



Ministry
of Defence

JSP 831
Redress of Individual Grievances: Service
Complaints
Part 2: Guidance

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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.

Defence Authority for People

**Chief of Defence Personnel
Lt Gen Andrew Gregory CB**

Preface

How to use this JSP

1. JSP 831 is intended as a guide for all MOD Service personnel and MOD civilian employees 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, managing and advising on 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.

Related JSPs	Title
JSP 763	The MOD Bullying and Harassment Complaints Procedures

Coherence with other Defence Authority Policy and Guidance

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

Further Advice and Feedback - Contacts

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

Job Title/E-mail	Project focus	Phone
People-Sec-Complaints Pol 1	Service Complaints C1	0207 80 70702
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1. Complainant

Overview of the service complaint process

1. The aim of the service complaints system is to provide serving and former Service personnel with a process that is fair, effective and efficient, and one in which they can have confidence to raise matters of concern with their chain of command relating to their Service, and to seek redress.
2. It is the responsibility of all those involved in the process to ensure that complaints are handled confidentially, fairly, promptly and correctly.
3. This responsibility extends to complainants, respondents and all other persons involved in handling a service complaint, ensuring that they cooperate fully, and in good faith, at all times.
4. The intent is that service complaints are dealt with at the lowest appropriate level possible and resolution achieved quickly and, where possible, with every effort being made to resolve a complaint informally.
5. The making of a service complaint in accordance with the legislation is a legal right. A Service person who is in the process of seeking an informal resolution should be aware that they have the right to submit a service complaint at any time within the specified time limits.

What can you expect from the process?

6. During the service complaint process, you can expect:
 - a. to have your complaint taken seriously and investigated impartially, thoroughly, sensitively and confidentially;
 - b. to be protected from **victimisation** for having made the complaint;
 - c. to have access to advice and support;
 - d. to have access to an assisting officer (AO) who can help you with procedural matters throughout the process and arrange access to an equality and diversity/diversity and inclusion advisor if your complaint includes allegations of bullying, harassment or discrimination;
 - e. if possible and appropriate, to have an opportunity to try to resolve the matter informally in the first instance, including through mediation;
 - f. to be kept regularly informed of the progress of your service complaint;
 - g. to be informed promptly of the decision/outcome;

- h. if dissatisfied with the outcome, to have the right to appeal the decision within six weeks beginning with the date you **receive notification** of the decision on your complaint; and
- i. to have the right to contact the **Service Complaints Ombudsman** in certain circumstances.

What are your responsibilities within this process?

- 7. During the service complaint process, you are responsible for:
 - a. familiarising yourself with Part 1 of this JSP, which sets out what the legislation says about how the service complaints process is to operate;
 - b. making sure that you are eligible to raise a service complaint;
 - c. using the **special-to-type** complaints process if there is one for the matter you want to complaint about, before you make a service complaint. The **single Service secretariat** will be able to help you find who to contact about these other procedures – their contact details are at Annex D to Part 1 of this JSP;
 - d. setting out clearly, accurately and in detail what **redress** or outcome you are realistically looking for;
 - e. doing all you can to make any attempt to resolve your complaint informally succeed, when you have agreed to try the informal route;
 - f. co-operating fully, and in good faith, with the investigation of your service complaint;
 - g. maintaining the confidentiality of all aspects of the investigation process and its outcome;
 - h. making sure that whoever is dealing with your service complaint has the most up-to-date contact details for you. The more methods of communication people have to maintain contact with you, the less chance there is of this becoming an unnecessary cause of delay to your case;
 - i. responding within time limits to requests for further information and in response to disclosure, wherever possible, and if you are not able to do so giving clear reasons why. You need to be aware that a decision or appeal body that is considering your service complaint can move on and make a decision on it if they do not get a response within a reasonable time to any requests they put to you;
 - j. not victimising or retaliating against others;

- k. not making abusive, offensive or threatening comments to individuals handling your complaint or other individuals concerned; and
 - l. not making excessive demands on the time and resources of staff while your complaint is being progressed.
8. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in the service complaints process should conduct themselves, if the process is to be as efficient and as fair as possible. They are not laid out in legislation, but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.

Who can make a service complaint?

- 9. If you are a serving or former Service person, in regular or reserve service, and think that you have been wronged in any matter relating to your service in the Armed Forces, you may make a complaint about that matter.
- 10. If you are no longer subject to Service law e.g. have left the Armed Forces, but think that you were wronged in any matter relating to your service which occurred whilst you were still serving, you may also make a complaint about that matter.
- 11. A **service complaint** can only be made by you as an individual: there are no procedures for a complaint to be made by a group, although anyone who is affected by a matter that also affects others could make their own individual service complaint.
- 12. To help you understand the service complaints process, from completion and submission of the service complaint form or letter of complaint through to resolution, an assisting officer (AO) must be made available to you by the **specified officer** (SO) who you make your initial complaint to. Alternatively you can nominate someone to be your AO. The process for appointing, and the role of, the AO are set out at Chapter 8.

What matters can you not complain about?

- 13. Whilst you can make a service complaint about matters relating to your service in the Armed Forces, there are certain matters about which you cannot make a complaint. These excluded matters are listed at Annex B to Part 1 of this JSP.

Time limits for submitting a service complaint

- 14. You need to make your service complaint within three months of the day the matter complained of occurred. If the matter you want to complain about occurred over a period of time, you must submit your complaint within three months of the latest incident or at the end of the period.

15. If you are complaining about something that can be the subject of a claim to an employment tribunal (discrimination or about an equal pay matter), different time limits apply for making your service complaint. More information about these situations is at Chapter 1 paragraphs 12-14 of Part 1 to this JSP. Your AO will also be able to help you if you have any questions.
16. In most circumstances, if you submit a complaint beyond the required time limit will be ruled out of time. However, the specified officer can consider whether it would be just and equitable to rule your complaint in time and so allow it to proceed – to help the specified officer who is looking at your complaint you will need to set out in your statement of complaint the reasons for not having submitted the complaint within the time limit.

What is a special-to-type process and how does it affect my service complaint?

17. For complaints about pay and allowances, healthcare and housing there are other complaints processes to be followed before you make a service complaint. These are known as **special-to-type** procedures. Once you have exhausted one of these processes, you have three months from being notified of the final decision in which to make a service complaint.
18. If you submit a **statement of complaint** and have not yet followed a special-to-type process, the specified officer will put it on hold – you can come back to it, following the final decision under the special-to-type process, if you want to.

Submitting a service complaint

19. To make a service complaint you must submit a statement of complaint in writing and it must be dated. Ideally you should submit it on a service complaint form at Annex F, as this will make sure that the important information needed is provided from the beginning. Annex F also provides guidance on submitting a complaint. If you cannot get hold of the form for any reason, you must still submit your complaint **in writing** and you will be asked to transfer the information to the Annex F at a later date.
20. In setting out your statement of complaint you must include the following information:
 - a. The facts and circumstances of your case and how you consider you have been wronged;
 - b. whether your **Commanding Officer** (CO) or your 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, you are complaining about;
 - c. whether you are alleging discrimination, harassment, bullying, dishonest behaviour or bias, and the facts to support the allegations;

- d. whether your complaint is about the way in which a service policeman has improperly exercised their powers under statute (e.g. in relation to arrest or searching) and the facts to support your complaint;
- e. whether you are alleging a failure by MOD to provide medical, dental or nursing care for which MOD is responsible, and the facts to support your complaint;
- f. if you are making your complaint outside the time limit of three months, an explanation as to why; and
- g. the redress you are looking for.

21. You must also state one of the following:

- a. the date on which, to the best of your 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 your recollection, that period probably ended;
- c. that the matter complained about is continuing to occur; or
- d. that you are unable to recollect the date.

22. You should submit your statement of complaint to the SO within your chain of command, who will usually be your CO, so that they can decide whether your complaint is admissible and it can proceed.

23. If you consider that your CO or your CO's immediate superior is the subject of the complaint or is implicated in any way in the matter(s) you are complaining about, you should contact your single Service secretariat for advice on who to submit your statement of complaint to.

24. The policy is that 90% of service complaints should be resolved within 24 weeks. That time starts once the SO has made a decision about whether your complaint is admissible. If you have submitted a statement of complaint without having exhausted a special-to-type process, the handling time will start when you have completed the other process and have informed the SO that you wish your statement of complaint to proceed (see paragraphs 17-18 for more information about special-to-type procedures).

How the SO decides whether your service complaint is admissible and it can proceed

25. On receiving your statement of complaint and before making a decision on admissibility the SO will:

- a. send you a letter acknowledging receipt;

- b. speak to you to understand the nature of the complaint and the redress you are looking for, and to see if there is any additional information available or required (this may be necessary for example if you submitted a service complaint before 1 January 2016, since which point additional information may be required under the new system);
 - c. offer you the services of an AO if you do not already have one; and
 - d. discuss with you and, if appropriate, consider the possibility of resolving the complaint informally. This might for example include the use of mediation between you and the parties involved. This would be entirely voluntary and you would not be put under pressure to take part if you did not want to.
26. The SO will decide that your complaint is not admissible if any or all of the following apply to the matter or matters that you are complaining about:
- a. your complaint is about an excluded matter as listed at Annex B of Part 1 of this JSP
 - b. your statement of complaint has been submitted more than three months after the date on which the matter complained about occurred, and the SO does not consider that it is just and equitable to rule it in time (a longer time limit will apply if you are making a complaint about a matter that can be the subject of claim to an employment tribunal – see paragraph 15);
 - c. you are not a serving or former Service person or you have not set out an alleged wrong relating to a matter arising from service in the armed forces;
 - d. your complaint is substantially the same as a service complaint that you have already submitted and which has either been decided previously under the service complaints process or is currently being considered under the service complaints process.
27. The SO will make a decision as to whether your complaint is admissible normally within two weeks, and will notify you of that decision in writing. If the SO decides that it is admissible and can proceed, the SO will refer your service complaint to the appropriate single Service secretariat for the next part of the process. Information about the single Service secretariat is at Chapter 6.
28. If the SO decides that all or any part of your complaint is not admissible, they will notify you in writing, stating the reasons for the decision and informing you of your right to apply for a review of the decision by the **Ombudsman**, and the time limit for doing so. Any admissible aspects of your complaint will be forwarded to the appropriate single Service secretariat in line with paragraph 27.
29. If after the SO has made a decision on the admissibility of your service complaint you raise a completely different matter by way of complaint at any time, you cannot add it to the existing service complaint. Instead you will have to submit that matter as

a new, separate statement of complaint, and it will be dealt with as a fresh service complaint.

Ombudsman's review of an admissibility decision

30. It is your right to apply to the Ombudsman for a review of the decision taken by the specified officer that your complaint is not admissible. The Ombudsman will then decide whether the SO's decision was correct.
31. You must submit your application to the Ombudsman within four weeks of the date that you **received notification** of the decision on admissibility from the SO. This will ensure that a decision is made quickly and fairly. If you apply outside that time limit, the Ombudsman will not consider your application unless the Ombudsman considers it is just and equitable to allow you to submit an application outside that period. It is important therefore that if your application is made outside the time limit you set out the reasons why that is the case.
32. The Ombudsman has produced guidance on what an application must include and how to make one. This can be found at:

<https://www.servicecomplaintsombudsman.org.uk>.
33. The Ombudsman will notify you and the SO in writing of their determination and reasons.
34. If the Ombudsman determines that your complaint is an admissible service complaint, the SO will refer it to the **single Service secretariat** after receiving the Ombudsman's determination. The secretariat will then allocate your service complaint to a decision body – see paragraph 37.
35. The Ombudsman's decision following a review is binding on you and the SO to whom you made your complaint. You will not be able to make a service complaint about this decision. Nor will you be able to make another service complaint about the same original matter that you raised in your statement of complaint to the SO.

Considering your service complaint

36. Where the SO has decided, or been informed by the Ombudsman, that your service complaint is admissible, the SO must refer your service complaint to the single Service secretariat. The secretariat will appoint a decision body with the authority to consider and decide your service complaint and to grant any appropriate redress. Information on the decision body and how appointments are made can be found at Chapter 4.
37. The single Service secretariat will write to you and any respondent(s) to tell you who has been appointed.

38. If the single Service secretariat determines that your service complaint has to be decided by a Service Board or by the **Defence Council** itself, they will also inform you and any respondent(s) that in such circumstances there will be no appeal stage available to you if you are dissatisfied with the decision on your complaint. Once the Service Board/Defence Council has decided your service complaint you will, however, have the right to apply to the Ombudsman for an investigation if you are dissatisfied.
39. Once a decision body has been appointed, it will deal with your complaint until it reaches a decision on it. However, in certain circumstances, it may become apparent as your service complaint is investigated in detail that a new decision body should be appointed. This could be because, for example, it has become known that a member of the decision body is implicated in some way in the matters you are complaining about, or a member of the decision body is no longer able to take part. If this happens the single Service secretariat will notify you in writing, and tell you who has been appointed to the new body.
40. The single Service secretariat can appoint an **independent member** (IM) to a decision body if it considers that it would be helpful in achieving a decision on your complaint, although it does not have to do so. If you believe that the secretariat should have done so in your case, you do not need to make a new complaint about it, as an IM must be involved if you go on to appeal the decision body's decision. Ultimately you would be able to apply to the Ombudsman for an investigation. Details about the appointment and role of IMs can be found at Chapter 9, and more information about applying to the Ombudsman is at Chapter 4 of Part 1 to this JSP.

Deciding your service complaint

41. The **decision body** (DB) appointed by the single Service secretariat to decide your service complaint must decide whether, on the balance of probabilities, it is well founded, and, if it is, what **redress** (if any) is appropriate, and grant any such redress. The decision body can also ask someone to investigate your service complaint on its behalf, but it will be the decision body that has to reach the final decision on your complaint.
42. The DB, or person they appoint, will carry out an investigation to establish the facts of your complaint. As part of this investigation and consideration of your service complaint, they may ask you or anyone else they consider appropriate, to provide them with information or documents. If that information or those documents are not provided within a reasonable period of time, the decision body can go on to reach a decision based on the information or documents they have. It is therefore in your interests to respond within any time limit that it sets, and to let anyone who is asking for your reply know as soon as possible if you will need more time.
43. If in your service complaint form you have made allegations of bullying, harassment or discrimination, the DB will follow the process set out in JSP 763 The MoD Bullying and Harassment Complaints Procedures. This includes guidance on the appointment of a **Harassment Investigation Officer** (HIO) and their role. In some circumstances

a Service may appoint its own investigators. Chapter 8 has more detail about investigators.

44. Having completed an investigation and before making its decision, the decision body will disclose to you all relevant documentation and information on which the complaint is to be decided. The same material will also be disclosed to the respondent and any other person who might be affected by the outcome. This gives you and other parties the chance to comment in writing on the papers, and for those comments to be made available to the decision body for consideration when making their decision on your complaint. Your response must be provided within two weeks to avoid any unnecessary delay, however in exceptional circumstances, a longer period may be offered where it would be in the interests of fairness and completeness to do so. Responses should be limited to the disclosed documents; this is not an opportunity to produce new evidence.
45. You should also be aware that the decision body has to give any person who is the subject of your complaint (a **respondent**) or any other person who is likely to be criticised in a decision it might make an opportunity to comment on allegations about them in your complaint. Any comments received must then be given due weight by the decision body in making its decision on your service complaint.
46. The DB can be made up of one or more people and will make its decision on a simple majority basis.
47. Having considered your service complaint, the DB must notify you in writing of:
 - a. their decision and the reasons for it
 - b. your right to appeal the decision if an appeal is available to you;
 - c. the time limits for submitting an appeal; and
 - d. who to send your appeal to.

