defence Council delegate any part of or all the Service Complaint that is admissible.

2.9 How a Decision Body (DB) is appointed and how the Service Complaint is decided

2.9.1 The nominated Defence Council delegate is to appoint a DB, consisting of a person or panel of persons or 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 SCOAF). Where a Service Complaint includes allegations of a sexual nature, an IM should be appointed to the DB.

2.9.2 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
- b. authorisation is given to that person or all persons.

2.9.3 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.

2.9.4 Where the nominated Defence Council delegate determines that a Service Complaint requires the Defence Council itself to decide the complaint, they must 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 SCOAF at the end of the Service Complaints process.

2.9.5 If the DB wants to, it can authorise another person to carry out the Service Complaint investigation such as an Investigating Officer (IO) or where the Complaint includes bullying, harassment, discrimination or any Unacceptable Behaviours¹², a suitably trained investigator. It is for the DB however to decide the complaint.

2.9.6 Where a Service Complaint includes allegations of a sexual nature, the DB should not include anyone from the Complainant's immediate CoC. In such instances, any

¹² [JSP 763 - The MOD Behaviours and Informal Complaint Resolution Policy](#)



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investigation of the complaint should be carried out by an investigator from the Outsourced Investigation Service (OIS).

2.9.7 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.

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

2.9.9 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.

2.9.10 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.

2.9.11 The DB must notify the Complainant in writing of its decision, giving its reasons, and of the Complainant's right to appeal the decision if an appeal is available (or of the right to apply to the SCOAF).

2.10 What if the Complainant withdraws their Service Complaint?

2.10.1 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.

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

2.11.1 If the Complainant is not satisfied with a decision, they can submit an appeal where an appeal route exists. For further guidance on the timelines for and the grounds on which a Complainant can submit an appeal, see the Procedure part of this document, Chapter 2, paragraph 2.13.

2.11.2 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 raise their own complaint for consideration as a Service Complaint if they are a Service person, by raising the matter through the My Complaint application (via Defence Gateway) – this is the recommended route. Alternatively they can submit a Service Complaint in writing using the form found at the Procedure part of this document, Annex F and send this to their sSS CAT. Details of these teams and who to send their Service Complaint Form to can be found at the Procedure document, Annex Q, or they can ask their unit's HR team for advice if they are not sure who to make their complaint to (see Chapter 2 of this part of the JSP). The Service Complaint cannot be a challenge to the decision reached in the other complaint, but it can be about how they were treated.



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2.11.3 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 Service Complaints Appeals

3.1 Transitional Arrangements applying to appeals against decisions made before 15 June 2022

3.1.1 On 15 June 2022, amendments to the Armed Forces (Service Complaints) Regulations 2015 came into force which limit the grounds on which an appeal against a decision on a Service Complaint can be made and changed the time limit for bringing an appeal. These amendments do not apply to appeals against decisions on Service Complaints where that decision was made before 15 June 2022. The guidance on grounds for appeal and time limits set out in this Chapter will therefore not apply to those complaints. For further guidance on bringing an appeal against a decision made before 15 June 2022, see Annex D.

3.2 Time limit for making an appeal

3.2.1 An appeal must be brought within two 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.

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

3.3.1 Details of the procedure for submitting an appeal about a decision on a Service Complaint can be found in the Procedures document at Chapter 2, paragraph 2.13.

3.4 Deciding whether an appeal can proceed

3.4.1 The nominated Defence Council delegate must decide whether the appeal application is admissible. An appeal will be admissible where it has been brought on at least one valid ground and within the time limit. 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.

3.4.2 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 for the Armed Forces (SCOAF) for a review of that decision.

3.5 Action taken by the Service Complaints Ombudsman for the Armed Forces (SCOAF) on review of a refusal to allow an appeal

3.5.1 The SCOAF can review a decision not to proceed with an appeal (on the basis that it is out of time or has not been brought on a valid ground) if the Complainant is dissatisfied with the decision and applies to the SCOAF in writing seeking a review.



