



Ministry
of Defence

JSP 831
Redress of Individual Grievances: Service
Complaints

Part 2: Guidance

Foreword

This Part 2 provides guidance in accordance with the policy set out in Part 1; the guidance is sponsored by the Chief of Defence People, the People Functional Owner. It provides policy-compliant business practices which should be considered best practice in the absence of any contradicting instruction. However, nothing in this document should discourage the application of sheer common sense.

Preface

How to use this JSP

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

Coherence with other Policy and Guidance

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

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

Further Advice and Feedback - Contacts

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

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People-Sec-Complaints Pol 2	Service Complaints C2	0207 80 78619

Record of Changes

Version No	Authority	Date	Comments
1.0	Chief of Defence Personnel Service Complaints Team	1 Jan 2016	Fully revised in line with new Service Complaints Process effective from 1 Jan 2016 and new standard two-part JSP format.
1.1	Chief of Defence Personnel Service Complaints Team	22 Jan 2016	Minor formatting changes. <ul style="list-style-type: none"> • Contents page numbered. • Hyperlinks added to contents page and to link to glossary. • Revised Annex F.
1.2	Chief of Defence People Service Complaints Team	16 Oct 2020	<ul style="list-style-type: none"> • Major formatting and amendments to entire document. • Articles 6(1)(c) and 6(1)(e) of the GDPR¹ and sections 8(c) and 8(d) of the DPA 18 defined. • Updated contact details for single Service Secretariats and the SCO. • Complaint withdrawal process outlined. • Annex on transitional arrangements removed. • Defining sources of support available to all parties. • Confirmation of process for Respondents who are not Service personnel.

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

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1 Complainant

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, 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 at any stage.
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.
6. The Service Complaints process is non-litigious, but Complainants and Respondents may seek legal advice from a legal representative. In all cases this would be at their own expense.

What can you expect from the process?

7. During the Service Complaints 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 a **Diversity and Inclusion Adviser** (D&I (A)) 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 submit an appeal application against 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** (SCO) in certain circumstances.

What are your responsibilities within this process?

- 8. During the Service Complaints 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** (STT) 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 to put right the wrong/s that happened to you personally, should your Service Complaint be upheld in full or in part;
 - 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 the complaint including 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 Body** (DB) or **Appeal Body** (AB) that is considering your Service Complaint can 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.

m. should you decide to withdraw your Service complaint at any stage, and where you have not already done so, you will be expected to provide a reason for your decision to withdraw your complaint and this will be logged accordingly.

9. 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?

10. If you are a serving or former Service person subject to the Armed Forces Act 2006, 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.

11. 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.

12. 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. A complaint cannot be submitted on behalf of someone else.

13. 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 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 7.

What matters can you not complain about?

14. 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

15. 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.

16. 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 14-15 of Part 1 to this JSP. Your AO will also be able to help you if you have any questions.

17. In most circumstances, if you submit a complaint beyond the required time limit it will be ruled out of time. However, the SO can consider whether it would be just and equitable to rule your complaint in time and so allow it to proceed – to help the SO 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?

18. For complaints about pay and allowances, healthcare and housing (this list is not exhaustive), there are other complaints processes to be followed before you may engage the Service Complaints process. These are known as Special-to-Type (STT) 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 Complaint².

19. If you submit a statement of complaint and have not yet followed a STT process, the SO will put the matter on hold – you can come back to it, following the final decision under the STT process, if you want to.

Submitting a Service Complaint

20. To make a Service Complaint you must submit a statement of complaint **in writing** and it must be signed and 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. The 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.

21. 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 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;

² There may be some circumstances where a STT process does not need to be exhausted and the SO can proceed to make an admissibility decision however legal advice should be sought where this course of action may be deemed necessary.

- f. if you are making your complaint and the complaint is not made within the three month time limit (a longer time limit will apply if your complaint is about a matter that can be the subject of claim to an employment tribunal – see Chapter 1, paragraphs 12-15 of Part 1 to this JSP), the reasons why; and
- g. the redress you are looking for.

22. 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.

23. 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 if it can proceed.

24. 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.

25. 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 deemed admissible or the outcome of an SCO admissibility review. If you have submitted a statement of complaint without having exhausted a STT complaint process, the decision on admissibility will be put on hold until the STT process has been exhausted. Once the STT complaints process has been exhausted, you must inform the SO whether you wish to proceed with the Service Complaint process or not. If you do decide to proceed with a Service Complaint, then the SO will make a decision concerning the admissibility of your complaint. Every year, the Service Complaints Ombudsman reviews the Service's performance against this KPI. For further information please refer to: <https://www.scoaf.org.uk/annual-reports/>.

How the Specified Officer decides whether your Service Complaint is admissible and it can proceed

26. 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, or ask someone to do so on their behalf, 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;

- 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.
- e. send a letter to any affected parties notifying them of your complaint and provide them with a copy of your statement of complaint.

27. 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 under AFA06;
- 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.

28. 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.

29. 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 SCO, 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 28.

30. If after the SO has made a decision on the admissibility of your Service Complaint you raise a new 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 new Service Complaint.

Service Complaints Ombudsman's review of an admissibility decision

31. It is your right to apply to the SCO for a review of the decision taken by the SO that your complaint is not admissible. The SCO will then decide whether the SO's decision was correct.

32. You must submit your application to the SCO within four weeks of the date that you received 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 SCO will not consider your application unless the SCO 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.

33. The SCO has produced guidance on what an application must include and how to make one. This can be found at: www.scoaf.org.uk.

34. The SCO will notify you and the SO in writing of their determination and reasons.

35. If the SCO determines that your complaint is an admissible Service Complaint, the SO will refer it to the single Service Secretariat after receiving the SCO's determination. The Secretariat will then allocate your Service Complaint to a DB – see paragraph 37.

36. The SCO'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

37. Where the SO has decided, or been informed by the SCO, that your Service Complaint is admissible, the SO must refer your Service Complaint to the single Service Secretariat. The Secretariat will appoint a DB with the authority to consider and decide your Service Complaint and to grant any appropriate redress. Information on the DB and how appointments are made can be found at Chapter 4.

