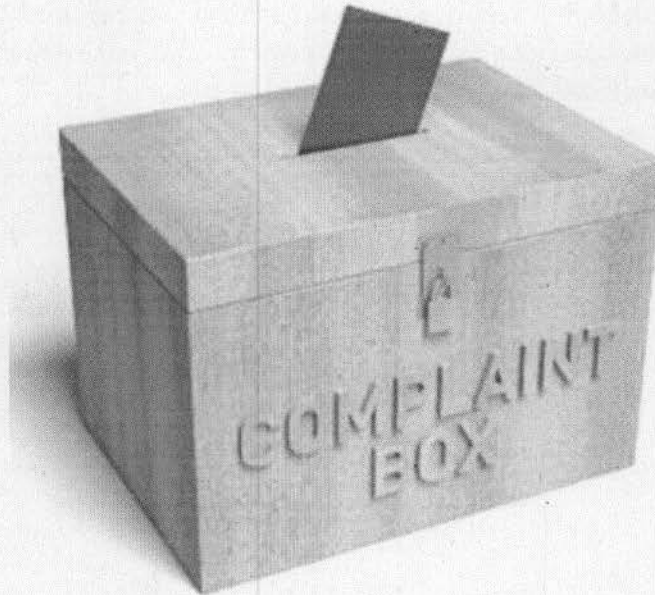
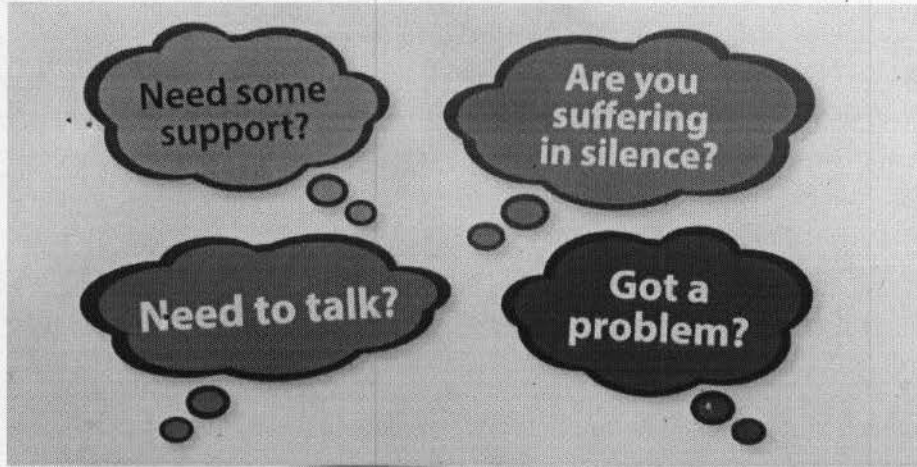


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Review of the Army Service Complaints Process



Date: 28 June 2019

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Preamble

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ii
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Contents

Preamble.....ii
 Army Inspectorate personnel involved in the Review v
 Executive Summaryvi
 Contextvi
 Consolidated list of observations.....xii
 Consolidated list of recommendations.....xiv
 Evolution of the Service Complaints Process 1
 Preface..... 3
 Context 3
 Aim 3
 Terms of Reference 3
 Out of scope 4
 Methodology 5
 Chapter 1 - Assessment of Efficient, Effective and Fair 10
 Section 1 - Context 10
 Working hypothesis based on the Ombudsman’s overall assessment of the SC
 process 10
 Assessment of the hypothesis 10
 Section 2 - Efficient 13
 Assessment of Efficient..... 16
 Section 3 - Effective 18
 Assessment of Effective..... 20
 Section 4 - Fair 21
 Assessment of Fair 23
 Chapter 2 - Benchmarking..... 24
 Benchmarking..... 24
 Chapter 3 - Specified Tasks 31
 Section 1 - Baseline Understanding..... 31
 Section 2 - Training and Support to Affected Persons 34
 Section 3 - Mediation and Informal Resolution 40
 Section 4 - Key Performance Indicator (KPI) 47
 Section 5 - Lesson Learned and Disproportionate Representation 53
 Chapter 4 - Miscellaneous Findings..... 69

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Annexes:

- A. Terms of Reference for the Assurance Review of Service Complaints.
- B. Qualitative and Quantitative data from the Commanding Officers / Pan Army surveys on Service Complaints.
- C. List of SC Data tables extracted from JPA.
- D. Abbreviations.
- E. Glossary.
- F. Bibliography.
- G. Stakeholder list.
- H. Consolidation of single Service SC training.
- I. Role and Responsibilities of the Equality Diversity and Inclusion Adviser (EDIA).
- J. Conversational Intelligence training course.
- K. Service Complaints Working Group (SCWG) - Terms of Reference.
- L. Summary of Sexual Harassment Survey 2018.
- M. SCO Recommendations Monitoring Sheet.
- N. Discipline and grievance - Acas Code of Practice.
- O. Academic articles on grievance processes.

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Executive Summary

Context

The Armed Forces Service Complaints System is the Armed Forces' workplace grievance process and it is the right of all Regular and Reserve Service Personnel to submit a Service Complaint if they feel they have been wronged in any matter relating to their service. The current process has its origins in the Deepcut Review report published in 2006. Additionally, Defence created a Service Complaints Ombudsman of the Armed Forces¹ ("the Ombudsman") who reports independently and provides impartial oversight of the Service Complaints System. In 2016 the System was revised and streamlined with the aim of improving efficiency and effectiveness.

Since 2016 the Army has expended considerable effort trying to improve the process, and in particular reduce a backlog of cases. Extra resource in terms of manpower², legal expertise and training has been invested and the Army tries to meet the MoD's key performance indicator of resolving 90% of cases within 24 weeks. However, the Ombudsman has reported that the Service Complaints System "is still not efficient, effective or fair" in her three annual reports. In November 2018, CGS and ECAB directed the Army Inspector to conduct an assurance review to assist the Army in its effort to address the Ombudsman's identified shortcomings.

At the heart of the review has been the working hypothesis to: *test whether the Army's Service Complaints process is efficient, effective or fair*. The review was also given 5 specified tasks summarised below. It has addressed this work through a literature review, key stakeholder engagement, online surveys and focus groups. The review has benchmarked the Service Complaints process with a comparable public sector grievance process – that of the Metropolitan Police Service (MPS). It has also considered the United Nations Guiding Principles on Business and Human Rights, a world renowned and recognised basis for civilian grievance processes, as a comparator. The review has not challenged the primary and secondary legislation on which the Service Complaints System is based.

Baseline the Army wide awareness and understanding of the Service Complaints process

The Ombudsman reports that Army personnel awareness of the Service Complaints process and the Ombudsman's role is poor. Not surprisingly awareness and understanding are less in the junior ranks (ie from Corporals and below) than in the middle and upper management ranks (ie from Sergeant to officer). However, 70% of the Army personnel sampled by the survey recorded that they knew how to submit a Service Complaint (18% did not) and 92% of Commanding Officers recorded that they had a deep understanding and recognised the importance of Service Complaints. This finding is comparable with the limited understanding of the grievance process across the Police Officers and staff of the MPS. This does not concern the MPS, as they are confident that Police Officers and staff only need a detailed understanding when they have a requirement.

Findings from focus groups with the junior ranks also support an overall assessment that whilst they do not 'understand' the detail on how to submit a complaint, the majority have an 'awareness' that an official Complaints process exists. Positively, the Recruit Training Survey 2017/18 reports that 88% of soldiers undertaking Basic Training know how to complain about bad or unfair treatment, which indicates a good understanding of the process. Females tended to have a better understanding than males.

¹ The original 2006 role was called the Service Complaints Commissioner. It became the Service Complaints Ombudsman in Jan 16.

² CGS directed the Field Army to reinforce the Army SC Sec with additional manpower to augment the caseworkers within the Secretariat.

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52% of the same survey sample understood that the Ombudsman was there to hold the chain of command to account, although 34% were unsure. 46% were unsure whether the Ombudsman would help them submit their Service Complaint. Therefore, detailed knowledge of the Ombudsman was minimal, but there was wide awareness of its existence and its role in holding the Army to account.

Confidence and trust in the chain of command was high with 73% actively agreeing that they trusted their chain of command to take any Service Complaint seriously. These responses are reinforced by the Army's Unit Climate Assessment (Level 1), which found that the chain of command would investigate any Service Complaint thoroughly and that 54% of Army personnel actively agreed that their chain of command reinforces their right to submit a Service Complaint (only 14% disagreed).

However, where this review has identified erosion of 'trust', it is down to a lack in confidence in securing a speedy outcome to a Service Complaint, as opposed to trust in the chain of command to treat grievances seriously. Interestingly the results from the surveys and focus groups unanimously support thoroughness with 80% of Commanding Officers agreeing that quality in the handling of a Service Complaint was more important than speed.

While Defence policy directs that Assisting Officers are offered to both Complainants and Respondents, the anxiety experienced by Respondents in particular can be overlooked. This report therefore recommends equitable treatment (advice and welfare support) for Respondents and Complainants.

Identify the levels and scope of training for those involved in the Service Complaints process and the levels of support to affected persons

The Army's training delivery of the Service Complaints System has been scrutinised and compared with that undertaken by the other single Services and the MPS. The range of Army training is significant. The depth of training provided to the All Arms Adjutants' Course by the Army Service Complaints Secretariat was witnessed first-hand as being very thorough. The breadth of training identified across the single Services compares very favourably and outweighs the breadth and depth of training undertaken by the MPS.

Since January 2018, the Army has added Service Complaints content to the Army's mandatory Military Annual Training Tests (MATT) 6. On 1 April 2019 MATT 6 training was hosted on the Defence Learning Environment (DLE) that can be accessed and undertaken directly by soldiers rather than being centrally delivered. It is assessed that MATT 6 is increasing awareness and will continue to improve understanding of the process, especially in the junior ranks – 90% of Commanding Officers considered MATT 6 as enough awareness training. However, it is not detailed enough to 'train' either an Assisting or Investigating Officer, but nor is it intended to. With only 0.5% of the Army population submitting a Service Complaint, it would be neither efficient nor effective to provide detailed training to all personnel. The importance and relevance of the Service Complaints element of MATT 6 should be re-emphasised, continually improved and given greater visibility especially now that it is hosted as a decentralised training on the DLE. Additional training resources should be targeted on personnel in advice, support and management roles, especially the Assisting Officer³ and Investigating Officer⁴. Commanding Officers receive training on the Commanding Officers' Designate Course, but no formal training currently exists for Assisting Officers and Investigating Officers.

³ The Assisting Officer is a person who is appointed by the chain of command to provide help and support to a Complainant or a respondent during the Service Complaints process. A Complainant or Respondent can also nominate someone to act as their AO – JSP 831.

⁴ The Investigating Officer is an individual appointed by a Decision or Appeal Body to investigate a complaint on its behalf and to report back with findings of fact – JSP 831.

Finally, the review has found that Respondents can be adversely affected during the Service Complaints process, especially when the Service Complaint is an inter-personal one. They perceive being a Respondent as having a negative impact on their personal and professional circumstances regardless of whether the complaint is upheld in favour of the Complainant or not. Despite the substance of Service Complaints being confidential, knowledge of personnel involved in a complaint can often become public given the close living and working environment of the Army. Respondents can feel 'labelled' or 'tarnished'. From the review's online survey, 26% agreed that submitting a Service Complaint would result in a "troublemaker" tag and 80% of those that identified themselves as Respondents agreed that their professional reputation was being questioned. Equally they perceive that the 'label' stays with them and follows them on future assignments. This is also an observation made in the Ombudsman's Annual Reports. However, Complainants who challenge policy related matters are often perceived as an advocate for positive change that will benefit others.

Examine the use of informal resolution and mediation to give greater confidence in the process

The review has identified that the phrase 'Informal Resolution' is commonly misunderstood with many assuming that a grievance cannot be informally resolved if a formal Service Complaint has been submitted.

The report suggests a better use of the Equality, Diversity and Inclusion Advisers (EDIAs) but within the existing remit of their role and responsibilities. Their neutrality makes them ideally placed to advise potential Complainants (and Respondents) of the resolution options available including the use of the Army Mediation Service. Positively, 99% of Commanding Officers asked were aware that the Army Mediation Service can be utilised to resolve Service Complaints.

Where possible, and in the interests of meeting the efficiency and effectiveness criteria, Service Complaints are to be dealt with at the 'lowest suitable level' and resolved informally where appropriate. In cases where there are allegations of Bullying, Harassment and Discrimination (BHD)⁵, the Specified Officer (SO) is mandated⁶ to consider the use of the Army Mediation Service. The use of mediation has proven to be very successful in resolving BHD cases, but it is accepted that mediation may not always be appropriate or applicable as the lowest suitable level. Informal resolution can happen at any stage, but parties cannot be forced to mediate. However, parties must be strongly encouraged to at least meet the mediator. Complainants are reminded that they have a requirement to consider and fully participate in resolving their complaint, both formally and informally but they cannot be 'ordered' to agree to Informal Resolution.

When considering cases that do not involve BHD, informal resolution can be, and often is, an effective way of dealing with Service Complaints. The Service Complaints (Career Management) Team in the Army Personnel Centre Glasgow is established with a standing Decision Body and is very successful in addressing complaints through Informal Resolution. Although not labelled as such, this is similar to the 'fast track' and 'quick fix' schemes used by the Royal Navy and Royal Air Force. They are also very effective and proactive in providing an advisory role by liaising directly with the unit to advise on policy solutions when it comes to addressing Military Secretary grievances before they escalate.

⁵ There are also two other well established processes in dealing with BHD cases, namely Discipline (Service and Criminal Justice Systems) and Major Administration Action (AGAI 67). The Service Complaints process should only deal with that which is not definitely discipline and can only point to behaviours that might merit AGAI 67 action.

⁶ As directed in ABN 16/18.

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Mandating informal resolution would be in direct contrast to the Ombudsman's recommendation that "a Complainant cannot be forced or unduly pressured/encouraged to agree to Informal Resolution." However, this review recommends that an increased emphasis to achieve informal resolution, even after the Service Complaint is submitted, would help improve the effectiveness and efficiency of the Service Complaints process. Consideration should be given to the refining the role and responsibilities of the EDIA to make the pursuance of Informal Resolution more explicit. Moreover, the Process could be amended to have a presumption in favour of mediation, in the absence of the Complainant or the Respondent presenting good reasons against this.

Examine the length of time to resolve complaints to assist in identifying improvements to the key performance indicator

Over the years, the single Services have streamlined their processes and enhanced their resourcing of the Service Complaints system to address a backlog of Service Complaints dating before January 2016. The Army now only has 5 of these 'legacy' cases remaining. The Army SC Sec is confident that it will meet the Ombudsman's target of resolving all legacy cases before the end of 2019.

This review has identified that the time taken to resolve a Service Complaint is very important in maintaining trust in the process, although thoroughness of investigation is considered more important. This need must be balanced against the current KPI to resolve 90% of cases within 24 weeks. The average Tri-Service performance for 2016 was 39% and for 2017 it was 52%. In 2018 the Army achieved 40%.

There is frustration with the current KPI. The Ombudsman sees little progress in the single Services getting closer to meeting the 90% target or Defence making progress in coming up with a better or more sophisticated KPI. The singular and purely time based KPI has been considered by the single Services and the Service Complaints Working Group for the past 2 years and the proposals for change are supported by the MoD's Service People Policy Group (SPPG) and the Director Armed Forces Personnel Policy. A proposal for a revised KPI was sent to the Ombudsman for comment in Mar 19 and she responded on 25 Apr 19; the proposal was not well received. The review recommends this long-standing issue is expedited.

The time to resolve a Service Complaint will be dependent upon several factors, so whilst there can be a generic target time, analysis of historical data would suggest a singular time target will not fit all types of complaint and does not necessarily measure effectiveness, fairness or overall performance. The review supports the proposal that Defence moves to a two-stage time KPI. The first stage will provide a target time for the initial investigation and decision and the second stage provides another time target only when an appeal is lodged. The review also recommends that the SPPG prioritises time to explore other measurements of effectiveness such as establishing a feedback or satisfaction survey on the conclusion of a Service Complaint. There are a variety of comparators Defence can look to as well as drawing on guidance from the Ombudsman and her experience.

Examine the Service Complaints lessons learned process with a view to reducing the disproportionate representation by various cohorts in the complainants' group

The Ombudsman has highlighted the disproportionate representation of Service Complaints from BAME and female personnel. Leaving aside actual complaints of discrimination, the review has identified that their types of complaint are not necessarily related to the cohort characteristics and there are other cohorts, such as Cap-badge (eg Royal Logistic Corps and Infantry), small detachments (eg Adjutant General's Corps and Royal Army Medical Corps) that are disproportionately over-represented and white males disproportionately under-represented. As

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females and BAME personnel are over-represented, a reasonable, initial reaction is to assume that the Army may have a problem with sexism or racism. However, when the reasons for complaints are analysed, the picture is not this simple. Many complaints are from personnel that are in singleton posts or attached to units. The genesis for these complaints may be due to integration issues, rather than being purely based on gender or race. Although there was a wide acceptance that females are generally more willing to raise concerns (sometimes in the form of a Service Complaint), this review suggests that under-representation by white males, and high numbers of certain complaint categories (eg career management issues), also warrant further scrutiny.

The review found that the Army's and Defence approach to identifying and learning lessons from the Service Complaints process is not as effective or coherent as it could be. It does not currently use the Defence Lessons Identified Management System (DLIMS), which would provide Defence supported data and auditable records. Joint Personnel Administration (JPA) is the Management Information System (MIS) used to record both formal and informal complaints. It is well suited to recording and allowing analysis of Service Complaints, but it is not a lessons management tool for learning and exploiting data. The use of statistics in some reports can be misleading and this review has identified that there needs to be greater data analysis conducted to expose trends so that we can learn more from experience and assist in improving effectiveness.

The review has identified some localised areas of good practice such as the extraction of lessons from Determination letters, feedback from Decision Bodies and Appeal Bodies, feedback proformas generated for MS specific complaints by APC and an internal assurance feedback form from the Army SC Sec. The Army's ability to learn from the content and substance of individual Service Complaints is more difficult to ascertain, as it requires an effective process to enable efficient scrutiny of each Service Complaint casefile. At present the Army SC Sec does not have a process or the resources with enough capacity to introduce a robust learning process, other than to analyse a small proportion of casefiles to extract lessons. Hd APSPG recognises this as an area for improvement but requires the support to put a robust process in place. If greater understanding of various cohorts and complaint category representation is to be achieved, then targeted sampling and analysis of casefiles by an impartial and independent body will be required.

Implementing change from lessons and learning at Defence level is also inadequate and the Service Complaints Working Group does not have the capacity at present to bring oversight and coherence to the Service Complaints Defence lessons process. There is also an absence of meaningful Management Information Systems and analysis at a Defence level which more than likely inhibits lesson identification and exploitation across all TLBs. The Defence Review of Inappropriate Behaviour recommendation to establish a Defence Authority on cultures and behaviour could bring greater coherence to the lessons process.

The Hypothesis

This review has tested the hypothesis: whether the Army Service Complaints Service is efficient, effective and fair by looking at the 12 factors used by the Ombudsman to assess 'Efficient, Effective and Fair'. As a result of this analysis, this report makes 37 recommendations that, if implemented will bring continued improvements to the efficiency and effectiveness of the process. They include splitting the process between the initial investigation and appeal, a greater use of informal resolution (including the benefits of formal mediation) and a review of the Army SC Sec's legal and Service Complaints Investigation Team resources. In terms of fairness, the system needs to be equitably balanced so that Respondents do not come out of the process with the sense their reputation is tarnished even if exonerated. When assessed against the challenges of meeting the current KPI the level of efficiency could be reduced. Sometimes fairness is achieved by taking more time and being more thorough, and the general perception is that this is more

important than being fast. On the other hand, confidence in the system may be lost when matters are slow to be resolved.

Summary

In summary, the following themes have emerged. First, Defence, supported by the single Services, need to be better and more prompt at responding to the Ombudsman's recommendations. This should be formalised to enable more rapid progress to closure. Second, work to agree on a more sophisticated KPI needs to be prioritised. Until this work has been done the Ombudsman will report the binary conclusion that the process is not efficient, effective and fair. Third, the Army needs to enhance its use of informal resolution at the lowest suitable level with greater emphasis on the use of the EDIAs. This would encourage a process that focuses on resolution as opposed to complaint. Lastly, in order to get a true understanding of how we can learn from disproportionate cohorts and complaint categories, there needs to be a more intelligent analysis of the existing data, if not also the collection of more meaningful data.

Consolidated list of observations

Obs	Detail
Obs 1	The Service Complaints Ombudsman reinforces the Armed Forces continuous improvement agenda and provides meaningful recommendations in her annual reports.
Obs 2	The Army Service Complaint Secretariats Standing Operating Procedure (SOP) is a useful guidance document in lieu of amendments required to JSPs 831/ 763. ACSO 3358 should also be updated to align with the SOP and the Army Service Complaint Secretariat have commenced this work.
Obs 3	The Army compares very favourably when benchmarked against the civilian sector and the Metropolitan Police Service (MPS) grievance procedures.
Obs 4	When assessing whether the Service Complaint process is efficient, effective and fair, specific elements of the Service Complaints process should be assessed to identify discrete areas that require development rather than judging the entire Service Complaints process.
Obs 5	The Service Complaint process has evolved since January 2016 and elements of the process are definitely efficient, effective and fair. However, the Army and Defence should not be complacent and continuous improvement through gradual reform is critical before it can be considered on the whole to be a completely efficient, effective and fair process.
Obs 6	JSP 831, although in need of an update to account for Ombudsman's recommendations and changes in legislation is well laid out and user friendly.

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Obs	Detail
Obs 7	The findings of this review need to be considered with other reviews and reports running in parallel, such as the draft report of the Defence Review into Inappropriate Behaviours and the Service Complaints Ombudsman's Annual Report 2018.
Obs 8	In making her annual assessment the Ombudsman could consider using the United Nations Guiding Principles on Business and Human Rights as an additional metric to assessing whether the Service Complaint process is efficient, effective and fair.
Obs 9	The data collated during the Army Inspector's Review into the Army Service Complaints process should be used to inform the implementation of recommendations made in the draft report in the Defence Review into Inappropriate Behaviours.
Obs 10	Defence led work to develop the current Key Performance Indicator is ongoing and the Army Service Complaint Secretariat must continue to support this important issue, but at the same time, continue to develop Secretariat processes to drive continuous improvement.

xiii
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Consolidated list of recommendations

Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
-	-	-	Recommendation 1: The data summary sheet for the Unit Climate Assessment Level 1 report should be made accessible to the Ombudsman to take into consideration for her annual reports.	Provides the Ombudsman with a wider data set on which to base her judgements.		D Pers	
✓	✓	-	Recommendation 2: The Army Service Complaint Secretariat is to examine 'dead time' and identify where process efficiencies can be made to help inform the Services Complaints Working Group on work to develop the Key Performance Indicator and to include other elements of the Service Complaint process that could be developed to help improve efficiency.	Provides further analysis to inform the ongoing work to improve the Key Performance Indicator.		Comd HC	
✓	✓	-	Recommendation 3: Improve data capture associated with Informal Complaints (complaints below the Service Complaint threshold) and Informal Resolution that is reported annually to the Ombudsman, to ensure it contributes to continuous improvements.	Provides extra data to both the Army and the Ombudsman that will allow improve the understanding of how grievances are resolved informally.		Comd HC	

⁷ Senior Point of Authority.

⁸ Supporting Action Manager.