The respondent(s) and anyone else affected by the outcome of your complaint will also be informed of the decision in writing.

48. If your service complaint has been decided by a Service Board or the Defence Council itself, and there is no appeal level available to you, the letter will notify you instead of your right to apply to the Ombudsman if you are dissatisfied and the time limit for doing so.

The need for the timely handling of service complaints – undue delay

49. It is important for all concerned that complaints are progressed in a timely manner. If you believe that there has been **undue delay** in the handling of your complaint, and it has not yet been **finally determined** and is still active within the service complaints system, you have the right to make an application to the Ombudsman to investigate that.
50. The Ombudsman has provided guidance on how to make an application:

<https://www.servicecomplaintsombudsman.org.uk>

There is no time limit for making an application in relation to undue delay when your service complaint is still being dealt with by the chain of command. See Chapter 4 of Part 1 of this JSP for more details on the role of the Ombudsman.

51. If the single Service secretariat is notified by the Ombudsman that you have made an application, work on your service complaint will continue, as awaiting a response from the Ombudsman may delay matters further.

Submitting an appeal

52. Once the decision body has notified you of its decision on your service complaint, you have the right to an appeal (unless your service complaint was decided by a Service Board or by the **Defence Council** itself). Should you wish to appeal, you must do so within six weeks of the date that you received notification of the decision.
53. A copy of the decision is sent to the respondent(s). They do not have the right to appeal against the decision reached on your service complaint. Only you can do that. However, they would be able to raise their own separate service complaint if they felt that they had been wronged during the process.
54. You must submit your appeal in writing to the **single Service secretariat** that was referred to in the decision letter, and set out what it is about the decision that you disagree with and why. If you submit your appeal outside the six week time limit, you must state the reasons why you were not able to appeal within the time limit.
55. Setting out what you are dissatisfied with and why can help the appeal body to focus its investigation. As the appeal body considers the entirety of the complaint afresh, you need to know that the appeal body can reach a different decision entirely about whether your service complaint is well founded and about any redress that might be appropriate.

Deciding whether your appeal can proceed

56. The single Service secretariat will write to you to confirm receipt of your appeal.
57. They must then decide whether your appeal can proceed. If the appeal is made outside the time limit, the single Service secretariat will decide whether or not it is just and equitable to let it proceed.
58. If the single Service secretariat decides that your appeal cannot proceed, they must inform you in writing, giving reasons for that decision and informing you of your right to apply for a review of that decision by the Ombudsman, and of the time limit for doing so.

59. The Ombudsman has produced guidance on how you make an application for that decision to be reviewed, and what it must include. This can be found at:

<https://www.servicecomplaintsombudsman.org.uk>.

Ombudsman's review of a decision not to proceed with an appeal

60. The Ombudsman must determine whether the decision made by the single Service secretariat was right or not. The Ombudsman must notify both you and the single Service secretariat in writing of their decision, giving reasons for the decision.
61. The Ombudsman will not consider your application if it was made more than four weeks after the date that you received notification of the single Service secretariat's decision that your appeal will not proceed, unless the Ombudsman considers it is just and equitable to allow you to apply outside that period.
62. A determination by the Ombudsman in relation to a review is binding on you and on the secretariat.

Appointing a decision body to determine your appeal

63. Where the single Service secretariat or, following a review, the Ombudsman decides that your appeal can proceed, the single Service secretariat must appoint an **appeal body** (AB) with the authority to consider and determine the appeal, and to grant appropriate redress. Further details about the appeal body are at Chapter 5.
64. The single Service secretariat will write to you and any respondent(s) to tell you who has been appointed.

Determining your appeal

65. The appeal body (AB) appointed by the single Service secretariat to determine your service complaint must decide whether, on the balance of probabilities, it is well founded, and, if it is, what redress (if any) is appropriate, and grant any such redress. The appeal body can also ask someone to investigate your service complaint on its behalf, but it will be the appeal body that has to reach the final decision on your complaint.
66. The AB, or person they appoint, will carry out an investigation to establish the facts of your complaint. As part of this investigation and consideration of your service complaint, they may ask you or anyone else they consider appropriate, to provide them with information or documents. If that information or those documents are not provided within a reasonable period of time, the appeal body can go on to reach a decision based on the information or documents they have. It is therefore in your interests to respond within any time limit that it set, and to let anyone who is asking for your reply know as soon as possible if you will need more time.

67. The AB can be made up of one or more people and will make its decision on a simple majority basis.
68. Having completed an investigation and before making its determination, the appeal body will disclose to you all relevant documentation and information on which the appeal is to be determined. The same material will also be disclosed to the respondent and any other person who might be affected by the outcome. This gives you and other parties the chance to comment in writing on the papers, and for those comments to be made available to the appeal body for consideration when making their determination on your appeal. Your response must be provided within two weeks to avoid any unnecessary delay, however in exceptional circumstances, a longer period may be offered where it would be in the interests of fairness and completeness to do so. Responses should be limited to the disclosed documents; this is not an opportunity to produce new evidence.
69. You should also be aware that the appeal body has to give any person who is the subject of your complaint (a respondent) or any other person who is likely to be criticised in a decision it might make an opportunity to comment on allegations about them in your complaint. Any comments received must then be given due weight by the appeal body in making its decision on your service complaint.
70. Once the AB has considered and determined your appeal they will notify you in writing of the decision giving their reasons for the decision. They will also inform you of your right to apply to the Ombudsman if you are dissatisfied and the time limit for doing so.

Approaching the Ombudsman

71. Detailed guidance on how and when to approach the Ombudsman, and help with making an application is on the Ombudsman's website:

<https://www.servicecomplaintsombudsman.org.uk>

You should be aware, however, that simply applying to the Ombudsman does not mean that the Ombudsman will automatically investigate.

72. You should also refer to Chapter 4 of Part 1 of this JSP which sets out details about the Ombudsman, including what the Ombudsman can do, how they might conduct investigations, and the reports they produce.
73. It is important that you familiarise yourself with both sets of guidance before approaching the Ombudsman.
74. You need to make your application within six weeks of the date that you **received notification** of the final decision on the service complaint – this will be the determination on your appeal, or the decision taken by a Service Board or by the Defence Council following which an appeal stage was not available to you. If you are

unable to apply within the time limit you should state the reasons why the application was not made within that period.

75. It is important to have a time limit, as it ensures not only that allegations relating to service complaints that have been finally determined are examined while the circumstances are still reasonably current, but also that, after a set period, all parties can have some confidence that the matter is closed.
76. There is no time limit for applying for an investigation into **undue delay** when your service complaint is still on-going.
77. It is open to the Ombudsman to reach a different decision to the chain of command on the issues that you want to be investigated. You need to be aware therefore that there is a possibility that the Ombudsman's findings and recommendations may not be as favourable to you as the outcome of the internal process.
78. The Service that dealt with your service complaint will have to respond to any investigation report on your case that the Ombudsman issues following an investigation. You can find out more about how they will be expected to deal with the report, and what will happen if the decision is taken to reconsider any part of your service complaint, at Chapter 6 paragraphs 53-64.

Can the Ombudsman pay expenses?

79. The Ombudsman is able to pay such expenses or allowances for loss of time as the Ombudsman considers necessary and reasonable, to anyone asked to attend in connection with an investigation or to provide information or material. If you think this applies to you, you should contact the Ombudsman's office at:

<https://www.servicecomplaintsombudsman.org.uk>.

The Ombudsman can also decide whether anyone can be represented during an investigation, including by lawyers. Again, you should contact the Ombudsman if you have any questions about this.

Continued support throughout the Ombudsman process

80. The Ombudsman's office is not part of the **internal complaints process**. It exists to provide an independent view for serving and former service personnel as to whether the complaints process has handled their grievance in accordance with our own rules and legal obligations and in a fair, effective and efficient way. However, it is right that if you decide to approach the Ombudsman at any stage of the service complaint process you should continue to be supported by MOD.
81. Your chain of command will continue to provide welfare and pastoral support to you as you go through the Ombudsman process, through the usual channels such as the welfare service and chaplains. You will also be told in the final decision letter you receive as part of the internal process about who can provide you with general

information about the Ombudsman process. This will not though be your main source of information about using the Ombudsman's service – for that you should you contact the Ombudsman's office or see their website, as they are best placed to advise on their processes.

82. You should not be **victimised** for exercising your right to apply to the Ombudsman, nor be discouraged from doing so. If you believe that you are being victimised or discouraged, you should discuss with your assisting officer if this arises when your service complaint is still being considered by the chain of command, or if after the end of that process with welfare services or your chain of command.

Is it possible to make a further application to the Ombudsman about the same service complaint ?

83. In certain circumstances you can apply to the Ombudsman for an investigation into a service complaint that has already been investigated by the Ombudsman. Those circumstances are that:
- a. you applied to the Ombudsman for an investigation in to the substance of your service complaint or into how it was handled; and
 - b. following an investigation, your service complaint was reconsidered by the chain of command in response to the Ombudsman's report; and
 - c. you are dissatisfied with the outcome of that reconsideration or how it was handled.
84. There is a six week time limit for making a subsequent application, starting from when you **receive notification** of the decision that has followed reconsideration of your complaint. An application can be considered by the Ombudsman beyond this period if the Ombudsman considers that it is just and equitable to do so.
85. If you have approached the Ombudsman for an investigation into pre-complaint delay, or into undue delay in relation to an on-going service complaint, there is nothing to prevent you from applying to the Ombudsman for an investigation on the substance or the handling of the complaint once it has been finally determined.

2. Respondent

Overview of the service complaints process

1. The aim of the service complaints system is to provide serving and former Service personnel with a process that is fair, effective and efficient, and one in which they can have confidence to raise matters of concern with their chain of command relating to their Service life, and can seek redress.
2. It is the responsibility of all those involved in the process to ensure that complaints are handled confidentially, fairly, promptly and correctly.
3. This responsibility extends to complainants, respondents and all other persons involved in the handling of a service complaint, ensuring that they cooperate fully, and in good faith, at all times.
4. The intent is that complaints are dealt with at the lowest level possible and resolution achieved quickly and, where appropriate, with every effort being made to resolve a complaint informally.

What are your responsibilities as a respondent within this process?

5. You should familiarise yourself with Part 1 of this JSP, which sets out what the legislation says about how the service complaints process is to operate. As a **service complaint** in which you are involved progresses, you should also refer to the guidance in the relevant chapters of Part 2.
6. Where you have agreed to try the informal route, where appropriate, including through mediation, you should do all you can to make the attempt succeed. This is, however, voluntary and you cannot be compelled to take part.
7. You will be expected to co-operate fully, and in good faith, with any investigation of the service complaint, and to maintain the confidentiality of all aspects of the investigation process and its outcome.
8. You should ensure that whoever you are dealing with during the process has up-to-date contact details for you. The more methods of communication we have to maintain contact, the less chance there is of this becoming an unnecessary cause of delay to the process.
9. You will be expected to respond within time limits wherever possible to requests for further information or documents, and if you are unable to do so to give clear reasons why. You will also be expected to keep within timeframes given to comment on documents as part of disclosure. You need to be aware that a decision or appeal body that is considering a service complaint that involves you can move on and make a decision on it if they do not get a response within a reasonable time to any requests they put to you.

10. You are not to **victimise** or retaliate against anyone involved in this service complaint. Nor are you to make abusive, offensive or threatening comments to individuals handling the complaint or other individuals who are involved. You are also not to make excessive demands on the time and resources of staff while the complaint is being progressed, as this can lead to delays that can affect you as much as anyone else involved.
11. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in the service complaints process should conduct themselves, if the process is to be as efficient and as fair as possible. They are not laid out in legislation, but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.

What can you expect if you are named as a respondent in a service complaint?

12. If a **specified officer** (SO) receives a **statement of complaint** that names you as a respondent (i.e. as someone who is being complained about) the specified officer will write to tell you. You will then be notified by the SO once they have decided whether the complaint has been found to be admissible and will go forward as a service complaint. More details about the SO and how they reach that decision can be found at Chapter 3.
13. All complaints will be taken seriously and investigated impartially, thoroughly, sensitively and confidentially.
14. You will have access to advice and support from various sources and will be offered an **assisting officer** (AO) to help with procedural matters throughout the process. The SO will appoint an AO. Alternatively you can nominate someone yourself. The process for appointing, and the role of, the AO are set out at Chapter 7.
15. You have the right to be protected from victimisation during the process. If you feel that you are being victimised at any time, you should raise it with your AO or with your chain of command.
16. You will be kept informed regularly of the progress of the complaint and will be informed promptly of decisions that are taken.
17. You will be notified when a **decision body** (DB), and if applicable an **appeal body**, has been appointed to investigate the service complaint. Details of the role of the DB can be found at Chapter 4, with details about the appeal body at Chapter 5.
18. You will be given the opportunity to comment on any allegations made against you in the service complaint before a decision is taken on it. Your comments must be given due weight by the decision or appeal body in making its decision on the service complaint.

19. If the service complaint includes allegations of bullying, harassment or discrimination, the DB will follow the process set out in JSP 763 The MoD Bullying and Harassment Complaints Procedures. This includes guidance on the appointment of a **Harassment Investigation Officer** (HIO) and their role. In some circumstances a Service might appoint its own investigators. More information on investigators is at Chapter 9.

What is disclosure?

20. Once the decision and any appeal body have completed their investigation of the service complaint, and before making their decision, all relevant documentation and information on which the complaint or appeal is to be decided will be disclosed to you. You have the right to comment in writing, and for those comments to be made available for consideration when the decision is made. Your response must be provided within two weeks to avoid any unnecessary delay, however in exceptional circumstances, a longer period may be offered where it would be in the interests of fairness and completeness to do so. Responses should be limited to the disclosed documents; this is not an opportunity to produce new evidence.

What happens if the complainant puts in an appeal?

21. If the complainant appeals against the decision made by the DB, an appeal body will be appointed. Details of the appointment and role of the appeal body can be found at Chapter 5. You will be kept fully informed throughout this process. You will not be able to appeal the DB's decision – only the complainant can do that, as it is their service complaint that is being dealt with.

Who can approach the Ombudsman and about what?

22. Once a service complaint has been **finally determined**, the complainant has the right to approach the **Ombudsman** in certain circumstances. The complainant can also apply to the Ombudsman if they consider there was **undue delay** before they submitted a statement of complaint, or if they believe that their service complaint is being unduly delayed before it is finally determined (so, when it is still open and being considered). The role of the Ombudsman, and details about who can approach them and about what matters, are at Chapter 4 of Part 1 of this JSP, with more information available on the Ombudsman's website:

<https://www.servicecomplaintsombudsman.org.uk>

You will be given opportunities by the Ombudsman to comment upon and give evidence if the Ombudsman investigates a matter that involves you.

23. If you are dissatisfied with the determination given by an appeal body, you will not be able to apply to the Service Complaints Ombudsman. That is because the process has considered the complainant's service complaint rather than one you have made. If there are issues that have arisen during the consideration of the service complaint

and you feel that you have been wronged, you can make a service complaint of your own. Information on how to do this, and about the matters that you cannot make a service complaint about, are in Chapter 1.