38. The single Service Secretariat will write to you and any Respondent(s) to tell you who has been appointed.

39. 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 SCO for an investigation if you are dissatisfied.

40. Once a DB 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 DB should be appointed. This could be because, for example, it has become known that a member of the DB is implicated in some way in the matters you are complaining about, or a member of the DB is no longer able to take part. These examples are not exhaustive and the single Service Secretariat may decide that it would be appropriate to appoint a new DB for other reasons. If this

happens the single Service Secretariat will notify you in writing, and tell you who has been appointed to the new body.

41. The single Service Secretariat can appoint an **Independent Member** (IM) to a DB if it considers that it would be helpful in achieving a decision on your complaint, although it is 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 does not have to be involved if you go on to appeal the DB's decision. Ultimately you would be able to apply to the SCO for an investigation. Details about the appointment and role of IMs can be found at Chapter 9, and more information about applying to the SCO is at Chapter 4 of Part 1 to this JSP.

Deciding your Service Complaint

42. The DB appointed by the single Service Secretariat to decide your Service Complaint must decide whether, on the balance of probabilities, it is well founded to any extent, and, if it is, what redress (if any) is appropriate, and grant any such redress. The DB can also ask someone to investigate your Service Complaint on its behalf, but it will be the DB that has to reach the final decision on your complaint.

43. 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 DB 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.

44. 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 an **Harassment Investigation Officer** (HIO) and their role. In some circumstances a Service may appoint its own investigators. Chapter 8 has more detail about investigators.

45. Having completed an investigation and before making its decision, the DB 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(s) and any other person who might be affected by the outcome. This gives you and the other parties the chance to comment in writing on the papers, and for those comments to be made available to the DB 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 attempt to submit new matters of complaint, these would need to be raised as a new Service Complaint.

46. You should also be aware that the DB 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 DB in making its decision on your Service Complaint.

47. The DB can be made up of one or more people and will make its decision on a simple majority basis.
48. 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.

49. 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 SCO if you are dissatisfied and the time limit for doing so.

The need for the timely handling of Service Complaints – undue delay

50. 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 SCO to investigate that.

51. The SCO has provided guidance on how to make an application: www.scoaf.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 SCO.

52. If the single Service Secretariat is notified by the SCO that you have made an application, work on your Service Complaint will continue, as awaiting a response from the SCO may delay matters further.

Submitting an appeal

53. Once the DB has notified you of its decision on your Service Complaint, you have the right to submit an appeal application (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 the decision.

54. 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, but this would not impact the outcome of your complaint.

55. You must submit your appeal application 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.

56. Setting out what you are dissatisfied with and why can help the AB to focus its consideration. As the AB considers the entirety of the complaint afresh, you need to know that the AB 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

57. The single Service Secretariat will write to you to confirm receipt of your appeal.

58. 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.

59. 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 SCO, and of the time limit for doing so.

60. The SCO 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: www.scoaf.org.uk.

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

61. The SCO must determine whether the decision made by the single Service Secretariat was right or not. The SCO must notify both you and the single Service Secretariat in writing of their decision, giving reasons for the decision.

62. Applications to the SCO for a review of the admissibility decision should be made four weeks after the date that you received the single Service Secretariat's decision that your appeal will not proceed. Applications outside of the four-week period may be accepted if the SCO considers it is just and equitable to allow you to apply outside the timeframe.

63. A determination by the SCO in relation to a review is binding on you and on the Secretariat. The only mechanism for challenging the findings would be by judicial review.

Appointing an Appeal Body to determine your appeal

64. Where the single Service Secretariat or, following a review, the SCO decides that your appeal can proceed, the single Service Secretariat must appoint an AB with the authority to consider and determine the appeal, and to grant appropriate redress. Further details about the AB are at Chapter 5.

65. The single Service Secretariat will write to you and any Respondent(s) to tell you who has been appointed.

Determining your appeal

66. The 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 AB can also ask someone to investigate your Service Complaint on its behalf, but it will be the AB that has to reach the final decision on your complaint.

67. 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 AB 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.

68. The AB can be made up of one or more people and will make its decision on a simple majority basis.

69. Having completed an investigation and before making its determination, the AB 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(s) and any other person who might be affected by the outcome. This gives you and the other parties the chance to comment in writing on the papers, and for those comments to be made available to the AB 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.

70. You should also be aware that the AB 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 AB in making its decision on your Service Complaint.

71. 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 SCO if you are dissatisfied and the time limit for doing so.

Approaching the Service Complaints Ombudsman

72. Detailed guidance on how and when to approach the SCO, and help with making an application is on the SCO's website: www.scoaf.org.uk.

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

73. You should also refer to Chapter 4 of Part 1 of this JSP which sets out details about the SCO, including what the SCO can do, how they might conduct investigations, and the reports they produce.

74. It is important that you familiarise yourself with both sets of guidance before approaching the SCO.

75. You need to make your application within six weeks of the date that you received 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.

76. 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.

77. There is no time limit for applying for an investigation into undue delay when your Service Complaint is still on-going.

78. It is open to the SCO 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 SCO's findings and recommendations may not be as favourable to you as the outcome of the **internal complaints process**.

79. The Service that dealt with your Service Complaint will have to respond to any investigation report on your case that the SCO 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 54 - 65.

Can the Service Complaints Ombudsman pay expenses?

80. The SCO is able to pay such expenses or allowances for loss of time as the SCO 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 SCO's office at: contact@scoaf.org.uk.

The SCO can also decide whether anyone can be represented during an investigation, including by lawyers. Please note, the SCO will not cover the cost of any legal fees incurred. Again, you should contact the SCO if you have any questions about this.

Continued support throughout the Service Complaints Ombudsman process

81. The SCO'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 SCO at any stage of the Service Complaint process you should continue to be supported by your Chain of Command and/or your AO.

82. Your Chain of Command will continue to provide welfare and pastoral support to you as you go through the SCO 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 SCO process. This will not though be your main source of information about using the SCO's service – for that you should you contact the SCO's office or see their website, as they are best placed to advise on their processes.