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
-	✓	-	Recommendation 4: Identify where improvements should be made in the routine and regular communication of Service Complaint updates between Complainants and Respondent(s) during the process.	Improving progress updates will reduce the uncertainty and resultant anxiety experienced by Complainants and Respondents.		Comd HC	
-	✓	-	Recommendation 5: The chain of command is to ensure that JPA updates comply with the JPA checklist format and specifically provide the detail of the last dated action and the next step with an expected date of completion.	Enhanced assurance will lead to more detailed information recorded on JPA, resulting in enhanced progress reporting to both the chain of command and Complainants / Respondents.		Comd HC	
-	✓	-	Recommendation 6: A greater emphasis on 2 nd Line of Defence assurance, primarily by Brigade G1 staff and then by Army Personnel Services Group (APSG), should be implemented to drive home the cultural change resulting from Recommendation 5.	Enhanced assurance will lead to more detailed information recorded on JPA, resulting in enhanced progress reporting to both the chain of command and Complainants / Respondents.		Comd Fd Army / Comd HC / Comd JHC	

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
-	✓	✓	Recommendation 7: Consider using redacted Service Complaint casefiles as a tool for organisational learning.	'Real life' examples will engage learners more effectively and enhance existing Service Complaints training.		Comd HC	
-	✓	✓	Recommendation 8: Consider separating the extant Service Complaint training from MATT 6 and delivering it as standalone training in order to provide renewed focus on resolution and increase awareness and understanding of all Army personnel, or;	This will provide renewed focus on Service Complaints and will increase the awareness and understanding of all Army personnel.		D Pers	
-	✓	✓	Recommendation 9: Consider a command driven re-focus on unit level training and re-emphasise the importance placed on the delivery and value of Army Service Complaint training in MATT 6 to increase awareness and understanding of all Army personnel.	This will increase the awareness and understanding of all Army personnel.		D Pers	
✓	✓	-	Recommendation 10: Establish standardised and formal training across Defence for Assisting Officers once nominated for the role.	Enhances support to Complainants and Respondents who can be vulnerable during a Service Complaint.		CDP	
✓	✓	-	Recommendation 11: At unit level the Specified Officer / Decision Body must afford the Assisting Officer the appropriate time and resource to conduct their duties in order to expedite the Service Complaints process.	Enhances support to Complainants and Respondents who can be vulnerable during a Service Complaint.		Comd Fd Army / Comd HC / Comd JHC	

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
-	-	✓	Recommendation 12: When the offer of an Assisting Officer (AO) is made the chain of command must highlight the welfare benefits that the AO can provide to ensure the Complainant/Respondent makes an informed choice.	Forces the chain of command to offer Assisting Officer support and provides an audit trail.		Comd Fd Army / Comd HC / Comd JHC	
✓	✓	-	Recommendation 13: Establish standardised and formal training across Defence for Investigating Officers once nominated for the role.	Enhances the ability of Investigating Officers to fulfil the role, potentially leading to less appeals and Ombudsman referrals.		CDP	
✓	✓	-	Recommendation 14: At unit level the Specified Officer / Decision Body must afford the Investigating Officer the appropriate time and resource to conduct their duties in order to expedite the Service Complaints process.	Enhances the ability of Investigating Officers to fulfil the role, potentially leading to less appeals and Ombudsman referrals.		Comd Fd Army / Comd HC / Comd JHC	
-	✓	-	Recommendation 15: The Army is to conduct a Training Needs Analysis (TNA) to determine the frequency, type and content of Army Service Complaint training and focused on resolution, to close current training gaps and identify additional training requirements paying particular attention to the Ombudsman's recommendations that relate to training.	Identifies opportunities to enhance Service Complaints training.		D Pers	

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
✓	✓	✓	Recommendation 16: Identify how levels of support for Respondents can be increased and update the Army publication, 'Guide for Respondents in a Service Complaint'.	Enhances support for Respondents, who are often vulnerable during a Service Complaint.		Comd HC	
✓	✓	-	Recommendation 17: Identify vulnerable appointments that are more susceptible of being named as a Respondent in Service Complaints (eg policy posts) and provide additional welfare support as required.	Proactively identifies personnel who may become vulnerable due to their job role and provides support where necessary.		Comd Fd Army / Comd HC / Comd JHC	
-	✓	-	Recommendation 18: The chain of command should reinforce that Informal Resolution attempts at unit level should not be labelled as 'Mediation' as this makes it more difficult to persuade parties to engage in subsequent Formal Mediation.	Protects the Army Mediation Service's reputation and its ability to facilitate early resolution, thus removing the need for the full-Service Complaint process.		Comd Fd Army / Comd HC / Comd JHC	
✓	✓	✓	Recommendation 19: The Equality Diversity and Inclusion Adviser (EDIA) should advise personnel on the grievance resolution options available and signpost Informal Resolution and Mediation early in the process.	Exploits the existing intra-unit EDIA network, which is extremely well known to soldiers, to deliver better advice to potential and existing Complainants.		Comd Fd Army / Comd HC / Comd JHC	

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
✓	✓	✓	Recommendation 20: Assess the merit of adopting the Metropolitan Police Service model of Informal Resolution Champions at unit level as a strongly encouraged early step in the process to achieve resolution. Consider whether the Equality Diversity and Inclusion Adviser (EDIA) is able to fulfil this role as part of EDIA's existing responsibilities.	Provides more advice to potential Complainants at unit level. Using the EDIAs would exploit the benefits of the current system.		Comd HC	
✓	-	-	Recommendation 21: An attempt at informal Resolution should be strongly encouraged where appropriate by the chain of command (including the Specified Officer and Equality Diversity and Inclusion Adviser (EDIA)) as an early step in the Service Complaints process.	Maximises the opportunity for resolution at the lowest suitable level, hopefully negating the need for a Service Complaint.		CDP	
-	✓	✓	Recommendation 22: Assess the merits of adopting a grievance resolution model outlining the Informal and Formal Resolution options available.	Enhances the chance of achieving Informal Resolution by educating potential Complainants on their options for progressing their grievance.		CDP	
✓	✓	-	Recommendation 23: Assess the merits of investing in a more widespread delivery of Conversational Intelligence Training in order to help improve cultural attitudes and increase the likelihood of Informal Resolution.	A better trained workforce who will increase the likelihood of Informal Resolution.		D Pers	

XIX

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
✓	✓	-	Recommendation 24: The Army Mediation Service should consider training Army Mediators and Equality Diversity and Inclusion Advisers (EDIAs) on the one day 'Facilitated Conversation' course as a means of achieving low level, inter-personal grievance resolution where suitable.	Increases the chances of Informal Resolution where suitable.		D Pers	
-	-	✓	Recommendation 25: The Unacceptable Behaviours Team should receive additional resource to enable them to provide the appropriate level of service to both the Army Mediation Service and the Speak Out confidential helpline.	Enhances the ability of a proven and worthwhile service to Army personnel who have workplace concerns of grievances..		Comd HC	
-	✓	-	Recommendation 26: Re-energise and resource the lessons function within the Army Service Complaint Secretariat.	Enhances the lessons learnt process for Service Complaints.		Comd HC	
-	✓	-	Recommendation 27: The Army Service Complaint Secretariat should use the Defence Lessons Identified Management System (DLIMS), as mandated by the Army Command Standing Order (ACSO) 1118 to record Army Service Complaint lessons using redacted casefiles.	Enhances the lessons learnt process for Service Complaints by recording it formally on the recognised system that is accessible to all Defence personnel.		Comd HC	
-	-	✓	Recommendation 28: In lieu of a Defence-led study being commissioned, the Army should consider commissioning an independent external body to investigate the over-representation of female and BAME personnel submitting SCs versus the potential under-representation of white males.	Addresses in detail the concern of why females and BAME personnel are over represented when submitting Service Complaints.		DCGS	

xx
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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
-	-	✓	Recommendation 29: Detailed analysis into the relatively high number of Service Complaints relating to Career Management is required in order to help inform the chain of command to reduce Career Management Service Complaints.	Reduce Career Management Service Complaints through a better understanding of why they exist.		Comd HC	
✓	-	-	Recommendation 30: Consider re-establishing the B2 grade Civil Servant post in the CDP Personnel Secretariat to provide an increased capacity and oversight of the Service Complaints process.	Better pan-Defence coherence for the Service Complaints process and reduced criticism from the Ombudsman.		CDP	
-	✓	✓	Recommendation 31: The process for accurately recording and assuring the Service Complaint category on JPA should be reviewed to ensure increased data accuracy.	A better understanding of the type of Service Complaint will improve the lessons learnt process and potentially reduce the amount of workplace grievances.		Comd HC	
-	✓	✓	Recommendation 32: Consider changes to amend terminology in order to address cultural change requirements (eg replace the terms Service 'Complaints' with 'Grievance Resolution', 'Complainant' with 'Aggrieved', 'Investigation' with 'Assessment'.)	Increases Army personnel's engagement with the Service Complaints system by removing the current, pejorative terminology.		CDP	

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
✓	✓	✓	Recommendation 33: Consider re-establishing the investigator appointments in the Army's Service Complaints Investigation Team (SCIT) to enhance support to vulnerable and affected persons. This would also mitigate the risk of reputational damage.	Regrows the support to vulnerable and Affected Persons and mitigate the risk of reputational damage.		Comd HC	
-	✓	-	Recommendation 34: Conduct an analysis as to why there is an increase to 1 in 3 of all Army Career Management Service Complaints containing allegations of Bullying, Harassment and Discrimination and if proven, permit remedial action to be taken.	A better understanding of how Bullying, Harassment and Discrimination interacts with career management will improve the lessons learnt process and potentially reduce the amount of workplace grievances.		Comd HC	
✓	-	-	Recommendation 35: The Army Service Complaints Secretariat should evaluate whether other complaint categories could be dealt with by a single standing Decision Body (DB) similar to that used for resolving Career Management Service Complaints. This is not dissimilar to the 'quick fix' and 'fast track' schemes used by the Royal Navy and Royal Air Force.	Implements a more efficient and effective Decision Body system for specific categories of Service Complaint.		Comd HC	
✓	-	-	Recommendation 36: The lifed OF5 legal adviser post and support to the Army Service Complaints Secretariat should be retained to mitigate exposure to legal, financial and reputational risk.	Mitigates the Army's exposure to legal, financial and reputational risk.		Comd HC	

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Improve			Recommendation	Benefit	Hyperlink to DLIMS record	Proposed SPA ⁷	Proposed SAM ⁸
Efficient	Effective	Fair					
✓	✓	-	Recommendation 37: Ensure that the Army Service Complaint Secretariat has sufficient OF2/OF3 legal advisers to provide quality and timely admissibility advice within the stipulated timeframe to help maintain an efficient, effective and fair process.	Faster and better quality legal, admissibility advice to Specified Officers will lead to a more efficient process and less criticism from the Ombudsman.		Comd HC	

xxiii

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Evolution of the Service Complaints Process⁹

- 1. Historical development.** The Army Act 1955, section 180 permitted service personnel to make an Application for Redress of Complaint (ARC). The process, governed by Army General Administrative Instruction (AGAI) 70, existed until the introduction of Service Complaints (SC) following the Armed Forces Act 2006, implemented by the Army in 2009. ARC and SCs were considered at 3 levels with an unrestricted right for the complainant to raise the complaint to the Army Board. The introduction of SC Panels (SCP) with Independent Members (for prescribed Bullying and Harassment cases) improved throughput by relieving the Army Board of much of its caseload, although complaints involving 3-star officers and above or matters involving significant policy considerations were retained. Casework was considered at level 1 by a Commanding Officer (CO) or Brigade Commander; at level 2 by the Brigade Commander or Divisional General Officer Commanding (GOC) and at level 3 by the Army Board (quorum of 2 members) or SCP (two or three members). The Army had no mechanism to monitor numbers and progress in Levels 1 and 2, and nor did individual headquarters for their commands. The Armed Forces (Service Complaints and Financial Assistance) Act 2015 (AF (SC&FA) Act 15), implemented on 1 Jan 16 reformed the SC process, reducing the number of levels to 2 (Decision and then Appeal), with the opportunity to seek review by the Service Complaints Ombudsman (SCO) in a new post superseding that of the Service Complaints Commissioner (SCC).
- 2. Army Board Casework Secretariat.** The Army Board Casework Secretariat (Army Bd CSec), a 2-4 post structure, under an OF5 Full Time Reserve Service (FTRS), administered level 3 and Appeals to the Sovereign, and Army Board consideration of Misconduct casework under AGAI 67 involving Termination of Service. It was based at Upavon as a Branch of the Directorate of the Office of Standards of Casework (Army) (DOSCA), a free standing One Star Directorate answering directly to the Army Board.
- 3. Service Complaints Wing (SCW).** The Army's introduction of the SC process in 2009 created a system that was not fit for purpose. There was no SC database and Formations soon had no idea how many SCs they had. Consistent criticism by the SCC of excessive delay in the handling of SC led, in Dec 10 to the creation of the SCW. Although designed to establish centralised management for the standardisation, monitoring, regulation, control and delivery of SC, it also encouraged an abrogation of command responsibility. SCW was overmatched as it attempted to administer the significant backlog of unresolved SC. Caseworkers, who had responsibility for cases at all levels, were overwhelmed by numbers, leading to a year-long backlog.
- 4. Hyperion move to Andover.** The Army Bd SC Sec moved with Headquarters Adjutant General (HQ AG) to form Army HQ at Andover in 2010, operating the level 3 SC process. Although collocated with SCW, it remained independent of the chain of command until command and control was further rationalised.

⁹ History extracted from the Cartwright Report – Army Service Complaints Secretariat Review dated 21 November 2018 – Brig PAS Cartwright OBE.

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5. **Internal Review of Service Complaints Wing (The Turner Review).** The Executive Committee of the Army Board (ECAB) identified in 2012 that the SC backlog was not being reduced and that SCW had become unbalanced and unable to generate the required surge capacity. Directorate of Personal Services (Army) (DPS (A)) directed an Internal Review of SCW in Mar 13. The review found that SCW was over worked, under resourced, poorly structured and incorrectly organised. In its existing form SCW was unable to manage data to provide timely and appropriate information for key management decisions. It lacked the capacity or capability to reduce the backlog of casework or any future surge of SCs. Some recommendations were implemented, to generate a sustainable structure, with AG providing the required funding of £474K per year.

6. **Formation of Army Service Complaints Secretariat (Army SC Sec).** In late 2014, the Army SC Secretary (OF5 FTRS) was asked to assume overall responsibility for the totality of the Army SC process, merging the Army Board C Sec staff with those of SCW under the new Branch title of 'Army Service Complaints Secretariat' (Army SC Sec). Colonel Personnel Services 2 (Col PS 2) ceased to have responsibility for SC, the Army SC Sec reporting directly to DPS (A), later Head Army Personnel Services Group (Hd APSG), while retaining individually delegated authority from the Defence Council for the operation of the internal grievance process. Misconduct (AGAI 67) casework was moved to Conduct Branch.

7. **Op JUSTIFY Jun 15 - Dec 17.** Acknowledging the significant challenge in concluding legacy casework (713 SCs), CGS directed the Field Army to reinforce Army SC Sec with additional manpower to augment the caseworkers within the Secretariat. Over the period Jun 15 to Dec 17, a total of 5 OF3, 19 OF2 / OR8/9 and 9 Sgt / OR7 reinforced Army SC Sec each on 6-month tours, reducing legacy casework by 94.3%¹⁰.

¹⁰ Cartwright Report – Army Service Complaints Secretariat Review dated 21 November 2018 - Brig PAS Cartwright OBE.

Preface

Context

8. The Service Complaints Ombudsman, Nicola Williams, has stated in her 2017 and 2018 Annual Reports that “the Service Complaints process is still not efficient, effective or fair.” This statement was reinforced when briefing the 509th Executive Committee of the Army Board (ECAB) on 29 November 2018 and more recently when presenting evidence before the House of Commons Defence Committee (HCDC) on 26 February 2019. The Ombudsman has made a number of recommendations in the 3 Annual Reports since she took over the role as the Ombudsman following a change from the Service Complaints Commissioner in 2016. To date many of the recommendations remain open.

9. The purpose of this Army review directed by ECAB was to evaluate the SC process and identify areas for improvement in light of the criticisms and recommendations made by the Ombudsman, to identify areas for continuous improvement and to prevent the recurrence of a new backlog¹¹ of SC that all 3 Services have worked tirelessly to eradicate. The Terms of Reference (ToRs) directed the Army Inspector to evaluate the area of SC to identify current issues, paying particular attention to comments and recommendations made by the Ombudsman in her annual reports. More specifically the ToRs directed the Army Inspector to baseline Army-wide understanding of the SC process, identify the level and scope of training for those involved with the SC process including the appropriate levels of support to Affected Persons¹², examine the increased use of mediation and Informal Resolution, identify what an appropriate KPI should be, examine the lessons learned process and recommend how we might reduce the disproportionate representation by various cohorts¹³ in the complainants' group.

Aim

10. The aim of this report is to review and evaluate the area of Service Complaints (SC) to identify current issues, paying particular attention to comments and recommendations made by the Service Complaints Ombudsman (SCO) in her annual reports.

Terms of Reference

11. The ToRs at Annex A directed 5 specified tasks to be addressed:

- a. Baseline the Army wide understanding of the SC process as a means of resolving workplace grievances;

¹¹ SC backlog routinely refers to SCs submitted before 1 Jan 2016 that have yet to be resolved. The Army has 5 legacy complaints that are still in the process of being investigated to the point of resolution.

¹² The term Affected Person applies to Complainants, Respondents and Decision Body.

¹³ The Ombudsman has discussed the disproportionate representation of BAME and female cohorts in her Annual Reports. Both cohorts submit a disproportionate number of SCs in relation to their population size in the military.

- b. Identify the level and scope of training for those involved with the SC process, including the appropriate levels of support to affected persons involved in SC and any legal implications;
- c. Examine the use of mediation and Informal Resolution as a way of dealing with potential non-Bullying Harassment and Discrimination (non-BHD) SC (and of dealing with those SC at the appropriate level), to give greater confidence in the process;
- d. Noting the specified target time¹⁴ for resolving complaints, and that no individual Service has ever met the target, examine the length of time to resolve complaints, including the legacy complaint backlog log and identify where process improvements could be made and what an appropriate KPI should be; and,
- e. Examine the lessons learned process and recommend how we might reduce the disproportionate representation by various cohorts in the complainants' group.

Out of scope

12. Three issues raised by the Ombudsman to ECAB on 29 November 2018¹⁵ were agreed to be out of scope of the review because they were being addressed separately and by others. These were:

a. **Consolatory payments.** The Ombudsman has concerns over the level of consolatory payments made to Complainants and disagrees with the basis on which consolatory payments are calculated. D Res agreed to conduct a brief review to compare the Army approach with that of the other Services and was scheduled to write to the Ombudsman. The D Res review focussed on the non-quantifiable financial awards made during FY17/18 and FY18/19, methods of establishing quantum and delegated authority levels in place compared with the other 2 single Services. The D Res review was undertaken by Army Finance Governance, with input received from Navy and Air Governance along with all 3 Service Complaints Secretariats and their Legal team. [Note the Ombudsman has made a new Recommendation (3.4)¹⁶ in her 2018 Annual Report for her office to develop specific guidance to be adopted by the single Services for consolatory payments – D Res, Army Finance Governance team have been informed].

b. **2-Person Appeal Boards.** The Ombudsman felt that using 2-person Appeal Boards [panels] made the Army open to judicial challenge; most tribunals had an uneven number on the panel to avoid a 50:50 split. DCGS agreed to consider the

¹⁴ The KPI of 90% of complaints to be resolved within 24 weeks is the only agreed KPI for measuring the efficiency of the Service Complaints process.

¹⁵ 509th ECAB Minutes dated 10 December 2018.

¹⁶ SCOAF Annual Report 2018, Recommendation 3.4 – That the Service Complaints Ombudsman for the Armed Forces develops specific guidance on the calculation of consolatory payments by the end of December 2019, and that this guidance is adopted by the single Services by the end of April 2020

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issue further and the Army SC Sec responded in a note to the Ombudsman on 10 Dec 18¹⁷ stating the Army's position. The note outlines how the Army's approach to 2-person panels, that is permitted within legislation, achieves efficiencies and any challenges faced. It explains how the decision-making process is handled where there is disagreement and thoughts on how and when 2-person panels can and should be used as the default position.

13. **Legal advice.** The Ombudsman commented that most cases did not require legal advice and should be dealt with swiftly by the Commanding Officer. Hd APSG confirmed at ECAB, "that COs were no longer provided legal advice for every case and were encouraged to resolve cases expeditiously." The review confirms that legal advice is routinely provided at the onset of a SC when the Specified Officer (SO) is determining admissibility and for complaints that go to Appeal. Additional legal advice is only provided for Complaints that are more complex or involve potential redress which awards money directly or indirectly. Legal advice and support is discussed further in Chapter 4.

Methodology

14. The review took the following approach:

a. **Literature review.** A wealth of literature was identified through consultation with stakeholders. The review of literature included previous ECAB updates on SCs, previous Army Inspectorate reports, SCOAF Annual Reports, Service Complaints statute and regulations, JSPs 763 and 831, AGAI 75, Military Annual Training Test 6 (MATT 6) and Army Personnel Services Group (APSG) documentation. Existing data from surveys (Sexual Harassment Survey 18 (SHS 18), Armed Forces Continuous Attitude Survey 2018 (AFCAS 18) and the Unit Climate Assessment Level 1) were also examined.

b. **Benchmarking.** The review was directed to benchmark the Army's approach to the SC process. Strategic benchmarking was conducted using the United Nations Guiding Principles on Business and Human Rights¹⁸ and the Acas Code of Practice¹⁹. The Army's SC process was operationally benchmarked against the workplace grievance processes within the Metropolitan Police Service (MPS). Analysis from this is highlighted in the relevant sections of this report. However, it is important to understand that the SC process as a means for resolving workplace grievances is unique within the UK. This is due to the fact that it is enshrined in primary and secondary legislation, which makes it different from any other complaint or grievance system external to Defence in the commercial sector.

¹⁷ Source: note from Brigadier Colin Findlay, former Army Service Complaints Secretary (until Feb 19) dated 10 Dec 18.

¹⁸ UNGP on Business and Human Rights, 3 Pillar Framework specifically Access to Remedy. Further guidance through Principle 25 to 31 (Specifically).

¹⁹ The Acas Code of Practice is the Advisory, Conciliation and Arbitration Service for disciplinary and grievance procedures in the commercial sector and gives practical guidance for handling these issues in the workplace.

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15. **Surveys.** Two anonymous, online surveys were created using the MOD's licence with Lime Survey and with Occupational Psychologist's guidance. Questions were based on initial findings and stakeholder comments made during the first month of the review. Both surveys were distributed between Feb and May 19 and contained both quantitative and qualitative questions. Analysis was conducted in concert with the Occupational Psychologists. All qualitative responses were coded by at least 2 members of the review team in order to enhance analytical reliability. There was a representative response rate across engagement type: Regular service (75%) and Reserve service (25%). Importantly, both surveys' accessibility was maximised through use of Quick Response (QR) codes, allowing them to be immediately accessed on mobile devices (eg smartphones, tablets). A full summary of the surveys is at Annex B. The surveys were directed at:

a. **Commanding Officers (COs).** A specific survey was designed to gather the views of each of the 259 Army officers currently at unit command. The CO will normally²⁰ fulfil the role of Specified Officer (SO) and subsequently (but not always) the Decision Body (DB) for each SC. Given these key roles in the SC process and the fact that the COs are responsible for the training and conduct of personnel under their command, a bespoke survey was deemed worthwhile. All extant CO appointments were identified from the Army Personnel Centre (APC) and the offer to complete the survey was sent to the personal MOD email address²¹ of each CO (and to their Adjutants where the email addresses were identifiable). Of the 259 appointments, 221 accessed the survey and 169 COs completed it in full. The partially completed surveys were analysed and provided very little data, often failing to get past the first few questions. Partial responses were therefore discounted from the analysis. The 169 fully completed CO surveys make the results statistically significant. The number of attempts to complete the survey (85% of all COs) and the number of actual completions (65%) indicates that COs recognise the importance of the SC process. 67% of COs (113) were in command of a Regular unit, with 28% (48) in command of a Reserve unit; 8 COs commanded either hybrid or training units. When considering the type of unit, the range was roughly equal across the 4 main types of Training unit (25%), Combat (28%), Combat Support (24%) and Combat Service Support (28%). More than half (63%) of COs who responded had been in command for a year or more.

b. **Pan-Army.** A pan-Army survey was created, which was open to all Army personnel (COs were not required to complete this survey, working on the assumption that their views will have been captured in the CO specific survey). This pan-Army survey was distributed via flyers, the chain of command (through HQ Fd Army and Home Command (HC)) and via each Army CO, as described in the paragraph above. The survey was accessed by 1,121 personnel, resulting in 906 complete responses that provides a strong statistical indication. The survey was designed in

²⁰ Where the Commanding Officer is part of the SC, the SC will be submitted further up the chain of command.

²¹ The list of COs was taken from the Army Personnel Centre's extant list of command appointments.

such a way to encourage qualitative responses from those in specific roles, namely Complainants, Respondents, Assisting Officers (AO), and Investigating Officers (IO).

- c. **Complainants.** Of the 906 personnel who answered the survey, 10% (90) had submitted a SC.
- d. **Respondents.** Of the 906 personnel who answered the survey, 19% (172) had been Respondents (on at least one SC).
- e. **Assisting Officers (AO).** Of the 906 personnel who answered the survey, 17% (154) had been assigned the role of Assisting Officer (at least once).
- f. **Investigating Officers (IO).** Of the 906 personnel who answered the survey, 12% (109) had been assigned the role of Investigating Officer (at least once).

There were also 2 questions that specifically canvassed views on the over-representation of females and BAME personnel in the SC process.

16. **Focus groups.** A series of focus groups were held in a range of locations, conducted by members of the review team personnel. The question sets were created in consultation with the Occupational Psychologists and were based on initial findings and stakeholder comments. Specific focus groups included females only, Black, Asian and Minority Ethnic (BAME) only, Junior Non-Commissioned Officers (JNCO) only, Senior Non-Commissioned Officers (SNCO) and Warrant Officers (WO) only.

17. **Interviews.** A series of 1-1 interviews were held with key personnel, including Respondents and a Staff Officer (SO2) Discipline in a Brigade Headquarters (Bde HQ) and an Equality Diversity and Inclusion Adviser (EDIA).

18. **Joint Personnel Administration (JPA) data.** SC data recorded on JPA was also accessed and analysed through APSG, Army SC Sec.

19. **Case study analysis.** A range of SCs provided by APSG were analysed to evidence good practice and identify weaknesses.

20. **Stakeholders consulted.**

- a. Head Office and Central Service (Personnel Secretariat) (HOCS Pers Sec).
- b. The Service Complaints Ombudsman for the Armed Forces (SCOAF). Chief of Staff, Chief of Operations, Head of Investigations, Statistics Officer and the Ombudsman.
- c. Royal Navy (RN) and Royal Air Force (RAF) Service Complaints Secretariats.

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- d. Defence Equipment and Support (DE&S) Mediation Team staff.
- e. Metropolitan Police Service - Grievance Management Team (MPS - GMT).
- f. Commander Home Command (HC), Army Personnel Services Group (APSG), Army Service Complaints Secretariat (Army SC Sec).
- g. Field Army (Fd Army) (both the HQ and selected units).
- h. Army Mediation Service and Unacceptable Behaviours Team.

21. **Glossary and abbreviations.** See Annexes D and E.

22. **Security classification.** This report has been classified **OFFICIAL – SENSITIVE** in accordance with JSP 440.

23. **Statistical data.** All SC data used in this report and specifically the tables in Chapters 3 and 4 is taken from the Joint Personnel Administration (JPA) system used by the UK Armed Forces. Discipline (Service Law, Warning and Sanctions and Service Complaint) data is recorded on JPA and is linked to certain personnel fields to allow profiles to be analysed. Since the implementation of the new SC process, on 1 Jan 16, JPA has been the sole, tri-Service, repository for recording SCs. This has allowed consistent reporting, particularly for the Ombudsman's Annual Report to Parliament.

24. **Limitations.** The review team acknowledges the following limitations to the findings within the research methodology:

- a. Benchmarking is problematic as the SC workplace grievance system is unique in that it has a legal basis. This presents difficulties when making direct comparisons with any similar organisations to the Army.
- b. Some of the SC data held on the JPA system is not wholly valid or reliable²². SCs are often multi-faceted but JPA requires each SC to be recorded under only one searchable category and the designation of the originating category is subject to the views of the Complainant.
- c. The limited number of SC submitted, even when the range was expanded to the past 3 years, has proved difficult in identifying longitudinal trends and analysing specific cohorts. Also, reporting such limited data in the form of percentages (both as a snapshot and as change over time) should be balanced with context. Unfortunately, short or summary reports do not lend themselves well to elaborating the context and result in the risk associated with the interpretation of percentages and graphs. Raw

²² 'Validity' refers to an incorrect categorisation of a SC where 'reliability' refers to identical or similar complaints always being categorised the same by different people/units etc.

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numerical data has been used in instances where the use of percentages could be misinterpreted by the reader.

25. **Structure of the report.** The report is structured into the following chapters:

- a. **Chapter 1** tests the working hypothesis, 'to test whether the SC process is efficient, effective and fair.' It makes an assessment on each of these principles and the associated 12 factors that the Ombudsman uses to assess the SC process.
- b. **Chapter 2** benchmarks the SC process against the commercial sector and more specifically the Metropolitan Police Service. It benchmarks against the UN Guiding Principles (UNGP) on Business and Human Rights and alignment with the highly regarded Acas Code of Practice.
- c. **Chapter 3** addresses 5 specified tasks directed in the Terms of Reference.
- d. **Chapter 4** covers miscellaneous findings and evaluates the wider SC process to identify current issues and areas for continuous improvement.