- 24 In certain circumstances, a complainant can apply to the Ombudsman again in connection with the same service complaint, when the Ombudsman has already carried out an investigation in to the substance of that complaint or in to how it was handled. More information is at Chapter 4 paragraphs 29-30 of Part 1 to this JSP. If the Ombudsman does decide to conduct a further investigation you will be notified if this involves you.

Can the Ombudsman pay expenses?

25. The Ombudsman is able to pay such expenses or allowances for loss of time as the Ombudsman considers necessary and reasonable, to anyone asked to attend in connection with an investigation or to provide information or material. If you think this applies to you, you should contact the Ombudsman's office [contact details]. The Ombudsman can also decide whether anyone can be represented during an investigation, including by lawyers. Again, you should contact the Ombudsman if you have any questions about this.

What happens after the Ombudsman's report following an investigation?

26. The Ombudsman may send you a draft copy of an investigation report on which you will be able to comment, and will send you a copy of the final report. Following full and careful consideration of the recommendations made, the Service that acts on the final report will notify you of what action, if any, is to be taken. Chapter 6 paragraphs 53-64 have more information about how a Service will respond to an investigation report from the Ombudsman.
27. Similarly you will be notified if the decision is taken to reconsider any part of the original service complaint in response to a recommendation made by the Ombudsman in a report. The single Service secretariat will let you know if there is any need for you to be directly involved in that process, but in any event will inform you in writing of the outcome.
28. Once the MOD's final response has been issued the matter is closed. If the complainant is not content with MOD's final response to the report, they cannot take the matter up with the Ombudsman or with MOD. They can however take the matter to the courts for a judicial review.

3. Specified Officer

Introduction

1. The aim of the service complaints system is to provide serving and former Service personnel with a process that is fair, effective and efficient through which they can have grievances on matters relating to their service addressed and can seek redress.
2. It is the responsibility of all those involved in the process to ensure that complaints are handled fairly, promptly and correctly. Every effort should be made, where appropriate, to resolve a complaint informally.
3. This chapter sets out what you need to do to give effect to the legislation that underpins the service complaints process. You should read the corresponding section of Part 1 before you start to deal with the complaint you have received (Chapter 2 paragraphs 1-21).

Your role

4. As the specified officer (SO) you are responsible for deciding whether a **statement of complaint** raised with you **in writing** by a serving or former Service person is admissible.
5. It is MOD policy that 90% of service complaints should be completed within 24 weeks. This time does not start until you have decided that a statement of complaint you have received is admissible. A complainant might consider that the chain of command has not followed MOD policy if there is some misunderstanding about when the formal process actually began. You must therefore make sure in your dealings with the Service person that they are clear about this start date. If the **Ombudsman** finds in the complainant's favour following a review of your admissibility decision, the 24 weeks will start from when you **receive notification** of the Ombudsman's decision.
6. At this stage your role is to decide only whether the complaint is admissible as a service complaint, you should not decide the substantive merits of it.

Your responsibilities

7. All complaints are to be taken seriously – they reflect the fact that a complainant considers something is not right and needs addressing. All complaints are to be handled professionally and with consideration.
8. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation, but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should

familiarise yourself with the principles, and apply them throughout your part in the process.

9. Your role as SO plays an important part in delivering the first principle of laying solid foundations. You should therefore:
 - a. seek advice if you are not sure how to proceed. The single Service secretariat will be your primary point of contact and is a good source of helpful information;
 - b. communicate in clear terms with the Service person and any other personnel who are involved. A lack of contact or information can breed distrust or uncertainty that can escalate unnecessarily, and make even the simplest matter more difficult to deal with and to resolve;
 - c. consider whether there are alternative routes to resolving matters than through the formal service complaints process.
10. Timeliness and good communication are particularly important.
11. Timeliness does not, however, mean that decisions or activities should be made or undertaken with undue speed, as that can lead to them being ill-informed or poorly conducted. Time taken at this first stage in the process can be beneficial whether in clarifying the nature of the complaint or the redress that is wanted, which could be quite different from what is set out in the statement of complaint presented initially. It can also be an opportunity to try to resolve the matter by informal means, where appropriate.

Where to get advice to help carry out your role

12. Advice is available from the **single Service secretariats**. If you are in a joint unit, or in an organisation that is outside a chain of command, you should refer to the guidance at Chapter 10 to help you determine which Service will provide you with advice and support.

Recording information about individual service complaints

13. All complaints (including those submitted by former Service personnel) dealt with under this JSP are to be entered onto JPA in accordance with the business process guide on service complaints. You are to ensure that this is done. Recording on JPA ensures that progress with an individual service complaint can be monitored and the current state of play can be quickly understood. The information will also be used by the Ombudsman as part of the annual assessment of the effectiveness of the system overall.

Why you have received a statement of complaint

14. The statement of complaint will have come to you because:

- a. you are the commanding officer of the complainant; or
 - b. the complainant has indicated that their own commanding officer is somehow involved in the matter that is being complained about, and the single Service secretariat has tasked you to handle it; or
 - c. an allegation has been referred by the Service Complaints Ombudsman to the single service secretariat that someone under your command may have suffered a wrong and may wish to make a service complaint.
15. You cannot consider the complaint if you find that you are implicated or somehow involved in the matter that is being complained about. If that happens you must write to the single Service secretariat as soon as possible, but within one week, setting out:
- a. why you believe that to be the case, and
 - b. including the names of anyone else you believe may also be implicated and particularly whether that includes your immediate superior officer or any other person in your chain of command.

You should send all papers associated with the complaint. The secretariat will then task someone else to take on the role of SO.

16. If the complaint has come to you as a referral from the Ombudsman, you must carry out the tasks set out at Chapter 2 paragraph 12 of Part 1 of this JSP, which involve for example notifying the Service person that an allegation has been referred and making sure that they know how to make a service complaint. You must then ensure that you notify the single Service secretariat **in writing** of the actions taken so that they can inform the Ombudsman. In all other respects you are to deal with the referral in the same way as you would a complaint that comes to you direct from the complainant.

What you must do next

17. Within two days of receiving the statement of complaint you are to write to the complainant acknowledging receipt of it and to anyone who is named as being the subject of the complaint (see the template letter for both parties at Annex A),. You are then to make a decision, within the next two weeks, as to whether the complaint is admissible as a service complaint.
18. It is important that a complainant has someone to assist and support them throughout the process to help them understand how it works and to provide them with independent advice. This is done by them having an **assisting officer** (AO), whose role and responsibilities are set out at Chapter 7. You are to make sure that the complainant is aware of the value of having an AO, and if they do not have anyone that they wish to nominate you should assign someone to take on the role. A respondent is also to be offered an AO at this stage.

Checking you have the information you need

19. You have to consider the information you have been given by the complainant in their statement of complaint and decide whether the complaint is admissible as a service complaint. You should stay alert for opportunities to resolve the matter complained of fairly and effectively by informal means.
20. The statement of complaint must be **in writing** and dated. Ideally it will be submitted using the service complaint form at Annex F, but if it is not you should ask the complainant to transfer it to the form if you decide that it is admissible as a service complaint. This will help to ensure that important information is provided.
21. You should first check that you have the following information from the complainant in their statement of complaint:
 - a. how the complainant thinks they have been wronged – what has happened?
 - b. whether the complainant thinks that you, as their commanding officer, or your 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 their complaint includes allegations of the kind set out at Chapter 1 paragraph 20 of Part 1 of this JSP, for example bullying or harassment (including any facts in support);
 - d. if the complaint is not made within the three month time limit, the reasons why;
 - e. the redress sought;
 - f. the date on which, to the best of the complainant's recollection, the matter complained about occurred or probably occurred; or
 - g. 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; or
 - h. that the matter complained about is continuing to occur; or
 - i. that they are unable to recollect the date of either f) or g).
22. You should then arrange to speak to the complainant, or for someone to do that on your behalf, to understand fully the nature of the complaint and the redress being sought. This is the opportunity to fill in any gaps in the information listed above and to see if there is any additional information available such as names of respondents and potential witnesses. If the complaint was submitted before 1 January 2016 it may be that some of the information required under the new system was not included – this

can be requested at this stage. If not already done so it is also the time to discuss an AO.

23. If that discussion changes any of the information already provided, including the nature of the complaint or the redress being sought, the complainant can give you a new statement of complaint, on a service complaint form (Annex F).
24. You should also at this stage discuss with the complainant the possibility, if appropriate, of resolving the complaint by informal means. This is a voluntary process, so neither a complainant nor respondent can be made to agree to it if they do not wish to pursue it.

How to make a decision about admissibility

25. The complaint is not admissible as a service complaint if one or more of the following applies:
 - a. the complaint is about an excluded matter as listed at Annex B of Part 1 of this JSP;
 - b. the statement of complaint has been submitted more than three months after the date on which the matter complained about occurred, and you do not consider that it is just and equitable to rule it in time (a longer time limit will apply if the complaint is about a matter that can be the subject of claim to an employment tribunal – see Chapter 1 paragraphs 12-14 of Part 1 to this JSP);
 - c. the complainant is not a serving or former Service person or they have not set out an alleged wrong relating to a matter arising from service in the armed forces;
 - d. the complaint is substantially the same as a service complaint that has already been submitted and which has either been decided previously under the service complaints process or is currently being considered under the service complaints process. The single Service secretariat will be able to help you determine this point.
26. The time limit for making a service complaint is three months beginning with the date on which the matter complained of occurred, or the date the complainant could reasonably have been expected to have known that they may have suffered a wrong. If the matter complained of occurred over a period of time, the complaint must be submitted within three months of the latest incident or at the end of the period. There are separate time limits for matters that could be the subject of a claim to the employment tribunal (ET) of discrimination or in relation to equal pay – more information is at Chapter 1 paragraphs 12-14 of Part 1 to this JSP. Paragraph 29 sets out how to proceed where a **special-to-type** process applies to the matter being complained about.
27. In most circumstances, you would rule out of time a complaint that is made more than three months (or longer if it could be a claim to the ET) after the matter complained of

occurred. However, there may be circumstances where you consider it just and equitable to rule it in time. For example, the complainant may have been unable to access the people, information or IT necessary to make a complaint. The complainant will need to give you the reasons for the delay for you to be able to make an informed decision about whether to rule the complaint in time.

28. The **single Service secretariat** will be able to give you advice if you are unsure about any aspect of whether a service complaint should be ruled admissible. If you are in a joint unit or organisation that is outside a single Service chain of command, you should refer to Chapter 10 for advice on which Service to go to for support.

What to do if the complaint is about a special-to-type matter

29. There are separate processes for resolving healthcare, pay and allowance, and housing matters that are to be followed before a service complaint will be considered. If you receive a statement of complaint about one of these matters you will want to be assured by the complainant that the relevant other process has been completed and when. If it has not been:
- a. notify the service person of the need to take the special-to-type (STT) route first;
 - b. confirm **in writing** to the complainant that the statement of complaint you have been given will not be pursued at present, but that they have the right to reactivate it or to amend the original statement of complaint within three months of the other process being completed if they are still dissatisfied;
 - c. ensure that your unit admin office records the complaint on JPA and categorises it as “stayed due to STT”, completing all other relevant information required as set out in the business process guide. This will ensure that the complaint is not lost, should the service person wish to reactivate it, but it will also be clear on JPA that this is not being actively pursued as a service complaint.
30. If the STT process has been completed when the statement of complaint comes to you, the complainant has three months from the date which they **received notification** of the final decision in the STT process in which to make a service complaint. You must then consider whether the complaint is admissible as set out at paragraph 25. If it arrives after this date you may admit it if it is just and equitable to do so.
31. If any aspects of a statement of complaint do not cover matters that should be pursued first under a STT process, and they can be taken forward separately under the service complaints procedures, then you should do so and make this clear when you write to the complainant with your admissibility decision.

What to do if you think the complaint is vexatious or malicious

32. A service complaint is assumed to have been made in good faith and a complainant has a right to be protected against victimisation for making a complaint, even if it is not upheld later in the process. A complaint is made in bad faith where there is evidence that the complainant has been dishonest rather than, for example, that they were confused or mistaken.
33. If you consider that a complaint may be vexatious or malicious, you should seek legal advice before making a decision. If you do then decide that it should be categorised in that way, you should reject the complaint and notify the complainant in writing. If there is any doubt about whether the complaint is vexatious or malicious you must go on to decide whether it is admissible.
34. In the event of a complaint being determined to be malicious (i.e. a complaint motivated by malice, spite or ill-will, which is intended to cause harm to others) or vexatious (i.e. an unmeritorious and/or recurring complaint which seeks only to annoy or distress others, or cause unnecessary administrative effort), administrative or disciplinary action, as appropriate, should be considered against the complainant.

What you need to do when you have made a decision about admissibility

35. If you decide that all of the complaint is admissible as a service complaint, you must write to the complainant (using the template letter at Annex B), and then refer the service complaint to the single Service secretariat. You must also write to anyone who is a respondent in the case, notifying them that a service complaint is to proceed that names them as a respondent and offer them the chance to nominate an AO or for you to assign one if you have not already done so.
36. If you decide that the none of the complaint is admissible as a service complaint, you must write to the complainant (using the template letter at Annex C), setting out the reasons for the decision and informing them of their right to apply for a review of the decision by the Ombudsman and of the time limits for doing so.
37. If you decide that some but not all of the matters complained about are not admissible as a service complaint you must:
 - a. write to the complainant and to the respondent (using the template letter at Annex D) making clear which matters are not considered as admissible, setting out the reasons for the decision and informing the complainant of their right to apply for a review of your decision by the Ombudsman; and
 - b. treat the remaining matters as an admissible service complaint.

What to do if the Ombudsman does not support your admissibility decision

38. If the Ombudsman is asked by the complainant to review your decision that some or all matters cannot be taken forward as a service complaint and the Ombudsman finds in the complainant's favour, the Ombudsman will write to tell you of that decision. The Ombudsman will also write to the complainant. The Ombudsman's decision is binding.
39. Within a week of receiving the Ombudsman's decision, you should follow the process set out at paragraphs 35-37 as appropriate.

4. Decision Body

Introduction

1. Where a **specified officer** (SO) has decided that all or part of a statement of complaint is admissible as a **service complaint**, or where that decision has been made following a review by the **Service Complaints Ombudsman**, the SO will refer the service complaint to the relevant **single Service secretariat**. The single Service secretariat must appoint a **decision body**, made up of one or more individuals, with the necessary authority to decide the complaint and to grant any appropriate redress. The secretariat may decide to appoint one or more **independent members** to the decision body – more information about independent members is at Chapter 9 of this Part of the JSP.

How will you be notified of your appointment?

2. You will be notified in writing by the single Service secretariat that you have been appointed to decide a service complaint, and of the terms of your authority in deciding it and the redress you are able to give. The single Service secretariat will also write to the complainant and any respondent(s) notifying them of who has been appointed.
3. 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. References made in this chapter of the JSP to the “single Service secretariats” and “decision body” 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 named posts.

What is the role of the decision body?

4. All service complaints are to be taken seriously. They reflect that a complainant considers that something is not right and needs addressing, and should be handled in a professional and considerate way and in as reasonable a timeframe as possible.
5. Your role as the decision body is to:
 - a. consider the complaint;
 - b. investigate it in a way you consider necessary and appropriate given the concerns it raises (and in line with the requirements of JSP 763 – MOD Procedures for Investigating Complaints of Bullying and Harassment where necessary);
 - c. decide if the complaint is well founded, and if it is

- d. grant any redress that you consider appropriate and within your authority to do so.