83. You should not be **victimised** for exercising your right to apply to the SCO, nor be discouraged from doing so. If you believe that you are being victimised or discouraged, you should discuss with your AO 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?

84. In certain circumstances you can apply to the SCO for an investigation into a Service Complaint that has already been investigated by the SCO. Those circumstances are that:

- a. you applied to the SCO for an investigation into 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 SCO's report; and
- c. you are dissatisfied with the outcome of that reconsideration or how it was handled.

85. There is a six-week time limit for making a subsequent application, starting from when you receive the decision that has followed reconsideration of your complaint. An application can be considered by the SCO beyond this period if the SCO considers that it is just and equitable to do so.

86. If you have approached the SCO for an investigation into pre-complaint delay (often referred to as 'Delay in a Service Matter'), or into undue delay in relation to an on-going Service Complaint, there is nothing to prevent you from applying to the SCO 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.
5. We encourage you to participate fully in the Service Complaints process and take advantage of the range of support and guidance available to you. If you are no longer subject to Service law, are a MOD civilian employee or are a civilian, there is no obligation for you engage with the Service Complaints process at all if you so choose. In these circumstances, the decision on the Service Complaint will be made on the basis of the evidence available.

What are your responsibilities as a Respondent within this process?

6. 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.
7. 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.
8. 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.
9. 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 held to maintain contact, the less chance there is of this becoming an unnecessary cause of delay to the process.
10. 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 Body (DB) or an Appeal Body

(AB) that is considering a Service Complaint that involves you can make a decision on it if they do not get a response within a reasonable time to any requests they put to you.

11. You are not to **victimise** or retaliate against anyone involved in the 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.

12. 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?

13. 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 SO 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.

14. All complaints will be taken seriously and investigated impartially, thoroughly, sensitively and confidentially.

15. 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.

16. 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 the SO/DB/AB/CoC.

17. You will be kept informed regularly of the progress of the complaint and will be informed promptly of decisions that are taken.

18. You will be notified when a DB, and if applicable an AB, 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 AB at Chapter 5.

19. 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 DB or AB in making its decision on the Service Complaint.

20. 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 an

Harassment Investigation Officer (HIO) and their role. In some circumstances a Service might appoint its own investigators. More information on investigators is at Chapter 8.

What is disclosure?

21. Once the DB and any AB 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?

22. If the Complainant appeals against the decision made by the DB, and it is accepted, an AB will be appointed. Details of the appointment and role of the AB 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 Service Complaints Ombudsman and about what?

23. Once a Service Complaint has been **finally determined**, the Complainant has the right to approach the **Service Complaints Ombudsman** (SCO) in certain circumstances. The Complainant can also apply to the SCO 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 SCO, 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 SCOs website: www.scoaf.org.uk.

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

24. If you are dissatisfied with the determination given by an AB, you will not be able to apply to the SCO. That is because the process has considered the Complainant's Service Complaint. If there are issues that have arisen during the consideration of the Service Complaint and you feel that you have been wronged by the process, 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.

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

Can the Service Complaints Ombudsman pay expenses?

26. The SCO is able to pay such expenses or allowances for loss of time as the SCO 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 SCO's office. The SCO can also decide whether anyone can be represented during an investigation, including by lawyers. Please note the SCO will not cover the cost of any legal fees incurred as part of the process. Again, you should contact the SCO if you have any questions about this.

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

27. The SCO 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 54 - 65 have more information about how a Service will respond to an investigation report from the SCO.

28. 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 SCO 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.

29. 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 SCO or with MOD. They can however take the matter to the courts for a judicial review at their own expense.

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 all or part of that statement of complaint you have received is admissible as a Service Complaint. 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 **Service Complaints Ombudsman** (SCO) 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 SCO'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 clearly 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 sought, 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.

12. Where a Complainant decides to withdraw their complaint and a reason for withdrawal is not initially provided, you will be expected to seek reasons from the Complainant as to why they have decided to withdraw the complaint. This is to be logged accordingly. Where you suspect that a Complainant may have been pressured into withdrawing their complaint you are to seek advice from the relevant single Service Secretariat.

Where to get advice to help carry out your role

13. 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 and [2019DIN01-141](#) to help you determine which Service will provide you with advice and support.

Recording information about individual Service Complaints

14. 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 SCO as part of the annual assessment of the effectiveness of the system overall.

Why you have received a statement of complaint

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

- a. you are the Commanding Officer (CO) of the Complainant; or
- b. the Complainant has indicated that their own CO 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 SCO to the single Service Secretariat that someone under your command may have suffered a wrong and may wish to make a Service Complaint.

16. 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 consult 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.

The relevant single Service Secretariat may ask you to forward all papers associated with the complaint to them. The secretariat will then task someone else to take on the role of SO.

17. If you have a referral from the SCO, you must carry out the tasks set out at Part 1, Chapter 2, paragraph 12 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 SCO. 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

18. Within two working 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.

19. 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

20. 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.

21. The statement of complaint must be in writing, signed 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.

22. 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. Where the complaint concerns a Special To Type (STT) matter that the relevant STT process has been exhausted;
- c. whether the Complainant thinks that you, as their CO, 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);
- d. whether the Complainant considers that their complaint includes allegations of the kind set out at Part 1, Chapter 1, paragraph 22 of this JSP, for example bullying or harassment (including any facts in support);
- e. if the complaint is not made within the three month time limit (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 Part 1, Chapter 1, paragraphs 12 - 14 of this JSP), the reasons why;
- f. the redress sought;
- g. the date on which, to the best of the Complainant's recollection, the matter complained about occurred or probably occurred; or
- h. whether the matter complained about occurred over a period, and if so, the date on which, to the best of the Complainant's recollection, that period probably ended; or
- i. whether the matter complained about is continuing to occur;
- j. whether they are unable to recollect the date of either f) or g).

23. 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 not already done so it is also the time to offer the services of an AO.

24. 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).