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Chapter 1 - Assessment of Efficient, Effective and Fair

Section 1 - Context

Working hypothesis based on the Ombudsman's overall assessment of the SC process

26. The working hypothesis for the review was: *'Test whether the Service Complaints process is efficient, effective, and fair.'* The hypothesis was identified to address the Ombudsman's assessment in her Annual Reports of 2017 and 2018²³. The message from the Ombudsman in the 2018 Annual Report states, *'I am still unable to report that the system is efficient, effective and fair'. 'As the elements are connected, the assessment requires each principle to be considered individually, and also together. Each must be met in order for a positive assessment to be made. A complaints system that is not efficient cannot be effective; a system that is not effective cannot be fair etc.'* This assessment was reiterated when the Ombudsman provided evidence to the House of Commons Defence Committee (HCDC) on 26 Feb 19²⁴.

Assessment of the hypothesis

27. In making an assessment about whether the SC system is efficient, effective or fair, the Ombudsman takes into consideration a number of factors including those outlined in the left column of **Table 1**. Data in the right-hand column provides evidential references from the Ombudsman's Annual Reports 2017 and 2018.

A complaints process is Efficient when:	SCOAF Evidence
<p>Factor:</p> <ul style="list-style-type: none"> • Complaints are dealt with at the lowest suitable level • Complaints are resolved within the allocated timeframes • Complaints are handled without undue delay • The complaints process is equipped with sufficient resource 	<p><i>As stated in SCOAF Annual Report 2017, Ch 1, pages 1-8 (Recommendation 2.1)</i></p> <p><i>As stated in SCOAF Annual Report 2018, Ch 1, pages 1-12 (Recommendations 3.1, 3.2, 3.3, 3.4)</i></p> <p><i>In 2018, the SCOAF found undue delay in 61% of investigations of this kind completed in-year. The Ombudsman does not consider this to be an acceptable figure. Since 2016, undue delay has been found in a total of 73% of investigations into alleged undue delay.</i></p> <p>[Comment: This does not mean 73% of all SCs incur undue delay – the figure refers to the number of SCs submitted to the SCOAF to investigate allegations of undue delay]</p>

²³ The Ombudsman reserved judgement in her 2016 Annual Report.

²⁴ HCDC Oral Evidence: The work of the Service Complaints Ombudsman for the Armed Forces, HC 1889 dated Tuesday 26 February 2019.

A complaints process is Effective when:	SCOAF Evidence
Factor: <ul style="list-style-type: none"> • People know about it • People have confidence in it • Change is made as a result of the complaints that have been made 	<p><i>As stated in SCOAF Annual Report 2017, Ch 1, pages 1-8 (Recommendation 2.1).</i></p> <p><i>As stated in in 2018 Annual Report, Ch 1, pages 5-12 (Recommendations 3.1, 3.2, 3.3).</i></p> <p><i>The SCOAF remains disappointed in the level of understanding of the SC process and her role as an independent body.</i></p>
A Fair complaints process is one that:	SCOAF Evidence
Factor: <ul style="list-style-type: none"> • Has a clear purpose • Is accessible • Is flexible • Is open and transparent • Is proportional 	<p><i>As stated in SCOAF Annual Report 2017, Ch 1, pages 1-8 (Recommendation 2.1)</i></p> <p><i>As stated in in 2018 Annual Report, Ch 1, pages 10-12 (Recommendations 3.2, 3.3, 3.4.)</i></p> <p><i>In both her 2017 and 2018 annual reports, the SCOAF notes that the erroneous perception regarding the need for legal representation continues to act as a barrier.</i></p>

Table 1 – Factors considered when assessing whether a process is efficient, effective and fair.

28. The Ombudsman's assessment of the SC process is judged from data provided direct from the single Services and via unit visits the Ombudsman and her team make annually. The SCOAF also extracts data from workforce surveys such as the AFCAS. While AFCAS is statistically reliable, the Unit Climate Assessment Level 1 survey has much higher response rates and the overview summary sheet should be made accessible²⁵ to the Ombudsman to take into consideration for her future reports. Considering each principle (Efficient, Effective and Fair) and the associated factors individually and collectively leaves a definitive assessment open to misinterpretation. This can be problematic when passing judgement on a very complex process and organisation that is geographically dispersed, structurally complex and faced with challenging and diverse objectives. Stating that the 'whole' SC process is not efficient, effective or fair rather than looking at individual elements of the process and judging each element against the criteria on its individual merits does not provide a complete reflection of the process. No process is infallible, and each will have elements that when measured against criteria fare better than others. In that sense strengths and weaknesses can be identified and judgement can be made on the levels of efficiency, effectiveness and fairness of each factor and each principle. The Ombudsman's view is that if any principle or factor has a shortcoming then the process will always be reported as not being efficient, effective or fair. When questioned by the HCDC the Ombudsman cited delay as the main reason why she believes the process is still not efficient, effective or fair, although she did quote insufficient resource and lack of awareness as contributing factors. The review has considered each of the principles of efficient, effective and fair, assessing the strengths and weaknesses of the SC process in relation to each factor. Assessment is evidenced by data provided from focus groups, online surveys

²⁵ Our fiducial data should not be shared with the Ombudsman.

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and targeted interviews. Assessment recognises varying degrees of efficiency, effectiveness and fairness and identifies where Defence and the Army can make continuous improvements

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Section 2 - Efficient

29. **Complaints are dealt with at the lowest suitable level.** The Ombudsman makes the valid point that dealing with complaints at the lowest suitable level does not mean that all complaints should be dealt with informally. For some complaints the lowest suitable level will be outside of the (formal) SC process, in this case Informal Resolution²⁶ is arguably more achievable, whereas for some complaints the lowest suitable level could be the initial stages of the SC process. Achieving the lowest suitable level in all instances is a challenge. The focus group discussions illustrated that soldiers with a potential grievance often thought that submitting a SC was the only realistic option to having their complaint formally heard and afforded the appropriate priority. The survey indicated that COs also feared being criticised for not pursuing a formal SC route and being perceived as not taking complaints seriously. When COs were asked if they encouraged the submission of SCs within their unit, 41% (70 COs) were in agreement. Conversely, over half of the COs (56%, 95) felt that it would reflect badly on them if their unit had many SCs. There is some criticism that resolution at the lowest suitable level could be misinterpreted as soldiers being dissuaded from submitting a SC. When asked, COs were emphatic (91%, 154) that their soldiers were not dissuaded from submitting a SC. When soldiers were asked if their direct line manager would advise them not to submit a SC only 15% (139) agreed.

a. **Informal Resolution.** When Informal Resolution is aligned to the lowest suitable level this is the optimum space to be. The totality of Informal Complaints²⁷ and SC resolution are not always reported and statistically captured. By recording Informal Complaints, the Army will be in a better position to indicate a level of efficiency that is associated with the right cultural approach and negates the requirement for work place grievances escalating into a SC. COs were emphatic in their support of seeking Informal Resolution at the lowest suitable level. Almost all COs (93%, 158) agreed that addressing grievances at the lowest suitable level will negate the need for a SC. Importantly, 61% of the COs (103) chose to tick the 'strongly agree' option in the survey. This view accords with the general view from across the rank range that Informal Resolution at the lowest suitable level is the best way of addressing workplace grievances. Further to the positive endorsement of adopting a culture of addressing workplace grievances at the lowest suitable level, COs were almost unanimous in their view that doing so would be of benefit to the unit by developing working practices and relationships. Of the 169 COs that were surveyed, 94% (159 COs) agreed; none disagreed. It is clear that Informal Resolution when and where appropriate is the optimal solution to work place grievances. A focus on how we can improve Informal Resolution in the Army is a theme throughout this report. (Informal Resolution is expanded upon on page 40).

30. **Complaints are resolved within the allocated timeframes.** An efficient and effective process should be one where the complaint is investigated properly and in a timely

²⁶ SCQAF Annual Report 2018 definition: Informal Resolution refers to a complaint which is resolved prior to a formal decision being made.

²⁷ Any allegation(s) or issue(s) raised with the relevant Service ahead of a written, signed and dated complaint being submitted.

fashion. Timeframes are important markers to ensure timeliness, but time should never be traded for thorough performance (quality) as this will ultimately draw criticisms of inefficiency and most importantly unfairness. When asked whether speed of resolution was more important than a robust investigation, COs were clear (80%, 136) that quality was more important than speed. This approach would also reduce the quantity of SC that end up at the Appeal stage. The subsequent factor 'undue delay' (paragraph 31) focuses on reasonableness which is a sound basis when it comes to establishing what is efficient and effective.

- a. **Uncontrollable delay.** The Ombudsman states in her Annual Report 2017, "Timeframes should be stretching, but they must also be realistic"²⁸. Timelines must also be 'intelligent' by considering the 'dead time' that can exist within the SC process. Examples of 'dead time' are when a DB's decision has been appealed; when Complainants and/or Respondents are responsible for delay (late responses); when a SC has been stayed (paused) for a criminal investigation or during disclosure. Criticising delay that is uncontrollable is not a helpful measurement and this is an aspect that is being considered for removal in the existing KPI.

- b. **Key Performance Indicator (KPI).** The existing KPI which is a time-based target is discussed further on page 47 but the inability of all 3 Services to get anywhere close to achieving the completion of 90% of all SC resolved in 24 weeks is well documented in the Ombudsman's Annual Reports. **Recommendation 1.11**²⁹ in the Ombudsman's Annual Report 2016 refers to this issue. Work to evaluate the KPI remains incomplete, but while the KPI remains extant the ability to achieve the allotted timeframes that the KPI measures against will continue to be unrealistic. Until better measurements of performance and effectiveness, as well as time, are endorsed the SC process will always be considered inefficient when measured against a KPI that considers only time.

- c. **The SCOAF reported backlog as at 30 May 2019.** Resolution within 'allocated timeframes' and 'without undue delay' are 2 key criteria used by the Ombudsman to determine whether the SC process is efficient. The abstract below taken from the SCOAF's website as at 5 Jun 19 illustrates that the SCOAF is also struggling to ensure SCs are addressed in a timely and thus efficient and effective manner. However, it is clear that the backlog discussed does not relate to the investigation of SCs in regard to 'undue delay' or 'admissibility'. It is also accepted that applications made to the Ombudsman to investigate SCs on grounds of maladministration and substance require an increased investigator input.

"As of 30 May, we have 116 unallocated substance and maladministration cases, a decrease of 30 cases since 20 March 2019. The oldest unallocated cases date

²⁸ The Ombudsman's Annual Report 2017. Chapter 1, page 2.

²⁹ That the Ministry of Defence identifies an appropriate working group by the end of April 2017 to evaluate the current target for resolving 90% of Service complaints within 24 weeks to ensure that it is appropriate, including the method for calculating when the 24 weeks begins. A representative from the OSCO should be involved in this review.

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back to February 2018 so, despite the reduction in unallocated cases, there is still currently a long wait for a case to be allocated to an investigator. The backlog only relates to substance and maladministration application, not undue delay or admissibility applications."

"We still have a long way to go to improve our service, but our backlog appears to have started to move in the right direction. We are continuing to work hard to reduce the backlog even further."

d. **Complainant perspective.** During interview Chief of the Defence Personnel (CDP) stated that every day of a SC is a day too long for the Complainant but good communication with the Complainant, which leads to an understanding of the process and associated timelines, will assuage the Complainant's (and any Respondents) uncertainty and concerns. Complainants should be briefed that investigations take time and as long as they are made aware, they can amend their aspirations.

31. **Complaints are handled without undue delay.** There is no legal definition of 'undue delay' but it is generally taken to mean an unreasonable or unfair delay. However, it will depend upon on the circumstances of each individual case. During the SC process it is difficult to measure undue delay as the definition is subjective, but the SCOAF has the ability to investigate undue delay on behalf of the Complainant. The Army makes every effort possible to reduce instances of undue delay by appointing an AO and the provision of guides and aide memoires as a handrail to support the AO. Advice is readily available from the Army SC Sec and monthly updates are required to be populated on JPA and shared with both Complainant and Respondent(s). Delay for whatever reason is also recorded and communicated. Unfortunately, delay is often inevitable as SC simply take considerable time to complete, are complex in nature, driven by the capacity and quality of the Investigating Officers (IOs), AOs and Specified Officers (SO) and balanced against competing priorities. They often lack expertise and experience despite previous awareness and training due to unfamiliarity with the process.

32. **The complaints process is equipped with sufficient resource.** Resources are a separate but linked issue; a lack of resource will constrain efficiency and efficacy. Assuming resources are sufficient, an investigation should be conducted as quickly as possible to come to a proper and natural conclusion. The Army SC Sec is resourced on a tight manpower budget and has seen recent manpower reductions in the Service Complaints Investigation Team (SCIT) and the SC legal teams. Previous additions to manpower to address the well documented backlog of legacy SCs have come to their natural expiration and the availability of funding to secure the future manpower resource requirements remain undetermined. The SC process is decentralised with units providing the necessary resources to investigate, assist and decide on SCs. This is a challenge, but in the absence of a centralised authority capable of conducting the SC process there is a reliance on the chain of command to deliver against resource constraints. COs generally agreed that the SC process placed an 'excessive burden' on the unit, with 53% (90) agreeing and 16% (29) disagreeing. This mirrors comments from COs who considered SCs to be an excessive burden on the unit, but overwhelmingly agreed (91%, 154 COs) that the SC process was

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important, with them affording it a 'high priority' in their units. COs generally confirmed (57%, 97) that they lacked resources to manage SCs effectively. The Ombudsman is cognisant of the resource burden and in her Annual Report 2018 makes **Recommendation 3.8; That by the end of April 2020, the single Services establish a pool of permanent Specified Officers and Decision Bodies with full-time responsibility for making admissibility decisions and deciding complaints where capacity issues prevent Commanding Officers from dealing with complaints expeditiously.** The implementation of this recommendation, if considered viable, would help to reduce the 'excessive burden' being reported on units. All SCOAF recommendations will be considered by the Service Complaints Working Group (SCWG).

Assessment of Efficient

33. Analysis conducted as part of the review shows that some improvements can be made in relation to the efficiency of the process. Resolution of complaints at the lowest suitable level is encouraged and is conducted through Informal Resolution. While this is formally outwith the Ombudsman's area of responsibility, the principle and process is supported by her. It is clear that improved data capture of informally resolved cases will better equip the Army to demonstrate success in the area of grievance handling and feed into the Ombudsman's overarching aspiration to resolve cases at the lowest suitable level. Notwithstanding the Informal Resolution option being encouraged, evidence also supports the view that there are no barriers to Complainants lodging a SC who are actively encouraged to do so.

34. On the matter of timeliness, evidence shows that quality is preferred to speed but that an overall greater understanding of the time taken for each stage of the SC process is required. From a process examination, clarification of what can be classed as 'dead time', undue delay and delays outwith the control of the Army SC Sec (and Specified Officers, Investigating Officers and Assisting Officers) can be identified and more reasonable KPIs derived. This work remains a priority for Defence and the Army must continue to contribute to its development. This would then lead to a more rigorous and meaningful assessment of the performance and effectiveness of the process. This examination should also assist with identifying where pinch points are and where additional resource is required to ensure that SCs are dealt with promptly. Throughout the process, communication with all parties is key, not least to help manage expectations of the Complainant and Affected Persons.

Recommendation 1: The data summary sheet for the Unit Climate Assessment Level 1 report should be made accessible to the Ombudsman to take into consideration for her annual reports.. [D Pers]

Recommendation 2: The Army Service Complaint Secretariat is to examine 'dead time' and identify where process efficiencies can be made to help inform the Services Complaints Working Group on work to develop the Key Performance Indicator and to include other elements of the Service Complaint process that could be developed to help improve efficiency. [Comd HC]

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Recommendation 3: Improve data capture associated with Informal Complaints (complaints below the Service Complaint threshold) and Informal Resolution that is reported annually to the Ombudsman, to ensure it contributes to continuous improvements. [Comd HC]

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Section 3 - Effective

35. **People know about it.** Awareness is critical to any process when assessing effectiveness and the SC process is not unique in this regard. However, awareness does not necessarily correlate to a detailed understanding or a high level of process specific training. Simply knowing about the existence of a process and subsequently knowing how to find out more information which is readily available is often sufficient. A more detailed understanding is only required when needed. The Army and Defence have numerous processes / policies and the level of awareness required for each is based in many respects on a need to know basis. Army and Defence policy is readily accessible to all soldiers and advice is always readily available from the practitioners who are required to hold a higher level of awareness, understanding and qualification through training. In focus group discussions soldiers felt confident that having only limited knowledge and a basic awareness of the SC process was not a hindrance to them.

a. **Army awareness of the SC process.** The level of awareness was extremely high, with 94% (850) of soldiers confirming that they are aware that they have the right to submit a SC. Only 16 personnel (2%) disagreed with this. COs were emphatic in their view that their personnel understand their rights in submitting a SC. When asked, 94% (161) "agreed"; only 1 CO disagreed.

b. **Army knowledge of the SC process.** When asked whether they knew how to submit a SC, 70% (632) confirmed that they knew the process. However, 18% (167) stated that they did not. This disparity was discussed in focus groups, which confirmed that this is not an issue, as personnel were confident that they had numerous sources of advice within the unit (eg the chain of command, colleagues, the EDIA and the Assistant EDIAs, Adjutant, Google, posters etc). They considered knowledge of the process to be unnecessary on a day to day basis, safe in the knowledge that they could find out at the point of need.

c. **The Ombudsman's role.** When asked if the Ombudsman was there to hold the chain of command to account, the majority (52%, 472) agreed, with 34% being unsure. When asked if the Ombudsman would help them submit their complaint, roughly half were unsure (46%).

d. **Army accessibility to guidance.** COs were also clear in their view that their soldiers have access to guidance and/or policy on how to submit a SC. When asked, 90% (153) "agreed"; only 1 CO disagreed.

e. **The Army Mediation Service.** When assessing COs' knowledge of the Army Mediation Service's ability to assist with workplace grievances, 99% of COs confirmed that they were aware of the Army Mediation Service. This result correlates with COs' desire to have workplace grievances aired earlier and potentially resolved 'informally', negating the need for a SC.

36. **People have confidence in it.** The focus groups indicated there is a trust in the chain of command and the survey data shows that 70% of the sample audience agreed that they trusted their chain of command to take any SC seriously. Unit Climate Assessment Level 1³⁰ findings reinforce this, although the percentage is lower at 54%.

a. **Respondents.** Data from the from the survey supports the perceived view that Respondents are afforded sub-standard support despite 92% (159/172) of Respondents who completed the survey confirming that they had been offered an AO. Not all accept the offer of an AO, but this is a personal decision and not a mandated requirement. The Army SC Sec report that anxiety issues experienced by Respondents are not uncommon. This is reinforced in the survey with the majority of Respondents 72% (123/172) confirming that they felt vulnerable during the SC. From the sample, 41% selected 'strongly agree' when asked about vulnerability, indicating the strength of feeling on this subject. Vulnerabilities were also reinforced by the Unacceptable Behaviours Team from their analysis of telephone calls taken by Speak Out.

b. **Communicating updates.** The process of mandated monthly updates to Affected Persons is something that is a bare minimum and there is an expectation that AOs are giving more regular updates. When asked about regular updates on the progress of the SC, the findings were inconclusive. While 52% (89) confirmed that they had received regular updates, 34% (58) disagreed. Of all those that responded to the question 14% (25) selected "strongly disagree", indicating severe dissatisfaction. Good communication depends on the quality of the AO and while the data shows a slim majority are good at communication, it is clear that the Army need to improve in this area. As Affected Persons they are vulnerable throughout the process and the level of support is currently inadequate.

c. **Quality of monthly updates.** Units with SCs are mandated to provide an end of month update on JPA. These updates are redacted by APSG before being sent to the SCOAF. Analysis of the quality of the written notes explaining the progress of each SC and the quality varies significantly. The Army SC Sec reports that not all Brigade staffs are good at holding units to account. In order to increase the level of assurance units should be mandated to provide specific dates for written updates so that self-set targets can be worked toward and progress against dates measured. Written updates should have at least 2 dates: the first is in the past (ie when the last action was); the second is a future prediction of the next action (eg when the SO will issue the Decision letter). The former gives the SCOAF (and the Army chain of command and the AO) a better understanding of the progress and the latter allows the progress to be auditable against the next month's report. Where delay exists, the unit should be expected to explain why. The procedures described already exist and are specified in the JPA Assurance checklist, unfortunately the successful application of the procedures and

³⁰ Email 2 February 2019 from SO1 Occupational Psychologist, Army Personnel Research Capability/SO2b Review Team 1, Army Inspectorate on entitled "RE: Service Complaints advice-request for UCA data.

adherence to the checklist is variable and the chain of command (Brigade G1 staff) need to be more robust in the provision of 2nd line assurance activity.

37. Change is made as a result of the complaints that have been made. The review found that the Army and Defences' approach to identifying and learning lessons from the SC process is not as effective or coherent as it could be. The Army's ability to learn from the content and substance of individual SCs is more difficult to ascertain as it requires an effective process to enable efficient scrutiny of every single SC casefile. At present the Army SC Sec does not have a process, or the resources, other than to analyse a small proportion of casefiles to extract lessons. That does not mean that lessons that lead to change are not being discretely implemented at the point of origin to prevent recurrence of the same issues but sharing the lesson and organisational learning is isolated. Hd APSG recognises that this is an area of weakness that needs addressing but requires the support to put a robust process in place. Implementing change from lessons and learning at Defence level is also inadequate and the SCWG does not have the capacity at present to bring oversight and coherence to the SC Defence lessons process. (Lessons are discussed further on page 53 as a specified task in the Terms of Reference)

Assessment of Effective

38. Evidence shows that awareness of the SC process in the Army is extremely high even if there is not a deep understanding. However, it is widely acknowledged that depth of understanding is not required because the sources of advice are plentiful, well known and easily accessible. Once an SC is underway the degree of communication is subject to some criticism. When linked to the confirmed vulnerability of those personnel involved as Complainant or Respondent (Affected Persons) this reduces the perceived effectiveness of the process. Research also showed that the identification and learning of lessons in relation to the process has room for improvement and that currently resources are insufficient to scrutinise individual SC cases.

Recommendation 4: Identify where improvements should be made in the routine and regular communication of Service Complaint updates between Complainants and Respondent(s) during the process. [Comd HC]

Recommendation 5: The chain of command is to ensure that JPA updates comply with the JPA checklist format and specifically provide the detail of the last dated action and the next step with an expected date of completion. [Comd Fd Army / Comd HC / Comd JHC]

Recommendation 6: A greater emphasis on 2nd Line of Defence assurance, primarily by Brigade G1 staff and then by Army Personnel Services Group (APSG), should be implemented to drive home the cultural change resulting from Recommendation 5. [Comd HC]

Recommendation 7: Consider using redacted Service Complaint casefiles as a tool for organisational learning. [Comd HC]

39. **Has a clear purpose.** The SC process has a clear purpose, and it is articulated in Defence and single Service policies through the JSPs 763 / 831, ACSO 3358 and the Army SC Sec SOP. The aim is highlighted in the grey text below:

The aim of the service complaints system is to provide Service personnel with a process that is fair, effective and efficient through which they can have valid grievances on matters relating to their service in the Armed Forces addressed and can seek redress. It is the responsibility of all those involved in the process to ensure that complaints are handled fairly, promptly and correctly. The intent is that complaints are dealt with quickly and at the most appropriate level within the chain of command. Every effort should be made, where appropriate, to resolve a complaint informally.³¹

Although the policies provide clarity of purpose, they are outdated and previous Ombudsman's recommendations to update JSP 763 and make specific amendments to JSP 831 have yet to be implemented. The SC purpose is reinforced by the Army through newsletters, aide memoires, guides, routine orders and through the mandated annual completion of MATT 6³². Soldiers are educated through MATT 6, but if they remain unaware of the SC purpose they can seek advice and clarity through the chain of command, the Army SC Sec and the SCOAF. Similarly, the Army Mediation Service has a clear purpose³³.

40. **Is accessible.** Access to the SC process, procedures and policies is available to all soldiers whether they are in the Regular or Reserve forces. It is accepted that some soldiers have increased access to MODNet computers where they can access the relevant policies. However, although not all soldiers have a personal computer terminal they do have the ability to access computers even if they do not have immediate access. The chain of command at unit level need to ensure that access is available as and when required and the EDIAs are a valuable source of advice and direction. Equally the JSPs and Annex F - Statement of Complaint can be accessed through 'Google' as the policies are held on the gov.uk website. When typing Service Complaints into Google the relevant websites and policies are readily accessible. In addition, soldiers can access the policies and additional advice and guidance directly from the SCOAF's online website. More locally soldiers are directed to the EDIA contact details and guidance included on routine orders. The Army Mediation Service and Speak Out webpage is also readily accessible. The draft report of the Defence Review into Inappropriate Behaviours³⁴ recognises Army Speak Out and the Army Mediation Service as leading practice.

³¹ JSP 831 dated 1 July 2016.

³² Military Annual Training Tests (MATTs) assess basic soldiering skills. They provide the foundation on which individual competence and readiness is built. All Army personnel, wherever they serve in Defence, must complete MATTs each year (Field Army Standing Order (FASO) (first edition), Military Annual Training Test (MATT) policy (version 10), training year 19/20, issued 29 March 2019.

³³ The aim of mediation is to resolve workplace conflict and restore operational effectiveness as quickly as possible. Mediation seeks to provide a non-hostile, neutral environment, facilitated by two trained mediators, where parties can raise their views and concerns on an issue in dispute. The mediators do not offer solutions; they simply enable parties to reach mutually agreed resolutions. Mediation can be facilitated between two or more individuals/groups.

³⁴ The Defence Review into Inappropriate Behaviours (Draft Report) by Air Marshal M Wigston CBE, dated 9 May 2019.

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41. **Is flexible.** The SC process provides a degree of flexibility. Soldiers can access a range of options to help them resolve a grievance that they have experienced. They are not constrained by having to follow a singular path. When submitting a SC, they have the option to submit it via the SCOAF if they do not feel comfortable submitting it directly through their chain of command. Soldiers can seek advice from the chain of command on a range of options open to them and the EDIA can provide detailed guidance on the most appropriate options available. There is always the opportunity to resolve the grievance that the soldier has experienced in the Informal Resolution space and the Army and Defence should endeavour to do more to achieve resolution informally. The Army Mediation Service and the services of Speak Out³⁵ are accessible to all and provide flexibility in the process. Soldiers reserve the right to withdraw a SC at any stage and can also explore formal procedures through the SC process and Informal Resolution options simultaneously. Once a SC is submitted and formally recorded on JPA the soldier then has an option to pursue an Employment Tribunal (ET) if appropriate to their grievance.