What are your responsibilities?

6. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a service complaint should aim to conduct themselves. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.
7. As the decision body, think about how you would want to be treated if you had been party to a service complaint, and in particular aim to:
 - a. act promptly and respond within any timeline given to you in dealing with the service complaint. When you cannot do that, be as open as possible about the reasons why and notify whoever is awaiting your response as soon as you know it will be late;
 - b. set clear deadlines for responses, and contact individuals promptly once they have passed. It is entirely proper to go on and decide a complaint based on the information you have if others are not responding to your reasonable requests for information and within reasonable deadlines. If you are in any doubt whether to move on and reach a decision, speak to your contact in the single Service secretariat that is assisting you;
 - c. be flexible and always consider whether a complaint can be resolved informally, without having to follow the complaints process set out in this chapter. This is a perfectly legitimate route for resolving a complainant's concerns, and can be quicker at getting them to a situation that they are content with and that deals with the issue in hand. Mediation can be particularly effective when a complaint rests on a breakdown in relationships. Informal resolution can only, however, be used with the consent of those involved in the matter under dispute;
 - d. be open and maintain contact with the complainant and any other directly involved parties, such as respondents, especially if there has been no activity on the complaint for some time (e.g. two-three weeks). Keeping the complainant up to date on matters can help to alleviate anxiety and maintain their confidence that their complaint is being taken seriously. The same applies to any other parties who are involved.
8. If at any stage you are not sure how to proceed you should seek advice. The single Service secretariat will be your primary point of contact and is a good source of helpful information.

The need for timely processing of a service complaint

9. As highlighted above, all service complaints should be handled in a professional and considerate way.
10. It is MOD policy that 90% of service complaints should be completed within 24 weeks. This timeline starts from the date that the complainant **receives notification** from the SO that a complaint is admissible, or from the date that the Ombudsman determines that it is admissible following a review. It is important for all concerned that service complaints are progressed in a timely manner at each stage of the process, though it is also right that time taken can enable alternative and informal solutions to be tried and more information to be gathered that can result in better informed decisions and actions. A balance needs to be struck.
11. If a complainant believes that there has been **undue delay** in the handling of a complaint that has not yet been finally determined and is still active within the service complaints system, they have the right to make an application to the Service Complaints Ombudsman requesting an investigation into the delay. The Ombudsman has provided guidance on how to make an application. See Chapter 4 of Part 1 of this JSP for more details on the role of the Ombudsman.
12. If you are notified by the single Service secretariat that an application has been made to the Ombudsman, you should continue to progress the service complaint as awaiting a response from the Ombudsman may only delay matters further.

How should you investigate the service complaint?

13. Before a service complaint can be considered and a decision made, you are responsible for ensuring an investigation is conducted to establish the facts of the complaint. You may decide to authorise another person to carry out the investigation, but they must not be implicated in the matters complained about or have any interest in the outcome. However, it is for you to **decide** the complaint.
14. As part of the investigation you, or the person carrying out the investigation on your behalf, may request the complainant or any other person(s) you consider appropriate, to supply information or produce documents. Should this information or documents not be provided or produced within a reasonable period of time that you have set out, you may proceed to reach a decision based on the information or documents available to you.
15. If the service complaint details allegations of bullying, harassment or discrimination, the investigative procedures you will need to follow are set out in JSP 763: The MoD Bullying and Harassment Complaints Procedures. This includes guidance on the appointment of a **Harassment Investigation Officer** (HIO) to conduct the investigation. Alternatively you might task Service investigators. Chapter 8 has more information about investigators.

16. Where an HIO is appointed to conduct an investigation, you should contact them as soon as is reasonably possible. Close contact with the HIO can help ensure that their work is completed in a timely manner (ideally a final report should be with you within six weeks of the HIO having been appointed to your complaint), so that you can go on to decide the complaint as quickly as possible. If there are any problems, and contacting the HIO does not resolve them, contact DBS Civ HR who manage the HIOs at DBS Civ Pers-Expert Svc Ops Mgr 1 on 03067984788 .
17. The admissibility decision taken by the SO does not look at the substantive merits of the complaint, rather it is a procedural decision that a complaint should be allowed to proceed. As such, it is up to you to decide whether the complaint is well-founded and as to appropriate redress.
18. You must ensure that any person who is the subject of the service complaint (a respondent), or any other person who is likely to be criticised in a decision you might make, is given an opportunity to comment on allegations about them in the service complaint. Any comments received must then be given due weight in making your decision on the complaint.

What if you are unable to continue considering the service complaint?

19. You cannot decide a service complaint if you find as you investigate it that you are implicated or somehow involved in the matter that is being complained about. If that happens you must write to the single Service secretariat within one week, setting out:
 - a. why you believe that to be the case, and
 - b. including the names of anyone else you believe may also be implicated.
20. It may also not be possible for the decision body to continue if anyone appointed leaves the Service before a decision has been reached, or dies.
21. If any of these situations arises, advice should be sought immediately from the single Service secretariat.

Disclosing information on completion of the investigation

22. Having completed the investigation of the complaint and prior to making your decision, you must ensure all relevant evidence on which the complaint is to be decided is disclosed to the complainant, respondent and any other person who might be personally affected by the outcome. The single Service secretariat can advise on what would be relevant evidence.
23. This provides the opportunity for those parties to comment in writing on the papers, and for you to consider those comments when making your decision on the complaint. You should encourage parties to respond to such requests to disclosure as soon as possible and normally within two weeks, to avoid any unnecessary delay. In some circumstances however, you may offer (following consultation with the single

Service secretariat) a maximum period of six weeks where it would be in the interests of fairness and completeness to do so.

24. In all cases the disclosure period must be noted in the Joint Personnel Administration (JPA) complaint record, including an explanation of the basis of an agreement to a disclosure period in excess of two weeks.
25. Disclosure is subject to exclusions where appropriate and consistent with Information Rights legislation, i.e. the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. 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, you should seek advice from the single Service secretariat that is supporting you.

How should you decide the service complaint?

26. In deciding a service complaint, you must establish if the complaint is well founded. The standard of proof to be applied when deciding a service complaint is set out in Chapter 1 paragraph 18 of Part 1 of this JSP.
27. As the decision body, you have the authority needed to grant appropriate redress. MOD does not however have delegated authority from the Treasury to decide on the value of compensation to be paid in cases where the decision in the complaints process is that some compensation should be paid as redress for delay, injured feelings, stress, inconvenience caused, damage to reputation or any other such consequence of a wrong. This is because the amount to be awarded is not measurable (i.e. it is “unquantifiable”) - it would for example be measurable if it were found that an allowance should have been paid - and is therefore difficult to determine. The value is subjective, and the Treasury consider such payments to be “novel and contentious” in terms of spending public money and so their approval is required as to the sum to be awarded.
28. Where unquantifiable compensation of this nature is considered to be, or form part of, appropriate redress in the view of the decision body, you will have to pause in finalising your decision and seek Treasury approval for an appropriate sum, before the final decision on the complaint can be communicated. Advice from the single Service secretariat must always be sought in these circumstances. There may be circumstances where you can, however, notify the complainant and any respondent(s) of the decision on the service complaint, in writing, and make clear in the letter to the complainant that the final decision on the value of any compensation (being the redress that you have decided is appropriate) will follow when you have direction from HM Treasury. In such cases, advice must always be sought from the single Service secretariat before writing to the parties to the complaint.
29. The complaint should be decided on the basis of a simple majority decision if more than one person has been appointed as the decision body.

How should the complainant be informed of the decision?

30. Having considered the service complaint, you must notify the complainant, respondent(s) and any other person(s) affected by the decision in writing of your decision. You must give the reasons for the decision, and inform the complainant of their right to appeal the decision, how and to whom to submit it, and the time limit for doing so. Generally, your decision letter should therefore contain the following information:
- a. a summary of the elements of the complaint;
 - b. an explanation of the investigation undertaken (how and by whom);
 - c. an explanation of whether each element of the complaint was upheld, rejected or could not be determined and why;
 - d. if the complaint is wholly or partially upheld, a clear indication of your intention with regard to recommending any administrative or disciplinary action against the respondent(s);
 - e. an explanation on each element of redress requested, as to whether it is granted or not and why; and
 - f. the right of the complainant to appeal the decision, if an appeal is available, within six weeks of the complainant receiving notification of the decision, and to whom in the single Service secretariat the appeal should be sent.

Recording information about individual service complaints

31. All complaints (including those submitted by former Service personnel) dealt with under this JSP are to be entered onto JPA in accordance with the business process guide on service complaints. You are to make sure that this is done. Recording on JPA ensures that progress with a complaint can be monitored and the current state of play can be quickly understood. The information will also be used by the Ombudsman as part of the annual assessment of the effectiveness of the system overall.

What if there is no appeal stage available to the complainant ?

32. In some cases there will be no appeal stage available because the service complaint raises issues that only a senior body is best placed to consider and to decide on. In these cases a Service Board or the Defence Council itself is most likely to have been appointed as the decision body. If you have been appointed under these circumstances this will have been made clear to the complainant when the single Service secretariat notified them of your appointment.

33. Your decision letter must make clear to the complainant that your decision cannot be appealed, but also notify them of their right to apply to the Ombudsman if they are dissatisfied and of the time limits for making an application.

5. Appeal Body

Introduction

1. Where the **single Service secretariat** or, following a review, the **Service Complaints Ombudsman** decides that an appeal by the complainant can be proceeded with, the single Service secretariat must appoint an appeal body, made up of one or more individuals with the authority to determine the appeal and to grant any appropriate redress.
2. In certain circumstances, **independent members** must be included as part of the appeal body. Further guidance on the role of the independent members and when they must be appointed can be found at Chapter 9.

How will you be notified of your appointment?

3. You will be notified in writing by the single Service secretariat that you have been appointed to determine the appeal, and of the terms of your authority and the redress you are able to give. The single Service secretariat will also write to the complainant and any respondent(s) notifying them of who has been appointed.
4. 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. References made in this chapter to the “single Service secretariats” and the “appeal body” 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 named posts.

What is the role of the appeal body?

5. All service complaints are to be taken seriously. They reflect that a complainant considers that something is not right and needs addressing, and should be handled in a professional and considerate way and in as reasonable a time as possible.
6. Your role as the appeal body is to:
 - a. consider the appeal;
 - b. determine whether the complaint is well founded; and if it is
 - c. grant any redress that you consider appropriate and within your authority to do so.

What are your responsibilities?

7. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a service complaint should aim to conduct themselves. They are

not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.

8. As the appeal body, think about how you would want to be treated if you were party to a service complaint, and in particular aim to:
 - a. act promptly and respond within any timeline given to you in dealing with the service complaint. When you cannot do that, be as open as possible about the reasons why and notify whoever is awaiting your response as soon as you know it will be late, setting out a new, reasonable date;
 - b. set clear deadlines for responses, and contact individuals in advance and once they have passed. It is entirely proper to go on and determine an appeal based on the information you have if others are not responding to your reasonable requests and within reasonable deadlines. If you are in any doubt whether to move on and reach a determination, speak to your contact in the single Service secretariat that is assisting you;
 - c. be flexible and always consider whether a complaint can be resolved informally, without having to follow the complaints process set out in this chapter. This is a perfectly legitimate route for resolving a complainant's concerns, and can be quicker at getting them to a situation that they are content with and that deals with the issue in hand. Mediation can be particularly effective when a complaint rests on a breakdown in relationships. Informal resolution can only however be used with the consent of those involved in the matter under dispute;
 - d. be open and maintain contact with the complainant and any other directly involved parties, such as respondents, especially if there has been no activity on the complaint for some time (e.g. two-three weeks). Keeping the complainant up to date on matters can help to alleviate anxiety and maintain their confidence that their complaint is being taken seriously. The same applies to any other parties who are involved.
9. If at any stage you are not sure how to proceed you should seek advice. The single Service secretariat will be your primary point of contact and is a good source of helpful information.

The need for timely processing of a service complaint

10. As highlighted above, all service complaints should be handled in a professional and considerate way and in as reasonable a timeframe as possible.
11. It is MOD policy that 90% of service complaints should be completed within 24 weeks. This timeline starts from the date that the complainant receives notification from the specified officer (SO), or from the Ombudsman following a review, that a complaint is admissible. It is important for all concerned that service complaints are

progressed in a timely manner at each stage of the process, though it is also right that time taken can enable alternative and informal solutions to be tried and more information to be gathered that can result in better informed decisions and actions. A balance needs to be struck.

12. If a complainant believes that there has been **undue delay** in the handling of a complaint that has not yet been finally determined and is still active within the service complaints system, they have the right to make an application to the Ombudsman requesting an investigation into the delay. The Ombudsman has provided guidance on how to make an application. See Chapter 4 of Part 1 of this JSP for more details on the role of the Ombudsman.
13. If you are notified by the single Service secretariat that an application has been made to the Ombudsman, you should continue to progress the service complaint as awaiting a response from the Ombudsman may only delay matters further.

What if you are unable to continue considering the service complaint?

14. You cannot decide a service complaint if you find as you investigate it that you are implicated or somehow involved in the matter that is being complained about. If that happens you must write to the single Service secretariat within one week, setting out:
 - a. why you believe that to be the case, and
 - b. including the names of anyone else you believe may also be implicated.
15. It may also not be possible for the decision body to continue if anyone appointed leaves the Service before a decision has been reached, or dies.
16. If any of these situations arises, advice should be sought immediately from the single Service secretariat.

Is any further investigation of the service complaint required by the appeal body?

17. As the appeal body, and before making your determination, you may want to investigate a service complaint further, or aspects of it. You may decide to authorise another person to carry out the investigation, but they must not be implicated in the matters being complained about or have any interest in the outcome. However it is for you to determine the complaint.

Disclosing information prior to making a determination

18. Having considered the appeal and undertaken any further investigation required, and prior to making your determination, you must ensure all relevant evidence on which the appeal is to be determined is disclosed to the complainant, respondent and any other person who might be personally affected by the outcome. The single Service secretariat can advise on what would be considered to be relevant evidence.

19. This provides the opportunity for those parties to comment in writing on the papers, and for you to consider those comments when making your determination. You should encourage parties to respond to such requests to disclosure normally within two weeks to avoid any unnecessary delay. In some circumstances however, you may offer (following consultation with the single Service secretariat) a maximum period of six weeks where it would be in the interests of fairness and completeness to do so.
20. In all cases the disclosure period must be noted in the Joint Personnel Administration (JPA) complaint record, including an explanation of the basis of an agreement to a disclosure period in excess of two weeks.
21. Disclosure is subject to exclusions where appropriate and consistent with Information Rights legislation, i.e. the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. 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, you should seek legal and MOD policy advice from the appropriate single Service secretariat.

How should you determine the service complaint?