25. 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

26. 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 Part 1, Chapter 1, paragraphs 12-15 of 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.

27. 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 Part 1, Chapter 1, paragraphs 12-15 of this JSP. Paragraph 30 sets out how to proceed where a Special-to-Type (STT) process applies to the matter being complained about.

28. 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 employment tribunal) 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.

29. 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

30. There are separate STT complaint processes for resolving certain matters that are to be followed before a Service Complaint will be considered. Details of what grievances are to first be raised as an STT complaint can be found at Annex I. Advice can also be sought from the relevant single Service Secretariat. If you receive a statement of complaint about

one of these matters you will want the Complainant to confirm that the relevant other process has been exhausted and when. If it has not been:

- a. notify the Service person of the need to take the 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 with the STT outcome;
- c. ensure that your unit admin office records the complaint on JPA as 'Complaint Informal' with a status of "Suspended 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. Advice should be taken from the single Service Secretariats for those complaints which include STT and non-STT heads of complaint.

31. 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 26. If it arrives after this date you may admit it if it is just and equitable to do so.

32. 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

33. 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. Please refer to JSP 763, Chapter 1, paragraph 1.14, page 10 for more information on malicious and vexatious complaints.

34. 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.

35. 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

36. 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.

37. If you decide that 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 SCO and of the time limits for doing so.

38. 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 SCO; and
- b. treat the remaining matters as an admissible Service Complaint.

39. In your role as the SO, it is important to remember the emotional impact that Service Complaints can have on all those involved. Therefore, when delivering a decision on Admissibility you should consider sign-posting individuals to the support available to them.

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

40. If the SCO is asked by the Complainant to review your decision that some or all matters cannot be taken forward as a Service Complaint and the SCO finds in the Complainant's favour, the SCO will write to tell you of that decision. The SCO will also write to the Complainant. The SCO's decision is binding.

41. Within a week of receiving the SCO's decision, you should follow the process set out at paragraphs 36-38 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** (SCO), the SO will refer the Service Complaint to the relevant **single Service Secretariat**. The single Service Secretariat must appoint a **Decision Body** (DB), 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** (IM) to the DB – more information about IM 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 'DB' 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 DB 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 DB, 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 decide a complaint based on the information you have if others are not responding to your 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.

9. Where a Complainant decides to withdraw their complaint and a reason for withdrawal is not initially provided, you will be expected to seek reasons from the Complainant as to why they have decided to withdraw the complaint. This is to be logged accordingly. Where you suspect that a Complainant may have been pressured into withdrawing their complaint you are to seek advice from the relevant single Service Secretariat.

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.

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 SO that a complaint is admissible, or from the date that the SCO 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.

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 SCO requesting an investigation into the delay. The SCO has provided guidance on how to make an application. See Part 1, Chapter 4 of this JSP for more details on the role of the SCO.

13. If you are notified by the single Service Secretariat that an application has been made to the SCO, you should continue to progress the Service Complaint as awaiting a response from the SCO may only delay matters further.

How should you investigate the Service Complaint?

14. 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.

15. 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.

16. 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 an **Harassment Investigation Officer** (HIO) to conduct the investigation. Alternatively, you might task Service investigators. Chapter 8 has more information about investigators.

17. 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 your single Service Secretariat for assistance.

18. 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 the DB, you cannot change the admissibility decision however, it is up to you to decide whether the substantive merit of the complaint is well-founded and, if so, decide the appropriate redress to grant to the Complainant.

19. 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. Where a Respondent is no longer serving as a member of the Armed Forces or is a Civil Servant, bear in mind that they cannot be compelled to participate in the process. If they decide not to participate, it is good practice to remind the Respondent that the complaints process will continue without their input, but they will be informed of the outcome regardless. Any comments received must when be given due weight in making your decision on the complaint.

What if you are unable to continue considering the Service Complaint?

20. 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.

21. It may also not be possible for the DB to continue if anyone appointed leaves the Service before a decision has been reached, or dies.

22. If any of these situations arises, advice should be sought immediately from the single Service Secretariat.

Disclosing information on completion of the investigation

23. 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.

24. 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.

25. 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.

26. There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the GDPR³ and sections 8(c) and 8(d) of the DPA 18⁴ and the Freedom of Information Act 2000 provide the lawful basis for the DB to process personal data necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority. Privileged and protected information and advice is not

³ [General Data Protection Regulation \(EU\) 2016/679](#).

⁴ The Data Protection Act 2018 sets out the data protection framework in the UK, alongside the GDPR, supplementing, modifying and enforcing aspects of the GDPR: [Data Protection Act 2018](#).

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?

27. 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 Part 1, Chapter 1, paragraph 19 of this JSP.

28. As the DB, you have the authority needed to grant appropriate redress. MOD does not however have delegated authority from HM 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 HM Treasury considers 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.

29. Where unquantifiable compensation of this nature is considered to be, or forms part of, appropriate redress in the view of the DB, 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.

30. The complaint should be decided on the basis of a simple majority decision if more than one person has been appointed as the DB.

How should the Complainant be informed of the decision?

31. 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 follow-on action against the Respondent(s) but not the nature of the action;
- 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.
- g. In your role as the DB, it is important to remember the emotional impact that Service Complaints can have on all those involved. Therefore, when delivering a decision on a Service Complaint, you should consider sign-posting individuals to the support available to them.

Recording information about individual Service Complaints

32. 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 SCO as part of the annual assessment of the effectiveness of the system overall.

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

33. 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 DB. 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.

34. 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 SCO 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** (SCO) decides that an appeal by the Complainant can proceed, the single Service Secretariat must appoint an Appeal Body (AB), 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** (IM) must be included as part of the AB. Further guidance on the role of the IM 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 notify the Complainant and any Respondent(s) 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 'AB' relate to the Service acting on behalf of the Defence Council, based on delegations from the Defence Council that have been put in place to 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 AB 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. Noting that some redress may be outside of your delegated authority and require additional approval, such as HM Treasury.