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3.5.2 The SCOAF must determine whether the decision not to proceed with the appeal was reasonable or not. The SCOAF must notify both the nominated Defence Council delegate and the Complainant in writing of the determination, giving the reasons for it.

3.5.3 The SCOAF 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 SCOAF considers it is just and equitable to allow the Complainant to apply outside that period.

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

3.6 Appointing an Appeal Body (AB) and determining the appeal

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

3.6.2 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 His Majesty's Treasury (HMT) for certain financial payments.

3.6.3 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.

3.6.4 It may be necessary to appoint one or more independent persons to determine the appeal. Sub-paragraph 1.6.2 above, sets out when an Independent Member (IM) will be required.

3.6.5 Where a Service Complaint includes allegations of a sexual nature, anyone appointed to the AB should not be from the Complainant's immediate Chain of Command (CoC).

3.6.6 If appropriate the AB may decide that further investigation of a Service Complaint is required at the appeal stage. The AB can authorise another person to carry out the investigation such as an Investigating Officer (IO) or, where the Complaint includes bullying, harassment, discrimination or any Unacceptable Behaviours a suitably trained investigator. It is for the AB however to determine the appeal.



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3.6.7 For Service Complaints that include allegations of a sexual nature, any further investigation required should be carried out by an investigator from the Outsourced Investigation Service (OIS).

3.6.8 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.

3.6.9 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.

3.6.10 There is a requirement for the AB to give any subject of a complaint or other persons likely to be criticized 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.

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

3.6.12 The AB appointed to consider and determine the appeal must notify the Complainant through their preferred contact method of its determination and give the reasons for it. The Complainant must also be informed of the right to apply to the SCOAF for an investigation if they believe there were mistakes made in the handling of the complaint (maladministration) or the decision reached was incorrect (substance).

3.7 What if the Complainant or Respondent is dissatisfied with the determination?

3.7.1 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 SCOAF for an investigation to be carried out. For further guidance on how a Complainant should apply to the SCOAF for an investigation, see Chapter 4.

3.7.2 The Respondent or any other Service person who has been criticised in relation to their character or reputation cannot apply to the SCOAF if dissatisfied. Details of how to raise a separate complaint about their treatment are at sub-paragraphs 2.11.2 - 2.11.3 above.

3.7.3 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 (see sub-paragraph 2.11.3).



4 The Service Complaints Ombudsman for the Armed Forces

4.1 When can an application be made to the Service Complaints Ombudsman for the Armed Forces?

4.1.1 An application to the Service Complaints Ombudsman for the Armed Forces (SCOAF) can only be made on 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.

4.1.2 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).

4.1.3 In addition, where the SCOAF investigates a Service Complaint or alleged maladministration, the SCOAF can go on to investigate other, non-alleged maladministration where the possibility that such maladministration may have occurred becomes apparent during the investigation.

4.2 Time limit for making an application

4.2.1 There is no time limit for applying for an investigation into undue delay whilst a Service Complaint is still on-going. However, once a complaint has been finally determined, a Complainant must make an application within six weeks of the date that they received the final decision on the Service Complaint - the 'final decision' will depend on the stage that the Service Complaint reached:

- a. Where the Service Complaint has made an appeal, the final decision will be the determination on that appeal.
- b. Where the Complainant has received a decision that their appeal is



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inadmissible only because they do not have valid grounds of appeal, the final decision will be:

(1) the decision of the single Service Secretariat Central Admissibility Team that the appeal is inadmissible (if the Complainant did not apply to the SCOAF for a review of this decision); or

(2) the decision of the SCOAF that the appeal is inadmissible (if the Complainant did apply to the SCOAF for a review).

c. Where the Complainant does not have grounds of appeal of which they are aware, the decision on the Service Complaint.

d. Where the Service Complaint was heard directly by the Defence Council, the decision on the Service Complaint.

4.2.2 Where a Complainant is unable to apply within the time limit, they should state the reasons why the application was not made within that period. The SCOAF can accept an application that is made after six weeks if the Ombudsman considers that it is just and equitable to do so.