Throughout the process soldiers have the flexibility to respond to findings and get their point of view heard by the IOs. If a soldier is not content with issues of either admissibility, substance, maladministration or undue delay, then they have the flexibility to make an application to the SCOAF who will consider the merits of investigating these categories on behalf of the soldier. On SC Determination, if the soldier is not content with the decision made by the DB then they have the right to Appeal. Direction in the AF (SC&FA) Act 15 states, "The appeal must be dated and state those aspects of the decision under regulation 9(2)(a) or (b) which the complainant disagrees with and his or her reasons for disagreeing."³⁶ Finally, the timeline to submit a SC from the point of occurrence is 3 months for the SC to be considered admissible but the process permits flexibility if the soldier can provide 'just and equitable' reasons why the 3-month timeline could not be met. Reasons outside of the soldier's control will be duly considered and can include overseas deployment and medical reasons. After receiving the DB decision letter soldiers have 6 weeks to decide if they wish to proceed to Appeal so are not constrained by an unachievable timeline.

42. **Is open and transparent.** SC are recorded, and progress tracked on JPA. This process permits the chain of command to provide regular status updates to Complainants and Respondents in association with Disclosure obligations. Data reports from JPA can be created to determine a range of statistics that can be used to measure the performance and conduct detailed trends analysis of the SC process. This information is accessible via the single Service SC Secretariats and transparent in nature. Although the process is open and transparent the detail of a SC is confidential, and all paperwork is afforded the appropriate security classification. Investigations are conducted openly and information shared through disclosure.

³⁵ Speak Out is a confidential helpline provided by the Army to offer guidance to soldiers on instances of bullying, harassment and discrimination.

³⁶ The Armed Forces (Service Complaints and Financial Assistance) Regulations 2015, para 10(c).

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43. **Is proportional.** The Ombudsman states that, “A complaints system is proportional when it uses appropriate processes to handle a complaint and grants redress when a complaint has been upheld. A proportional system must also be responsive and not so process heavy that it leads to delays or unjust decisions.”³⁷ Therefore any assessment on proportionality will judge the openness, flexibility and accessibility of the process. Equally there is little sense in applying proportionality to processes that are not considered efficient and effective in the first place. The model shown at **Figure 1** is simplistic but illustrates the challenge with applying proportionality. If you reduce the length of time taken to resolve a SC this could degrade the quality of performance and disproportionately increase the cost (resources) to achieve a timely outcome. Conversely, improving performance (quality and fairness) could adversely affect the length of time taken or reduce the quantity of SCs dealt with in the same timeframe. Change which requires any 2 of the 3 parameters to be adjusted (made more demanding) will generate risk: greater *speed*, less *resource* or a reduction in the *quality* of outputs. An appetite for risk is therefore required. As previously mentioned the COs’ survey asked whether or not speed of resolution was more important than a robust investigation. The COs were clear with 80% agreeing quality was more important than speed.



Figure 1 - The challenge of proportionality.

Assessment of Fair

44. The review findings indicate that the SC process is deemed to be accessible through a wide variety of portals and that a number of avenues exist to resolve grievances. Thus, the wider process is seen as being very flexible. Also, the specified timelines are not constraining or obstructive to those wishing to utilise the system and when combined with the transparency of the system, it is assessed to be wholly fair.

³⁷ The Ombudsman’s Annual Report 2018, Chapter 1, page 11.

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Chapter 2 - Benchmarking

Benchmarking

45. Part of the challenge when it comes to benchmarking against a civilian organisation is the statutory nature of the Armed Services' internal grievance process, mandated by Parliament in the AF (SC&FA) Act 15 and subsequent Regulations. The review has not found another organisation whose internal grievance process is directed by primary and secondary legislation and thus constrained by directed processes. The unusual statutory provision exists due to the limitations placed on access by Armed Service Personnel to an Employment Tribunal (ET). Direct comparisons are particularly difficult to be made where financial and reputational priorities can be afforded specific weight, and settlements achieved to rapidly conclude commercial grievances before getting to an ET. As well as benchmarking with the Grievance Management Team (GMT) within the MPS, the review has also conducted some commercial benchmarking based on the UN Guiding Principles (UNGP) on Business and Human Rights and alignment with the Acas Code of Practice.

46. **Commercial benchmarking.** Businesses in the commercial sector routinely provide a grievance process compliant with the United Nations Guiding Principles on Business and Human Rights³⁸. At the core of the UNGPs, is the three-pillared, "Protect, Respect and Remedy (the Focused Pillar)" framework for preventing and addressing negative impacts from business activities on the human rights of people. The Respect and Remedy pillars are most relevant and comparable with the SC process. Guiding Principle 31 specifically outlines the criteria used to ensure the effectiveness of a raised grievance and has 8 key requirements of a non-judicial remedy (grievance) process:

- a. **Legitimate.** Enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- b. **Accessible.** Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- c. **Predictable.** Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- d. **Equitable.** Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;

³⁸ UNGP on Business and Human Rights, 3 Pillar Framework specifically Access to Remedy. Further guidance through Principle 25 to 31 (Specifically).

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- e. **Transparent.** Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
 - f. **Rights-compatible.** Ensuring that outcomes and remedies accord with internationally recognized human rights;
 - g. **A source of continuous learning.** Drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
 - h. **Based on engagement and dialogue (for operational-level mechanisms).** Consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances.
47. **Commercial examples.** Commercial examples of grievance procedures vary depending on the size of the company as does the support offered to an employee. It is not uncommon to find businesses without established grievance procedures.
48. **Acas guidance.** Both employees and employers can seek advice through Acas. The Acas Code of Practice outlines that grievance issues can and should be resolved informally.
49. Benchmarking against the United Nations Guiding Principles on Business and Human Rights. The table at para 50 compares the 8 key requirements of a non-judicial remedy (grievance) process with the Army's SC process.

50. **Guiding Principle 31 analysis.** This table considers the strengths and weaknesses of the SC process when benchmarked against the criteria used by the United Nations Guiding Principles on Business and Human Rights³⁹ for non-judicial grievance mechanisms, prescribed and directed to states.

Ser	UNGP Remedy Requirement	In Service Provision - Strengths	Weaknesses
1	Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes	<ul style="list-style-type: none"> • Strong governance in place through: <ul style="list-style-type: none"> ○ Service Complaints Ombudsman ○ Hd APSG is a 1* lead • Hd APSG is an Army Competent Advisor and Inspectorate <ul style="list-style-type: none"> ○ Army SC Secretariat ○ MOD SC Working Group • Unit Climate Assessment (Level 1) reports that the chain of command is widely trusted • 100% legally compliant 	<ul style="list-style-type: none"> • A perceived lack of trust from both parties • Seen as a means of punishing the chain of command • Can be used as a threat • Vulnerability from the Respondent's perspective • Internal KPI is not being met • Complainants can be stigmatised as troublemakers • The process and policies are out of date (JSP 763) and can lead to confusion
2	Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face barriers to access	<ul style="list-style-type: none"> • Wide awareness of the process by all ranks • Pamphlets / newsletters / guide / aide memoires • Policy documents • Additional training within units, including points of contact • Training on key courses <ul style="list-style-type: none"> • Commanding Officers' Designate Course • All Arms Adjutant Course • Regimental Sergeant Major Course • Staff Support Assistant Course • Briefings <ul style="list-style-type: none"> ○ During initial training ○ Military Annual Training Test 6 ○ SCOAF unit visits • Intranet <ul style="list-style-type: none"> ○ Army SC Sec SharePoint 	<ul style="list-style-type: none"> • Information is centred around the formal process and less emphasis on de-escalation at the lowest suitable level • The process and policies are out of date (JSP 763) and can lead to confusion • JSP 831 and 763 are not cohered or aligned with the Equality Act 2010

³⁹ UNGP on Business and Human Rights, 3 Pillar Framework specifically Access to Remedy. Further guidance through Principle 25 to 31 (Specifically)

Ser	UNGP Remedy Requirement	In Service Provision - Strengths	Weaknesses
3	Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation	<ul style="list-style-type: none"> • Internet (SCOAF website) • Policy and procedures in place <ul style="list-style-type: none"> ◦ Available online internally and externally • Timeframes are prescribed • Annex F – Statement of Complaint stipulates the SC submission process • Complainants and Respondents receive regular updates • JPA provides monitoring and the chain of command should provide regular updates 	<ul style="list-style-type: none"> • Time periods vary and extend beyond expectations • The Army's interpretation of the Appeal process favours the Complainant • Poor use and understanding of the Informal Complaints process • Limited awareness by potential Complainants of the 'lived experience' of a SC • Incoherence between direction and guidance generated by multiple policy documents such as JSPs (Defence) ACSO 3358 (Army), SOP (Army SC Sec)
4	Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms	<ul style="list-style-type: none"> • Assisting Officer for Complainant and Respondent <ul style="list-style-type: none"> ◦ Advice on the process • Through open sources internet, policies and intranet • BHD uses the Unit Equality, Diversity and Inclusion Advisor to advise and guide • The chain of command • Speak Out helpline • Army Mediation Service is available 	<ul style="list-style-type: none"> • Incoherent feedback to Respondents • Assisting Officer / Investigating Officer / Specified Officer <ul style="list-style-type: none"> ◦ Varying levels of experience and limited training ◦ Decentralised / Self-supported • Unit and personality driven, prioritisation of the AO and IO role varies
5	Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake	<ul style="list-style-type: none"> • Assisting Officer and specified officer functions • Regular documented updates • Clearly defined policies • Available internally and externally through the internet 	<ul style="list-style-type: none"> • Assisting Officer <ul style="list-style-type: none"> ◦ Varying levels of experience and little training ◦ Self-supported • Unit and personality driven, prioritisation of the AO role varies • Outcomes of SCs are not published
6	Rights-compatible: ensuring that outcomes and remedies accord with	<ul style="list-style-type: none"> • Covered under legislation • 100% compliant 	<ul style="list-style-type: none"> • No Human Rights violations identified

Ser	UNGP Remedy Requirement	In Service Provision - Strengths	Weaknesses
	internationally recognized human rights	<ul style="list-style-type: none"> Assurance and governance structures set up to ensure this criterion is met. 	
7	A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms	<ul style="list-style-type: none"> JPA is used and analysed Lessons team within APSG but requires refinement Willing to adapt training / briefings through SO1 Ops, Army SC Sec Army is part of the SCWG 	<ul style="list-style-type: none"> Lessons are identified but there appears to be no simple process for articulating these issues Limited capacity for trends analysis Confidentiality restricts the detail DLIMS not used Manning levels for the Lessons learnt team is thin Lack of positive case studies Confidentiality affects the detail
8	Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances	<ul style="list-style-type: none"> Dialogue is throughout the process SCWG (single Service Secretariats) SCO unit visits Pulled information <ul style="list-style-type: none"> Internal Reviews (Army Inspectorate) Climate Assessment Surveys (AFCAS, RESCAS, SHS⁴⁰) Pushed information <ul style="list-style-type: none"> SCO Annual Reports Army Mediation Services Annual Reports Speak Out Annual Reports 	<ul style="list-style-type: none"> MOD slow to react to SCO's recommendations Performance information tends to be Pulled with a lack of Pushed information <ul style="list-style-type: none"> Specified Officers do not always speak to the Complainant to understand the nature of the complaint first hand or at an early stage

51. **Assessment.** The SC process conforms to the criteria set out by Guiding Principle 31 of the UNGP on Business and Human Rights. All the weaknesses identified against these criteria are known and form part of the ongoing continuous improvement agenda.

⁴⁰ Amec Forces Continuous Attitudes Survey, Reserves Continuous Attitudes Survey, Sexual Harassment Survey

52. **Benchmarking against the Metropolitan Police Service (MPS).** The MPS grievance procedure aims to adhere to the Acas Code of Practice on Disciplinary and Grievance Procedures and the Equality Act 2010. It enables MPS personnel who are dissatisfied about the way they have been treated at work or who have a concern, problem or complaint about a work matter to raise the matter without fear of recrimination and explore ways to find an acceptable resolution. The grievance procedure covers both police officers and police staff and is unlike Defence which has a separate grievance and complaints procedure for the Civil Service. Unlike the Armed Service Complaints process it does not permit retired personnel to make a complaint. There are also no admissibility time-limits unlike a SC which must be submitted within 3 months of the grievance occurring to be deemed admissible. The MPS is unique due to its size⁴¹ and its geographical spread. It is the only Police Service in Great Britain that has a dedicated GMT staffed with 11 Police Staff who are Human Resource experts and not Police Officers. On average it handles between 300-400 grievances per annum with approximately 90 ongoing at any one time. In all other Police Forces the role and functions of the GMT are disaggregated among the staff as additional responsibility. Similarities exist between the Armed Service Complaints process and the MPS Grievance procedure and many of the complexities and challenges faced by each institution are comparable. Timeliness and criticisms about delay feature as the most comparable challenge. Accounting for understandable nuances, there are some elements of the MPS grievance process that the single Services could consider adopting.

The MPS grievance process is heavily focussed on the aggrieved (Complainant) with limited focus on the Subject(s) (Respondent(s)) and this has been a point of criticism that has been raised by both the Police Federation and Trade Unions. The MPS is acutely aware that they need to address this imbalance and provide a broader range of support options and 'duty of care' for Subjects, while not diminishing the level of support already provided to the aggrieved. As they review their grievance process they intend to provide an increased level of training to the single point of contacts (SPOC) and Informal Resolution Champions (discussed at para 66) in the business space to reinforce the point that they need to be equally mindful of the needs of the aggrieved and the Subjects.

a. **The MPS Acas Report October 2015.** The MPS commissioned Acas to conduct an independent review of their grievance procedure entitled *Fairness at Work*⁴² with recommendations for its reform. The Acas review conducted a series of interviews and questionnaires. Comments received highlight that the MPS face the same challenges of timeliness, competing priorities, insufficient resources and increased stress for those involved in the process. They are extracted and summarised below:

Timeframes to be expanded, as they are currently unrealistic due to work constraints.

The process needs to be quicker - Current procedures take too long and this prolongs the stress and uncertainty for those involved. I would not expect a quicker

⁴¹ The MPS has approx. 30,000 Police Officers and 11,000 police staff.

⁴² MPS Commissioned Report into Fairness at Work conducted by Acas in October 2015.

process to cut out important processes but I think the timescales between each process and the responses back/gathering of information needs to be done quicker.

The process is very slow. There are set timescales but these are not adhered to...In this environment it is very difficult because of shift work and I don't think there is any point having the timescales as they are. They give people unrealistic expectations which are fuelled by delays.

We have to investigate FAWs in addition to our day job which makes it virtually impossible to do it within the recommended timeframe. Either the timeframe should be changed or we should revert to a system where there are people who are dedicated to dealing with it.

As the workforce shrinks and staff take on more work, how can they be expected to deal with these as well, in a timely and correct manner. When done badly or with delay, causes bad feeling, stress etc for those concerned.

Investigators being given time to conduct investigations and collate their findings rather than trying to fit this in around their current workloads, targets and rostered duties.

b. **GMT Standard Operating Procedure (SOP).** The MPS are planning to update their GMT SOP with a target publish date of April 2020. Specifically, they plan to revise the current timescales and simplify the 4 different time measures to just 1-time measure. This will impose a time target of 90 days from submission to completion. They are also looking at how they can streamline the appeals stage process and better define the roles and responsibilities of the stakeholders involved in the process.

Chapter 3 - Specified Tasks

53. This chapter is split into five sections and addresses the five specified tasks outlined in the ToR for this review. Each of the tasks use the benchmark of the MPS grievance process.

Section 1 - Baseline Understanding

Task 1: Baseline army wide understanding of the Service Complaint process as a means of resolving workplace grievances.

54. **Approach.** The review, with support from the D Pers' Occupational Psychologist, baselined Army-wide understanding of the SC process through targeted focus groups, two online surveys and data from existing survey⁴³ results. In addition, interviews were conducted with key personnel involved in the process and observation and analysis of existing training packages and course presentations was undertaken.

55. **Findings.** The Ombudsman reports that Army personnel's awareness of the SC process and the SCOAF's role is poor. The Ombudsman states in her Annual Report 2017 that, 'no matter how well structured a complaints system is, it cannot be effective if the target group it serves does not know about it or have a good understanding of how it operates.'⁴⁴

a. **Understanding and awareness of SC process.** From a series of different focus groups, it is evident that understanding and awareness of the SC process is limited and more so in the junior ranks. While most are 'aware' of SCs they have no detailed 'understanding' and a lack of knowledge when it comes to actually submitting a SC. COs have a deeper understanding and recognise the importance of a SC. When surveyed, 92% (146/154) of COs were confident that their personnel knew of their right to submit a SC with only one CO out of 167 indicating otherwise. The Recruit Training Survey indicates that recruits have a good understanding. Females tend to have a better understanding of the process than males. Whilst SCs are a very important area, it is niche - only 0.5% of the Army has submitted one and any expectation of a detailed understanding is considered to be unrealistic and arguably not necessary.

b. **Understanding and awareness of the role of the SCOAF.** The focus groups highlighted that understanding and awareness of the SCOAF was very low. When explained at focus groups it was apparent that soldiers are generally not aware of the purpose of an ombudsman, so it is not unsurprising to find that they had limited knowledge of the SC Ombudsman or her role, although they did report knowing that 'there was someone external to the Army that they could go to.' This is despite the role of the SCOAF being clearly articulated in MATT 6 which includes a photo of the Ombudsman on a presentation slide.

⁴³ Armed Forces Continuous Attitude Survey, Reserve Forces Continuous Attitude Survey, Reserve Forces Survey, Climate Assessments.

⁴⁴ The Ombudsman's Annual Report 2017, Chapter 1, page 3.

c. **Does a lack of understanding and awareness make the process less effective?** Focus groups were asked if they felt this lack of understanding and awareness placed them at a personal disadvantage, or whether it made the process less effective; notably they did not believe so. They felt that they only needed to know the detail of SC when they needed to and were confident that they could readily find out information when required. Of considerable note is that they considered the chain of command was approachable and would provide them with the appropriate knowledge and support when they needed it. The survey data confirms that confidence and trust in the chain of command was high and 70% actively agreed that they trusted their chain of command to take any SC seriously. This analysis is reinforced by Unit Climate Assessment Level 1 data⁴⁵ which confirms that the chain of command would investigate any SC thoroughly and 54% of soldiers actively agreed that their chain of command reinforces their right to submit a SC. Only 14% disagreed.

d. **Trust.** AFCAS, People Survey and the Sexual Health Survey 2018 indicate a lack of willingness to submit grievances irrespective of awareness about the SC process. Personnel do indicate a lack of trust in the process to provide them with the desired outcome. However, in many cases the outcome desired (redress) is not viable. The focus groups and online surveys asked questions about trust and confidence in the SC process. Responses revealed that trust was not the singular reason why SC were not submitted. The length of time a SC takes and the associated stress before, during and after are other contributing factors for not submitting SCs. However, this is considered to be symptomatic of any grievance process in any organisation and not a fault of the SC process. Academic studies at Annex O question whether traditional grievance procedures are 'still fit for purpose' and 'do more harm than good.'

Managing Conflict, David Liddle (3 Sep 17) argues that "resolution policies, rather than traditional grievance procedures, have a better chance of achieving harmony in the workplace."

Catherine Anderson, organisational development manager at oneSource (which provides the back-office functions at the London Boroughs of Newham and Havering) expands: "Anything that diverts a grievance is worth doing. They just take up too much time and they certainly, as far as I've seen, are completely ineffective," she says. "It's so important to get people to sit down and talk and that is the main thing that the resolution policy does. Our aim is to make dialogue the normal way for people to resolve an issue.

Cultural change is required to address this but that is not easy to implement and will take time. In the interim, improvement can be made through increased support to all personnel involved in the SC process, and reducing the length of time to resolve a SC through the greater use of Informal Resolution procedures.

⁴⁵ Email 2 Feb 19 from [REDACTED] Army Personnel Research Capability [REDACTED] Army Inspectorate on entitled "RE: Service Complaints advice-request for UCA data."

Training, education, increased cultural awareness and anonymised reporting are all supported in the draft report of the Defence Review into Inappropriate Behaviours⁴⁶ but amending the SC language (see Chapter 4, page 71, differences in terminology) may assist also. Although there is no singular element that will tackle the unwillingness to report issues, the Army and Defence needs to create a climate that welcomes and encourages speaking out.

56. **Findings benchmarked with MPS.** The MPS GMT report that detailed awareness and understanding of their Grievance System process and procedures with their staff is very limited. This does not concern them. They are confident that their staff only require to gain a detailed understanding when they need to. Efforts are focused to ensure that those who are 'grievance practitioners' in the process and personnel occupying senior appointments in the Area / Operational Command Units (AOCUs) are more aware and have a detailed understanding and level of training as required. Significant similarities exist between the SC process and that of the MPS. Members of both organisations do not have detailed understanding but know where to gain information when required. For example, the MPS have an intranet system not dissimilar to the single Services. If police personnel searched for words like 'grievance', 'complaints' or 'bullying' it would take them to the GMT homepage and the Grievance SOP. Comparatively, if soldiers' input 'Service Complaint' into Google the list of available options includes a link to JSP 831 which is hosted on the mod.gov website. The GMT provide a centralised level of support, experience and expertise but key personnel in the 'business space' also have functional SQEP in the grievance process.

⁴⁶ Defence Review into Inappropriate Behaviours (Draft Report) by Air Marshal M Wigston CBE, dated 9 May 2019.

DOWN GRADED

Section 2 - Training and Support to Affected Persons

Task 2: Identify the level and scope of training for those involved with the Service Complaint (SC) process, including the appropriate levels of support to Affected Persons⁴⁷ involved in SCs and any legal implications.

57. **Approach.** This task was addressed by literature research, online questionnaires, focus groups, targeted interviews (trained Mediators and the EDIAs), analysis of MATT 6 and attending a number of existing training courses (eg All Arms Adjutants Course and Commanding Officers' Designate Course).

58. **Findings of the levels and scope of training.** The SCWG has collated all extant tri-Service SC training packages and shared them with the Ombudsman. It has identified that the Army conducts a significant amount of training which in terms of quantity appears satisfactory. However, the work is incomplete and needs to better determine the frequency, type and content of all Defence and Army SC training to identify and close current training gaps.

a. **MATT 6.** Since January 2018, the Army has added SC content to the Diversity and Inclusion section of MATT 6, which should be delivered by the CO. The Ombudsman has praised this initiative. On 1 April 2019 MATT 6 was hosted on the Defence Learning Environment (DLE) to be accessed as an online training tool. The mandatory requirements of MATT 6 remain extant. COs are empowered, by the new Field Army Standing Order for MATTs in TY 19/20, to adopt an approach to delivery that best meets their requirement, including straight to test, equivalency and extensions for specified MATTs. The training provides awareness of the SC process, highlights Informal Resolution options and signposts the Army Mediation Service and the Speak Out confidential helpline available to soldiers. It provides guidance on how to submit a SC and draws attention to the role of the Ombudsman and the SCOAF. However, there are no summative tests included at the end of the training. Focus groups have told us that the MATT 6 SC training has gained little traction and that individuals have little recollection of the content that relates to SCs. Currently the Army Service Complaints Secretariat Home Page hosts a comprehensive SOP, guides, aide memoires, newsletters and information leaflets. Although not specifically a medium for online training it provides a depth and breadth of direction, policy and guidance, and necessary information which is accessible to everyone. Analysis of MATT 6 judges it to be sufficient in content, but the problem lies with the approach toward this style of mandated annual training, where both attention to the detail and the retention of the information by soldiers is insufficient. Hosting the training on the DLE will mean that soldiers have access to training year-round, but it removes the command driven emphasis and focus that centralised training provides. The previous delivery of training by COs reinforces the message that grievances will be treated seriously and soldiers will be supported in the pursuit of resolution. COs have identified (via the survey) that MATT 6 content is sufficient; only 10% of COs indicated

⁴⁷ The term Affected Persons applies to Complainants, Respondents and Decision Body.

that MATT 6 was insufficient and 42% of COs provide additional awareness training. Hd APSG states 'that MATT 6 is an overloaded medium' and proposes that consideration is given to separate out the SC training to provide renewed focus.

b. **Other Identified training.** Further training is provided on a wide range of career courses⁴⁸. In addition, unit briefs and G1 administration / regimental study days provide localised training.

Recommendation 8: Consider separating the extant Service Complaint training from MATT 6 and delivering it as standalone training in order to provide renewed focus on resolution and increase awareness and understanding of all Army personnel, or; [D Pers]

Recommendation 9: Consider a command driven re-focus on unit level training and re-emphasise the importance placed on the delivery and value of Army Service Complaint training in MATT 6 to increase awareness and understanding of all Army personnel. [D Pers]

59. **The Assisting Officer (AO).** The AO is appointed by the SO or they may be approached by the Complainant / Respondent directly. The AO's role⁴⁹ is to support the party involved, ensure they understand the SC process and ensure that the complaint is clear, concise and unambiguous. It is an important role and the AO needs to be impartial and provide independent advice whilst being sensitive to the inherent stresses felt by all parties involved in the SC process. Except in exceptional circumstances the AO should not be directly in the management chain of the Complainant / Respondent. AOs who can no longer fulfil the role must inform the chain of command immediately to ensure continuity of support. The online survey specifically canvassed opinion from AOs with the following findings:

a. **AO training.** Although there is no formal training for the AO the Army SC Sec have produced a useful Assisting Officers' Aide Memoire and A Guide for Service Complaints Assisting Officers in addition to JSP guidance. When asked by the survey if AOs had been given advice and guidance on how to undertake their duties, the majority (61%, 94) confirmed that they had. However, a significant amount (31%, 47) disagreed. These findings suggest that there is a need for standardised training and that an assurance process should be established to ensure that all AOs have access to and undertake the training. This training requirement supports Recommendation 1.8⁵⁰ in the Ombudsman's Annual Report 2016 and chimes with the findings in the draft report of the Defence Review into Inappropriate Behaviours (Recommendation 3.5 highlights the requirement to provide appropriate training for AOs). The Army SC

⁴⁸ CO's Designate course (CODC), Officer Commanding Discipline and Administrative course (OCDA), Late Entry Officers course (LEOC), Royal Military Academy Sandhurst (RMA5) course, Adjutants course, Staff Support Assistant (SSA) course, Higher Formation Discipline and Administration (HFDA) course, Intermediate Command and Staff (Land) course (ICSC(L)), Visiting Warrant Officer course (VWO) and the Defence Recovery Employment Training course.

⁴⁹ Detailed in JSP 831 Part 2 Chapter 7.