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 AB, 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 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. 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. Where a Respondent is no longer serving as a member of the Armed Forces or is a Civil Servant, bear in mind that they cannot be compelled to participate in the process. If they decide not to participate, it is good practice to remind the Respondent that the complaints process will continue without their input, but they will be informed of the outcome regardless. Any comments received must when be given due weight in making your decision on the complaint.

10. Where a Complainant decides to withdraw their complaint and a reason for withdrawal is not initially provided, you will be expected to seek reasons from the Complainant as to why they have decided to withdraw the complaint. This is to be logged accordingly. Where you suspect that a Complainant may have been pressured into withdrawing their complaint you are to seek advice from the relevant single Service Secretariat.

11. 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

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 is made admissible by the Specified Officer (SO), or by the SCO 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 SCO requesting an investigation into the delay. The SCO has provided guidance on how to make an application. See Part 1, Chapter 4 of this JSP for more details on the role of the SCO.

15. If you are notified by the single Service Secretariat that an application has been made to the SCO, you should continue to progress the Service Complaint as awaiting a response from the SCO may only delay matters further.

What if you are unable to continue considering the Service Complaint?

16. 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 inform 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.

17. It may also not be possible for the AB to continue if anyone appointed leaves the Service before a decision has been reached, or dies.

18. 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?

19. As the AB, 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

20. 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.

21. 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.

22. 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.

23. There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the GDPR⁵ and sections 8(c) and 8(d) of the DPA 18⁶ and the Freedom of Information Act 2000 provide the lawful basis for the AB to process personal data necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority. Privileged and protected information and advice is not to be disclosed or paraphrased, without discussing with the relevant expert advisers e.g. legal, security or information. If doubt exists on any aspect of disclosure, you should seek legal and MOD policy advice from the appropriate single Service Secretariat.

How should you determine the Service Complaint?

24. 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 Part 1, Chapter 1, paragraph 19 of this JSP.

25. In their appeal application, the Complainant must set out what they disagree with about the decision made by the Decision Body (DB) 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 DB.

26. As the AB, you have the authority needed to grant appropriate redress. MOD does not however have delegated authority from HM 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 HM Treasury

⁵ [General Data Protection Regulation \(EU\) 2016/679](#).

⁶ The Data Protection Act 2018 sets out the data protection framework in the UK, alongside the GDPR, supplementing, modifying and enforcing aspects of the GDPR: [Data Protection Act 2018](#).

considers 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.

27. Where unquantifiable compensation of this nature is considered to be, or forms part of, appropriate redress in the view of the AB, you will have to pause in finalising your decision and seek HM 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.

28. 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 AB.

29. 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.

30. 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

31. There is no obligation to hold an Oral Hearing (OH) in any case. A Complainant may request an OH but the final decision lies with the AB.

32. 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 OH. Similarly, an OH 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 OH.

33. If an OH is held, the Complainant should always attend and may be accompanied by an AO and at the discretion of the AB, 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.

34. Before proceeding with an OH, all relevant documents to be used by the AB 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.

35. Any relevant documents will be considered as well as oral evidence. Evidence is not taken on oath and witnesses may be questioned by the AB 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 AB and may submit documentary evidence. Witnesses may also be called to give oral evidence based on their witness statement.

36. 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?

37. 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 SCO if they are dissatisfied and of the time limit for doing so.

38. 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 follow-on 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 SCO if they are dissatisfied and the time limit for doing so.
- g. In your role as the AB, it is important to remember the emotional impact that Service Complaints can have on all those involved. Therefore, when delivering a decision on the appeal you should consider sign-posting individuals to the support available to them.

39. Complainants have a right to make an application for their complaint to be investigated by the SCO 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

40. 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 SCO 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 (DB) with the necessary authority to decide a Service Complaint and to grant appropriate redress;
 - b. decides whether an appeal application from a Complainant following a DB decision is valid;
 - c. appoints an Appeal Body (AB) with the necessary authority to determine an appeal and to grant appropriate redress;
 - d. where the Service Complaints Ombudsman (SCO) undertakes investigations, handles requests for information;
 - e. comments on draft investigation reports from the SCO;
 - f. considers and responds to final reports from the SCO;
 - g. forwards to the Chain of Command allegations referred by the SCO.
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', 'DB' and 'AB' 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 Specified Officer (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.

6. Where a Complainant decides to withdraw their complaint and a reason for withdrawal is not initially provided, you are to ensure that the SO/DB/AB has sought the reasons for withdrawal and where the SO/DB/AB suspects a Complainant has been pressured into withdrawing their complaint, you are to provide the necessary advice as per single Service procedures.

The need for timely processing of a Service Complaint

7. 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 SCO. The SCO has provided guidance on how to make an application; see www.scoaf.org.uk.

8. If the single Service Secretariat is notified that an application has been made to the SCO, work on and progression of the Service Complaint is to continue. The Service should not await a response from the SCO as this might delay matters further.

Acting on receipt of a Service Complaint

9. After an admissibility decision has been received from the SO, whether that decision has been made by the SO or following a review by the SCO, 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 DB 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

10. The secretariat must confirm in writing to the DB 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.

11. 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.

12. 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 – Part 1, Chapter 2, paragraph 25 of this JSP 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 DB.

13. Where a Service Complaint includes certain allegations (see Part 1, Chapter 1, paragraph 20 of this JSP), the secretariat can decide to appoint an Independent Member (IM) to a DB 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 IM is required, the secretariat should contact the central Service Complaints Secretariat who will make the appointment. Similarly, it is possible to appoint an IM to a Service Board or to act with the Defence Council itself, although this too is not required under the legislation.

14. In exceptional circumstances, it may become apparent once the DB has begun its work that a new body needs to be appointed. For example, it may become known that a member of the DB was implicated in some way with the Service Complaint, or it may be that a member of the DB leaves the Service or dies. This list is not exhaustive. Only in such instances would the DB be void and the secretariat be able to appoint a new DB. 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?

15. 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

16. Having reached a decision on a Service Complaint, the DB must confirm it in writing and notify the Complainant of their right to appeal the decision and of whom to send it to. Part 1, Chapter 2, paragraph 25 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 DB's decision letter.