4.3 Who can make an application to the Service Complaints Ombudsman for the Armed Forces?

4.3.1 Only the person who made the Service Complaint can apply to the SCOAF on the grounds set out at sub-para 4.1.1, above.

4.4 How to make an application

4.4.1 An application to the SCOAF must:

a. be made in writing and dated.

b. set out the kind(s) of investigation which the Complainant is requesting the SCOAF 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 4.4.1d above, state any undue delay that is alleged, any injustice that has or may have



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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 SCOAF.

g. if the application is not made within six weeks of the Complainant having received the final decision on the Service Complaint the Complainant will need to state the reasons why the application was not made within that period. The 'final decision' will depend on the stage that a Service Complaint is at - see subparagraph 4.2.1 above.

4.5 What happens next?

4.5.1 The SCOAF has wide discretion to start, continue or stop an investigation following receipt of an application from a Complainant, and how to conduct individual investigations.

4.5.2 What the SCOAF 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 SCOAF to look at:

a. where the SCOAF 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 SCOAF thinks it is, to consider what if any redress would be appropriate and make recommendations about any redress.

b. where the SCOAF 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 SCOAF 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 SCOAF thinks it is, to decide whether the undue delay has or could have resulted in injustice to the Complainant, and to make any recommendations because of the findings.

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

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



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

4.6 The conduct of investigations

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

4.7 Reimbursement of expenses

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

4.8 Decisions on access to legal advice

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

4.9 Withdrawing an application

4.9.1 A Complainant may withdraw an application at any time before an investigation has been completed by the SCOAF. Notice of the withdrawal must be made in writing and be shared by the SCOAF with the nominated Defence Council delegate. It will be for the SCOAF 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.

4.10 Opportunity to comment during an investigation

4.10.1 Having decided to begin an investigation, the SCOAF 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 SCOAF considers is a subject of the Service Complaint.



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d. any person who the SCOAF 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 SCOAF's report.

4.11 Responding to the Service Complaints Ombudsman for the Armed Forces requests for information

4.11.1 The SCOAF 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 SCOAF has specified as being reasonable in the circumstances. The SCOAF can also specify the form and way documents or information that has been requested should be provided.

4.12 Service Complaints Ombudsman for the Armed Forces power if information is being unlawfully withheld

4.12.1 The SCOAF 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 SCOAF has the power ultimately to ask the High Court to investigate whether in withholding material requested by the SCOAF 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 SCOAF where it is lawful to do so.

4.13 Service Complaints Ombudsman for the Armed Forces discretion to share a report in draft

4.13.1 It is open to the SCOAF to share a copy of a draft report for comment with any of the people set out at sub-paragraph 4.10.1 above. Any comments received must be given due weight in the final report along with the SCOAF's response to them.

4.14 Content and distribution of Service Complaints Ombudsman for the Armed Forces final report

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

4.14.2 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 SCOAF. Sub-paragraph 4.5 above sets out what the SCOAF's findings and recommendations are to cover.

4.14.3 The SCOAF's report must include the reasons for each of the findings and recommendations.



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4.14.4 The SCOAF must send a copy of the final report to:

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

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

4.15 Acting to correct errors in a published report

4.15.1 The SCOAF can 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.

4.16 Considering the Service Complaints Ombudsman for the Armed Forces published report

4.16.1 The nominated Defence Council delegate must consider a report that has been issued by the SCOAF following an investigation. The SCOAF 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 SCOAF, and the reasons; and
- b. why it has decided to reject a recommendation if that is the case.

4.17 Implementing the Service Complaints Ombudsman for the Armed Forces recommendations

4.17.1 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 sub-para 1.6.2.



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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.

4.17.2 Following reconsideration of a Service Complaint, the decision is to be sent to:

a. the Complainant;

b. the SCOAF; and

c. any person to whom the SCOAF sent a copy of the published investigation report on the complaint in question.