22. In determining the appeal, you must establish whether the complaint is well founded. The standard of proof to be applied when determining the appeal is set out in Chapter 1 paragraph 18 of Part 1 of this JSP.
23. In their appeal, the complainant must set out what they disagree with about the decision made by the decision body on their complaint and why. Whilst this would identify those matters about the decision stage that the complainant is concerned about, your role is to consider the entirety of the complaint afresh. This may result in your findings and determination, and any redress, being different from those of the decision body.
24. As the appeal body, you have the authority needed to grant appropriate redress. MOD does not however have delegated authority from the Treasury to decide on the value of compensation to be paid in cases where the decision in the complaints process is that some compensation should be paid as redress for delay, injured feelings, stress, inconvenience caused, damage to reputation or any other such consequence of a wrong. This is because the amount to be awarded is not measurable (i.e. it is “unquantifiable”) - it would for example be measurable if it were found that an allowance should have been paid - and is therefore difficult to determine. The value is subjective, and the Treasury consider such payments to be “novel and contentious” in terms of spending public money, and so their approval is required as to the sum to be awarded.
25. Where unquantifiable compensation of this nature is considered to be, or form part of, appropriate redress in the view of the appeal body, you will have to pause in finalising your decision and seek Treasury approval for an appropriate sum, before

the final decision on the complaint can be communicated. Advice from the single Service secretariat must always be sought in these circumstances. There may be circumstances where you can however notify the complainant and any respondent(s) of the decision on the service complaint, in writing, and make clear in the letter to the complainant that the final decision on the value of any compensation (being the redress that you have decided is appropriate) will follow when you have direction from HM Treasury. In such cases, advice must always be sought from the single Service secretariat before writing to the parties to the complaint.

26. Your determination on the complaint should be decided on the basis of a simple majority if more than one person has been appointed as the appeal body.
27. The admissibility decision taken by the SO does not look at the substantive merits of the complaint, rather it is a procedural decision that a complaint should be allowed to proceed. As such, it is up to you to decide whether the complaint is well-founded and as to appropriate redress.
28. You must ensure that any person who is the subject of the service complaint (a respondent), or any other person who is likely to be criticised in a decision you might make, is given an opportunity to comment on allegations about them in the service complaint. Any comments received must then be given due weight in making your decision on the complaint.

Deciding whether an oral hearing is required

29. There is no obligation to hold an oral hearing in any case. A complainant may request an oral hearing but the final decision lies with the appeal body.
30. The complexity of the complaint and its potential wider implications may be considerations to be included in coming to a decision on whether to hold an oral hearing. Similarly, an oral hearing may involve no more than asking the complainant to state the complaint in person, but might involve others concerned. Straightforward cases involving no substantial conflicts of evidence on any material issue or difficult points of law may be less likely to require an oral hearing.
31. If an oral hearing is held, the complainant should always attend and may be accompanied by an AO and at the discretion of the appeal body, by a legal or other representative. A member of the single Service complaints secretariat, other administrative staff and a verbatim recorder may also be present.
32. Before proceeding with an oral hearing, all relevant documents to be used by the appeal body in making its decision should have been disclosed to the complainant and any others who might be affected by the outcome of the complaint. The same people should also have had sufficient preparation time prior to the hearing and, in particular, the opportunity to produce evidence and obtain witnesses.
33. Any relevant documents will be considered as well as oral evidence. Evidence is not taken on oath and witnesses may be questioned by the appeal body considering the

complaint and by the complainant or a representative. The hearing should be investigative rather than adversarial. The complainant or a representative may address the appeal body, may submit documentary evidence, including witness statements, and may produce witnesses to give oral evidence.

34. The decision or determination will be based on the facts. It may be given verbally and will always be confirmed in writing. If it is decided to record the proceedings a transcript is to be produced and a copy sent to the attendees.

How should the complainant be informed of the determination?

35. Having considered the appeal, you must notify the complainant and any respondent(s) in writing of your determination. You must give full reasons for the determination, and inform the complainant of their right to apply to the Ombudsman if they are dissatisfied and of the time limit for doing so.
36. Your determination letter should therefore contain the following information:
 - a. a summary of the elements of the complaint;
 - b. an explanation of the investigation undertaken (how and by whom);
 - c. an explanation of whether each element of the complaint was upheld, rejected or could not be determined and why;
 - d. if the complaint is wholly or partially upheld, a clear indication of your intention with regard to recommending any administrative or disciplinary action against the respondent(s);
 - e. an explanation on each element of redress requested, as to whether it is granted or not and why; and
 - f. the right of the complainant to apply to the Ombudsman if they are dissatisfied and the time limit for doing so.
37. Complainants have a right to make an application for their complaint to be investigated by the Ombudsman at the end of the service complaints process, and should in no way be discouraged from or be victimised for doing so.

Recording information about individual service complaints

38. All complaints (including those submitted by former Service personnel) dealt with under this JSP are to be entered onto JPA in accordance with the business process guide on service complaints. You are to ensure that this is done. Recording on JPA ensures that progress with a complaint can be monitored and the current state of play can be quickly understood. The information will also be used by the Ombudsman as part of the annual assessment of the effectiveness of the system overall.

6. Single Service Secretariat

What is the role of the single Service secretariat?

1. The single Service secretariat administers the service complaints process within its Service. As part of that role it:
 - a. appoints a decision body with the necessary authority to decide a service complaint and to grant appropriate redress;
 - b. decides if an appeal from a complainant about a decision can proceed;
 - c. appoints an appeal body with the necessary authority to determine an appeal and to grant appropriate redress;
 - d. where the Service Complaints Ombudsman undertakes investigations, handles requests for information;
 - e. comments on draft investigation reports from the Ombudsman;
 - f. considers and responds to final reports from the Ombudsman;
 - g. forwards to the chain of command allegations referred by the Ombudsman.
2. 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. References made in this JSP to the “single Service secretariats”, “decision body” and “appeal body” relate to the Service acting on behalf of the Defence Council, based on delegations having been put in place to named posts from the Defence Council.

What are your responsibilities?

3. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a service complaint should aim to conduct themselves. They are not laid out in legislation but are MOD’s articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. Anyone with a secretariat role should be familiar with the principles, and apply them throughout their part in the process.
4. As a member of a secretariat, think about how you would want to be treated if you were party to a service complaint, and in particular aim to:
 - a. act promptly and respond within any timeline given to you in dealing with the service complaint. When you cannot do that, be as open as possible about the reasons why and notify whoever is awaiting your response as soon as you

know it will be late;

- b. set clear deadlines for responses, and contact individuals in advance and once they have passed. It is entirely proper to go on and determine an appeal based on the information you have if others are not responding to your reasonable requests and within reasonable deadlines;
 - c. be flexible, including considering whether a complaint can be resolved informally, even though this will primarily be a consideration for the SO in the first instance or for the unit before a formal complaint is raised. This is a perfectly legitimate route for resolving a complainant's concerns, and can be quicker at getting them to a situation that they are content with and that deals with the issue in hand. Mediation can be particularly effective when a complaint rests on a breakdown in relationships. Informal resolution can only however be used with the consent of those involved in the matter under dispute;
 - d. be open and maintain contact with the complainant and any other directly involved parties, such as respondents, especially if there has been no activity on the complaint for some time (e.g. two-three weeks). Keeping the complainant up to date on matters can help to alleviate anxiety and maintain their confidence that their complaint is being taken seriously. The same applies to any other parties who are involved.
5. If at any stage you are not sure how to proceed you should seek advice, from your legal team or, if it is an issue which could affect the guidance in this JSP and for example how the legislation is being interpreted, the central complaints secretariat.

The need for timely processing of a service complaint

6. It is important for all concerned that service complaints are progressed in a timely manner. If a complainant believes that there has been undue delay in the handling of a complaint that has not yet been finally determined and is still active within the service complaints system, they have the right to make an application to the Ombudsman. The Ombudsman has provided guidance on how to make an application, see

<https://www.servicecomplaintsombudsman.org.uk>

7. If the single Service secretariat is notified that an application has been made to the Ombudsman, work on and progression of the service complaint is to continue. The Service should not await a response from the Ombudsman as this might simply delay matters further.

Acting on receipt of a service complaint

8. After an admissibility decision has been received from the specified officer (SO), whether that decision has been made by the SO or following a review by the Ombudsman, a decision has to be made about whom to appoint as the body to decide the service complaint. That decision will be taken by the person in the

secretariat who has delegated authority from the Defence Council for that purpose. The decision body can consist of one or more persons, or the Defence Council itself, but has to have the necessary authority to consider and decide the service complaint and to grant any appropriate redress.

Appointing a decision body

9. The secretariat must confirm in writing to the decision body that they have been appointed to decide the complaint, and write separately to the complainant and any respondents notifying them of who has been appointed.
10. The secretariat can only appoint a person or panel of people 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 to all persons to be appointed.
11. It may be that the secretariat determines that a Service Board or the Defence Council itself should be appointed to decide the service complaint. In that case there will be no opportunity for an appeal – Chapter 2 paragraph 25 of Part 1 sets out more detail on this and the implications for the complainant that need to be set out when notifying them of who has been appointed as the decision body.
12. Where a service complaint includes certain allegations (see Chapter 1 paragraph 20 of Part 1 of this JSP), the secretariat can decide to appoint an independent member to a decision body if it judges that it would be helpful in achieving a decision on the service complaint, although it is not required under the legislation. If an independent member is required, the secretariat should contact the central Service complaints secretariat who will make the appointment. Similarly it is possible to appoint an independent member to a Service Board or to act with the Defence Council itself, although this too is not required under the legislation.
13. In exceptional circumstances, it may become apparent once the decision body has begun its work that a new body needs to be appointed. For example it may become known that a member of the decision body was implicated in some way with the service complaint, or it may be that a member of the decision body leaves the Service or dies. Only in such instances would the decision body be void and the secretariat be able to appoint a new decision body. The complainant and any respondent(s) are to be notified in writing, and then of who has been appointed.

Who cannot be appointed to decide a service complaint?

14. The following cannot 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.

Action to be taken if a complainant submits an appeal

15. Having reached a decision on a service complaint, the decision body must confirm it in writing and notify the complainant of their right to appeal the decision and of whom to send it to. Chapter 2 paragraph 25 of Part 1 of this JSP has guidance on the circumstances in which an appeal will not be available, and on the remaining rights of a complainant. The complainant is to send their appeal direct to the secretariat, in line with the direction included in the decision body's decision letter.
16. On receipt of a written and dated appeal from the complainant, the secretariat will write to the complainant confirming receipt of the appeal (using the template at Annex E), and decide whether the appeal can proceed. If the appeal is made outside the time limit (of four weeks from the complainant having received notification of the decision body's decision), the single Service secretariat will decide, based on the information provided by the complainant, whether it would be just and equitable for the appeal to proceed.
17. If the single Service secretariat decides that an appeal cannot proceed, they must inform the complainant and any respondent(s) in writing, giving reasons for that decision, informing the complainant of the right to apply to the Ombudsman for a review of that decision and of the time limit for doing so.

Appointing an appeal body to determine an appeal

18. Where the secretariat or, following a review, the Ombudsman decides that an appeal can proceed, the secretariat must as soon as is practicable appoint an appeal body with the necessary authority to consider and determine the appeal, and to grant any appropriate redress.
19. The secretariat must confirm in writing to the appeal body that they have been appointed to determine the appeal, and separately write to the complainant and any respondent(s) notifying them of who has been appointed.
20. The single Service secretariat can only appoint a person to determine an appeal where:
 - a. the person, or all the persons in the body are authorised to determine the appeal and to grant appropriate redress; or
 - b. authorisation is given to that person or all persons to be appointed.

21. It may be necessary to appoint one or more independent persons to determine the appeal. Chapter 1 paragraph 20 of Part 1 of this JSP has guidance on how to reach a decision on this. Chapter 9 of this Part of the JSP has more details about independent members.
22. Where the secretariat decides that there is a requirement for an independent member, they must contact the central Service complaints secretariat. The appointment of independent members to determine service complaints is delegated by the Defence Council to posts within each single Service secretariat. The central service complaints secretariat is responsible for allocating an independent member to a Service, and for recruiting and paying the expenses of independent members.
23. It is possible to appoint an appeal body of all independent members. If the single Service secretariat considers it has such a situation, it should contact the central Service complaints secretariat for further advice.
24. In exceptional circumstances, it may become apparent once the appeal body has begun its work that a new body needs to be appointed. For example it may become known that a member of the appeal body was implicated in some way with the service complaint, or it may be that a member of the appeal body leaves the Service or dies. Only in such instances would the appeal body be void and the secretariat be able to appoint a new one. The complainant and any respondent(s) are to be notified in writing, and then of who has been appointed.

Who cannot be appointed to determine an appeal?

25. The following cannot 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.

Initial action if a complainant makes an application to the Ombudsman

26. A complainant has the right to apply to the Ombudsman for an investigation to be carried out in relation to their service complaint once that complaint has been finally determined. The grounds for an application are set out in Chapter 4 of Part 1 of this JSP. More information at the role of the Ombudsman following an application is also set out in that chapter.
27. Having received an application, the Ombudsman must decide whether to carry out an investigation and notify the complainant and the single Service secretariat of their

decision with reasons. If the decision is to investigate, you will be sent a copy of the application

28. If the Ombudsman is investigating the substance of a service complaint or its handling and decides to investigate maladministration that has been discovered that was not alleged by the complainant, the Ombudsman must write to you confirming this and giving reasons.
29. It is important that all secretariat dealings with the Ombudsman are in writing and that correspondence is retained as it may be required if there is any future action taken by any party following the completion of the Ombudsman's investigation. It will also help to address any suggestion that the Ombudsman's independence has been compromised by inappropriate or undocumented correspondence with the MOD.
30. If for whatever reason the complainant withdraws their application at any time before an investigation has been completed by the Ombudsman, the secretariat will be notified. The Ombudsman will also inform the secretariat of any decision to begin, continue or discontinue an investigation following the complainant's withdrawal of their application.

Chain of command support to an applicant

31. Anyone who approaches the Ombudsman in whatever capacity should be supported, as they were by an assisting officer when making their service complaint. That support must not, however, influence or be perceived as having influenced any decision by the Service person to make initial contact with the Ombudsman or to then maintain that contact or the terms of any application. It is for the Ombudsman to give detailed support and guidance to a Service person on those matters.
32. It is however wholly appropriate for the individual to be supported from a pastoral or welfare perspective by their chain of command during the individual's dealings with the Ombudsman.

How the secretariat should respond to requests from the Ombudsman for information

33. It is important that in carrying out an investigation the Ombudsman has access to the people and information needed to conduct that work and to the extent that the Ombudsman considers necessary. The Ombudsman must be able to get all relevant information to carry out an investigation fairly and give confidence to everyone that their decisions are fully informed.
34. The Ombudsman 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 Ombudsman has specified as being reasonable in the circumstances. If any such request is not met it could affect confidence that others have in MOD's or a Service's willingness to assist the Ombudsman, or could result in the Ombudsman going on to deliver findings and recommendations that are incomplete or flawed in some way.