⁵⁰ That the Ministry of Defence develops a general training programme for all Assisting Officers and that a record of their completion of that training is held centrally to ensure that suitably qualified Assisting Officers can be identified with greater ease. This should be rolled out by the end of April 2018.

Sec has suggested an initial roadshow and the potential development of a 'toolkit' for different roles to help support them better in understanding what they must do.

b. **Time to conduct the AO role.** The survey also queried whether AOs are afforded sufficient time to conduct their duties. The majority (55%, 85) confirmed that they had been granted sufficient time yet 30% (46) disagreed.

c. **Was an AO offered?** The survey received 172 comments from personnel who had been Respondents and 90 personnel who had been Complainants. When asked, 92% (159) of Respondents and 77% (69) of Complainants had been offered an AO. Although the figures are encouraging, especially from the Respondents perspective, all Complainants and Respondents should be offered an AO. This indicates that more work is required in the offering and allocation of AOs, as this may result in better welfare support and the submission of clearer SCs, which can be dealt with more efficiently.

Recommendation 10: Establish standardised and formal training across Defence for Assisting Officers once nominated for the role. [CDP]

Recommendation 11: At unit level the Specified Officer / Decision Body must afford the Assisting Officer the appropriate time and resource to conduct their duties in order to expedite the Service Complaints process. [Comd Fd Army / Comd HC / Comd JHC]

Recommendation 12: When the offer of an Assisting Officer (AO) is made the chain of command must highlight the welfare benefits that the AO can provide to ensure the Complainant/Respondent makes an informed choice. [Comd Fd Army / Comd HC / Comd JHC]

60. **The Investigating Officer (IO).** The IO establishes the facts of the case, collates all the relevant material and writes a report to the DB. The investigation should follow the direction given in the ToRs, provided by the SO. The IO role should not be confused with Fee Earning Harassment Investigation Officers (FEHIOs), Harassment Investigation Officers (HIOs) and the Service Complaints Investigation team (SCIT) who all receive formal investigative training. The Army SC Sec will advise and guide the appointed IOs in the conduct of their duties and, although there is no formal training for the IO, the Army SC Sec have produced a useful Investigating Officer Aide Memoire. When asked if IOs had been given advice and guidance on how to undertake their duties, the majority 77% (84) confirmed that they had, however, 18% (20) disagreed. Although almost half of the IOs 49% (85) confirmed that they had been given enough time to complete their duties, 38% (41) disagreed. This variation may have implications for the quality of the investigation and the outcome could be a higher percentage of SCs going to Appeal or applications being made to the SCOAF in cases of 'undue delay' or 'substance' (merits). The Army SC Sec also recognises the importance of having trained investigators and developments will be

considered in conjunction with the potential development of a 'toolkit' for AOs as described in paragraph 59a.

Recommendation 13: Establish standardised and formal training across Defence for Investigating Officers once nominated for the role. [CDP]

Recommendation 14: At unit level the Specified Officer / Decision Body must afford the Investigating Officer the appropriate time and resource to conduct their duties in order to expedite the Service Complaints process. [Comd Fd Army / Comd HC / Comd JHC]

Recommendation 15: The Army is to conduct a Training Needs Analysis (TNA) to determine the frequency, type and content of Army Service Complaint training and focused on resolution, to close current training gaps and identify additional training requirements paying particular attention to the Ombudsman's recommendations that relate to training. [D Pers]

61. **Findings on the appropriate levels of support to Affected Persons.** The term Affected Persons refers to Complainant⁵¹, Respondent(s)⁵², and Decision Body (DB)⁵³ although in certain circumstances the Assisting Officer⁵⁴ (AO) and Investigating Officer⁵⁵ (IO) could be considered as Affected Persons. Notwithstanding the likely adverse effect on the Complainant the review has found that Respondents can be significantly affected during the process. The review team interviewed 3 Respondents. Each Respondent perceives that being a Respondent has had a negative impact on their personal and professional circumstances regardless of the complaint outcome. Although the substance of complaints is often confidential, knowledge of personnel being involved in a complaint can often become public, given the close living and working environment of the Army. They also felt that the level of direct support they received was inadequate and that the AO was not qualified to support them emotionally. The Army SC Sec Information Page signposts Respondents to the Guide for Respondents in a SC. While this is a helpful but generic guide on the SC process, it offers little support for the Respondent. However, the Army SC Sec also have a designated Respondent Point of Contact who can be contacted directly to offer advice and guidance.

- a. **Reputational damage.** Respondents who are considered as the 'main Respondent' in a complaint (ie complaint made against them) feel 'labelled' or 'tarnished' even when the complaint is not upheld. Equally they perceive that the 'label' stays with them and follows them on future assignments. This is a view reported by the Ombudsman in her Annual Reports. From the online survey, 26% of

⁵¹ The Complainant is a serving or former Service person who has made a Service Complaint – JSP 831.

⁵² The Respondent is a person who is the subject of a Service Complaint - JSP 831.

⁵³ The Decision Body is one or more individuals who have been appointed by a single Service Complaints Secretariat to investigate and make a decision on a Service Complaint - JSP 831.

⁵⁴ The Assisting Officer is a person who is appointed by the chain of command to provide help and support to a Complainant or a respondent during the Service Complaints process. A Complainant or Respondent can also nominate someone to act as their AO – JSP 831.

⁵⁵ The Investigating Officer is an individual appointed by a Decision or Appeal Body to investigate a complaint on its behalf and to report back with findings of fact – JSP 831.

personnel agreed that submitting a SC would result in a "troublemaker" tag. The generic survey contained a specific question set for those who had been a Respondent in a SC. There were 172 Respondents who answered this bespoke question set, with 82% (141/172) agreeing that their professional reputation had been questioned. The focus groups held a strong view that submitting a SC would have a negative impact on the individual's reputation which would be obvious to bystanders and would remain with the Complainant beyond their current assignment. Similarly, SC Respondents were considered to attract the same reputational negativity. Focus group personnel all agreed that this negativity was linked specifically to interpersonal grievances and disputes rather than a grievance that is associated with Terms and Conditions of Service (TACOS), Policy, Pay and Allowances or Special to Type (STT) complaints. They felt that upheld non-interpersonal grievances could have wide reaching benefits for other soldiers and thus a neutral or potentially positive affect on the Complainant. The ECAB Paper⁵⁶ on SC Emerging Lessons and Themes identified that "no matter how ill-founded a SC may appear or be, there is nonetheless the potential for a real and long-term impact – including damage to mental health – on the Complainant. Regardless of the facts, as a complaint ages, positions become entrenched and the sense of injustice will grow. The complaint process will also impact negatively on Respondents and those involved in handling the complaint." The Army Mediation Service report, "that many parties in Mediation who are Respondents in a SC break down during scoping calls with the Army Mediation Service. Often, we are perceived as the first person who has listened to their point of view and not judged. Even if it isn't true, it's their perception."⁵⁷

b. **Continuity / policy implementation appointments.** Some SC Respondents are in vulnerable assignments as they are the enforcers of policy and are repeatedly required to tackle policy challenges and misinterpretations. Personnel assigned to permanent posts in Garrison Support Units are one example where they are susceptible to multiple complaints as Respondents. They may receive limited acknowledgement and welfare support when it comes to protecting their professional status and dealing with the stress of repeated complaints where they are often the main Respondent. The level of support afforded to personnel in vulnerable positions should in no way undermine a legitimate complaint against the postholder; care must be taken that one does not hide behind the other.

Recommendation 16: Identify how levels of support for Respondents can be increased and update the Army publication, 'Guide for Respondents in a Service Complaint'. [Comd HC]

⁵⁶ ECAB/G(17)132 Army SC - Emerging Lessons and Themes dated 12 Jun 17.

⁵⁷ Email from SO2 Unacceptable Behaviour Team dated 27 June 2019.

Recommendation 17: Identify vulnerable appointments that are more susceptible of being named as a Respondent in Service Complaints (eg policy posts) and provide additional welfare support as required. [Comd Fd Army / Comd HC / Comd JHC]

62. **Specific employment training⁵⁸.** Legislation does not mandate training, but training support is delivered as a matter of policy. Legislation does not mandate support to be given to Complainants, Respondents, Potentially Affected Persons, DBs, Appeal Bodies or any other individual or grouping, with the exception of the SCO who has certain statutory powers of investigation and can compel support in certain circumstances related to investigations and disclosure. This is unlikely to incorporate welfare or assistance type support. External SC legal training is provided by SC Sec legal advisers to the All Arms Adjutants' Course. Bespoke induction training provided by Army Legal Services officers may also be given, on request, to AB military members (typically 1* and 2* officers) and Independent Members. Independent Members and Harassment Investigation Officers receive their training from the MOD. External SC training is provided by Army SC Sec staff (non-lawyers) to the RMAS Commissioning Course; the Late Entry Officers' Course; the Officer Commanding Designate Course; the Commanding Officer Designate Course; and principal command and staff courses run by the Defence Academy (eg Intermediate Command and Staff Course (Land)). These courses serve to provide SC training and awareness to potential DBs and those in the G1 chain of command.

63. **Army levels of training benchmarked with MPS.** The breadth of training identified across the single Services far exceeds that undertaken by the MPS. The GMT is responsible for providing singular briefings on a weekly basis to the newly promoted Police Sergeants, but this is not very in-depth. The MPS do not provide any mandated annual awareness training to all police personnel as MATT 6 does for the Army. Training is only delivered to personnel who have a practitioner's role to play in the Grievance process and this includes training for Assessors⁵⁹ (Investigators and Decision Body), Informal Resolution Champions and Mediators. The main difference is that they provide training for Assessors who are the equivalent of IOs. The Army does not currently provide formal training for IOs assigned the role at unit level but FEHIOs, HIOs and SCIT personnel all receive bespoke training as part of their role, and in general, the Army SC training compares very favourably when benchmarked.

⁵⁸ Email and Legal note provided by SO1 Legal, Army SC Sec, APSG dated 18 Apr 19.

⁵⁹ There are 3 categories of Assessors that may be appointed to investigate a grievance: Single point of contact or Local Manager, Locally based and trained Assessor and GMT Assessor or External Assessor.

Section 3 - Mediation and Informal Resolution

Task 3: Examine the use of Mediation and Informal Resolution as a way of dealing with potential non-Bullying, Harassment and Discrimination (BHD) Service Complaints and of dealing with those SC at the appropriate level, to give greater confidence in the process.

64. **Approach.** This task was addressed via documented research, survey, focus groups and documented interviews.

65. **Findings.** The review found that the phrase 'Informal Resolution' is commonly misunderstood with many assuming that a grievance cannot be informally resolved if a formal complaint⁶⁰ (SC) has been submitted. Informal Resolution⁶¹, 'refers to a complaint which is resolved prior to a formal decision being made'. Informal Resolution can be applied to a formal or informal complaint and COs are mandated to communicate this option and the use of the Army Mediation Service as part of the Initial Interview that is to be held within 2 working days of receiving the Statement of Complaint and before deciding on admissibility. The Complainant is reminded by the Specified Officer (SO) at interview that they have a responsibility to consider Informal Resolution and this forms part of the Preliminary Assurance Agreement. Informal Resolution can be, and often is, an effective way of dealing with a SC that is non-BHD in nature. The SC (Career Management) Team in APC Glasgow is very successful in addressing complaints through Informal Resolution (discussed at para 116).

a. **Informal Resolution.** Where possible, complaints are to be dealt with at the lowest suitable level and resolved informally. In cases where there are allegations of BHD, the SO is mandated in ABN 16/18 to consider the use of the Army Mediation Service and publish direction on Routine Orders:

'With immediate effect, whenever a Specified Officer (typically a Commanding Officer) receives a Service Complaint which alleges bullying, harassment or discriminatory behaviours, they are mandated to contact a trained mediator in order to discuss the complaint and establish if mediation might assist in its resolution. If mediation is appropriate the Specified Officer is to encourage its use (with the proviso that the Complainant and Respondent must both agree to the process).'

Informal Resolution can happen at any stage, but parties cannot be forced to mediate. Similarly, Complainants cannot be 'ordered' to agree to Informal Resolution.

b. **The Army Mediation Service.** Mediation is available to any member of the Army and those who work with Army personnel (RAF, RN, Civil Servants and Contractors) regardless of ranks or grades involved in the dispute. The process of

⁶⁰ A Formal Complaint is a Service Complaint. The complaint only becomes formal when it is in a written format and submitted directly to the CO or indirectly via the SCO by way of referral. A complaint can be an informal complaint (verbal) which should still be recorded on JPA as 'informal'.

⁶¹ The Ombudsman's Annual Report 2018, page 54.

Mediation is entirely confidential. Confidentiality will only be breached in exceptional circumstances when there is a clear health or safety risk or evidence of criminal activity. All mediations are coordinated by the Army Mediation Service Coordinators and facilitated by trained, accredited Mediators who are separate from the unit chain of command. With the help of two Mediators, parties in dispute will be assisted in achieving a mutually agreed resolution and way forward. Participants can choose to withdraw from the process at any time. Mediators are impartial, will avoid being judgemental and will not impose solutions. They are simply responsible for assisting with effective communications and building agreements between the individual raising a grievance and the other party (or parties). The Mediator's aim is to help all involved to find a mutually agreed way to move things forward. Mediation within the Army is proven to be highly successful in restoring working relationships between parties. The Army Mediation Service have produced two useful guides that outline the process: Users Guide to the Army Mediation Service and A Commander's Guide to the Army Mediation Service

c. **Attempts to 'Mediate' at unit level.** The Army Mediation Service recommends that commanders should refrain from labelling in-house Informal Resolution attempts as Mediation as this makes it more difficult to persuade parties to engage in subsequent formal Mediation. The following are typical issues that can be mediated:

- (1) Interpersonal conflict.
- (2) Perceived discrimination, harassment or bullying.
- (3) Differences of working style or approach.
- (4) Communication breakdown.
- (5) Inappropriate use of power, status or position.

d. The **'Defence Review⁸² into Inappropriate Behaviours'** recognises the Informal Resolution successes of the Army Mediation Service and makes a recommendation to adopt a Defence wide Mediation Service.

Rec 3.6	Defence should resource, train and deliver an effective, certified and professional mediation service, recognising and addressing the potential risks of mediation identified by the Service Complaints Ombudsman.
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e. **The role of the Equality Diversity and Inclusion Adviser (EDIA).** Whilst the CO retains overall responsibility for complaint handling, the EDIAs are the unit focal point for impartial advice and support to all Defence personnel on any equality, diversity and inclusion (ED&I) issue. This includes alleged BHD, and the MOD bullying

⁸² Defence Review into Inappropriate Behaviours (Draft Report) by Air Marshal M Wigston CBE, dated 9 May 2019.

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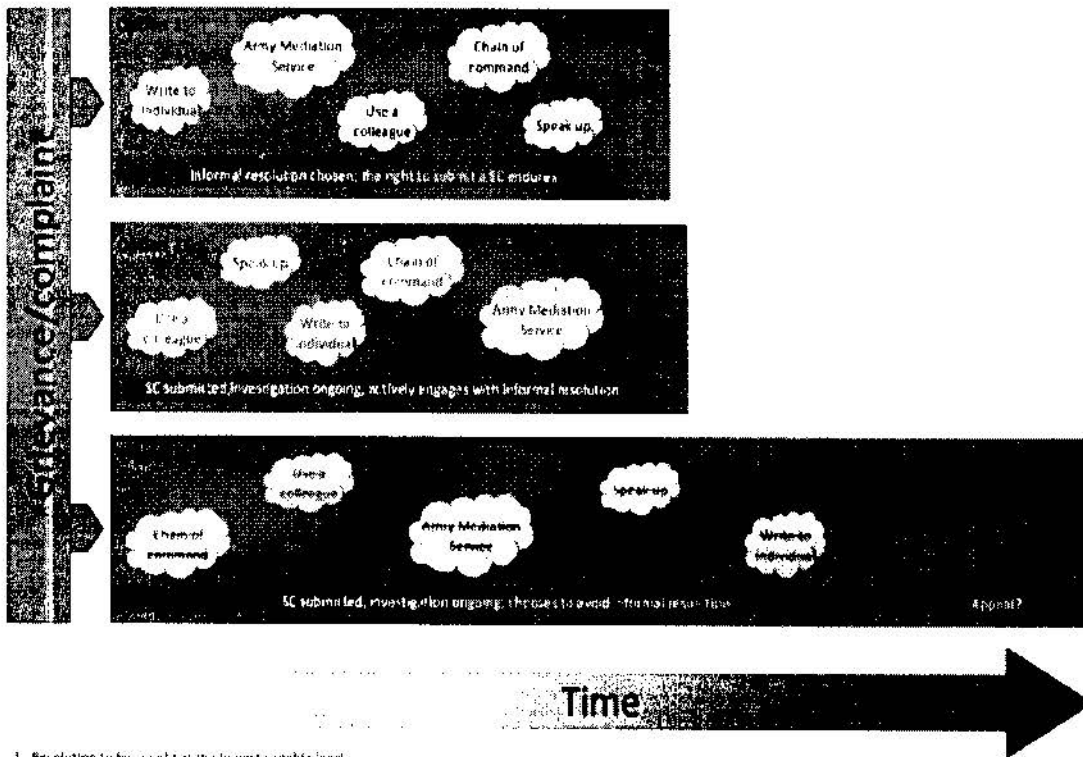
and harassment complaints procedure. The EDIA should always be regarded as the primary source of advice and support to all personnel in resolving a complaint. Their role is also to assist the CO in implementing MOD ED&I policies and initiatives, local training / awareness-raising, and ensuring policy is being followed and monitoring overall effectiveness. The role and responsibilities of the EDIA are listed in full at Annex i. Although not an explicit responsibility, the EDIA should actively encourage Mediation to personnel who are in dispute or presenting a SC and signpost the Army Mediation Service. Although they provide advice on workplace BHD issues, they are not 'unit mediators.' The 'Army EDIA'⁶³ advises that EDIAs need to remain as a 'neutral' adviser able to support and advise both the chain of command and the work force they support and cautions against expanding their remit. However, their neutrality makes them ideally placed to advise a potential Complainant of all options (informal and formal) available to them which should involve the use of the Army Mediation Service. When non-neutral unit personnel advise on Informal Resolution options they can be perceived as dissuading the potential Complainant from submitting a SC and this is a concern raised by the Ombudsman.

f. **Lowest suitable level.** Grievance resolution at the lowest suitable level is the optimum solution for resolving SCs. Once a SC is submitted and Informal Resolution has failed, although in theory still achievable, it is difficult to backtrack. Submitting a SC should not be the first option although it should always be an unfettered option. Informal Resolution is often quicker, prevents escalation, addresses the issue at the heart and close to source, is less stressful for those involved, alleviates the burden on the SC system, increases the chance of the issue remaining confidential and subsequently reduces the likelihood of persons being adversely affected. The proposed model at **Figure 2** attempts to illustrate the full range of grievance resolution options highlighting that resolution should always be sought at the lowest suitable level. It is not hierarchal but indicates that Informal Resolution where appropriate is the optimum option (Option 1).

⁶³ [REDACTED] AH Workforce Policy (Army) | Personnel Policy (Army).

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GRIEVANCE RESOLUTION OPTIONS¹



¹ Resolution to be sought at the lowest suitable level.

Option 1 - Informal Resolution but retaining the right to submit a SC. Seeking Informal Resolution is the most optimal option where circumstances allow. The soldier retains the right to seek 'formal' resolution (a SC) at any point in the process. This option seeks resolution at the lowest suitable level, is often timelier, requires the least resource and less stressful for Complainant and Respondent(s).

Option 2 - Submit a SC but actively engage with Informal Resolution options while the investigation proceeds. This option exercises the soldier's right to pursue both 'informal' and 'formal' means to achieve resolution. Ideally, success via 'informal' means will result in "remedy pre-decision" and will negate the need for a potentially lengthy and divisive investigation.

Option 3 - Submit a SC but decline Informal Resolution. This option exercises the soldier's right to submit a SC and decline the offer of Informal Resolution, relying solely on the formality of a SC investigation. This option is not preferred, as opportunities to resolve at the lowest suitable level could be missed and potentially places an additional and unnecessary burden on the SC process.

Figure 2 - Grievance Resolution Options.

g. **Mediation.** The review's survey canvassed opinion on Mediation. There was a positive trend on the merits of Mediation. Two of the anonymised comments highlight this positivity.

"Informal mediation should be mandated at the earliest possible stage - this would utilise trained personnel to engage with the Complainant and Respondent(s) and may mitigate the SC progressing to a level whereby it becomes a staff burden. Conducting this mediation internally and with untrained personnel can be detrimental to the outcome of the process and must be conducted cautiously to prevent worsening the situation."

"The third case was resolved through mediation; the mediation officer was fantastic in providing an impartial and ostensibly 'fair' platform for discussion. I could not praise them enough."

Unfortunately, the first comment slightly confuses the terms Informal Resolution and Informal Mediation. Informal Mediation does not exist. Mediation is a formal process but conducted as part of Informal Resolution. However, it does support the view that resolution through Mediation is a successful option. It also supports 'a view' that Informal Resolution attempts should be mandatory, but Mediation should remain a 'mandated option' to be considered on a voluntary basis and in agreement with all parties. Furthermore, it supports the recommendation from the Army Mediation Service that Mediation should only be conducted by trained and accredited Mediators.

h. **Conversational Intelligence Training.** The survey also highlighted a positive comment on the concept of 'Conversational Intelligence Training' that is overseen by the SO1 Unacceptable Behaviour Team. Increased investment into Conversational Intelligent Training could greatly assist with Informal Resolution.

"I believe that investing more in a militarised version of the conversational intelligence training now delivered by the SO1 Inappropriate Behaviour Team through an external contractor would go a long way to enabling all levels of the chain of command to identify grievances earlier and mitigate them successfully before the grievance becomes entrenched."

i. **Facilitated conversation (DE&S).** DE&S has its own equivalent of the Army Mediation Service which has proven to be a successful initiative. In addition, the DE&S Human Resources Team has recognised the potential to achieve earlier resolution to inter-personal grievances prior to using DE&S Mediation Services. They have implemented a process called 'Facilitated Conversation' and although a relatively new concept it is proving to be extremely successful. The process is facilitated with impartial 'trained Mediators', although they do not follow the more formal structure associated with Formal Mediation. The purpose is to get the parties that have had a disagreement together in a neutral and safe environment to discuss the grievance in the presence of a 3rd party. In effect it is a step below Formal Mediation and works well for DE&S as they

have trained Mediators on site and for a concentrated population. It would be difficult for the Army Mediation Service to mirror this concept, but they should consider training Army Mediators and the EDIAs on the one day Facilitated Conversation course that is currently available, where resources permit.

j. **Speak Out.** Speak Out is an impartial and confidential helpline, separate to the chain of command, that assists improvements to the lived experience of Army personnel. It provides callers with mechanisms to aid the timely delivery of effective resolutions to issues at the lowest possible⁶⁴ level. The "Speak Out" Annual Report 2017 (Executive Summary of 2017 Speak Out Annual Report) is the fourth annual report (the 2018 report is currently on staff circulation). Speak Out continues to offer a trusted, safe, independent and impartial space to discuss issues and signposting to other agencies (eg 'Speak Safe' the Civil Service equivalent), the SCOAF, Sailors Soldiers and Air Force Association (SSAFA) and the Army Welfare Services (AWS). The review found Speak Out to be a successful outlet, but it was evident that it is under-resourced. The Speak Out capacity is restricted as the Unacceptable Behaviours Team responsible for manning Speak Out are also responsible for the delivery of the Army Mediation Service. The synergies between Speak Out and Army Mediation Service are beneficial to both services, so they should remain collocated. The confidential helpline is manned Mon-Fri and during normal working hours. Outside of these hours' callers are signposted to alternative support networks such as the Samaritans. The number of calls received suggests that extending the service outside of working hours is not currently required.

66. **Benchmark with MPS.** The MPS grievance procedure consists of a mandatory preliminary Informal Resolution stage followed by a two-stage formal process. The intention is that grievances should be resolved as quickly and as near to the point of origin as possible. The grievance procedure should not be used as a way of avoiding the day-to-day interaction between management and officers / staff. Therefore, effort should be made to resolve the problem informally before moving to the formal stage of the grievance procedure. If the aggrieved has not completed the mandatory Informal Resolution stage before they submit a formal written grievance, the formal grievance process will be placed on hold by the Grievance Coordinator until it has been completed. This specifically relates to the ethos of the grievance process that is focused on resolution and learning rather than a process that is investigation and allegation driven. Mandating Informal Resolution is in direct contrast to the Ombudsman's **Recommendation 2.5** that states 'a Complainant cannot be forced or unduly pressured / encouraged to agree to Informal Resolution.' The MPS have formally trained **Informal Resolution Champions** designated in every Police Station who are responsible for undertaking this mandated process. They are the mandated first point of contact for police officers and police staff and advise on matters of Informal Resolution. In that respect they fulfil the same responsibility that is appropriate for the EDIA at regimental level.

⁶⁴ It is worth noting that 'lowest possible level' will change to 'lowest suitable level' for 2019.

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Recommendation 18: The chain of command should reinforce that Informal Resolution attempts at unit level should not be labelled as 'Mediation' as this makes it more difficult to persuade parties to engage in subsequent Formal Mediation. [Comd Fd Army / Comd HC / Comd JHC]

Recommendation 19: The Equality Diversity and Inclusion Adviser (EDIA) should advise personnel on the grievance resolution options available and signpost Informal Resolution and Mediation early in the process. [Comd Fd Army / Comd HC / Comd JHC]

Recommendation 20: Assess the merit of adopting the Metropolitan Police Service model of Informal Resolution Champions at unit level as a strongly encouraged early step in the process to achieve resolution. Consider whether the Equality Diversity and Inclusion Adviser (EDIA) is able to fulfil this role as part of EDIA's existing responsibilities. [Comd HC]

Recommendation 21: An attempt at Informal Resolution should be strongly encouraged where appropriate by the chain of command (including the Specified Officer and Equality Diversity and Inclusion Adviser (EDIA)) as an early step in the Service Complaints process. [CDP]

Recommendation 22: Assess the merits of adopting a grievance resolution model outlining the Informal and Formal Resolution options available. [CDP]

Recommendation 23: Assess the merits of investing in a more widespread delivery of Conversational Intelligence Training in order to help improve cultural attitudes and increase the likelihood of Informal Resolution. [D Pers]

Recommendation 24: The Army Mediation Service should consider training Army Mediators and Equality Diversity and Inclusion Advisers (EDIAs) on the one day 'Facilitated Conversation' course as a means of achieving low level, inter-personal grievance resolution where suitable. [D Pers]

Recommendation 25: The Unacceptable Behaviours Team should receive additional resource to enable them to provide the appropriate level of service to both the Army Mediation Service and the Speak Out confidential helpline. [Comd HC]

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Section 4 - Key Performance Indicator (KPI)

Task 4: Noting the specified target time⁶⁵ for resolving complaints, and that no individual Service has ever met the target, examine the length of time to resolve complaints, including the legacy complaint backlog and identify where process improvements could be made and what an appropriate KPI should be.