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

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

4.19 Can a Complainant apply to the Service Complaints Ombudsman for the Armed Forces again about the same complaint?

4.19.1 If the SCOAF 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 SCOAF, the Complainant may make a subsequent application to the SCOAF 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 SCOAF beyond this period if the SCOAF considers that it is just and equitable to do so.

4.19.2 If the Complainant has approached the SCOAF for an investigation into the delay of an initial admissibility decision, or the undue delay in relation to an on-going Service Complaint, there is nothing to prevent the Complainant from applying to the SCOAF for an investigation into its substance or handling once the Service Complaint has been finally determined.



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5 Applicability

This policy, and associated procedure applies to all MOD Service personnel, Civil Servants and civilians. It is designed to be used by Service personnel when making a complain, those subject to a complaint, and by all those responsible for handling and managing complaints.



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6 Document Information

6.1 Document Coverage

This Policy supersedes all previous MOD Policy on Redress of Individual Grievances: Service Complaints. The totality of documents included in this Policy Suite are listed in the Policy and Guidance Portal.

6.2 Document Information

Filename:	Redress of Individual Grievances: Service Complaints Policy
Document ID:	To be confirmed
Owning Function / Team:	Service Complaints and Behaviours Team People-CEJ-SCB-PolLead2 People-CEJ-SCB-PolLead3 Conduct, Equity and Justice Directorate people-diversity-inclusion@mod.gov.uk
Service Owner (1*):	Head, Service Complaints and Behaviours Transformation
Approving Authority:	Chief of Defence People

6.3 Document Versions

Version	Pub. Date	Revision History	Revised Pages
3	15 Jun 22	Fully revised in line with new Service Complaints Process effective from 15 Jun 22.	Multiple
3.1	3 Oct 23	Amended to reflect changes in process relating to submission of a Service Complaint and an appeal.	Multiple
4	8 April 24	Policy simplification revamp and other amendments to reflect further changes in process relating to submission of a Service Complaint and appeal.	Multiple

MOD will review this Policy in two years, or when changes to legislation or best practice dictates.

6.4 Linked JSPs



Policy

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

JSP Number	JSP Name
JSP 763	The MOD Behaviours and Informal Complaint Resolution Policy



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7 Diversity and Inclusion

MOD respects and values people of all backgrounds. The Redress of Individual Grievances: Service Complaints Policy is designed to ensure all employees are treated in a fair, transparent and consistent manner. All those involved in the management of MOD employees must abide by legislation and should adhere to MOD policy.

For more information on diversity and inclusion, please see the [MOD Diversity & Inclusion Pages](#) on MODnet.

This policy has been subject to an Equality Impact Assessment (EA).

Document	Date	Owner
Link to be added		



Annex A: Glossary

Alternative Resolution - Where possible and appropriate, there may be opportunities to resolve complaints without recourse to the Service Complaints process. This might be informal resolution, including through mediation, or through a Special-to-Type (STT) complaints process.

Annex F - A Service Complaint Form (Annex F to the Procedure part of this document) which captures key information about the matters being complained about and the redress that is being sought.

Annex G - A Service Complaint Application to Appeal Form (Annex G to the Procedure part of this document) which enables a Complainant to make an appeal against a decision on their Service Complaint.

Appeal Body (AB) - One or more individuals (who might include an Independent Member (IM)) who have been appointed by a single Service Complaints Secretariat (sSS) to consider and to make a determination on an appeal.

Assisting Officer (AO) - 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.

Case Management System (CMS) - is the intranet-based Service Complaints administration system used by the Services to log all complaints dealt with under this JSP.

Central Admissibility Team (CAT) - A team within each of the single Service Secretariats to whom a Complainant submits their statement of complaint. The role of a Specified Officer (SO) from within the CAT is to decide whether a statement of complaint, or parts thereof are admissible as a valid Service Complaint.

Chain of Command (CoC) - Chain of Command is the line of authority and responsibility along which orders are passed within a Service unit and between different units.

Commanding Officer (CO) - 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.

Complainant - A serving or former Service person who was / is subject to AFA 06 and has made a Service Complaint.