17. 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 six weeks from the Complainant having received notification of the DB'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.

18. 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 SCO for a review of that decision and of the time limit for doing so.

Appointing an Appeal Body to determine an appeal

19. Where the secretariat or, following a review, the SCO decides that an appeal can proceed, the secretariat must as soon as is practicable appoint an AB with the necessary authority to consider and determine the appeal, and to grant any appropriate redress.

20. The secretariat must confirm in writing to the AB 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.

21. 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.

22. It may be necessary to appoint one or more IMs to determine the appeal. Part 1, Chapter 1, paragraph 21 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 IMs.

23. Where the secretariat decides that there is a requirement for an IM, they must contact the central Service Complaints Secretariat. The appointment of IMs 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 IM to a Service, and for recruiting and paying the expenses of IMs.

24. It is possible to appoint an AB of all IMs. If the single Service Secretariat considers it has such a situation, it should contact the central Service Complaints secretariat for further advice.

25. In exceptional circumstances, it may become apparent once the AB has begun its work that a new body needs to be appointed. For example, it may become known that a member of the AB was implicated in some way with the Service Complaint, or it may be that a member of the AB leaves the Service or dies. This list is not exhaustive. Only in such instances would the AB 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?

26. 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 Service Complaints Ombudsman

27. A Complainant has the right to apply to the SCO 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 Part 1, Chapter 4 of this JSP. More information about the role of the SCO following an application is also set out in that chapter

28. Having received an application, the SCO 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.

29. If the SCO 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 SCO must write to you confirming this and giving reasons.

30. It is important that all Secretariat dealings with the SCO 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 SCO's investigation. It will also help to address any suggestion that the SCO's independence has been compromised by inappropriate or undocumented correspondence with the MOD.

31. If for whatever reason the Complainant withdraws their application at any time before an investigation has been completed by the SCO, the Secretariat will be notified. The SCO 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

32. Anyone who approaches the SCO in whatever capacity should be supported, as they were by an Assisting Officer (AO) 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 SCO or to then maintain that contact or the terms of any application. It is for the SCO to give detailed support and guidance to a Service person on those matters.

33. 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 SCO.

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

34. It is important that in carrying out an investigation the SCO has access to the people and information needed to conduct that work and to the extent that the SCO considers necessary. The SCO 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.

35. The SCO can carry on with an investigation and prepare a report even if information or other material that has been requested is not forthcoming within the period that the SCO has specified as being reasonable in the circumstances. 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 SCO, or could result in the SCO going on to deliver findings and recommendations that are incomplete or flawed in some way.

36. It is therefore important that when asked to provide information by the SCO, the Secretariat does so in a timely manner and to meet any deadline set by the SCO. If that deadline cannot be met, the Secretariat is to notify the SCO as soon as they know, setting out the reasons and giving a date by which it could be provided.

37. Information or material requested by the SCO is not to be withheld from the SCO 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.

38. Legal advice is to be sought if the secretariat is seeking to rely on one of these grounds for non-disclosure.

39. The SCO is subject to the provisions of Articles 6(1)(c) and 6(1)(e) of the GDPR⁷ and sections 8(c) and 8(d) of the DPA 18⁸ 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 SCO. The SCO is however able to impose confidentiality obligations on these grounds on anyone who is sent a copy of an investigation report.

40. If the SCO judges that material is being withheld unlawfully, it is expected that the SCO will raise the matter with the Service involved, up to and including the highest level, for an explanation. Ultimately the SCO 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

⁷ [General Data Protection Regulation \(EU\) 2016/679](#).

⁸ The Data Protection Act 2018 sets out the data protection framework in the UK, alongside the GDPR, supplementing, modifying and enforcing aspects of the GDPR: [Data Protection Act 2018](#).

consider whether action should be taken against anyone for that. Information can only be withheld from the SCO where it is lawful to do so.

41. It is imperative therefore that any resistance to comply with a request from the SCO 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 MOD Legal Advisers Hd being consulted on the drafting.

42. The SCO will set out the information required. It is possible that the SCO 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.

43. If there is anyone else implicated as part of an investigation or otherwise involved in it, it will be for the SCO to disclose for comment material which is considered necessary to them and seek further information or documents from them.

44. The SCO may also ask the Secretariat for assistance in finding contact details from Service sources for anyone the SCO may wish to speak to in connection with an investigation. It will not however fall to the single Service Secretariat to contact that person on the SCO's behalf, unless there are particular operational reasons which would make it difficult or impossible for the SCO to make initial contact. Any attempts made by the secretariat to contact someone on the SCO's behalf must be fully documented and provided to the SCO in whatever form the SCO specifies, and as soon as practically possible.

45. The Secretariat will not be required to conduct any part of an investigation for the SCO. That would be inappropriate and call the SCO's independence into question. It is however entirely appropriate for the secretariat to comply with a request from the SCO to be put in touch with specialists on any matter so as to enhance the SCO's understanding of particular issues or of Service practice. This kind of assistance can help the SCO get the fullest evidence available and to make informed findings and recommendations.

Action in responding to a draft investigation report

46. Having completed an investigation, the SCO may decide to share a copy of a draft report for comment. Any comments received must be given due weight in the final report along with the SCO's response to them. The SCO does not however have to accept comments made.

47. The SCO will send a draft report to the nominated recipient in the Service which administered the complaint that has been investigated by the SCO. A copy will also be sent to CDP Defence People Service Complaints Policy, 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.

48. The response must be returned within any deadline set by the SCO, and if this is not going to be possible, the reasons must be given to the SCO 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.

49. 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.

50. It would also be appropriate to bring to the SCO'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.

51. Such consequences may not be apparent to the SCO and would therefore be unintended but could affect MOD's ability or willingness to take the action recommended by the SCO in the subsequent final report. The SCO's effectiveness and/or MOD's willingness to take positive action in response to the SCO's reports could be viewed negatively as a result.

52. Whilst it is generally expected that the SCO'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.

53. The Secretariat should ensure that any communication with the SCO'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 SCO'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 SCO.