35. It is therefore important that when asked to provide information by the Ombudsman, the secretariat does so in a timely manner and to meet any deadline set by the Ombudsman. If that deadline cannot be met, the secretariat is to notify the Ombudsman as soon as they know, setting out the reasons and giving a date by which it could be provided.
36. Information or material requested by the Ombudsman is not to be withheld from the Ombudsman unless there is a justifiable, lawful reason to do so. Those reasons are that:
 - a. the material is covered by legal professional privilege or public interest immunity (which are common law protections); or
 - b. the material is captured by specific legislation which prevents it from being provided in court proceedings, such as phone tap intelligence.
37. Legal advice is to be sought if the secretariat is seeking to rely on one of these grounds for non-disclosure.
38. The Ombudsman is subject to the provisions of the Data Protection Act 1998 in respect of the protection of personal data. Therefore, neither the personal nature of information nor its security classification alone is a valid reason for withholding it from the Ombudsman. The Ombudsman is however able to impose confidentiality obligations on these grounds on anyone who is sent a copy of an investigation report.
39. If the Ombudsman judges that material is being withheld unlawfully, it is expected that the Ombudsman will raise the matter with the Service involved, up to and including the highest level, for an explanation. Ultimately the Ombudsman has the power to ask the High Court to investigate whether there has been a contempt of court by withholding material, and for the court to consider whether action should be taken against anyone for that. Information can only be withheld from the Ombudsman where it is lawful to do so.
40. It is imperative therefore that any resistance to comply with a request from the Ombudsman is scrutinised thoroughly and is subject to legal advice, with the ultimate decision as to whether to withhold being taken by Ministers on advice. Ministerial submissions are a matter for the Service that is dealing with the case, with People Secretariat Complaints Assistant Head and Central Legal Services Hd CDC being consulted on the drafting.
41. The Ombudsman will set out the information required. It is possible that the Ombudsman will ask for supporting policy or guidance material that would have been in force at the time that the complaint was dealt with. To ensure that a consistent and accurate response is given to these wider questions, they are to be forwarded to the Head Office policy owner, People Sec Complaints, who will coordinate a response as necessary with the relevant Service and any other tri-Service policy owners.

42. If there is anyone else implicated as part of an investigation or otherwise involved in it, it will be for the Ombudsman to disclose for comment material which is considered necessary to them and seek further information or documents from them.
43. The Ombudsman may also ask the secretariat for assistance in finding contact details from Service sources for anyone the Ombudsman may wish to speak to in connection with an investigation. It will not however fall to the single Service secretariat to go on to contact that person on the Ombudsman's behalf, unless there are particular operational reasons which would make it difficult or impossible for the Ombudsman to make initial contact. Any attempts made by the secretariat to contact someone on the Ombudsman's behalf must be fully documented and provided to the Ombudsman in whatever form the Ombudsman specifies, and as soon as practically possible.
44. The secretariat will not be required to conduct any part of an investigation for the Ombudsman. That would be inappropriate and call the Ombudsman's independence in to question. It is however entirely appropriate for the secretariat to comply with a request from the Ombudsman to be put in touch with specialists on any matter so as to enhance the Ombudsman's understanding of particular issues or of Service practice. This kind of assistance can help the Ombudsman get the fullest evidence available and to make informed findings and recommendations.

Action in responding to a draft investigation report

45. Having completed an investigation, the Ombudsman may decide to share a copy of a draft report for comment. Any comments received must then be taken into account and be referred to in the final report along with the Ombudsman's response to them. The Ombudsman does not however have to accept comments made.
46. The Ombudsman will send a draft report to the nominated recipient in the Service which administered the complaint that has been investigated by the Ombudsman. A copy will also be sent to the Head of People Secretariat in MOD, who will coordinate any comments on matters relating to personnel or other corporate policy. The secretariat staff delegated to respond to the draft report and the People Sec team are to produce a single, coherent and consistent response.
47. The response must be returned within any deadline set by the Ombudsman, and if this is not going to be possible, the reasons must be given to the Ombudsman as soon as that is known and with a date by which a response could be given. Every effort is to be taken to meet the original deadline, or any that is subsequently agreed, to ensure that the matter does not stagnate or attract unnecessary criticism.
48. In commenting on a draft report, comments are not to be made on the draft findings or recommendations generally, but should focus on any incorrect facts or misinterpretation of policy or procedure on which they are based.
49. It would also be appropriate to bring to the Ombudsman's attention any

consequences that are likely to follow from a draft recommendation which would make it likely that it could not be implemented, particularly if that meant the recommendation could not be followed at all. This might be the case, for example if:

- a. a recommendation had wider policy implications beyond the service complaint under investigation;
 - b. if implementing it would have considerable and/or unsustainable financial implications; or
 - c. if it involves a policy or other matter which is the responsibility of another government department and MOD alone would not be able to guarantee accepting it.
50. Such consequences may not be apparent to the Ombudsman and would therefore be unintended, but could affect MOD's ability or willingness to take the action recommended by the Ombudsman in the subsequent final report. The Ombudsman's effectiveness and/or MOD's willingness to take positive action in response to the Ombudsman's reports could be viewed negatively as a result.
51. Whilst it is generally expected that the Ombudsman's recommendations will be accepted, it is possible to reject them though this would be exceptional. There will need to be very good reasons to do so, and it could therefore be important and useful to be able to point to earlier stages in the drafting process where difficulties with implementing recommendations had been explained.
52. The secretariat should ensure that any communication with the Ombudsman's office about a draft report is in writing to ensure that there is a clear record which may need to be referred to subsequently when responding to a final report. It is important that the Ombudsman's dealings with MOD are independent and are seen to be so by all parties. There can therefore be no suggestion that there have been inappropriate and undocumented discussions between MOD and the Ombudsman.

Determining a response to the Ombudsman's final report

53. The Ombudsman's final report will be sent to the nominated recipient in the Service that administered the original service complaint, with a copy being sent to Director of Service Personnel Policy in MOD.
54. The single Service secretariat will carry out the detailed consideration of a final report, with advice being given to the nominated recipient on the action to be taken in response to the Ombudsman's recommendations.
55. There are a number of options open to the secretariat in considering how to respond to a report's findings and recommendations, including:
- a. to agree with the findings and:

- i. with the recommendations fully; or
 - ii. with only some of the recommendations; or
 - iii. with the thrust of all or some of the recommendations but to implement them in another way; or
 - iv. with none of the recommendations; or
 - b. to disagree with the findings and so with the recommendations that follow.
56. The Ombudsman's findings are binding. The only mechanism for challenging the findings would be by judicial review, and such action would be exceptional. It is unlikely that a secretariat would seek to disagree formally with the findings. If it were considering doing so, legal advice must be sought before any action is taken or any correspondence entered in to with the Ombudsman. MOD Central Legal Services are to be involved in providing that legal advice to ensure a consistent approach is taken. It is expected that anything that might lead to a decision to reject findings would have been raised as part of commenting on the draft report.
57. The Ombudsman's recommendations must not simply be ignored, but there is some leeway in deciding what action to take in response to them. Recommendations are not binding, but do have considerable weight. The expectation is that they will be followed, and if that is not the action recommended by the secretariat, there must be good, cogent and defensible reasons for saying so. If anyone takes legal action against a decision not to follow a recommendation, those reasons will ultimately have to be defended in court on public law grounds.
58. It may be that the decision is to not follow a recommendation, because:
- a. to do so would undermine a policy or procedure that is essential for good discipline or required by commanders to deliver an effective force to meet defence requirements - a recommendation that challenged a commander's decision to deny a service person leave for sound operational reasons might be such an example;
 - b. on further investigation as to how to implement it, it would have excessive financial implications which could not be justified or would not be affordable, or otherwise comply with the rules of Managing Public Money as set out by HM Treasury;
 - c. it involves matters that fall to another government department to deliver such as on pension matters; or
 - d. the Ombudsman has recommended redress which for example for Service career management reasons cannot be achieved

59. However, very careful consideration would still need to be given as to whether an alternative remedy could be found, financial or otherwise. That will help to reduce the risk of subsequent litigation.

Responding to the Ombudsman and implementing recommendations

60. The decision on how to respond to the findings and recommendations will determine the timing and nature of the reply to the Ombudsman and to the complainant setting out the action, if any, which is planned:
- a. where the decision is to implement a recommendation but to do so all or part of the service complaints process needs to be re-run or another MOD process needs to be carried out (e.g. a promotion board needs to take place), an interim response is to be sent. It must set out the action that is being taken, indicate when it is expected to be complete, and confirm that a further, final response will follow when the outcome is known. Having made a recommendation that action be taken, the Ombudsman in particular will wish to know the final result, and likely want to include it in the annual report;
 - b. the same approach as above on responding to the Ombudsman is to be followed where the process to be completed or the final decision to be taken rests with another government department;
 - c. where the decision is to implement a recommendation in full and to do so does not involve any other process, or where the decision is to reject a recommendation, a single, final response is to be sent.
61. It is possible to decide to re-run the whole or any individual part of the complaint process, whether or not explicitly part of the Ombudsman's recommendation. The action required in each case will depend on what the Ombudsman has found and recommended, which will also determine, in part, whether any reconsideration of all or part of the complaint should be by the same decision or appeal body that was involved in the original running of the process.
62. Where the decision is to re-run all or part of the process again, the secretariat must apply the same procedural rules as with the original service complaint on appointing a decision or appeal body and to the inclusion of independent members. In appointing a service complaint to a decision or appeal body, the secretariat may give directions to the body regarding the recommendation, for example to only focus on particular aspects of the complaint.
63. The Ombudsman's final report must be considered fully and carefully before any response is given. There is no time limit set out in legislation for responding to a final report, but it should be done promptly and within any reasonable time frame set out by the Ombudsman. If that cannot be met the Ombudsman and complainant are to be notified in writing, with the reasons.

64. If any part of the service complaint is to be reconsidered, the complainant, Ombudsman and anyone else to whom the Ombudsman sent a copy of their investigation report is to be told the outcome.

Correcting errors in a final report

65. The Ombudsman is able to issue a certificate correcting any clerical mistakes or other errors in a published report arising from an accidental slip or omission. A copy of the certificate will be sent to all who receive a copy of the final report. If the secretariat identifies any such errors it should notify the Ombudsman in writing.
66. Once the MOD's final response has been issued, the matter is closed.

How to handle the Ombudsman's referral of allegations

67. Anyone can contact the Ombudsman with an allegation of wrongs done to a person who is subject to Service law. The Ombudsman 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 commanding officer as the specified officer in the service complaints process. The Ombudsman will normally seek the Service person's consent before forwarding an allegation.
68. As the Ombudsman is unlikely to know who specifically to send the allegation to or how to contact them, the Ombudsman will send the allegation in writing to the secretariat of the complainant's Service. The secretariat is to forward it to the appropriate SO for action and must notify the Ombudsman that the referral has been passed to the chain of command, using a standard acknowledgement (see Annex H).
69. Having referred an allegation, the Ombudsman is to be notified 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:
 - i. how to make a service complaint, and
 - ii. 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 specified officer that the subsequent service complaint is inadmissible;
 - e. of a decision taken by a decision body 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 as to whether the complaint is well founded and if it is what if any redress is appropriate;
 - h. of the withdrawal (or the informal resolution) of the service complaint.
70. If the Ombudsman is contacted at any stage by the person who made the original allegation, that person may be asked to contact the secretariat for information on its progress.
71. The secretariat is to put procedures in place that ensure that the information above can be passed to the Ombudsman in line with the time limit.
72. A referral by the Ombudsman to a secretariat does not mean that a service complaint has been made. That process is not deemed to have started until a specified officer has decided that a statement of complaint by a service person is admissible – see Chapter 3 paragraph 2 of this Part of the JSP.

Dealing with welfare concerns from the Ombudsman

73. If the Ombudsman ever becomes concerned about the safety or welfare of a Service person from contact they have with them directly or through a third party, the Ombudsman can take whatever action is considered necessary and proportionate. In the majority of cases this will be by contacting the appropriate personnel in the person's Service so that they can take whatever action is required. The secretariat is to ensure that the Ombudsman has relevant contact details, and to keep that information updated whenever it changes or review it quarterly, whichever is the sooner.

Recording information about individual service complaints

74. All complaints (including those submitted by former Service personnel) dealt with under this JSP are to be entered onto JPA in accordance with the business process guide on service complaints. This ensures that progress with a complaint can be monitored and the current state of play can be quickly understood. The information will also be used by the Ombudsman as part of the annual assessment of the effectiveness of the system overall. It is the secretariat's responsibility to ensure that the chain of command complies with the business process guide at all times throughout the process.

7. Assisting Officer

Appointment

1. You will be appointed by a **specified officer** (SO), or you may be approached directly by a complainant or a respondent to be their assisting officer (AO). More information about the SO's role is in Chapter 3. You can be asked to assist the complainant or the respondent but not both.
2. You will:
 - a. be an officer, warrant officer, senior non-commissioned officer or civil servant of equivalent grade;
 - b. not be an officer involved in the processing or deciding of the **service complaint**;
 - c. not be directly in the employment chain of the complainant if working in major headquarters or the MOD; and
 - d. not have had either any involvement in the service complaint or have a personal interest in the outcome, nor should there be any likelihood that you will be involved in any subsequent or related investigation.

Your role

3. In any complaint scenario, it is essential that a complainant or respondent has someone to support them and to help them through the process. Your role as an AO, whether to a complainant or a respondent, will be to provide that support and to assist in a service complaint being investigated and resolved as quickly as possible.
4. You should be ready to help the complainant prepare their case and to ensure that the complaint is clear, concise and unambiguous. This should help clarify the issues at the root of the complaint; the precise nature of the **redress** sought and, ultimately, lead to the speedy resolution of the complaint.
5. Your role helps to achieve a fair resolution of the complaint with the minimum of delay. You will therefore be required to have the appropriate knowledge and experience to gain the trust and respect of the person who you are assisting. This will be particularly important if the person you are assisting is vulnerable or there are any allegations of sexual offences – in such cases you are to seek advice and see the guidance at Annex B of JSP 839 – Victims' Services.

Your responsibilities

6. All complaints are to be taken seriously and should be handled professionally and with consideration and in as reasonable a time as possible
7. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation, but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.
8. Part 1 of JSP 831 sets out the legislative background to the service complaints process and you should familiarise yourself with this when you are appointed or asked to be an AO.
9. You are expected to be open and honest when carrying out your duties. Similarly, you should respond to a request for help or information, whether by the person you are assisting or others involved in progressing a complaint, within any deadline that has been set.
10. You should also encourage the complainant to be open and honest when submitting their complaint.
11. You should remind the person who you are assisting of the need to respond promptly to requests for further information from other parties involved in the service complaints process.
12. You are to ensure that the person you are assisting understands what the formal complaints process requires of them and of you. You must therefore be familiar with the process as set out in Part 1 of this JSP and with that in JSP 763 for bullying and harassment complaints. On the latter you should also contact the unit Diversity and Inclusion Adviser for further advice if needed.
13. You are to ensure that the person you are assisting is aware of the welfare support available and to assist them in accessing it if required.
14. You should encourage the person you are assisting to consider any opportunity to resolve the complaint early and informally if possible and appropriate. You can also encourage the person to suggest informal resolution if it is not offered by the decision or appeal body. Informal resolution, which can include for example mediation, can be extremely effective in bringing a difficult situation to a successful conclusion for all involved, and more quickly than relying solely on the service complaints process.
15. You are not to make decisions on behalf of the person you are assisting.

16. You are to be aware, and to ensure that the person you are assisting also understands, that whilst you may treat anything that they tell you as being in confidence, you must report the following matters to the CO if they arise:
 - a. Any criminal offence;
 - b. Any breach of security.
17. You are to notify the CO and the person you are assisting immediately if, for any reason, you can no longer act as an AO.
18. You should be aware that all correspondence between you and the person you are assisting must be treated as confidential and should only be disclosed to the chain of command if the individual agrees to it.