Decision Body (DB) - One or more individuals who have been appointed by a single Service Complaints Secretariat to investigate and make a decision on a Service Complaint.



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Defence Council - The Defence Council is the senior departmental committee. It is chaired by the Secretary of State and comprises other Defence 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.

Diversity and Inclusion Advisor (D&I (A)) - 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.

Easy Read Guide - The Service Complaints Easy Read Guide provides a short summary of the Service Complaints process and what individuals can expect from it.

Finally Determined - A Service Complaint that has been completed in the internal process i.e. a decision has been taken on the Service Complaint by the Decision Body (DB) and, if an appeal is available, there has been a determination by the Appeal Body (AB). In some Service Complaints, there will be a decision stage with no appeal because the complaint has been heard by the Defence Council, or if the Complainant has no grounds for an appeal. A Service Complaint has not been finally determined for the purposes of a Service Complaints Ombudsman for the Armed Forces (SCOAF) investigation if the complainant is aware that they have grounds for appeal, but does not pursue them.

Head of Complaint - A Head of Complaint (HoC) is an alleged wrong raised by a Complainant in a Service Complaint Form (Annex F). A Service Complaint Form can include one or more HoCs.

In writing - 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 or correspondence through the My Complaint application.

Independent member (IM) - 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 Chapter 1, sub-paragraph 1.6.2.

Internal Process - The process that is handled by the Services from receiving a Service Complaint through to making a final decision.

Investigator - 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.

Maladministration - 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



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misleading information; broken promises; inadequate record-keeping or inadequate liaison or consultation.

Mediation - 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.

My Complaint Application - An application accessible via the SCIO portal on Defence Gateway which allows Service Complaints to be submitted and monitored, whilst also managing activities such as Complainant/Respondent disclosure.

Outsourced Investigation Service (OIS) - The Outsourced Investigation Service (OIS) provides Defence with an independent investigation service for complaints relating to Bullying, Harassment, Discrimination and Victimisation. It is provided by MOD's external delivery partners Guidant Global and Conflict Management Plus (CMP).

Principles of Fairness - 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.

Receive Notification - Any reference to a person having 'received notification' means that they are deemed to have received the communication on the second day after the day on which it was posted, sent electronically or delivered in person to the intended recipient.

Redress - 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.

Respondent - A person who is the subject of a Service Complaint.

Secretariat - The Service Complaints process is supported by a secretariat which has two main components: a central secretariat and the secretariats of the three single Services. The central secretariat is part of the central staff reporting to Chief of Defence Personnel (CDP) through Director of Conduct, Equity and Justice (CEJ). The Service Complaints single Service secretariats (sSS) are embedded within their single Service Chains of Command in their separate locations.

Service Complaint - A grievance submitted in writing as a statement of complaint/Annex F which is deemed admissible as a Service Complaint.

Service Complaints Ombudsman for the Armed Forces (SCOAF) - The Service Complaints Ombudsman for the Armed Forces (SCOAF) is independent of MOD. The appointment is approved by The Queen on the recommendation of the Secretary of State for Defence. The SCOAF 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.



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Sexual Nature Complaints - References within this JSP to Service Complaints of a 'sexual nature' relate to those that involve allegations of sexual harassment, and/or those relating to other alleged sexual offences returned by the Service Police or Ministry of Defence Police (MDP).

Special-to-Type (STT) - 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 Defence Infrastructure Organisation (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.

Specified Officer (SO) - A Specified Officer (SO) is appointed by the Defence Council to decide whether a statement of complaint, or parts thereof are admissible as a valid Service Complaint.

Statement of Complaint - The document in which a Service person must set out the particulars of their Service Complaint. This Service Complaint Form can be found at Part 2, Annex F of this JSP. The SO will decide if the matter is admissible as a Service Complaint.

Undue Delay - There is no legal definition of undue delay, as what constitutes such delay is dependent on the circumstances of each individual complaint. 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.

Victimisation - 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. For these purposes a protected act is anything done for the purposes of or in connection with the Equality Act 2010.