Determining a response to the Service Complaints Ombudsmans final report

54. The SCO'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 CDP Defence People Service Complaints Policy.

55. 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 SCO's recommendations.

56. 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:
 - (1) with the recommendations fully; or
 - (2) with only some of the recommendations; or
 - (3) with the thrust of all or some of the recommendations but to implement them in another way; or
 - (4) with none of the recommendations; or
- b. to disagree with the findings and so with the recommendations that follow.

57. The SCO'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 SCO. 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.

58. The SCO'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.

59. 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 SCO has recommended redress which for example for Service career management reasons cannot be achieved.

60. 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 Service Complaints Ombudsman and implementing recommendations

61. The decision on how to respond to the findings and recommendations will determine the timing and nature of the reply to the SCO 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 SCO 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 SCO 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.

62. 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 SCO's recommendation. The action required in each case will depend on what the SCO 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 DB or AB that was involved in the original running of the process.

63. 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 DB or AB and to the inclusion of IM's. In appointing a Service Complaint to a DB or AB, the Secretariat may give directions to the body regarding the recommendation, for example to only focus on particular aspects of the complaint.

64. The SCO'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 SCO. If that cannot be met the SCO and Complainant are to be notified in writing, with the reasons.

65. If any part of the Service Complaint is to be reconsidered, the Complainant, SCO and anyone else to whom the SCO sent a copy of their investigation report is to be told the outcome.

Correcting errors in a final report

66. The SCO is able to issue a letter correcting any clerical mistakes or other errors in a published report arising from an accidental slip or omission. A copy of the letter will be sent to all who receive a copy of the final report. If the Secretariat identifies any such errors it should notify the SCO in writing.

67. Once the MOD's final response has been issued, the matter is closed.

How to handle the Service Complaints Ombudsman's referral of allegations

68. Anyone can contact the SCO with an allegation of wrongs done to a person who is subject to Service law. The SCO can decide to refer an allegation to the officer who would have received the complaint had the Complainant raised the matter instead to their Chain of Command - that person would usually be the Complainant's Commanding Officer (CO) as the SO in the Service Complaints process. The SCO will normally seek the Service person's consent before forwarding an allegation.

69. As the SCO is unlikely to know who specifically to send the allegation to or how to contact them, the SCO 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 SCO that the referral has been passed to the Chain of Command, using a standard acknowledgement (see Annex H).

70. Having referred an allegation, the SCO 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:
 - (1) how to make a Service Complaint, and
 - (2) the time limits for making a Service Complaint.
- c. of whether the person wishes to make a Service Complaint about the allegation;
- d. of a decision taken by the SO that the subsequent Service Complaint is inadmissible;
- e. of a decision taken by a DB as to whether the Service Complaint is well founded and if it is what if any redress is appropriate;
- f. of a decision that an appeal has been made out of time;
- g. of a determination reached by an AB 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.

71. If the SCO 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.

72. The Secretariat is to put procedures in place that ensure that the information above can be passed to the SCO in line with the time limit.

73. A referral by the SCO to a Secretariat does not mean that a Service Complaint has been made. That process is not deemed to have started until an SO has decided that a statement of complaint by a Service person is admissible – see Part 1, Chapter 2, paragraph 13 of this of the JSP.

Dealing with welfare concerns from the Service Complaints Ombudsman

74. If the SCO 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 SCO 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 SCO 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

75. 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 SCO 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; 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, included as a witness.

Your role

3. In any complaint, 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 (D&I (A)) 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. Further information concerning the welfare support available can be found at:

<https://modgovuk.sharepoint.com/sites/defnet/HOCS/Pages/Health-and-Wellbeing-Portal.aspx>.

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 Body (DB) or Appeal Body (AB). 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 DB/AB/CO if they arise:

- a. any criminal offence;
- b. any breach of security.
- c. any safeguarding issues.

17. You are to notify the SO/DB/AB 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** (DB) 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** (AB) chooses to investigate a Service Complaint further, or aspects of it.
3. The DB and/or the AB may then decide to authorise another person to carry out the investigation on its behalf.
4. If you are tasked by a AB/AB 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 DB and/or AB 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 DB or AB, as these are matters for the DB or AB alone.
10. You will be appointed by the DB/AB and given copies of the Service Complaint, terms of reference and the record of the Specified Officer's (SO) 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 DB/AB 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 DB/AB;
- h. safeguard all data pertinent to the investigation in line with Data Protection Act 2018 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 Complaint is made admissible by the Specified Officer (SO), or from the **Service Complaints Ombudsman (SCO)** 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 SCO requesting an investigation into the delay. The SCO has provided guidance on how to make an application. See Part 1, Chapter 4 of this JSP for more details on the role of the SCO.

15. If you are notified that an application has been made to the SCO, you should continue to progress your part of the Service Complaint process as awaiting a response from the SCO 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 (CO);
or
- c. complaints involving personnel who are geographically dispersed.

Harassment Investigation Officers

17. If the Service Complaint details allegations of bullying and harassment, the DB 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 employee's and Service personnel bullying and harassment complaints.

Expectations of Harassment Investigation Officers

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 an HIO is in JSP 763.

9 Independent Member

Introduction

1. **Independent Members** (IM) are required to be involved in determining a **Service Complaint** on appeal when the complaint alleges particular matters. Those matters are set out at Part 1, Chapter 1, paragraph 21 of this JSP. Their involvement in connection with disputed behaviours in particular is aimed at giving reassurance on fairness and independence.
2. IMs 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 IM 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 IM, you will be called upon by the single Service Secretariat to be part of a **Decision Body (DB) Appeal Body** (AB) if a Service Complaint that is being appealed by the Complainant includes any of the allegations set out at Part 1, Chapter 1, paragraph 21 of this JSP.
8. The requirement for an IM will be reached by the single Service Secretariat who will then liaise with the Central Service Complaints Secretariat to arrange for an IM to be assigned. The single Service Secretariat will issue you with an appointment letter for the DB/AB to which you have been appointed. This letter will be official confirmation of your allocation to an DB/AB to consider and decide a named Service Complaint.
9. 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 AB.