8. Investigation Officer

Introduction

1. Before a **service complaint** can be considered and a decision made, the **decision body** is responsible for ensuring an investigation is conducted to establish the facts of the complaint.
2. An investigation may also be required if the **appeal body** chooses to investigate a service complaint further, or aspects of it.
3. The decision body and/or the appeal body may then decide to authorise another person to carry out the investigation on its behalf.
4. If you are tasked by a decision body/appeal body to investigate, you may request the information or documents you require from the complainant or any other person(s) you consider appropriate.

Your responsibilities

5. All complaints are to be taken seriously and should be handled professionally and with consideration and in as reasonable a timeframe as possible.
6. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation, but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.
7. Part 1 of this JSP sets out the legislative background to the service complaints process and you should familiarise yourself with it when you are appointed to investigate a service complaint.

Your role

8. You will be appointed by a decision body and/or appeal body to investigate a service complaint made by a Service person, which may involve allegations against another Service person or a civilian. You cannot be appointed under the terms of this JSP to investigate a complaint that has been made by a civilian.
9. Your role is not to decide the service complaint or to determine the appeal. You must not therefore include in your investigation report or any other communication any personal commentary, findings or recommendations to the decision or appeal body, as these are matters for the decision or appeal body alone.

10. You will be appointed by the decision body/appeal body and given copies of the service complaint and the record of the decision body's initial interviews with any respondent(s) and the complainant.
11. When conducting an investigation, you must:
 - a. have access to all MOD Service and civilian personnel considered to have information relevant to the investigation;
 - b. have access to all paperwork relevant to the service complaint;
 - c. conduct yourself impartially and courteously;
 - d. maintain confidentiality and objectivity in establishing the facts;
 - e. keep the decision body/appeal body and the parties to the complaint fully and regularly informed of progress throughout the investigation and of any problems encountered;
 - f. conduct the investigation under the presumption that the service complaint was made in good faith. However a presumption of good faith should not give the impression that the complaint will be upheld;
 - g. justify any delay in the investigation to the decision body/appeal body;
 - h. safeguard all data pertinent to the investigation in line with Data Protection Act guidelines.

The need for timely processing of a service complaint

12. As highlighted above, all service complaints should be handled in a professional and considerate way and in as reasonable a timeframe as possible.
13. It is MOD policy that 90% of service complaints should be completed within 24 weeks. This timeline starts from the date that the complainant receives notification from the specified officer (SO), or from the **Ombudsman** following a review, that a complaint is admissible. It is important for all concerned that service complaints are progressed in a timely manner at each stage of the process, though it is also right that time taken can enable alternative and informal solutions to be tried and more information to be gathered that can result in better informed decisions and actions. A balance needs to be struck.
14. If a complainant believes that there has been **undue delay** in the handling of a complaint that has not yet been finally determined and is still active within the service complaints system, they have the right to make an application to the Ombudsman requesting an investigation into the delay. The Ombudsman has provided guidance on how to make an application. See Chapter 4 of Part 1 of this JSP for more details

on the role of the Ombudsman.

15. If you are notified that an application has been made to the Ombudsman, you should continue to progress your part of the service complaint process as awaiting a response from the Ombudsman may only delay matters further.

Service Investigation Teams

16. Complex service complaints involving only members of a particular Service may occasionally require the use of a specialist Service investigation team to conduct the investigation. Examples of when a Service investigation team may be needed include:
 - a. complaints consisting of complex or multiple allegations;
 - b. complaints against or implicating the complainant's commanding officer; or
 - c. complaints involving personnel who are geographically dispersed.

Harassment Investigation Officers

17. If the service complaint details allegations of bullying and harassment, the decision body will appoint a trained harassment investigation officer (HIO) to conduct the investigation.
18. DBS Civ HR manage a cadre of trained fee earning harassment investigating officers (FEHIOs) to investigate MOD Civilian employees and Service personnel bullying and harassment complaints.

Expectations of HIOs

19. You will be trained in and have a good understanding of bullying and harassment issues.
20. You will be skilled in interviewing, listening and report writing. You will also be of at least warrant officer or commissioned rank, depending on the rank of the complainant and respondent.
21. You will have had no prior involvement with the parties as regards the issues surrounding the service complaint.
22. Confidence and sensitivity will be required when dealing with everyone involved.
23. Detailed information about carrying out the role of a HIO is in JSP 763.

9. Independent Member

Introduction

1. Independent members are required to be involved in determining a **service complaint** on appeal when the complaint alleges particular matters. Those matters are set out at Chapter 1 paragraph 20 of Part 1 of this JSP. Their involvement in connection with disputed behaviours in particular is aimed at giving reassurance on fairness and independence.
2. Independent members are recruited by the **central complaints secretariat** through fair and open competition. They cannot be:
 - a. a member of the regular or reserve forces or
 - b. employed in the civil service.
3. An independent member has equal status to others appointed to determine an appeal (or to decide a service complaint, if appointed to do so).

Your responsibilities

4. All complaints are to be taken seriously and should be handled professionally and with consideration and in as reasonable a timeframe as possible.
5. The Principles of Fairness are at Annex G. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation, but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles, and apply them throughout your part in the process.
6. Part 1 of JSP 831 sets out the legislative background to the service complaints process and you should familiarise yourself with it when you are appointed to consider a complaint.

Your role

7. As an independent member, you will be called upon by the **single Service secretariat** to be part of an **appeal body** if a service complaint that is being appealed by the complainant includes any of the allegations set out at Chapter 1 paragraph 20 of Part 1 this JSP.
8. The requirement for an independent member will be reached by the single Service secretariat who will then liaise with the central service complaints secretariat to arrange for an independent member to be assigned. The single Service secretariat will issue you with an appointment letter for the appeal (or decision) body to which you have

been appointed. This letter will be official confirmation of your allocation to an appeal body to consider and decide a named service complaint.

8. You will then be contacted by a member of the single Service secretariat to arrange delivery of the case file and a mutually convenient date and time for the first meeting of the appeal body.
9. You may also be appointed to a decision body for cases fulfilling the criteria set out in paragraph 1. This will be left to the discretion of the single Service secretariat and whether it believes that the involvement of an independent member would be helpful in achieving a decision on the service complaint. Chapter 4 sets out the policy and guidance to be followed for a decision body, from appointment through to making a decision on a service complaint.

Action on considering an appeal

10. It is incumbent on you to decide, along with anyone else appointed to determine the appeal, whether the service complaint is well founded, and if so, what redress (if any) is appropriate.
11. Chapter 5 sets out the policy and guidance to be followed for an appeal body, from appointment through to making a determination on an appeal.
12. If you are not sure on how to proceed with any aspect of the appeal, the single Service secretariat will be your primary point of contact and is a good source of helpful information.
13. You will be expected to meet at an agreed location to consider an appeal.
14. Decisions will be taken by simple majority if more than one person has been appointed as the decision body.
15. Once your investigation has concluded and a decision has been reached, you and any other appeal body members will be required to submit a written report detailing any recommendations to the appropriate single Service secretariat. The secretariat will advise on the form this is to take.
16. Claims for reasonable expenses that you incur, in line with guidance issued to you by the central complaints secretariat, are to be submitted to the secretariat.

Action when appointed to a decision body

20. The same principles at paragraphs 10-16 apply if you are appointed to consider a service complaint as a decision body. Details about the decision body are at Chapter 4.

10. Joint Units

Introduction

1. The following principles apply to the handling of service complaints:
 - a. which arise in joint units and organisations; or
 - b. where a Service person is assigned or attached to a unit under the command of one of the other two Services; or
 - c. where Service personnel are serving outside the usual Service chains of command, for example with a contractor, a foreign government, NATO or in a predominantly civilian-staffed agency.

Advice and support to the specified officer

2. Where a Service person who is assigned to a joint unit or organisation, or is assigned or attached to a unit under the command of one of the other two Services, wants to make a service complaint, it should be submitted to the **specified officer** (SO) in the complainant's chain of command for an admissibility decision to be made. The SO will normally be the complainant's Commanding Officer (CO) - more details about the role of the SO can be found at Chapter 3 and on how to make a complaint at Chapter 1.
3. Advice and support will be provided to the SO under the following principles:
 - a. Advice and support will be provided by the single Service secretariat of the complainant's own Service, where a service complaint alleges a wrong that relates to the complainant's own Service and which only that Service can redress.
 - b. For all other service complaints, advice and support will be provided by the secretariat of the Service that corresponds to the unit's chain of command or to the nominated lead Service for the joint unit. The nominated lead Service will be the Service which has been allocated to provide the disciplinary Higher Authority for the joint unit as set out in JSP 830 (Manual of Service Law) Volume 3 Chapter 44 (Joint Organisations Higher Authorities).
4. Where Service personnel are serving outside the usual Service chains of command, for example with a contractor, a foreign government, NATO or in a predominantly civilian-staffed agency, they will normally have an appointed CO to whom service complaints should be made. In these circumstances the same rules set out in paragraph 3 above regarding secretariat support to the SO apply. In the absence of the person having an appointed CO, a SO will be nominated for the purposes of dealing with the service complaint by the complainant's own Service.

5. The SO will need to make contact with a secretariat within one week of receiving a statement of complaint from a service person, but, to establish the most appropriate secretariat to provide that advice and support.
6. By turning to the existing single Service secretariats, joint units have access to experience and best practice in dealing with service complaints and do not need to have that capability themselves.
7. Having identified the right Service to provide that advice, its secretariat will then go on to handle and provide support on the complaint throughout the remainder of the process. The chapters of this Part of the JSP should be referred to where necessary in following that process through.

Recording service complaints

8. The single Service secretariat's advice to joint units will include how to record service complaints on Joint Personnel Administration (JPA). Each secretariat will also then co-ordinate the collection of service complaint statistics from those joint units for which it is responsible. They will also monitor the handling of service complaints for their joint units and provide training and awareness to them as necessary in service complaint handling procedures. Where a service complaint includes allegations of bullying, harassment or discrimination, the equality and diversity adviser (EDA) for the joint unit should consult the single Service secretariat in the nominated lead Service if subject matter expert advice is required. Similarly, nominated Service diversity and inclusion staff can advise on the recording of informal complaints on JPA.

11. Death of a Complainant or Respondent

Introduction

1. If the complainant or a respondent dies before a **service complaint** has been concluded, there is no statutory obligation to continue to progress it. However, the automatic assumption should not be that no further work is done to try to resolve the matter that was complained of. Careful consideration must therefore be given as to whether, for both practical reasons and fairness, the matter complained about can be taken to a conclusion without the involvement of the deceased.
2. Should the situation arise, the specified officer, decision body or appeal body that is handling the service complaint at the time is to contact the relevant single Service secretariat to discuss and to reach agreement on whether the matter can continue. It must be kept in mind that the service complaints process deals with individual grievances and require a complainant to set out how they believe they have been wronged and the redress they seek – without their continued involvement it may not be possible to determine these issues. In the interests of fairness, it should also be possible for allegations made to be challenged, which may not be possible if any party dies.
3. Decisions taken are to be fully documented and a record kept, and the bereaved family is to be kept fully informed. The bereaved family is not able to continue the process once a decision has been taken, whether to not proceed or on the service complaint itself, nor can they apply to the **Service Complaints Ombudsman** for a review. It is particularly important therefore that there is regular communication with them, to the extent that they wish to be engaged, so that the factors taken in to account and the final decision are understood.

What to do if the bereaved family identifies potential complaints after a service person has died?

4. A family member of a deceased service person cannot make a service complaint. That does not mean however that if they discover an issue after the death that relates to the deceased's service in the armed forces no action should be taken to help them. Who they should be advised to approach will depend on the matters raised:
 - a. Housing/accommodation: DIO
 - b. Pay, pension and compensation: Veterans UK
 - c. Promotion or appraisal: the deceased's Commanding Officer
 - d. Alleged mistreatment: the deceased's Commanding Officer.

5. Much of this information should also be available to the family from the service person's unit, from welfare staff or from their visiting officer if there is one, any of whom the bereaved family may also be advised to contact if they have not done so already. Every reasonable effort is to be taken to help them contact the relevant person or organisation.

ANNEX A

TEMPLATE - NOTIFICATION TO COMPLAINANT/RESPONDENT OF RECEIPT OF STATEMENT OF COMPLAINT

Cut and paste this template onto letter headed paper or email and ensure all excess text and headings are deleted.

To: [Insert name of Complainant/Respondent]

[A. Use for complainant]

I am writing to acknowledge receipt of your [letter/Annex F] which was received on **[Insert date of receipt]**.

I will now need to consider the matter in detail and may contact you to arrange for us to discuss it within the next week. Please be assured that our discussion will be confidential and will assist me to fully understand the nature of your complaint and the redress that you are looking for.

Or:

[B. Use for respondent]

I am writing to inform you that I have received a complaint in relation to an allegation/allegations made against you by (*Complainant's name*). A copy of the complaint is attached.

Before deciding what action to take in response to the complaint I will now need to consider the matter in detail which may involve me contacting the complainant.

[Use for both Complainant and Respondent]

Following that discussion I will then decide whether this matter is admissible as a service complaint. This should not take more than 2 weeks and I will notify you of my decision at that time.

In the meantime you can find more information on the service complaint process in JSP 831, which you can find on the internal Defence Intranet and on the internet by searching for "JSP 831".

You have a right to the services of an assisting officer (AO) to assist you with this process. I would encourage you to exercise this right and to use the services of the AO as we take matters forward. They can be a good source of guidance and support that is personal to you.

Good communication with you is important to us and I would appreciate it if you ensure that we have the most up-to-date contact details for you. The more methods of communication we have to maintain contact with you, the less chance there is of any delay arising. Alternatively, if you would prefer to be contacted via your AO please let us know and include their contact details.

ANNEX B

TEMPLATE - NOTIFICATION TO COMPLAINANT/RESPONDENT THAT SC IS ADMISSIBLE

Cut and paste this template onto letter headed paper or email and ensure all excess text and headings are deleted.

To: [Insert name of Complainant/Respondent]

[A. Use for complainant]

I am writing to inform you that I have decided that the matter you referred to me on **[insert date of receipt of original complaint]** is an admissible service complaint.

Your service complaint has now been passed to the **[Admiralty Board Casework Secretary / Army Board Casework Secretary / RAF Personnel Casework Secretary]** and they will be in touch with you shortly once a decision body has been appointed to consider your complaint further. You will wish to be aware that the Casework Secretary may appoint me as the decision body.

Or:

[B. Use for respondent]

I am writing to inform you that I have decided that the matter referred to me on **[insert date of receipt of original complaint]** in relation to an allegation/allegations made against you by (*Complainant's name*) is an admissible service complaint.

This service complaint has now been passed to the **[Admiralty Board Casework Secretary / Army Board Casework Secretary / RAF Personnel Casework Secretary]** to appoint a decision body to consider the complaint further.

[Use for both Complainant and Respondent]

Once appointed, the decision body will contact you and will ensure you are kept updated throughout the process.

In the meantime I would like to remind you that you can find more information on the service complaint process in JSP 831, which you can find on the defence intranet and on the internet by searching for "JSP 831".

You should already have been offered the services of an assisting officer (AO); however if you do not currently have an AO you should approach your CO, who should be able to assist you in identifying one. I encourage you to use the services of an AO as they can be a good source of guidance and support.