Witness – A witness is someone who is able to provide information relevant to the subject matter of the Service Complaint.



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. They are set out in 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.

SCHEDULE Regulation 3(1)

1. Subject to paragraph 2, a matter is within this Schedule if it:



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- (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(8);
- (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(9);
- (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(10);
- (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(11);
- (g) is about any decision made under the scheme set out in the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(12);
- (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(13);
- (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(14);
- (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 Schedule to the Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015(15);
- (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;



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(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(16);

(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.

- 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.



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(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

Royal Navy

General Enquiries:

Email: NAVYLEGAL-CASEWORKMAILBOX@mod.gov.uk

For Service Complaint Admissibility (Annex F):

Email: NAVYPEOPLE-SCLSUBMITCOMPLAINT@mod.gov.uk

For Submission of Appeals (Annex G):

Email: NAVYPEOPLE-SCLAPPEALS@mod.gov.uk

Army

General Enquiries:

Email: apsg-armyscsec-enquiries@mod.gov.uk

For Service Complaint Admissibility (Annex F):

Email: APSG-ArmySCSec-Group@mod.gov.uk

For Submission of Appeals (Annex G):

Email: APSG-ArmySCSec-Appeals-0Mailbox@mod.gov.uk

RAF

General Enquiries:

Email: Air-COSPers-PolSCTGpMlbox@mod.gov.uk

For Service Complaint Admissibility (Annex F):

Email: Air-COSPers-PolSCT-CentAdmisCell@mod.gov.uk

For Submission of Appeals (Annex G):

Details of the Case Manager to who a Complainant should submit an Appeal will be provided in the Decision Letter.



Annex D: Transitional Arrangements (Saving Provision)

Appeals

1. The Armed Forces (Service Complaints) (Amendment) Regulations 2022 ('the 2022 Regulations') made amendments to the Armed Forces (Service Complaints) Regulations 2015 ('the 2015 Regulations') and came into force on 15 June 2022.

2. The 2015 Regulations make provision about the procedure for making and dealing with a Service Complaint and related appeals. The amendments made by the 2022 Regulations limit the grounds on which an appeal against a decision on a Service Complaint can be made, and changed the time limit for bringing an appeal.

3. Regulation 3 of the 2022 Regulations contains a saving provision to ensure that the changes relating to appeals¹³ will not apply to a Service Complaint where a decision by the Decision Body on whether that complaint was well-founded was made before 15 June 2022.

4. The scenarios below set out what is to happen when a Complainant receives a Decision Body decision on a Service Complaint.

(a) Where a Decision Body decision on a Service Complaint was made before 15 June 2022.

- 1) A Complainant wishing to appeal must submit their appeal under the old system i.e. within six weeks of the date they were deemed to have received notification of the decision, unless the nominated Defence Council delegate considers that it is just and equitable to allow the appeal to proceed out of time. The appeal must be dated and state those aspects of the decision which the complainant disagrees with and their reasons for disagreeing.

(b) A Decision Body decision on a Service Complaint was made on or after 15 June 2022.

- 1) A Complainant wishing to appeal must submit their appeal under the new system, i.e. within two weeks of the date they were deemed to have received notification of the decision, unless the nominated Defence Council delegate considers that it is just and equitable to allow the appeal to proceed out of time.
- 2) The appeal must be dated and must set out which of the grounds in regulation 10(1) of the 2015 Regulations they are relying on. The

¹³ These changes are contained in regulation 2(5) - (6) of the 2022 Regulations.



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nominated Defence Council delegate will decide if the appeal has been brought on a valid ground.

Submitting a Statement of Complaint

5. On 15 June 2022, the process for submitting a statement of complaint changed. Under the new process, a Complainant should now submit a statement of complaint to their single Service Secretariat (sSS) Central Admissibility Team (CAT) - details of which can be found at Annex C.

6. For Complainants who submitted a statement of complaint to a Specified Officer (SO) before 15 June 2022 and are awaiting an admissibility decision, they are not required to take any further action. They should await contact from the SO or the relevant sSS.