67. **Approach.** To address this task, analysis was undertaken from data provided by the Army SC Sec, comments in the Ombudsman's Annual Reports and consultation with MOD CDP Personnel Secretariat and the SCWG to understand ongoing work⁶⁶ and proposals to implement changes to the extant singular KPI.

68. **Findings - KPI.** Currently, there is only one agreed performance target against which the Ombudsman measures the MODs performance; that 90% of admissible complaints should be completed within 24 weeks⁶⁷. The KPI is not suited to the SC process and fails to take account of the range and complexity of certain SCs. This target, introduced in September 2013 and captured in JSP 831, is not based on any historical evidence as to how long complaints took to resolve and has never been achieved. Detail about the problems and issues which arise from using this target are set out in a MOD proposal paper and extracted here:

- a. The key issue remains that this KPI is routinely unattainable; no Service has ever completed 90% of SC within 24 weeks. The KPI does not recognise the 'speed limit' of the system and SC Reform⁶⁸ can never be judged a success whilst it is measured against an unachievable performance metric.
- b. As a performance metric, it does not 'match' the strategic objectives of SC Reform, which is a system that is fair, efficient and effective.
- c. It has the potential to promote unwanted behaviours, which means that if speed of resolution is the only activity or outcome that is measured, then there is a risk to the quality of decision making and the appropriate handling of the complaint.
- d. It does not recognise the huge breadth of SC subject matter or that different types of SCs routinely take longer to complete. For example, in 2017 BHD SCs took an average of 94 weeks to resolve, and Medical SCs took an average of 106 weeks.
- e. The KPI only allows admissible SCs to 'count' against performance. This excludes the work done by the single Service Secretariats with regard to Informal Resolution, inadmissible SCs and SCs withdrawn prior to admissibility (or a decision). This is contrary to the policy approach that internal grievances should be dealt with at the

⁶⁵ The KPI of 90% of complaints to be resolved within 24 weeks is the only agreed KPI for measuring the efficiency of the Service Complaints process.

⁶⁶ Proposal Note to introduce better key performance indicators in SCs dated 18 Dec 18.

⁶⁷ Tri-Service performance for 2017 was 52%, in 2016 it was 39% and in 2018 the Army achieved 40%.

⁶⁸ The SC process was reformed and implemented on 1 Jan 18.

lowest appropriate⁶⁹ suitable level (often the managerial or informal level), a level of resolution not managed, acknowledged or recorded in anyway by this KPI.

f. The KPI fails to acknowledge that, within the 24-week resolution period, there is up to a maximum of 18 weeks of 'dead time' in which no activity can take place.

g. The current KPI allows for 10% of SCs to extend beyond the 24-week deadline. That assumes that only 10% of all SCs are so complex and challenging as to require longer than 24 weeks when evidence does not support this and makes the KPI unachievable.

69. **KPI timeline.** The slide at **Figure 3** illustrates the KPI timeline and specifically highlights 3 separate periods of 6 weeks (two disclosure periods and a period for the soldier to make a decision on whether to appeal) commonly referred to as dead time. Legislation dictates that a minimum period of 6 weeks must be afforded the soldier in making a decision on whether they wish to appeal. Legislation also permits Defence policy (JSP 831) to determine the period of time afforded for disclosure. JSP 831 sets disclosure time at 2 weeks but can and often is extended to a maximum of 6 weeks. When considering 18 weeks of dead time against a clock that does not stop the amount of time available to actually investigate is only 6 weeks. This period of 6 weeks is the total time available for investigation and appeal, although in the slide below it is illustrated in the investigation period.

SERVICE COMPLAINTS KPI TIMELINE

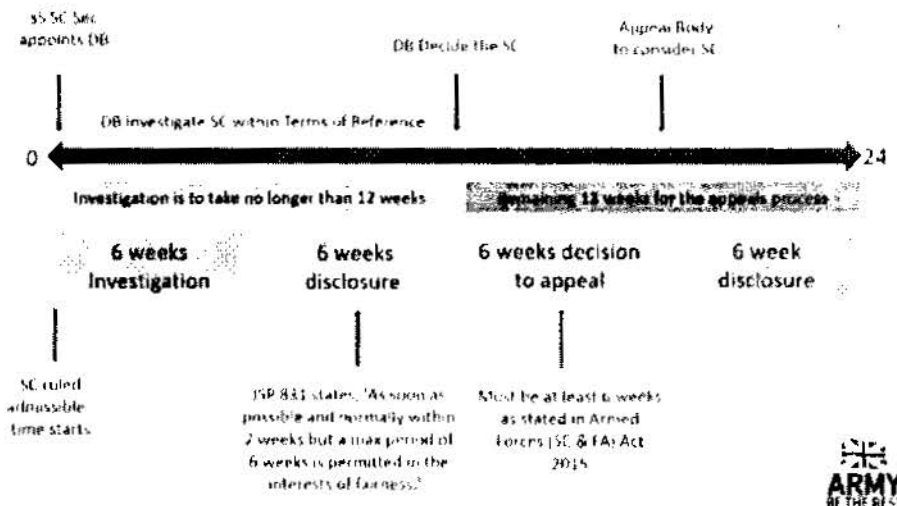


Figure 3 – KPI timeline issue.

⁶⁹ Lowest 'appropriate' level amended to read lowest 'suitable' level as advised by the Ombudsman.

70. **Proportional number of open Army SCs.** The Review compared the Army's number of open SCs with the RN and RAF. **Figure 4** shows that although the Army has more open SCs than the other Services, the number of open SCs in the Army is in proportion to its size.

Regular and Reserve numbers at 1 Apr 19			Open SC at 31 May 19	
	38786	20.2%	183	23.2%
	116226	60.5%	469	59.5%
RAF	37148	19.3%	136	17.3%
Total	192160		788	

Figure 4 – Proportional number of open SC as at 31 May 19.

71. **Open Service Complaints.** The table at **Figure 5** makes comparison between the single Services on the extant number of open SCs (data accurate as at 2 May 19) and denotes the length of time they have been open and the stage they are at. It is worth noting in the first instance that the volume of open Army SCs at any one time is significantly higher (Army 469, RN 183 and RAF 136).

	Duration	RN				RAF	
		Count	%	Count	%	Count	%
SC	<24 wks	142	30.3%	67	36.6%	67	49.3%
SC	>24 wks	209	44.6%	88	48.1%	60	44.1%
Appeal	<24 wks	0	0.0%	1	0.5%	2	1.5%
Appeal	>24 wks	118	25.2%	27	14.8%	7	5.1%
		469		183		136	

Figure 5 – single Service comparison table showing duration of open SCs as at 2 May 19.

The Army compares less favourably with the other Services for SCs <24 weeks and has a higher proportion of SCs at the 'appeal stage' and beyond >24 weeks. Of note, apart from very small numbers for the RN and RAF, all SCs currently at the appeal stage are over 24 weeks in duration. The current KPI makes no separate allowance or time for SC that go to Appeal and appeals should be concluded within the KPI timeline. Consequently, 69.7% of all Army admissible SCs are already over 24 weeks (62.8% for the RN and 49.3% for the RAF). The figures indicate that the KPI is completely unachievable and thus the requirement to continue to propose a more realistic set of KPIs that may look at a two-stage process and separating out the Appeal stage.

72. Over the years, the single Services have streamlined their processes and enhanced resourcing of the SC system to meet this target. Improvements have been made, but as things stand this target is not achievable and it does not properly reflect the performance in this area. Progress to address the problem with this single KPI has commenced but it has

been too slow. In support of the Services concerns over the flawed KPI the Ombudsman made **Recommendation 1.11** in the Annual Report 2016.

Rec 1.11	That the Ministry of Defence identifies an appropriate working group by the end of April 2017 to evaluate the current target for resolving 90% of Service complaints within 24 weeks to ensure that it is appropriate, including the method for calculating when the 24 weeks begins. A representative from the OSCO should be involved in this review.
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The SCWG chaired by CDP Personnel Secretariat sought to address this recommendation and the Army SC Sec led on the initial work and future KPI proposals paper. The paper sets out recommendations on improved performance indicators and metrics for the SC system. Furthermore, it proposes a two-staged approach. The first stage seeks to remove 'dead time' from the 24-week timeline. The second stage sets out further work to be taken forward to develop options for a preferred longer-term approach for measuring the timeliness of complaints' resolution, as well as additional metrics to measure performance. The Director⁷⁰ Armed Forces Personnel Policy (D AFP Pol) reviewed and agreed the proposals as set out in the paper. The Ombudsman has subsequently commented unfavourably on the paper and provided feedback to CDP on 25 Apr 19. The Ombudsman does not support the current proposals. A discussion with Head People Secretary [REDACTED] to work out the next steps is now required. The review team concurs with the Ombudsman's comments that the paper is not sufficiently mature and requires more detailed analysis based on historical data. There must now be a renewed impetus to afford this work the highest priority since the recommendation is over 2 years old.

73. Potential metrics for measurement. It is beyond the scope of this review to make proposals on what a more appropriate KPI may be used for, but it has identified that measuring only time, and not measuring effectiveness or performance, is a flawed concept and too blunt. Suggestions at paragraphs 73.a-d are offered to assist the SCWG and CDP Pers Sec.

- a. A Multi-faceted but streamlined KPI modelled on Measurements of Effectiveness (MoE) and Measurements of Performance (MoP) rather than just time.
- b. Consider using the principles of SMART (Specific, Measurable, Achievable, Realistic and Target (Time)) when identifying metrics.
- c. Identify achievable timelines supported by historical data and evidence to determine intelligent based stretch targets.
- d. As already recommended, remove 'dead time' and identify a separate model for the Appeal Stage.

⁷⁰ Newly appointed Helen Halliwell.

74. **Legacy complaint backlog.** The Ombudsman has noted the substantial effort to address legacy complaint backlog (pre-dated 2016) SCs that are now down to five. The target set by the Ombudsman to close all legacy backlog complaints by the end of 2019 remains a realistic goal. In order to reduce the backlog, APSG was given additional (but lited) manpower.

75. **Benchmarked with MPS.** The MPS have a series of time limits captured in their SOP. Similar to the SC KPI timelines they are set without analysis of historical data and the GMT report being unclear of their origin. The GMT report that they are often unachievable and senior management are routinely critical of the time taken to resolve formal grievances. The MPS do not impose a time-bar from the point of grievance occurring to grievance submission, unlike the 3-month period required for a SC. This is problematic with police personnel submitting complaints on the day before retirement. No allowance is made for submitting a grievance after retirement unlike the SC process which permits retired soldiers to still submit a SC. This table shows the timelines set in the MPS SOP.

Event	Time Permitted	Comments
Time limit for the mandatory Informal Resolution stage	10 working days	This includes providing the record of Informal Resolution. This may be extended if the aggrieved agrees to a longer period.
Time limit to complete formal grievance procedure	No more than 45 working days but in exceptional circumstances it may take up to 90 working days	The GMT state that the 90 working days are routinely taken by the Assessor to complete the case. Exceptional circumstances include: complexity and long-term sickness of personnel involved.
Time limit of the aggrieved to Appeal	10 working days	
Time limit to complete appeal procedure	Completed within 35 working days but in exceptional circumstances the time limit can be extended to 70 working days	The GMT state that the 70 working days are routinely taken during appeal.

Table 2 – MPS timelines.

76. Should a grievance go to appeal then the maximum permitted time to resolve the grievance is 160 working days. This equates to 32 regular weeks plus another 4 weeks (36 in total) when accounting for the mandated Informal Resolution time and time to decide on Appeal. This can be up to 12 weeks longer than the SC KPI allows for, and yet the MPS are still criticised for failing to meet their extended timelines.

77. **Assessment.** The current SC process has been streamlined since SC Reform in 2016 and continues to evolve into a more efficient and effective process. However, streamlining procedures without additional resource or enhancements to the SC process will limit the improvements possible. Delivering the SC process is dependent on the quality of the practitioners (SO, IO, AO) and the prioritisation of time and resource they are afforded. Equally, they know the KPI is flawed and unachievable and failure to meet timelines is almost inevitable and not a driver to expedite the process. The recommendations in the Defence

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Review to establish a Defence Authority on culture and behaviour should, in time, have a positive effect on our culture and drive down the number of complex inter-personal SCs. The intent to establish a tri-Service SCs team to address SCs above a certain threshold could also assist the single Service SC Secs in streamlining procedures but could also come with inherent risks that are currently unforeseen.

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Section 5 - Lesson Learned and Disproportionate Representation

Task 5: Examine the lessons learned process and recommend how we might reduce the disproportionate representation by various cohorts in the Complainants' group.

78. **Approach.** In addressing this task, the review consulted with the single Service SC Secs and the Army Mediation Service. The task considers both lessons learned and cohort representation. The Ombudsman has an ongoing concern that BAME and female cohorts submit a disproportionate number of SCs in all 3 Services. In addition to addressing this concern the review also considered other cohorts where disproportionate representation may exist. The first part of this section considers the SC lessons learned process and the second part examines the disproportionate representation of various cohorts.

Lessons

79. **Lessons learned process.** The review found that the Army and Defence approach to identifying and learning lessons from the SC process is not as effective or coherent as it could be. It does not currently use the Defence Lessons Identified Management System (DLIMS), thus providing a Defence data supported auditable record. JPA is the Management Information System (MIS) used to record both formal and informal complaints and it is well suited to deliver that functionality but is not a recognised MIS portal for managing lessons. Lessons are extracted from Determination letters, feedback from DBs and ABs, and feedback proformas generated by the Service Complaints (Career Management) Team in the Army Personnel Centre and various other sources. The Army's ability to learn lessons from SC content, rather than just SC process, is constrained by a lack of dedicated resources in the Army SC Sec to identify and extract lessons from only a small sample of SC casefiles. Hd APSG recognises that this is an area of weakness that needs addressing but requires the support to put a robust process in place. There is also an absence of meaningful analysis at a Defence level which more than likely inhibits lesson identification and exploitation across all 3 Services. The Defence Review into Inappropriate Behaviour recommends establishing a Defence Authority on culture and behaviours and this could be an opportunity to bring greater coherence to the Defence SC lessons process.

80. **Lessons learned process benchmarked with the MPS.** The MPS does not have a centralised lesson learning process. Assessors are required to compile templated 'grievance reports' which have a free text box for recommendations but there is no dedicated means to promulgate grievance related lessons. All reports are quality assured by the GMT Coordinator, but the GMT and MPS has no equivalent to DLIMS to record and reconcile lessons. It is cognisant that the lack of a lessons learning loop is an area of weakness that needs addressing.

Recommendation 26: Re-energise and resource the lessons function within the Army Service Complaint Secretariat. [Comd HC]

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Recommendation 27: The Army Service Complaint Secretariat should use the Defence Lessons Identified Management System (DLIMS), as mandated by the Army Command Standing Order (ACSO) 1118 to record Army Service Complaint lessons using redacted casefiles. [Comd HC]

Cohorts representation

81. Disproportionate representation from various cohorts. The Ombudsman has an ongoing concern that BAME and female cohorts submit a disproportionate number of SCs in all 3 Services. Recommendation 1.10⁷¹ in the Ombudsman's Annual Report 2016 has not yet been addressed to her satisfaction. In addressing this recommendation, the single Services have conducted internal analysis of the female and BAME SC data held on JPA, but this does not meet with the Ombudsman's intent, which was for the MOD to commission an independent and impartial external study. Over-representation of BAME and female SCs is also noted in the draft report of the Defence Review into Inappropriate Behaviours, which recommends that, *"Defence should investigate causes of over-representation of minority groups, women and junior ranks in the complaints process and implement the necessary training interventions as part of an overarching strategy to address the issue."*

82. Defence Inclusivity Phase 2: The Lived Experience. Despite continued efforts, Defence recognises that it struggles to recruit and retain people from backgrounds not traditionally associated with Defence, namely females and BAME personnel. CDP commissioned a study (undertaken by QinetiQ, the University of Birmingham and Edinburgh Napier University)⁷² which is described as a "Whole Force qualitative study to better understand the Lived Experience of females and BAME personnel, in comparison with white males, to inform actions to improve the representation of these minority groups across Defence." The review team only recently became aware of this study and obtained a copy of the report on 21 May 19 so detailed analysis of the findings has not been possible. The study does not seek to satisfy the requirements of Recommendation 1.10 outlined above, and is unrelated, but it does provide a useful insight into the lived experience of BAME and females in the military. When considering the recommendations made in the draft report of the Defence Review into Inappropriate Behaviours, Defence should consider the findings of the Defence Inclusivity Report. Especially relevant are the areas on cultural attitudes and behaviours in Chapter 5.

83. Data in the Ombudsman's annual reports. The statistical data in the Ombudsman's annual reports is provided by the single Services upon request from the SCOAF. The data is extracted from JPA, which remains the single source of data for all SCs. How data is subsequently represented is the privilege of the SCOAF but published data and statistics in the Ombudsman's Annual Reports on BAME and females can be misinterpreted by the reader,

⁷¹ Recommendation 1.10 - That the Ministry of Defence commissions a study by the end of April 2018 to determine the root causes of the overrepresentation of female and BAME personnel in the Service complaints system and that appropriate action is taken to try and redress this by the end of December 2018, including putting the appropriate support mechanisms in place.

⁷² The Defence Inclusivity Phase 2: The Lived Experience Report dated 8 April 2019.

especially when shown as percentages or in graphical form without sufficient context. When using percentages, it is useful to provide the actual numbers as well.

84. **Data from focus groups and surveys.** The numerical data provided in the tables on pages 59 to 65 and at Annex C provide a clear picture of admissible Army SCs from female and BAME personnel. Before considering the statistical data recorded on JPA it is worth considering views from the focus groups and surveys in relation to BAME and female over-representation.

Female cohort

85. **Increased likelihood to complain.** Although the Ombudsman has raised concern specifically over BHD complaint rates from females, analysis has showed that females complain more than males across the range of SC categories. When non-BHD categories were analysed (between 1 Jan 16 and 30 Apr 19), Army females account for 19% of Army SCs, yet account for circa 10% of the population. Participants in general focus groups suggested that the nature of Army female's jobs allowed them increased access to IT, greater access to policy and the desire to understand policy more so than males. Female only focus group findings suggested that females think more than males about issues and are more likely to spend the time analysing policy to seek answers. Coupled together, this could be a small contributing factor towards the increased proportion of female complaints.

86. **Female results from survey.** The questions asked in the general survey were analysed by gender; 136 females replied to the survey. Given that female's complaint rates are higher than males, it is reasonable to assume that female's answers to the questions would suggest reasons for this. While there may be no single, outstanding reason, the theory of marginal gains (eg a slight change in each question) may build up to a significant difference. This, however, was not the case with the majority of questions answered being balanced evenly across both genders. In particular, knowledge of how to submit a SC was balanced and females felt that they would be less supported than males after submitting a SC. When asked about confidence in the Army's SCs process and trust in the chain of command to both treat SCs seriously and investigate them thoroughly, females were slightly less positive than males. There was a clear difference between the 2 genders in the survey when asked if SCs were the only way their grievance would be taken seriously; 35% (47 out of 136) females agreed, compared to only 21% of males. This links with findings from focus groups, which suggested that female's opinions were not treated as highly as males. The review team also noticed that the language used by males when talking about females (although not in mixed focus groups) was sometimes dismissive. This observation correlates with the survey finding that a significant proportion of females feel that they would be more likely to be bullied, harassed or discriminated against because of their gender (26% (36 out of 136) females agreed, compared to 5% of males).

87. **Are we asking the wrong question?** Instead of focussing on the reasons why females are over-represented, what if we use the benchmark that female's complaint rates are

just? We then see that the better question may be to ask why men do not complain enough. Are they hiding their concerns, potentially leading to mental health issues? There seems to be a paucity of academic study into the complaint rates of female versus male but a Study of Complaining in Mixed-Gendered Student Work Groups⁷³ warrants further consideration and reinforces the wide-ranging opinions of focus groups and stakeholders. The abstract is shown below:

Abstract: *This research addresses the common stereotype that women complain more than men. Defining "complaint" as the expression of personal dissatisfaction resulting from a disconfirmation of expectancies, the researchers analyzed conversations from three mixed-gendered student writing teams. The results indicate that, while the men and women in this sample made equivalent numbers of complaints, they used complaints for different reasons. Women were more likely than men to use complaints as an indirect request for action, while men were more likely to use complaints to excuse behavior or to make themselves seem superior. These results may suggest that the stereotype that women complain more than men has less to do with the number of complaints uttered and more to do with the different functions men and women attempt to accomplish by complaining. When I ask men what they don't like about women, complaining frequently tops the list. Men tend not to complain, at least not about little things. They've been taught, since they were little boys, to be tough, to endure, to be stoic, to be unemotional, to hold it in, to be MEN. Basically, they've been taught that it's not manly to complain. Consequently, they have little tolerance for any kind of complaining, and especially whining.*

88. **Male complaint rates.** JPA data on admissible Army SCs covering the period 1 Jan 16 - 20 Apr 19. **Table EE** shows that the combat arms (infantry and cavalry) are under-represented. Where the Infantry and Cavalry⁷⁴ constituted 24.9% and 5.7% of the Army⁷⁵, their SCs submission figures were 14.6% and 3.6% respectively. This under representation from the combat arms correlates with anecdotal evidence, the above academic perspective, and focus group findings that men are less likely to submit a SC. In particular, focus groups highlighted that a significant reason for this was due to the recurring nature of postings at regimental duty. The feeling was that an inter-personal complaint against, for example, their platoon sergeant, would resurface for the Complainant when that platoon sergeant became their sergeant major in subsequent years. This correlates with the finding that a negative stigma is attached to those who submit inter-personal SCs.

BAME cohort

89. The BAME cohort is not a readily identifiable cohort like the female cohort and thus over-representation without context can be misinterpreted. On JPA the BAME cohort consists of 13 different nationalities or regional groupings (eg Black African, Black Caribbean, Asian Indian,

⁷³ (Wolfe, Joanna, Powell, Elizabeth, Women and Language dated January 2006).

⁷⁴ Listed on JPA as Household Cavalry and Royal Armoured Corps.

⁷⁵ Defence Statistics: Table 2.1 Full time trade trained strength by Arm/Service as at 1 May 19.

British born but not white, etc) and is too diverse a cohort when conducting data analysis. The two biggest cohorts in BAME are Black African and Black Caribbean but even in these cohorts the range of nationalities, cultures and religions can be very diverse. Consequently, data reported can be misinterpreted and when reporting BAME figures it does not specify female BAME so risks double counting unless afforded specific scrutiny. Furthermore, the BAME focus groups report that non-white, British born males are likely to have a higher threshold and tolerance levels to racial abuse or discrimination than Black African or Black Caribbean soldiers who will not have been exposed to potential racial issues until joining the UK Armed Forces. When considering BAME Army SCs between 1 Jan 16 and 25 Mar 19, 134 Army BAME SCs were submitted on grounds of BHD and/or Improper Behaviour. Of these 134, 40 were not upheld. This equates to two BHD SCs per month across the Army over a period of 3-years and 3-months indicating that the number of BHD Army SCs submitted and upheld are very low.

- a. The BAME specific focus group did not consider race to be an issue. Where issues did exist, these were often dealt with head on and were resolved successfully and informally. In addition, the BAME focus groups expressed a strong dislike for the BAME nomenclature despite it being widely used across the United Kingdom. This dislike was reinforced by the free text comments in the online survey which are extracted here:

"the term "BAME" itself is pretty divisive and stupid term, which further enforces the differences between white and non-white soldiers, exacerbating the problem rather than making it better. You might as well frame it as "white" and "everyone else" soldiers, whereas we should move towards an understanding where there is no delineation, we are all soldiers first, and bullying, harassment, discrimination can affect us all. Removing the term BAME from our common language might help the situation."

"Black, Asian and Minority Ethnic (BAME)- Firstly you must remove this word BAME or identify any soldiers and officers with the race. Unless you keep an organisation such as Gurkhas as a separate Bde where you would have people of same background working in one place. Anyone who joins the British Army needs to be identified as a British soldier no matter what origin they come from. Culture educations must be introduced for all parties to understand each other, whether Welsh or Scottish, Ghanaian or Indian, everyone needs to understand what culture they come from and have respect for each other."

The latter part of the free text narrative above touches on the requirement to develop our cultural awareness and education. The draft report of the Defence Review into Inappropriate Behaviours places cultural development as one of its central themes and makes a number of recommendations to address the cultural understanding and shortcomings of our people and cultural training. The following free text narrative from the online surveys reinforces the findings in the Defence Review, but at the same time highlights that ongoing work to address these shortfalls is being undertaken:

"Misunderstanding of culture and religions - both ways. People's perceptions both from a BAME view and non BAME view. Mis-interpretation and mis-understanding of language, actions, behaviours and cultures. Let's face it, BAME personnel are an easy target and while the Forces as a whole recruit from all walks of life, there is an element of the population and thus a percentage of that element that the Forces recruit from who are racist, bigots, phobic and misogynist. You can't change that, but the Services are trying to 'educate' those people which is better than civilian life. That said, the Army shouldn't kick itself for not trying, its campaigns to stamp out such behaviour and prejudices is working but these things don't happen overnight and will take time. The good thing is that people have a tool to challenge these behaviours and the fact that there is a high percentage means the system is working and BAME soldiers believe in the system working for them."

"As a BAME woman I have been treated appallingly when I have made an internal complaint (prior to SC) and when someone has complained about me I have been treated as guilty until proven innocent. The question to this section 'is disproportionately high' is the wrong Q. Complaints are put in for many reasons - we are still in the minority and often one can be the only BAME person / woman in a unit - you are subject to all sorts of bias and subtle racism. The high number of complaints, IMHO [sic: In my humble opinion], is an indicator of the high number of issues which still exist in the Army today."

"Victim culture is the reason. It can never just be because of a failing. Oh no, it must be because of ethnicity! The playing of the 'race card' devalues the service complaints procedure."

"the Army and some of the older serving personnel needs to understand that BAME individuals make up a growing percentage of the Army and the old boy rules, slangs and treatments need to be reviewed / shaken up. More diversity information during MATTS and WIP. More posters and warning of changes that are required and the implications."

Free text narrative also indicated that BAME related complaints are not an indication that the Army have systemic ethnicity related issues and that the Army is more progressive than expected.