10. You may also be appointed to a DB 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 IM 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 (DB), from appointment through to making a decision on a Service Complaint.

Action on considering an appeal

11. 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.

12. Chapter 5 sets out the policy and guidance to be followed for an AB, from appointment through to making a determination on an appeal.

13. 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.

14. You will be expected to meet at an agreed location to consider an appeal.

15. Decisions will be taken by simple majority if more than one person has been appointed as the AB.

16. Once your investigation has concluded and a decision has been reached, you and any other AB 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.

17. 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

18. The same principles at paragraphs 11-17 apply if you are appointed to consider a Service Complaint as a DB. Details about the DB 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, the statement of complaint 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 statement of complaint alleges a wrong that relates to the Complainant's own Service and which only that Service can redress.
 - b. For all other statements of complaint, 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 [2019DIN01-141](#).
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.
5. The SO will need to make contact with a Secretariat within one week of receiving a statement of complaint from a Service person, 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 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 Diversity and Inclusion Adviser (D&I (A)) 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.

9. Contact details for the relevant single Service Secretariat can found in Part 1, Annex D of this JSP.

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** (SO), **Decision Body** (DB) or **Appeal Body** (AB) 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** (SCO) 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 into 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 (VO) 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 two weeks and I will notify you of my decision at that time.

In the meantime, you can find more information on the Service Complaints 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 SERVICE COMPLAINT 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 (DB) has been appointed to consider your complaint further. You will wish to be aware that the **[insert relevant single Service secretariat here]** may appoint me as the DB.

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 (DB) to consider the complaint further.

[Use for both Complainant and Respondent]

Once appointed, the DB 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 Complaints 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 **[insert relevant single Service secretariat here]**, 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 SERVICE COMPLAINT IS NOT 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 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

The SCO has produced guidance on what an application must include and how to make one, which can be found at www.scoaf.org.uk. 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 **[insert relevant single Service secretariat here]**, 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. 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 the **[insert relevant single Service secretariat here]**, 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

TEMPLATE - NOTIFICATION TO COMPLAINANT/RESPONDENT ON MIX OF ADMISSIBLE/INADMISSIBLE 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 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 (DB) has been appointed to consider the part/s of your complaint that are admissible as a Service Complaint. You will wish to be aware that the [insert relevant single Service secretariat here] may appoint me as the DB.

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.

The SCO has produced guidance on what an application must include and how to make one, which can be found at www.scoaf.org.uk/. You can also find more information about the Service Complaints process in 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 (DB) has been appointed to consider the part/s of the complaint that have been accepted as an admissible 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. 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 the **[insert the relevant single Service secretariat here]**, 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

TEMPLATE - 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]**.

Or:

[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 Complaints 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 the **[insert the relevant single Service secretariat here]**, 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

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, Senior Non-Commissioned Officer or Civil Servant of equivalent grade who can be appointed by the Specified Officer (SO) (normally the Commanding Officer (CO)) or you can approach somebody yourself. Further details on the role and responsibilities of the AO are at chapter 7.
2. If possible you should seek advice from the unit Diversity and Inclusion Adviser (D&I (A)).
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 CO).

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 No Please tick as appropriate

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

If ticked No, continue straight to sections 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, Respondent 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, Respondent 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

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

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 Commanding Officer/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 (AB)	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 either the Specified Officer (SO), Deciding Body (DB) or Appeal Body (AB) to provide help and support to a Complainant or a Respondent. A Complainant or Respondent can also nominate someone to act as their AO.
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 was / is subject to AFA 06 who has made a Service complaint.
Decision Body (DB)	One or more individuals who have been appointed by a single Service complaints secretariat to investigate and make a decision on a Service complaint.
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.
Diversity and Inclusion Adviser (D&I (A))	D&I (A)'s are MOD civilian and military personnel who are a focal point for impartial advice and support on all D&I related issues. This includes alleged bullying, discrimination, harassment and/or abuse and MOD's formal and informal complaints procedure outlined in JSP 831 and JSP 763 respectively
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 (DB) and, if an appeal is available, there has been a determination by the Appeal Body (AB). In some cases, there will be a decision stage with no appeal because of the seniority of the DDB. 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 (HIO)	An individual appointed to investigate formal complaints of bullying and harassment.
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.

Independent Member (IM)	A person who is not a member of the Armed Forces or the Civil Service, who has been recruited by MOD on a fee earning basis to provide an independent view on appointment to complaints of a specific type. Those types of complaint are set out at paragraph 21 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 Body (DB) or Appeal Body (AB) 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 confidential, 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 Body (DB) or Appeal Body (AB) to be an appropriate remedy in answer to a Service complaint which has been upheld or partially upheld. A DB or AB 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 CDP through Director AFPP and Hd People Secretariat. The single Service Secretariats are embedded within their single Service Chains of Command in their separate locations.
Service Complaint	A grievance submitted in writing as a statement of complaint/Annex F. which is deemed admissible as a Service complaint.
Service Complaints Ombudsman (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) complaint procedures exist to resolve certain types of complaint. These include: complaints about Service health care for which the Services operate distinct informal procedures; housing complaints for which a review panel has been established by DIO and housing contractors; pay and allowances complaints for which the Pay and Allowances Casework and Complaints Cell (PACCC) has been established within the Joint Personnel Administration Centres. This list is not exhaustive.
Specified Officer (SO)	The person to whom a Complainant submits a statement of complaint/Annex F at the start of the Service complaints process. The SO will decide if the matter is admissible as a Service complaint. The SO is usually the Service person's Commanding Officer.
Statement of complaint	The document in which a Service person must set out the particulars of their Service complaint. The SO will decide if the matter is admissible as a Service complaint..
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	Under the Equality Act 2010, victimisation means treating an individual badly (subjecting them to a detriment) because they have done a 'protected act'. Victimisation also means subjecting a person to a detriment because it is believed they have done or are going to do a protected act; the person does not actually need to have done the protected act.