ANNEX C

TEMPLATE - NOTIFICATION TO COMPLAINANT/RESPONDENT THAT SC IS NOT ADMISSIBLE

To: [Insert name of Complainant/Respondent]

Cut and paste this template onto letter headed paper or email and ensure all excess text and headings are deleted.

[A. Use for complainant]

I am writing to inform you that I have now fully considered the matter you submitted to me on **[insert date of receipt of original letter/Annex F]**. After carefully considering all the information available to me, my decision is that it is not an admissible service complaint. My reasons for this are as follows:

[Enter full details of decision]

If you do not agree with my decision, you have the right to contact the Service Complaints Ombudsman (SCO) to seek an independent review of my decision. You must do this within 4 weeks from the date that you receive this letter – in this case, that period ends on **[date]**.

The SCO has produced guidance on what an application must include and how to make one, which can be found at **[insert link and contact details]**. You can also find more information in JSP 831.

You should already have been offered the services of an assisting officer (AO); however if you do not currently have an AO you should approach your CO, who should be able to assist you in identifying one. I encourage you to use the services of an AO as they can be a good source of guidance and support.

[B. Use for respondent]

I am writing to inform you that I have decided that the matter referred to me on **[insert date of receipt of original complaint]** in relation to an allegation/allegations made against you by (*Complainant's name*) is not an admissible service complaint.

Whilst I will not be taking any further action, I must inform you that (*Complainant's name*) has the right to contact the Service Complaints Ombudsman (SCO) to seek an independent review of my decision. They must do this within 4 weeks from the date that they receive this letter – in this case that period ends on **[date]**. You will be notified if they do so and will be kept up to date with any action being considered.

[Use for both Complainant and Respondent]

You should already have been offered the services of an assisting officer (AO); however if you do not currently have an AO you should approach your CO, who should be able to assist you in identifying one. I encourage you to use the services of an AO as they can be a good source of guidance and support.

ANNEX D

NOTIFICATION TO COMPLAINANT/RESPONDENT ON MIX OF ADMISSIBLE/INADMISSIBLE COMPLAINT - TEMPLATE

Cut and paste this template onto letter headed paper or email and ensure all excess text and headings are deleted.

To: [Insert name of Complainant/Respondent]

[A. Use for complainant]

I am writing to inform you that I have now fully considered the matter you submitted to me on [insert date of receipt of original letter/Annex F].

After carefully considering all the information available to me, my decision is that sections [insert parts that are admissible] can be considered as an admissible service complaint.

However, sections [insert parts that are inadmissible] are not admissible. My reasons for this are as follows:

[Enter full details of decision]

Your letter has now been passed to the [Admiralty Board Casework Secretary / Army Board Casework Secretary / RAF Personnel Casework Secretary] and they will be in touch with you shortly once a decision body has been appointed to consider the part/s of your complaint that have been accepted as a service complaint. You will wish to be aware that the Casework Secretary may appoint me as the decision body.

If you do not agree with my decision not to accept the other component/s as an admissible service complaint then you have the right to contact the Service Complaints Ombudsman (SCO) to seek an independent review of my decision. You must do this within 4 weeks from the date that you receive this letter – in this case, that period ends on [date].

The SCO has produced guidance on what an application must include and how to make one, which can be found at [insert link and contact details]. You can also find more information about the service complaint process in the JSP 831.

Or:

[B. Use for respondent]

I am writing to inform you that I have now fully considered the matter referred to me on [insert date of receipt of original complaint] in relation to an allegation/allegations made against you by (*Complainant's name*) is an admissible service complaint.

After carefully considering all the information available to me, my decision is that sections **[insert parts that are admissible]** can be considered as an admissible service complaint.

However, sections **[insert parts that are inadmissible]** are not admissible.

This letter has now been passed to the **[Admiralty Board Casework Secretary / Army Board Casework Secretary / RAF Personnel Casework Secretary]** and they will be in touch with you shortly once a decision body has been appointed to consider the part/s of the complaint that have been accepted as a service complaint.

Whilst I will not be taking any further action on the sections of the complaint deemed inadmissible, I must inform you that (*Complainant's name*) has the right to contact the Service Complaints Ombudsman (SCO) to seek an independent review of my decision. They must do this within 4 weeks from the date that they receive this letter – in this case, that period ends on **[date]**. You will be notified if they do so and will be kept up to date with any action being considered.

[Use for both Complainant and Respondent]

You should already have been offered the services of an assisting officer (AO); however if you do not currently have an AO you should approach your CO, who should be able to assist you in identifying one. I encourage you to use the services of an AO as they can be a good source of guidance and support.

ANNEX E

ACKNOWLEDGEMENT TO COMPLAINANT/RESPONDENT OF RECEIPT OF APPEAL

Cut and paste this template onto letter headed paper or email and ensure all excess text and headings are deleted.

To: [Insert name of Complainant/Respondent]

[A: Use for complainant]

I am writing to acknowledge receipt of your appeal request which was received on **[Insert date of receipt]**.

[B: Use for respondent]

I am writing to inform you that **[insert name of complainant]** has submitted an appeal request against the decision dated **[insert date of decision]**.

[Use for both complainant and respondent]

I will now need to consider whether the appeal has been made in time and if it has not, whether it is just and equitable to proceed with it. I will write to you as soon as possible with my decision.

In the meantime you can find more information on the service complaint process in JSP 831, which you can find on the internal Defence Intranet and on the internet by searching for "JSP 831".

If you have not yet engaged the services of an assisting officer (AO) I would remind you that it is not too late to appoint one, or have one appointed. If at any time during this process you decide that you would like an AO please contact your CO, who should be able to assist you in identifying one. I encourage you to use the services of an AO as they can be a good source of guidance and support.

Good communication with you is important to us and I would appreciate it if you ensure that we have the most up-to-date contact details for you. The more methods of communication we have to maintain contact with you, the less chance there is of any delay arising. Alternatively, if you would prefer to be contacted via your AO please let us know and include their contact details.

ANNEX F

SERVICE COMPLAINT FORM - GUIDANCE

1. Before submitting a service complaint or at the earliest opportunity, you may want to seek the advice of your Assisting Officer (AO) for help in completing this form. This may be an officer, warrant officer, SNCO or civil servant of equivalent grade who can be appointed by your chain of command (cofc) (normally the Specified Officer (SO)) or you can approach somebody yourself. Further details on the role and responsibilities of the AO are at chapter 8.
2. If possible you should seek advice from the unit Equality and Diversity Advisor (EDA).
3. If the complaint involves a number of similar, related incidents involving the same respondent, you should submit a single service complaint form. Otherwise, each complaint should be made using a separate form.
4. In setting out how you allege that you have been wronged, provide the facts as clearly as you can. You must set out:
 - a. the date(s), time(s) and location(s). If you cannot remember the date(s) of the incident complained of, you should say so;
 - b. the incident itself or, if there was more than one, each of them. If the incident(s) occurred over a period you should say when the period ended or when the latest incident occurred.
5. If your complaint is about bullying or harassment, you should also provide:
 - a. details of who you believe is bullying or harassing you;
 - b. details of anyone who witnessed the incident(s);
 - c. the effect that the incident(s) had on you; and
 - d. any attempt you have made to resolve the matter.
6. Regulation 5 of the Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015 refers to the type of conduct described below. If behaviour under one or more of these categories is alleged, sections 3 and 4 of the form must be completed;
 - a. discrimination (in this context, “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

- b. unlawful 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; or
 - f. the improper exercise by a service policeman of statutory powers as a service policeman;
7. Make clear what redress (outcome) you seek from this complaint. Redress means the action you would like to be taken as a result of your complaint.
8. Once you have completed the form, submit a signed and dated copy to your SO (normally the Commanding Officer).

ANNEX F - SERVICE COMPLAINT FORM

For official use only – SR number from JPA			
Complaint Informal	<input type="text"/>	Complaint Appeal	<input type="text"/>
Complaint Formal	<input type="text"/>		

To:

Specified Officer (normally the Commanding Officer)

1. In accordance with Section 340A of the Armed Forces Act 2006, I:

(Service Number, Rank/Rate and Name)

Currently serving at or assigned/attached to (delete as appropriate):

or discharged on:

(Date)

Of current address:

claim:

a. that I have been wronged as set out in paragraph 2 below; and

b. that I seek the redress specified in paragraph 5 below.

2. I believe that I have been wronged in the following manner:

(Include date(s) and times, location and nature of incident(s) as appropriate)

3. Does your complaint include allegations of bullying, harassment, discrimination or any other allegation specified in regulation 5(2) of the Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015 (see paragraph 6a-f above)?

Yes

Please tick as appropriate

If ticked Yes, complete section 4 a – c. (Also complete sections 5 and 6.)

If ticked No, continue straight to section 5 - 6.

4a. State which category (or categories) you consider your complaint falls into (see note 6 a-f), why you believe it falls within that category (or categories) and details of the relevant conduct:

(

(Continue on a separate sheet if required)

4b. Identify below any person(s) you believe has behaved towards you under a category (or categories) of behaviour you have described in 4a:

Name:
Rank/Grade:
Unit, phone, e-mail details:

4c. Contact details of any witnesses referred to in section 2 of this form:

Name:
Rank/Grade:
Unit, phone, e-mail details:

5. What outcome or redress do you seek from this complaint?

6. Complaints submitted under the Armed Forces (Service Complaints) Regulations 2015 must normally be submitted within 3 months of the date that the matter complained of

occurred or of the latest in a connected series of incidents. This time limit is 6 months if your complaint is about discrimination and 9 months if it is about equal pay. Provide an explanation if you think that this complaint is made outside the relevant time limit and say why it should be considered outside the time limit.

I consent to the disclosure of my relevant personal employment/medical information for the purposes of investigating and deciding my complaint.

Date:

Signature of Complainant:

Note: Relevant supporting documents that you consider would be helpful to the investigation of your complaint should be enclosed and recorded on a separate sheet.

Additional contact details. I may also be contacted on:

Email address:

Telephone number(s):

I would prefer to be contacted by: post / email / telephone (delete as appropriate)

ANNEX G

PRINCIPLES OF FAIRNESS FOR THE HANDLING OF SERVICE COMPLAINTS

The Principles of Fairness for Complaints Handling are as follows:

1. Lay Solid Foundations

- a. Follow the service complaints policy and any single Service guidance.
- b. Seek advice early.
- c. Attempt to seek resolution of a service complaint at the lowest appropriate level - Can the complaint be resolved informally?
- d. Ensure early contact is established with the complainant.
- e. Make an early assessment - Is it a service complaint and in time? Are you able/the right person to deal with the complaint? Can you resolve the complaint alone or do you require specialist advice? How should you investigate it?
- f. Remember: a complaint on your watch is not a failure - not dealing with it is. Prompt, sound handling will reap benefits downstream for all involved.

2. Act Fairly and Promptly

- a. Treat the complainant, and all others who are involved, impartially and consistently.
- b. Ensure that all parties to a service complaint are appropriately assisted and supported throughout.
- c. Make no assumptions until the facts are established.
- d. Ensure that investigations are prompt, thorough and establish the facts.
- e. Make prompt, fair and informed decisions within the published timescales.

3. Be Open and Transparent

- a. Keep all appropriate parties updated regularly on progress. Disclose all relevant information to the appropriate parties in accordance with existing policy and guidance.
- b. Allow the complainant and any other party involved the opportunity to explain their position through appropriate means before a decision is made.

c. Communicate your decision promptly, in writing and give reasons.

4. Be Flexible and Proactive

a. Consider what remedy is appropriate to achieve resolution: this may not necessarily be the remedy sought by the complainant.

b. Consider alternative approaches to resolution such as mediation.

c. Should you elevate the service complaint?

d. Monitor and respond promptly to inaction, as well as to positive developments.

e. Consider if the complaint raises management issues which need to be addressed, regardless of whether a complaint is pursued.

5. Learn Lessons

a. Ask yourself: what could I do better next time?

b. Pass on views about the complaints process to your single Service complaint lead. Could it be improved within your Service or Corporately.

c. Pass on views about other single Service or tri-Service policies or processes. Do they need amending to prevent similar complaints arising?

ANNEX H

SECRETARIAT TO OMBUDSMAN CONFIRMING REFERRAL PASSED TO CHAIN OF COMMAND FOR ACTION - TEMPLATE

Cut and paste this template onto letter headed paper or email and ensure all excess text and headings are deleted.

Re: **[Insert Ombudsman reference/Complainant details]**

Thank you for your letter dated **[insert date]** which was received on **[Insert date of receipt]**.

I can confirm that we have today forwarded your referral to **[Name of CoC/officer who has been allocated complaint]**, who is the appropriate person to investigate **[this/these allegation/s]**.

Updates on the further action taken by **[insert name of Officer]** will be sent to you in accordance with the policy set out in JSP 831.

Annex I - Glossary

Annex F	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.
Appeal Body	One or more individuals (who might include independent members) who have been appointed by a single Service complaints secretariat to consider and to make a determination on an appeal
Assisting Officer (AO)	A person who is appointed by the chain of command to provide help and support to a complainant or a respondent during the service complaints process. A complainant or respondent can also nominate someone to act as their AO.
Chain of Command (CoC)	CoC is the line of authority and responsibility along which orders are passed within a Service unit and between different units.
Commanding Officer (CO)	The 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 has made a service complaint.
Decision Body	One or more individuals who have been appointed by a single Service complaints secretariat to investigate and make a decision on a service complaint.
Defence Council	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.
Equality and Diversity Advisor (EDA)	EDAs are the command/establishment focal point for providing impartial advice to all Service personnel on any E&D issue, including allegations of bullying and harassment.
Finally determined	A complaint that has been completed in the internal process – i.e. a decision has been taken on the complaint by the decision body and, if an appeal is available, there has been a determination by the appeal body. In some cases, there will be a decision stage with no appeal because of the seniority of the decision body. A complaint has not been finally determined for the purposes of an Ombudsman investigation if an appeal is available and the complainant chooses not to pursue it.
Harassment Investigation Officer	An individual appointed to investigate formal complaints of bullying and harassment.

(HIO)	
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 but is not defined in the legislation.
Independent Member/Person	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 20 of Part 1 of this JSP.
Internal process	The process that is handled by the Services from receiving a service complaint through to making a final decision
Investigating Officer	An individual appointed by a decision or appeal body to investigate a complaint on its behalf and to report back with findings of fact
Joint Personnel Administration (JPA)	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.
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 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.
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 or appeal body to be an appropriate remedy in answer to a Service complaint which has been upheld or partially upheld. A decision or appeal body 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 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 DSP Pol through Hd Defence Personnel Secretariat (DPS) and Asst Hd DPS Complaints. The single Service secretariats are embedded within their single Service

	chains of command in their separate locations.
Service complaint	A complaint submitted in writing in a statement of complaint explaining why a current or former Service person thinks themselves wronged in a matter relating to their service
Service Complaints Ombudsman (SCO)	The Ombudsman is independent of MOD. The appointment is approved by The Queen on the recommendation of the Secretary of State for Defence. The Ombudsman 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.
Special-to-Type (STT)	Special-to-Type (STT) 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.
Specified Officer (SO)	The person to whom a complainant submits a statement of complaint at the start of the service complaints process. The specified officer is usually the Service person's Commanding Officer.
Statement of complaint	The document in which a Service person must set out the particulars of their 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 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.
Victimisation	To treat someone unfairly, e.g., because they have submitted a Service complaint or approached the SCO.