"The Army is one of the most diverse companies in the world, I think/hope that the disproportionately will improve in the years to come. Having not experienced a service complaint against myself or others in the twelve years of service, identifies the level of camaraderie amongst all genders and ethnicity."

"As a mixed-race male with over 19 years in the Army I would not say that the British Army has a problem with racism as these figures could signify or make out. I do however think that there is a combination of cultural differences and approaches to work that are misunderstood. These can sometimes cause confusion and lack of target hitting or haste which has an effect of discipline and results in a feeling of hard done to resulting in

OFFICIAL - SENSITIVE

Service Complaints. Combined with the fact that sometimes people regardless of background will use victimisation as a defence and due to the sensitive nature of race. Those from ethnic groups may have a feeling that their very obvious difference will be more likely to bring their desired effects and results using the system."

"To be honest I'm not personally aware of instances in my organisation so can't honestly comment. I am one of very few BAME in my current Unit & don't have any issues."

Data analysis

90. **Data.** All statistical data provided in this section and illustrated in the consolidated List of Tables at Annex C was extracted from JPA and provided by the Army SC Sec. The data is relevant to only Army personnel and is not tri-Service. In order to provide meaningful analysis, the data covers the period 1 Jan 16 - 30 Apr 19. During the 3.3 years a total of 1,392 admissible Army SCs were submitted.

91. **Male and female admissible Army SCs submitted by rank.** Table AA shows that for both male and female officers, the highest proportion of admissible Army SCs submitted were at OF3 (Major) followed by OF2 (Captain) rank. When combining male OF2 and male OF3 this cohort accounted for 17.9% (232 of 1,077) of Army SCs compared with female officers, 20.9% (66 of 315) Army SCs. For soldiers the bulk of admissible Army SCs submitted for males were at OR2 (Private), OR4 (Corporal) and OR6 (Sergeant) compared with female soldiers who submitted a consistently higher number of Army SCs across the rank range of OR2 (Private) - OR7 (Staff Sergeant). The average age of male Complainants is 41 years compared with the female average age of 37 years.

Male Rank	No	%	Female Rank	No	%
OF0		0.3%	OF0		1.9%
OF1		1.0%	OF1		1.3%
OF2		7.3%	OF2		9.5%
OF3		10.6%	OF3		11.4%
OF4		4.9%	OF4		2.5%
OF5		0.8%	OF5		1.9%
OF6		0.2%	OF6		0
OR3		6.6%			
OR7		7.9%			
OR8		5.9%	OR8		3.2%
OR9		3.2%	OR9		1.3%
Unspecified		3.3%	Unspecified		3.5%
Total			Total		

OFFICIAL - SENSITIVE

Average age (male)	41
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Average age (female)	37
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Table AA - Male and female admissible Army SCs submitted by rank.

92. **Army SCs resolution data comparison of white / BAME soldiers 1 Jan 16 - 30 Apr 19.** Table BB compares the resolution of SCs submitted by white, BAME, male and female soldiers. Of note; highlighted in yellow 28% (222) of Army SCs made by white soldiers were not upheld compared with 41.3% (59) for BAME soldiers. When considering only BHD Army SCs 8.1% (64) of white soldier Army SCs are not upheld compared with 25.2% (36) of BHD Army SCs made by BAME soldiers. When comparing non-BHD Army SCs (eg Terms and Conditions of Service (TACOS)) the figures are more closely related but now white soldiers have a slightly higher proportion of Army SCs not upheld at 19.9% (158) compared with BAME soldiers at 16.1% (23). It is impossible to deduce why higher numbers of BAME BHD SCs are not upheld and why higher numbers of white non-BHD SCs are not upheld without detailed scrutiny of SC casefiles, but the reasons could simply be that the substance (merits) of the complaints are unfounded. Perhaps the most startling figure is highlighted in Green. Of the 88 BAME BHD Army SCs resolved over 3.3 years zero (0) BAME BHD related Army SCs were fully upheld on conclusion. However, 27 BAME BHD Army SCs (18.9%) were partially upheld, though the element upheld may have nothing to do with the alleged BHD. On the whole a higher proportion of female SCs are upheld in full and partially.

	White	BAME	Male	Female
Not Upheld	28.0%	41.3%	31.3%	25.3%
BHD	8.1%	25.2%	10.3%	11.9%
Other (TACOS)	19.9%	16.1%	21.0%	13.4%
Remedy Pre-Appeal	0.6%	2.1%	1.0%	0.5%
BHD	0.1%	0.7%	0.3%	0.0%
Other (TACOS)	0.5%	1.4%	0.7%	0.5%
Remedy Pre-Decision	14.0%	8.4%	13.8%	10.9%
BHD	1.9%	0.7%	1.4%	3.0%
Other (TACOS)	12.1%	7.7%	12.4%	7.9%
Upheld – Full	11.6%	3.5%	9.5%	13.4%
BHD	2.0%	0.0%	0.5%	6.0%
Other (TACOS)	9.6%	3.5%	9.0%	7.4%
Upheld – Partial	27.6%	28.7%	25.7%	34.6%
BHD	9.6%	18.9%	9.4%	16.8%
Other (TACOS)	18.0%	9.8%	16.3%	17.8%
Withdrawn	18.3%	16.1%	18.7%	15.3%
BHD	4.3%	7.7%	4.1%	7.4%
Other (TACOS)	14.0%	8.4%	14.6%	7.9%

Table BB - Army SCs resolution data comparison of white / BAME 1 Jan 16 - 30 Apr 19.

93. **Army SCs submitted by ethnicity - 1 Jan 16 - 30 Apr 19.** Table CC illustrates the breakdown of Army SC submitted by ethnicity. Of note; highlighted in yellow, 82% (male) and 85.4% (female) SCs are submitted by personnel from a white background and BAME personnel account for 18% (male) and 14.6% (female) of SCs submitted for male and females respectively. The spread of SCs submitted across ethnicity shows extremely small numbers

OFFICIAL - SENSITIVE

for each of the 13 ethnicities except for the those highlighted in green showing increased numbers for Black African males (6.5%, 70 SCs) and Black Caribbean females (4.8%, 15 SCs).

Male Ethnicity	No	%	Female Ethnicity	No	%
Any Chinese Background		0.2%	Any Chinese Background		0.3%
Any other White background		0.3%	Any other White background		0
Asian Bangladeshi		0.1%	Asian Bangladeshi		0.3%
Asian Indian		0.6%	Asian Indian		1.0%
Asian Pakistani		0.7%	Asian Pakistani		0
Black African		6.5%	Black African		2.9%
Black Caribbean		2.5%	Black Caribbean		4.8%
Declined to Declare		0.6%	Declined to Declare		0.6%
Mixed Asian and White		0.3%	Mixed Asian and White		0.6%
Mixed Black African & White		0.2%	Mixed Black African & White		0.3%
Mixed Black Caribbean & White		0.3%	Mixed Black Caribbean & White		1.0%
Not Specified		1.6%	Not Specified		0.3%
Other Asian Background		2.6%	Other Asian Background		0
Other Black Background		0.3%	Other Black Background		0.6%
Other Ethnic Background		0.6%	Other Ethnic Background		0.3%
Other Mixed Ethnic Background		0.7%	Other Mixed Ethnic Background		1.6%
White Background		73.2%	White Background		74.0%
White English/Welsh/Scottish/NI		8.8%	White English/Welsh/Scottish/NI		11.4%
Total Grand			Total Grand		

Table CC - Army SCs submitted by ethnicity 1 Jan 16 - 30 Apr 19.

94. **Army SCs submitted by ethnicity - 1 Jan 16 - 30 Apr 19.** The collapsed Table DD⁷⁶ compares the female and male admissible Army SCs by ethnicity. Of note;

a. **Bullying.** Alleged bullying of females accounts for 27% (85) of 315 SCs over 3.3 years compared with 16.2% (174) of 1077 male SCs over the same period. In terms of BAME the only noticeable spike is for Black African males that submitted 21 SCs but this equates to less than 7 per annum. Conversely, white females account for 72 of the 85-female bullying SCs and white males account for 130 of the 174-male bullying SCs.

b. **Career Management (CM).** CM SCs make up 26.7% (84) and 29.9% (322) of all SCs for female and males respectively. CM SCs are dominated by the white community with BAME submitting only small numbers (10/84 for females and 29/322 for males). The relatively high numbers of CM SCs is concerning and warrants further investigation.

c. **Discrimination and Harassment.** The next biggest SC categories are Discrimination and Harassment with the former broken down into sub categories. Overall the numbers are low and are assessed to warrant no further scrutiny.

⁷⁶ Table DD has been collapsed to focus on areas of note. The full table is in the List of Tables at Annex C.

OFFICIAL - SENSITIVE

d. **Pay, Pensions and Allowances.** White males account for 166 of 181 SCs related to this category. Overall the category accounts for 16.8% of all male submitted SCs which is relatively high in comparison with other SC categories and should be carefully monitored.

Female and male admissible Army SCs by ethnicity 1 Jan 16 - 30 Apr 19 (1392 in total)		
Female		Male
Bullying	27.0%	Bullying
Black Caribbean		Black African
White Background		Other Mixed Ethnic Background
White English/Welsh/Scottish/NI		White Background
Career Management	26.7%	White English/Welsh/Scottish/NI
Black African		Career Management
White Background		Black African
White English/Welsh/Scottish/NI		Black Caribbean
Direct Discrimination	9.8%	Declined to Declare
White Background		Other Asian Background
Discipline	2.2%	Other Ethnic Background
Other Mixed Ethnic Background		White Background
White Background		White English/Welsh/Scottish/NI
Harassment	7.3%	Direct Discrimination
Black African		Black African
White English/Welsh/Scottish/NI		White Background
Improper Behaviour	9.5%	White English/Welsh/Scottish/NI
Black African		Discipline
Indirect Discrimination	3.5%	Other Mixed Ethnic Background
White Background		Harassment
Manning and Discharge	2.5%	Asian Pakistani
Black Caribbean		Black African
Medical and Dental	3.9%	Other Asian Background
White English/Welsh/Scottish/NI		Improper Behaviour
Pay Pension Allowances	5.1%	Asian Pakistani
Terms and Conditions of Service Misc	1.6%	Other Asian Background
White Background		White Background
Grand Total		White English/Welsh/Scottish/NI
		Indirect Discrimination
		Manning and Discharge
		Medical and Dental
		Pay Pension Allowances
		White Background
		White English/Welsh/Scottish/NI
		Terms and Conditions of Service Misc
		Grand Total

Table DD - Female and male admissible Army SC by ethnicity 1 Jan 16 - 30 Apr 19.

OFFICIAL - SENSITIVE

95. **Male and female admissible Army SCs by cap badge 1 Jan 16 - 30 Apr 19.** The collapsed **Table EE⁷⁷** compares female and male admissible Army SCs by cap badge. Of note; males in the RLC (Royal Logistic Corps) submit the highest number of SCs at 14.7% (158) closely followed by the Infantry with 14.6% (157). Thereafter the RAMC (Royal Army Medical Corps), AGC(SPS) (Adjutant Generals Corps) and AAC (Army Air Corps). For females the AGC(SPS) stands out as the highest cap badge represented with a high percentage of 22.5% (71 of 377). Next follows the RLC (13.7%), RAMC (13.3%) and R Signals (6%). Without a detailed analysis of individual SC casefiles, it is impossible to deduce why the RLC, AGC(SPS) and RAMC feature highly for both male and females. However, soldiers in the RAMC, AGC(SPS) and perhaps to a lesser extent the RLC often serve at regimental level in individual appointments, or small detachments, rather than formed units and thus form a minority grouping by default. RAMC soldiers and AGC(SPS), by the nature of their roles, have more direct access to computer systems and the ability to easily access policy and electronically submit SCs. Given their role, the AGC(SPS) are also more likely to be more conversant with the SC policy and process.

Male - Cap Badge	No	%		Female - Cap Badge	No	%
AAC		5.6%		AAC		1.9%
ACF		1.9%		ACF		0.3%
AGC (MPGS)		1.5%		AGC (RMP)		3.8%
AGC (MPS)		0.3%		AGC (SPS)		22.5%
AGC (RMP)		3.1%		CAMUS		1.3%
AGC (SPS)		5.8%		GEN SERVICE		0.3%
CHAPLAIN 2000		0.1%		INT CORPS		4.8%
GENERAL STAFF		0.6%		QARANC		4.1%
HCAV		0.9%		R SIGNALS		6.0%
INFANTRY		14.6%		RA		2.9%
INT CORPS		2.6%		RADC		1.0%
PERS(TRG)		0.1%		RAMC		13.3%
PILOT		0.2%		RAMC MO		4.1%
PROV		0.3%		RAVC		1.3%
R SIGNALS		6.5%		RE		2.2%
RA		5.5%		REME		4.1%
RAC		2.7%		RLC		13.7%
RAMC		6.4%		STAFF		0.6%
RAMC MO		0.7%		Unspecified		3.5%
RAPTC		0.9%		UOTC B		0.3%
RE		7.6%		Grand Total		
REGT		0.1%				
REME		5.8%				
RLC		14.7%				
Grand Total						

Figure EE - Male and female admissible Army SCs by cap badge 1 Jan 16 - 30 Apr 19.

⁷⁷ **Table EE** has been collapsed to focus on areas of note. The full table is in the List of Tables at Annex C.

96. **AGC and AMS female and male admissible Army SCs 1 Jan 16 - 30 Apr 19.** Table FF compares female and male admissible Army SCs in the AGC and AMS (Army Medical Services). Of note; CM and Bullying SCs feature as the top 2 highest number of SC categories for both male and female irrespective of cap badge. Direct Discrimination also features highly, and Pay Pensions and Allowances is more so for the AGC soldiers which is not surprising since the nature of their roles indicate a more detailed understanding of this category.

Female AGC			Female AMS		
		%			%
Career Management		35.9%	Bullying		28.6%
Bullying		20.5%	Career Management		24.7%
Improper Behaviour		12.8%	Direct Discrimination		14.3%
Harassment		10.3%	Improper Behaviour		9.1%
Direct Discrimination		7.7%	Harassment		5.2%
Pay Pension Allowances		7.7%	Indirect Discrimination		5.2%
Medical and Dental		2.6%	Medical and Dental		5.2%
Discipline		1.3%	Manning and Discharge		2.6%
Indirect Discrimination		1.3%	Pay Pension Allowances		2.6%
Manning and Discharge		1.3%	Terms and Conditions of Service Misc		2.6%

Male AGC			Male AMS		
		%			%
Career Management		32.4%	Career Management		38.3%
Bullying		16.9%	Bullying		20.9%
Pay Pension Allowances		14.2%	Direct Discrimination		9.6%
Improper Behaviour		12.2%	Pay Pension Allowances		6.1%
Direct Discrimination		7.4%	Discipline		6.1%
Terms and Conditions of Service Misc		5.4%	Medical and Dental		4.3%
Harassment		3.4%	Improper Behaviour		3.5%
Medical and Dental		3.4%	Manning and Discharge		3.5%
Discipline		3.4%	Harassment		2.6%
Manning and Discharge		1.4%	Indirect Discrimination		2.6%
			Terms and Conditions of Service Misc		2.6%

Table FF - AGC and AMS female and male admissible Army SCs 1 Jan 16 – 30 Apr 19.

97. **Army Sexual Harassment Survey.** The 2018 Army Sexual Harassment Survey (SHS 18) was launched during a period of significant societal culture shift in awareness of sexual harassment. During 2017, two anti-sexual assault and women’s empowerment movements, known as ‘#MeToo’ and ‘Time’s up’, became worldwide phenomena, which dominated international media headlines. Since the previous Army Sexual Harassment Survey was published in 2015, there has been significant research looking at the issue. This provides useful comparative data from which to better understand how the Army compares to other organisations. The research suggests that sexual harassment is a common part of many

workplace cultures, and the military is no exception. Sexual harassment in the workplace can have a wide-reaching impact, affecting individuals' mental and physical wellbeing, team cohesion, and organisational outputs. The key findings, conclusions and recommendations from the SHS 18 are included for ease of reference at Annex L. Findings relating specifically to the SC process are shown here:

Formal complaints process: Overall, the percentage of those who made a formal, written complaint to their Commanding Officer about the upsetting experience has increased since 2015; this is particularly noteworthy for Servicemen (from 2% in 2015 to 16% in 2018). Those who did make a formal complaint were more satisfied in 2018 than they were in 2015 with the availability of information on how to make a complaint (from 30% in 2015 to 34% in 2018). However, satisfaction was lowest (and dissatisfaction highest) with the outcome of the investigation, both in terms of how well this was communicated (9% satisfied, 70% dissatisfied), follow up action taken against those responsible (4% satisfied, 70% dissatisfied), and the amount of time taken to resolve the complaint (6% satisfied, 70% dissatisfied). Three-quarters (75%) of those who made a formal complaint said that they had suffered negative consequences as a result; the most common was feeling uncomfortable at work (98%) however, nine in ten (93%) Service personnel had thought about leaving the Army, lost respect for the people involved (92%) or felt humiliated (91%). The most common reasons for not making a formal complaint were because Service personnel thought they could handle the situation themselves (42%) and because they didn't think anything would be done about it (42%).

The SHS 18 results indicate a positive perception of the Army's efforts to tackle unacceptable behaviours. Although there has been an improvement since the SHS 15, the SHS 18 results show that unwanted sexualised behaviours remain a common experience for many personnel. Importantly and encouragingly, results show that personnel are becoming less tolerant of this type of behaviour and are more likely to report incidents.

98. **Inappropriate sexual behaviour.** The draft report of the Defence Review into Inappropriate Behaviours reports an 'average target time' (for resolution) for sexual behaviour cases in the commercial sector as being 40-45 days. The SC process does not have any specific target times for different category types. However, the Army SC Sec Decision Level Appointments Board (DLAB) will appoint the most appropriate 'investigation capability' to match the seriousness and complexity of the case. This could involve the appointment of SCIT or FEHIO/HIOs to conduct the investigation. Most issues regarding Inappropriate Sexual Behaviour are dealt with as Service Law (SL) or Warning and Sanction (WS). For Army Summary Hearings, the target to closure time is 60 days. For AGAI administrative action it is 6 months. The RMP have specific time limits for their investigations, albeit, depending on the incident, they have different categories. For sexual assault, due to the impact on individuals, they will try and complete it as quickly as possible whilst still being thorough. **Table GG** highlights the mean time to closure for tri-Service SC categorised as Sex / Sexual. Of note; a total of 24 Inappropriate Sexual Behaviour admissible Army SCs were submitted during the period 1 Jan 16 - 30 Apr 19. The mean time to closure indicates an

extremely lengthy period ranging from 211 - 529 days and would suggest a process that is not efficient or effective, but without conducting casefile scrutiny the complexities of the investigation cannot be determined and thus an accurate assessment on whether 'undue delay' or 'maladministration' has occurred is not viable.

		Sex/Sexual/Sexual Orientation Harassment	Closed	Mean time to closure in days	Direct Sex/Sexual Orientation Discrimination	Closed	Mean time to closure in days	Indirect Sex/Sexual Orientation Discrimination	Closed	Mean time to closure in days
	Submitted Male									
	Admissible Male			362		249			0	
	Submitted Female									
	Admissible Female			262		529			211	
	Submitted Male									
	Admissible Male			290		0			0	
	Submitted Female									
	Admissible Female			208		0			0	
	Submitted Male									
	Admissible Male			0		0			0	
	Submitted Female									
	Admissible Female			423		654			0	

Table GG - Sex / Sexual categories mean closure times tri-SC 1 Jan 16 - 30 Apr 19.

99. **Disproportionate representation from various cohorts benchmarked with the MPS.** Discussions with the GMT indicated that they had little evidence to support a disproportionate representation of various cohorts. However, the Acas commissioned review into Fairness at Work⁷⁸ reports that, *'There are other indications that discrimination and equalities issues at large are major problem areas within MPS. Black and ethnic minority ("BME") police officers are more likely than others to submit grievances, and both BME officers and BME members of police staff are more likely to bring ET cases than others'*⁷⁹. The phenomenon of MPS discriminating against officers and staff on grounds of race is not new: following a series of high-profile cases, it led to the Morris Report⁸⁰ in 2004. The MPS stated that the highest proportion of complaints, and thus over representation, came from personnel with a physical and mental disability. This was a concern for the MPS and was an area that they were hoping to focus on as a priority rather than over-representation from other cohorts.

⁷⁸ MPS Commissioned Report into Fairness at Work conducted by Acas in October 2015.

⁷⁹ MPS Performance and Assurance Briefing Note, 14 January 2015, confirmed by the Acas Survey.

⁸⁰ The inquiry, chaired by Sir Bill Morris, called for radical and urgent change in "discriminatory" management practices. It expressed concern that there was no common understanding of diversity within the force, and that diversity remained "at worst a source of fear and anxiety, and at best a process of ticking boxes".

Summary of over-representation

100. This review supports the view of the Ombudsman that the BAME and female cohorts are over-represented. Although over-represented the actual numbers of submitted admissible Army SCs for each cohort are not particularly high. This is not surprising when it is considered that less than 0.5% of the Armed Forces population have submitted a SC. The Occupational Psychologists consulted during the review reported a widespread acceptance that minority groups like BAME and female cohorts will routinely register an over-representation. Although the extent of over-representation and what is an accepted tolerance level remains debatable. In addition to being a minority, academic studies also show that females are more inclined to submit complaints because of gender.

101. When using percentages to report data, and especially when percentages are high this can create unnecessary concern for the reader. However, if the actual number that the percentage is based on is relatively small in the first instance then the high percentage is less concerning. For example; over a 3.3-year period, Army females submitted 315 SCs compared with 1,077 male Army SCs. The females make up 22% of the overall SCs submitted showing a clear over representation for the female cohort. Of the 315 SCs submitted the largest SC category was Bullying at 27% followed by Career Management at 26.7%, all other categories were minimal by comparison. In terms of actual SC numbers these percentages equate to 85 SCs for bullying and 84 SCs for Career Management issues. Considering the SC figures are spread over a 3.3-year period this equates to just over 2 Bullying and 2 Career Management SCs per month for females. When broken down like this example it is easier to contextualise exactly what the data is reporting, whereas considering the percentages alone, can present a different view.

102. When considering the over representation of minority groups, BAME and female cohorts tend to be the most prominent, but other minority groups should not be overlooked. Soldiers in the RAMC, AGC(SPS) and to a lesser extent the RLC often serve in individual appointments or small detachments and by default are a minority. These cap badges stand out as submitting proportionally more SCs than other cap badges. The data also strongly suggests that the white male cohort is under-represented and warrants further scrutiny.

103. When considering that the BAME cohort constitutes a total of 13 recorded ethnicities, meaningful analysis is challenging and makes the identification of trends inconclusive. Although the BAME sample size was small, the focus groups and surveys both reported that BAME soldiers did not appreciate being categorised differently and wished to be considered as a male or female British soldier regardless of ethnicity. They felt that a separate category created a divisive work environment.

104. Analysis of over-represented cohorts is useful, but equally further analysis of over-represented SC categories is warranted. In particular, scrutiny of CM SCs and the monitoring of Pay, Pension and Allowances SCs warrant further attention.

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Recommendation 28: In lieu of a Defence-led study being commissioned, the Army should consider commissioning an independent external body to investigate the over-representation of female and BAME personnel submitting SCs versus the potential under-representation of white males. [DCGS]

Recommendation 29: Detailed analysis into the relatively high number of Service Complaints relating to Career Management is required in order to help inform the chain of command to reduce Career Management Service Complaints. [Comd HC]

Chapter 4 - Miscellaneous Findings

105. **The Defence Review into Inappropriate Behaviours (draft report)**⁸¹. On the 10 April 2019, in response to repeated instances of inappropriate and allegedly unlawful behaviour by serving members of the UK Armed Forces, the Secretary of State for Defence commissioned an urgent report into inappropriate behaviours in the Armed Forces.⁸² The report was expected to: understand the current evidence regarding inappropriate behaviour across the Services; make recommendations on what can be done to ensure and reassure the Armed Forces are an inclusive and modern employer; and identify areas for further action, including potential improvements to controls, processes or policy⁸³. The Defence Review validates the Army's approach to culture and behaviours but also helps to sustain and improve related activities, so it is an important report when reviewing the SC process. The review makes 36 recommendations in total and identifies areas for continuous improvement within the SC process. Some are for the single Services to implement but there are many recommendations that will demand MoD prioritisation and direction. Notably this includes a proposal to establish a Defence Authority on culture and inappropriate behaviours which would support the single Services and MoD to better understand behavioural trends which in time could lead to a reduction in the number SCs related to Inappropriate Behaviour. The review also recommends development of the SC process and proposes a tri-Service Complaints Team (additional to the single Service SC Secs) better resourced and trained to deal with complex BHD cases. The tri-Service Complaints Team would form part of the Defence Authority on culture and inappropriate behaviour.

106. The Defence Review reports that there is a lack of trust in the complaints process and a lack of willingness to report inappropriate behaviours. In contrast focus groups conducted indicate that there is trust in the chain of command and the survey data shows 70% of the sample audience agreeing that they trusted their chain of command to take any SC seriously. Unwillingness to report issues could be related to trust, but this review has found evidence through benchmarking with the MPS, surveys, academic papers and focus groups that all grievance reporting processes, and not just the SC process, present a number of barriers to reporting grievances. Fear of reputational damage, creation of an uncomfortable working environment, protracted timelines, stress and anxiety during/after the process and the chances of successful resolution are just some of the contributing factors that impact willingness to report.

107. The Defence Review also reported that SC process is not working as intended and there is a pressing need to reform the SC system including: anonymous reporting of inappropriate behaviours; a helpline; a parallel channel for raising SCs outwith the chain of command; and a dedicated central SCs team equipped to deal with the most complex allegations of bullying, harassment including sexual harassment, and discrimination. Chapter 1 judges the SC process against the Ombudsman's principles of efficient, effective and fair and subsequently

⁸¹ Defence Review into Inappropriate Behaviours (Draft Report) by Air Marshal M Wigston CBE, dated 9 May 2019 (DRAFT).

⁸² <http://hansard.parliament.uk/commons/2019-04-10/debates/19041011000007/ArmedForcesStandardsAndValues>

⁸³ Executive Summary extract – The Defence Review into Inappropriate Behaviours (Draft Report) by Air Marshal M Wigston CBE, dated 9 May 2019.

benchmarks against the UNGP on Business and Human Rights and the MPS. There is certainly room for improvement, but the entire SC process is not assessed as inefficient, ineffective or unfair. Although reform is defined as 'improvement' it is easily misinterpreted to mean something much more radical. The Armed Forces (Service Complaints and Financial Assistance) Act 2015 (AF(SC&FA) Act 15), implemented on 1 January 2016 reformed the SC process. Further reform would require a change to legislation and potentially jeopardise the positive developments of the SC process since 1 January 2016. This review supports the recommendations to improve the SC process but views them as developments and enhancements to a SC process that continues to evolve. The Secretary of State demanded an urgent report which, by its very nature, did not permit the time to conduct deep evidence gathering or expert analysis of the situation. The author of the Defence Review⁸⁴ acknowledges and accepts that in the future more detailed work and analysis may reinforce or reveal contrasting interpretations of the evidence. The empirical data gathered during the Army Inspector's Review into the SC process should be used to inform the recommendations made in the draft report of the Defence Review into Inappropriate Behaviours.

108. The Service Complaint Ombudsman's recommendations. The Ombudsman has expressed concern over the quality and speed of progress to address recommendations from her Annual Reports. She noted in her submission to the HCDC ahead of the hearing on 26 February 2019 that:

*The progress made has been disappointing. The Ministerial response to recommendations made in my 2017 Annual Report in April 2018 was only received by my Office in a letter dated 20 November 2018. There was a similar delay in responding to the 2016 Recommendations. A number of recommendations still remain outstanding. As my Policy Manager now seeks regular updates from the Ministry of Defence I am aware of movement in this area, but progress towards substantial compliance is far too slow.*⁸⁵

Reconciling the Ombudsman's recommendations should be timelier and more efficient. However, the challenge to the single Services is operating collegiately and collaboratively within a MOD-led reconciliation process. This is further hampered by capacity limitations and resources in the CDP Pers Sec. The SCWG maintains a Recommendations Monitoring Sheet at Annex M that monitors progress of all recommendations made by the Ombudsman. A number of recommendations made in the Ombudsman's Annual Reports 2016 and 2017 still remain open. The Ombudsman's Annual Report 2018, **Recommendation 3.9**⁸⁶ seeks to address concern regarding timeliness to address recommendations and to establish a formal mechanism that is agreed between the Ombudsman and the MOD. This recommendation is

⁸⁴ Air Marshal M Wigston CBE.

⁸⁵ Extract - The Ombudsman's submission to the HCDC dated 8 Feb 19 ahead of her hearing on 26 Feb 19. The submission referred to the recommendations made in the Ombudsman's Annual Report 2017.

⁸⁶ "That the Ministry of Defence and the Service Complaints Ombudsman for the Armed Forces prepare a written agreement by the end of July 2019, outlining when and how formal responses are to be provided to the recommendations made by the Ombudsman in her annual reports. This agreement should also set out how updates on all open recommendations will be provided to the Ombudsman, the content to be included, and the frequency of these."

strongly supported; it will prompt efficiency improvements to the SC process and hold the Army and Defence to account for failure to implement recommendations.

109. **CDP Pers Sec capacity.** CDP Pers Sec have limited resource and capacity to deal with SCs in a timely and effective manner. The single Services are beholden to the tempo and capability of CDP's team to enact change and address the majority of the recommendations made by the Ombudsman in her Annual Reports. The loss of a B2 grade Civil Servant post in 2016 has substantially increased the workload on the C1 and C2 overseen by a B1 Deputy Head, who has a much wider portfolio and responsibility for Discipline, Conduct and Legislation. The Ombudsman has been critical of the MOD's outputs and perceived inaction. Some of the Ombudsman's recommendations require only minor amendments to policy and procedures and could be considered as 'quick wins' yet they remain unresolved. In some instances the single Services have taken the initiative to drive issues forward and in particular the Army have volunteered to lead a sub-committee of the SCWG to look specifically at the recommendations relevant to training.

Recommendation 30: Consider re-establishing the B2 grade Civil Servant post in the CDP Personnel Secretariat to provide an increased capacity and oversight of the Service Complaints process. [CDP]

110. **Accurately recording SC categories.** Analysis of SC categories is reliant on the data input to JPA as the single source repository. In the first instance the Complainant completes the Annex F, Statement of Complaint and categorises the SC by ticking Yes or No to indicate if the complaint includes allegations of BHD. In the following section the Complainant must state which category they consider the complaint falls into and why. This self-categorisation is problematic and relies heavily on the Complainant selecting what they believe to be the most appropriate category. Thereafter the responsibility falls to the Staff Support Assistant (SSA) to select what they believe to be the most appropriate category from a JPA drop down menu. The SSA can only select one category from the JPA menu, yet the Complainant can state multiple categories on the Annex F. Army SC Sec legal advice provided on admissibility helps frames the SC and lists the Heads of Complaint. In doing so the legal team routinely identify SCs that have been incorrectly categorised and are best placed to advise on the most appropriate SC category. This is particularly important for complex SCs where a number of different category types could be applicable. Amendments are not made on JPA to accurately reflect the applicable SC category. Soldiers will make genuine mistakes when it comes to selecting the appropriate category, but in some instances it is reasonable to assume that soldiers purposely select the category of BHD in the false belief that the complaint will be treated more seriously, or with a higher priority. The category recorded on JPA forms the basis for any future statistical analysis. This can be misleading if the wrong categories are selected by the Complainant or SSA and could lead to false trends identified from the JPA data. The challenge of accurately categorising complaints has been previously identified in a paper²⁷ to ECAB by Commander Home Command.

²⁷ ECAB/G(17)132 dated 12 Jun 17 – Emerging Themes and Lessons, A Paper by Comd HC.

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"BHD cases are self-categorised by the Complainant even if analysis and investigation of a complaint suggests otherwise. This has the potential to distort data, our understanding of both BHD prevalence and our command culture and behaviours. It is also difficult to make findings of fact in BHD SC as cases routinely deal with interpersonal relationships of two (or more) individuals. Thus, while BHD behaviours undoubtedly exist in the Army – and at a rate which is unacceptable – the extent of such behaviour is likely to be less than statistical data suggests."

The problem outlined above is exacerbated further when considering the protected characteristics⁶⁸ of Discrimination. In order to ensure the correct categories are recorded on JPA and provide a more accurate data source for trend analysis and measuring performance, the Army SC Sec should 'assure' the SC category. The most appropriate time to assure the SC category and amend JPA if necessary, will be when legal advice is provided at the admissibility stage. Any change would need to be communicated back to the Complainant and Respondent(s).

Recommendation 31: The process for accurately recording and assuring the Service Complaint category on JPA should be reviewed to ensure increased data accuracy. [Comd HC]

111. **Differences in terminology.** The MPS Grievance process uses much softer language. This was a deliberate choice to be non-accusatory, avoid a tone of allegation and contrast with the much stronger language generally associated with police investigations and the legal system. A Complainant is the Aggrieved, an Investigating Officer is the Assessor (and also acts as the DB), Respondents are Subjects (or witnesses) and the word grievance rather than complaint is central to the process. Findings from focus groups confirmed perceptions that using the words 'complaint'⁶⁹ and 'complainant' suggests that individuals are 'trouble makers' or 'whingers'. Conversely, using the words 'grievance' or 'aggrieved' conjures up a more positive perception indicating that an individual has been wronged and is justified in seeking grievance resolution. A review of the SC terminology used in order to address negative perceptions and shape cultural attitudes might be beneficial.

Recommendation 32: Consider changes to amend terminology in order to address cultural change requirements (eg replace the terms Service 'Complaints' with 'Grievance Resolution', 'Complainant' with 'Aggrieved', 'Investigation' with 'Assessment'.) [CDP]

112. **APSG's investigative capability.** APSG utilises unit IOs and employs civilian and Reserve investigators for routine cases. However, due to the high caseload and limited training and experience of these individuals, the APSG Service Complaints Investigation Team (SCIT) is the focal point for investigational advice and strategy. Manned by professional investigators from the Royal Military Police (RMP), the SCIT provides valuable instruction and

⁶⁸ Defined by section 4 of the Equality Act 2010 the nine protected characteristics areas age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

⁶⁹ Oxford English Dictionary definition: Criticism, protest, grumble, moan.

guidance on a daily basis. This is critical to success of the wider SC process. In its own right, the SCIT provides a professional investigative capability to the following types of SCs, which may also represent significant reputational risk to the MOD:

- a. Complex cases involving multiple Heads of Complaint (HoC).
- b. Possible media interest.
- c. Special Forces (SF) involvement.
- d. Completion or re-investigation of SCs incorrectly dealt with by FEHIOs or unit IOs.
- e. Complaints involving vulnerable persons, including those with mental health considerations.

113 Within the SCIT, RMP WO2s are the investigation supervisors. They provide guidance to Deciding Bodies, training to IOs and FEHIOs and complex cases involving senior officers. SCIT WOs regularly engage and record evidence from high-ranking officers, including 2* and 3* officers from all 3 Services. The investigative and diplomacy skills possessed by these WOs have proven very effective and are difficult to replicate from other sources. RMP SNCOs provide the largest investigative capacity within SCIT. They have the experience and expertise to deal with multi-faceted complaints which are outside the remit of FEHIOs.

114. **Reputational risk - SCIT manning.** SCIT was previously manned to investigate approximately 30 SCs at any one time; the team was constantly operating at capacity. Whilst most legacy SC investigations have now been completed, the requirement for experienced and professional investigators to mitigate reputational risk by delivering against the categories highlighted above endures. The loss of 6 x Sgt posts and 1 x WO2 now sees the SCIT at 46% of its previous workforce requirement. The threshold to use SCIT assets has subsequently been raised, resulting in some high impact cases being investigated by alternative means. The impact of this loss is likely to result in increased SCOAF referrals and appeals and is likely to elicit criticism from both 'users' (Decision / Appeal Bodies and the Army Board) and the Ombudsman.

115. **Army SC Secretariat manning.** The outcome from the Cartwright Review⁹⁵ was 'an Army SC Sec with recommended permanent liability identified of the right manpower type, able to cope (but with little spare capacity) with its anticipated workload with efficiencies applied which amount to savings.' Consequently, the Army Inspector's review did not consider the wider implications of the Army SC Sec manning or organisational structure. Therefore, the recommendations in the Cartwright Review should still be considered on their merits and the recommendation to conduct a business process review to consider all posts is supported. While this Review was being written, authorisation was granted to address the

⁹⁵ The Cartwright Review dated 21 November 2018 proposed three options: (1) The 'Refined Existing' Organisation (2) The 'Appeals Coherence' Organisation (3) The 'Performance Focused' Organisation. Option 3 was the recommended option proposed by the author of the Cartwright Review.

future liability and funding for Army SC Sec to mitigate risk of casework backlog regrowth and to manage enduring SC demand. Notably, the risk presented by an under resourced SCIT is outside the scope of this work.

Recommendation 33: Consider re-establishing the investigator appointments in the Army's Service Complaints Investigation Team (SCIT) to enhance support to vulnerable and affected persons. This would also mitigate the risk of reputational damage. [Comd HC]

116. **The APC SC (Career Management) Team.** In 2017 and 2018 the Team received a total of 79 and 109 CM SCs respectively. Of the circa 5000 who submitted 'Subject Comments'⁹¹ in their annual report over the reporting period 17/18, only 28 (0.006%) of those went onto submit a SC. There appears to be no statistical link between the number of people who make Subject Comments in their Annual Report who subsequently submit a SC. The Team report that CM SCs fall into the categories of Appraisals, Promotions, Appointments, Assignments, Career Advice, Career Engagement or Commission and Termination of Service. Appraisals account for the highest number of CM SCs with an increase from 47% in 2017 to 56% in 2018. This is followed by Promotion CM SCs, but this has decreased from 30% to 25% in the same timeframe. The Team reports that 1 in 4 of all SCs submitted are CM related and that 1 in 3 of all CM SCs include some element of BHD.

117. When considering rank, **Figure 6** shows that the rank of Sgt submits the greatest number of CM SCs at 24% despite making up only 10% of the Army's population. This is closely followed by Cpls at approximately 22%.

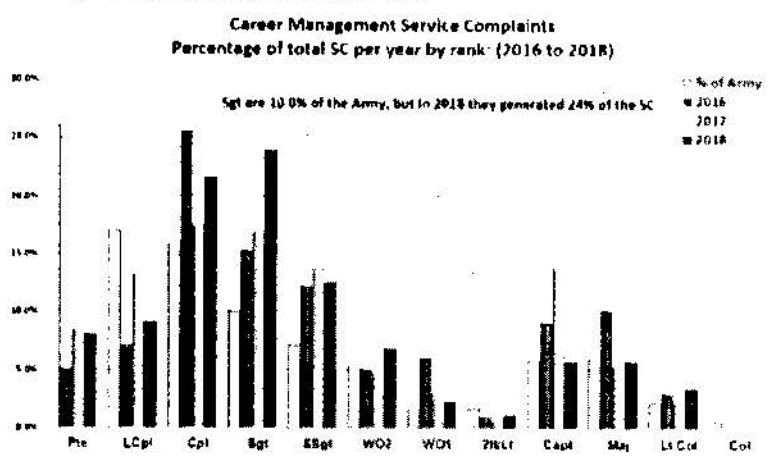


Figure 6 - CM SCs submitted by rank 2016 - 2018.

118. From 1 Jan 16 - 18 Feb 19 the Team addressed 366 CM SCs. Of note, 47% of CM SCs have been Informally Resolved; this is a clear indication that early engagement, coupled with expert advice, is successful and negates the requirement for a time consuming, complex and formal process. This is achieved in part by the benefits of the team having a designated DB whose job is solely to deal with CM SCs. Although the Army has no named equivalent of the

⁹¹ When the line manager confirms an individual's report on JPA, that individual (known as the Subject) has the opportunity to make formal, written comment that must be considered by the line manager and which remains on the report in perpetuity.

RN's "quick fix" and RAF's "fast track" schemes the work undertaken by the SC (CM) Team and the single appointed DB mirrors these schemes. Consideration should be given to identify if this model could be replicated for other complaint categories.

Recommendation 34: Conduct an analysis as to why there is an increase to 1 in 3 of all Army Career Management Service Complaints containing allegations of Bullying, Harassment and Discrimination and if proven, permit remedial action to be taken. [Comd HC]

Recommendation 35: The Army Service Complaints Secretariat should evaluate whether other complaint categories could be dealt with by a single standing Decision Body (DB) similar to that used for resolving Career Management Service Complaints. This is not dissimilar to the 'quick fix' and 'fast track' schemes used by the Royal Navy and Royal Air Force. [Comd HC]

Legal

119. **Army SC Sec legal advice and assistance to the SC process.** The provision of legal support to the Army SC Sec is divided between a senior and junior legal team. The junior legal team comprises of 4 x SO2s and 3 x SO3s led by a single SO1. The 3 x SO3 posts are lifed and will expire in Sep 20. The senior legal team originally consisted of 2 x OF5 lawyers; both were lifed and one has already expired on 31 Mar 19. The remaining APSG OF5 post will expire on 31 Aug 19. The following is an illustrative, not exhaustive, summary on legal advice given to the chain of command, Specified Officer (SO), Decision Body (DB) and Appeal Body (AB):

- a. **At the admissibility stage.** All cases receive full admissibility legal advice from the Army SC Legal Team. The Junior Legal Team routinely provide the advice on admissibility. Advice is directed at the SO who will determine whether a case is admissible or inadmissible. This is a critically important shaping stage as the legal adviser will assess the complaint paperwork submitted by the Complainant; articulate appropriate Heads of Complaint (HoC); carefully apply the relevant SC statutory provisions, which include various time limits and classes of excluded matters; and consider the application of other relevant law (eg employment and administrative law). The legal adviser will identify other, more appropriate, fora for formally resolving SC (eg Service Police investigation; PACCC⁹² appeals; medical complaints procedures) which may allow a SC to be stayed and/or resolved in whole or in part. Legal advice will also be provided to the Army SC Sec on the appropriate DB and investigator to appoint, and to the DB/AB on the appropriate redress if the complaint is upheld. Legal advice will also be provided as to whether an independent member should be appointed, should the matter proceed to appeal. All admissibility decisions are subject to potential scrutiny from the Ombudsman and without appropriate legal advice there is a real risk that wrong admissibility decisions could be made. If so, the effects would be twofold:

⁹² PACCC is the Pay and Allowances Casework and Complaints Cell.

(1) Adverse criticism of the chain of command by the Ombudsman review where admissible complaints have been ruled inadmissible by the SO; or

(2) Properly inadmissible SC being deemed admissible and so investigated and decided upon when they should not have been. This would create an unnecessary and entirely avoidable burden on the wider chain of command; unfairness to Respondents and Affected Persons and could lead to an erroneous admissibility decision being overturned at appeal; and lead to a claim of maladministration which the Ombudsman has a power to investigate and determine. Inadmissible SC that are erroneously admitted also potentially open a concurrent gateway to Employment Tribunal (ET) jurisdiction (eg in cases where a breach of applicable Equality Act 2010 provisions is alleged), regardless of the merits of the case. Unreasonable decision-making would also run the risk of being subject to a Judicial Review application to the High Court by an aggrieved Complainant or Respondent (Affected Person).

b. The online survey reported that the vast majority of COs with experience as a SO confirmed that the receipt of legal advice on admissibility was important, with 88% (95 from 106) either agreeing or strongly agreeing the importance of legal advice. Only 6 COs disagreed. When asked if legal advice was helpful 85% agreed it was and only 7 COs disagreed. The results show that COs value legal advice given to them when deciding on admissibility and the advice was well received, both in quality and quantity. Unlike on appeal, legal advice is not routinely provided to the CO when appointed as the DB albeit the generic advice on the SC process which is provided to the SO is likely to be passed on to the DB. However, when asked if COs needed legal advice when deciding the outcome of a SC, 60% of COs (102) confirmed that this was the case; only 9 COs disagreed (5%). This contrasts with the current policy of only providing legal advice for specific cases.⁹³

c. **At the DB Stage.** Legal advice is normally only provided to a DB in the following circumstances:

- (1) When the DB decides that the SC is well founded; and
- (2) When the SC arises from an alleged breach of the Equality Act 2010 where the redress is likely to include a direct financial payment; and/or
- (3) If the redress is likely to include a direct financial payment or indirect financial consequences may arise from the redress.

Accordingly, the provision of legal advice and support to the DB is more limited which can increase delay either at this stage or subsequently on appeal thus negatively impacting on the parties involved in the SC and reputationally on the Army. Mitigations

⁹³ Often for those cases where financial compensation is an option.

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include the proviso that DB decisions with financial consequences receive legal advice; and that adverse decisions by a DB may be rectified at Appeal level where full legal advice and support is once again provided.

d. **At the Appeal Stage.** Full legal support is provided to the Appeal Body (AB) member or members, including advice and assistance on:

- (1) Advice on evidence and procedure;
- (2) Relevant law and policy;
- (3) Requirement for additional evidence;
- (4) The conduct and execution of Oral Hearings;
- (5) Appropriate redress and recommendations;
- (6) The drafting of determinations.

e. In relation to drafting determinations, depending on the complexity of the SC, in most cases at the outset of the case the designated legal adviser will provide the AB with a bespoke Draft Determination Template (DDT) specific to the case together with initial written legal advice. Thereafter they would provide support throughout the case to enable the AB to finalise and draft their determination which will then be checked for legal correctness before being signed off and promulgated. In more complex cases, the legal adviser will draft the determination for the AB to approve. Regardless of whether the AB or legal adviser draft the determination there is a 100% legal check prior to the publication. While traditionally only the senior legal team were responsible for advising on SC appeals. In order to manage the reduction in manpower members of the Junior Legal Team will now routinely also advise on appeal cases albeit predominantly at SO1 and SO2 level but also where sufficient competence exists at SO3. Certain other ALS OF5 Officers will also take on a small number of AB SCs as a secondary duty and with the permission of their chain of command. In relation to Army Board cases Hd Legal Adv or DALs will normally advise on these cases and draft the determination for the Army Board members to approve.

f. **Post-Appeal Stage.** Legal advice and support are provided to the Army SC Secretariat, the broader chain of command, MOD Legal Advisers (MODLA), wider Government Legal Service, APC Litigation, and external counsel in the response to and conduct of Employment Tribunal (ET) claims and Judicial Reviews, and in responding to the investigations, findings and recommendations of the Ombudsman.

120. **Impact on the SC process after legal team lifed posts expire.**

a. **Admissibility and Merits.** The loss of the 3 x SO3 posts will have an adverse impact on the ability of the Junior Legal Team to provide timely advice on admissibility. The quality, speed and quantity of admissibility advice will diminish when measured against performance and time and will reduce the efficiency and effectiveness of the SC process. The worst-case scenario is that legal advice on admissibility ceases all together and this will inevitably result in erroneous admissibility decisions, increasing caseload and bring more complexity in the first instance and subsequently on appeal. These risks are significant and if realised will draw further criticism from the Ombudsman or judges.

b. **Appeals.** The senior legal team primary role is concerned with the appeal stage which is a thorough *de novo*⁹⁴ determination of the whole SC and so provides a legal safety net before the merits of any Army SC decision can be considered by the Ombudsman or Employment Tribunal / Judicial Review proceedings can be commenced. The expiry of the lifed OF5 legal post will dramatically reduce legal capacity available to undertake appeal cases and so increase delay. However, much more significantly, the OF5 is the dedicated SC SME who as well as discharging his/her own caseload is responsible for providing day to day overall legal assurance of all aspects of the SC process. As an OF5 the individual has the requisite levels of legal judgement, experience and seniority to engage at all levels and particularly at appeal (involving 2* AB members) and especially post appeals stage where legal, financial and reputational risk are highest. These high-level risks include the loss of legal assurance and governance associated with the SC process, explicit advice on matters of litigation, conduct of ETs, Judicial Reviews and responses to external party audit most notably from the Ombudsman. Typically, the OF5 is dealing with large and/or serious cases where there is significant legal complexity and/or a real risk of reputational damage and/or significant financial implications. Examples include sexual assault allegations, bullying, sexual and racial discrimination, victimisation and harassment, medical retirement issues together with pay, allowances and TACOS cases, plus disclosure issues arising from MAB⁹⁵ or medical in confidence cases. As a result, the OF5 also conducts a disproportionate share of oral hearings which often require significant advocacy skill as well as experience in dealing sensitively with often fragile and emotional Complainants, Respondents, Affected Persons and witnesses.

121. Placing increased expectations and responsibility on the single Junior Legal Team SO1 post to replace the loss of the OF5 would not be an intelligent response to the pending OF5 loss. The SO1 is responsible for the day to day management of a sizeable legal team of varying experience, providing mentoring and legal assurance at the tactical level as well as responsibility for his/her own caseload. This individual has neither the capacity, experience nor seniority to take overall responsibility for legal assurance and SME input in all aspects of

⁹⁴ Latin expression used in English to mean 'from the beginning'.

⁹⁵ Ministry of Defence (MOD) A Block.

SC work. Overmatching the SO1 in particular and the Junior Legal Team in general will result in stretched timelines, significantly increased legal, financial and reputational risk arising from the Ombudsman's criticism or Employment Tribunal or Judicial Review proceedings.

122. **Assessment.** It is anticipated that once the lifed posts expire the Army SC process as it stands will be less efficient and less effective and potentially provide a level of service to the Army that is perceived as being unfair. In relation to the OF5 post the inevitable diminution in extent and quality of legal assurance will significantly increase the Army's exposure to legal, financial and reputational risk arising from the Ombudsman or judicial examination of Army SC cases. The consequences of such risk will not be immediately apparent given the time it takes the Ombudsman to consider cases or given the nature of litigation. The Ombudsman regularly cites, 'justice delayed is justice denied' and the manpower losses scheduled will support the validity of that statement.

Recommendation 36: The lifed OF5 legal adviser post and support to the Army Service Complaints Secretariat should be retained to mitigate exposure to legal, financial and reputational risk. [Comd HC]

Recommendation 37: Ensure that the Army Service Complaint Secretariat has sufficient OF2/OF3 legal advisers to provide quality and timely admissibility advice within the stipulated timeframe to help maintain an efficient, effective and fair process. [Comd HC]

SO1 Review Team Leader

Annexes:

- A. Terms of Reference for the Assurance Review of Service Complaints.
- B. Qualitative and Quantitative data from the Commanding Officers / Pan Army Surveys on Service Complaints.
- C. List of SC Data tables extracted from JPA.
- D. Abbreviations.
- E. Glossary.
- F. Bibliography.
- G. Stakeholder list.
- H. Consolidation of single Service SC training.
- I. Role and Responsibilities of the Equality Diversity and Inclusion Adviser (EDIA)
- J. Conversational Intelligence training course.
- K. Service Complaints Working Group (SCWG) - Terms of Reference.
- L. Summary of Sexual Harassment Survey 2018.
- M. SCWG Recommendations Monitoring Sheet.
- N. Discipline and grievance - Acas Code of Practice.
- O. Academic articles on grievance processes.

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Annex A to
Review of the Army Service Complaints Process
Dated 28 Jun 19

DCGS-01_02_01_11/18

30 Nov 18

Army Inspector

Copy to:

SCO MA/CDP CHC D Pers DALs Hd APSG

TERMS OF REFERENCE FOR THE ASSURANCE REVIEW OF SERVICE COMPLAINTS

1. **Background.** Service Complaints (SC) are workplace grievances and it is the right of all Service Personnel (SP) to make a submission if they feel they have been wronged. The contemporary process was created in 2006 following recommendations made by Nicholas Blake QC in his report⁹⁶ regarding the deaths of 4 soldiers at Princess Royal Barracks, Deepcut. Additionally, Defence created a Service Complaints Ombudsman⁹⁷ (SCO) to, *inter alia*, report independently and provide impartial oversight of the complaints system. A major revision to the procedure took place in Jan 2016, following Royal Assent of the Armed Forces Service Complaints and Financial Assistance Act, to streamline the process and improve timeliness. Considerable effort has since been expended to reduce the backlog of cases and speed up the process to try to achieve a 24-week target for closure for 90% of cases⁹⁸. However, the SCO still reports⁹⁹ that the 'system is still not efficient, effective or fair'¹⁰⁰.

2. **Terms of reference.** You are to review and evaluate the area of Service Complaints to identify current issues, paying particular attention to comments and recommendations made by the SCO in her annual reports. You are to:

- a. baseline the Army wide understanding of the SC process as a means of resolving workplace grievances;
- b. identify the level and scope of training for those involved with the SC process including the appropriate levels of support to affected persons¹⁰¹ involved in SC and any legal implications;

⁹⁶ The Deepcut Review - A review of the circumstances surrounding the deaths of four soldiers at Princess Royal Barracks, Deepcut between 1995 and 2002 published 29 March 2006.

⁹⁷ The original role created in 2006 was that of the Service Complaints Commissioner (SCC) which became the Service Complaints Ombudsman (SCO) in January 2016 and which also included an extension of powers.

⁹⁸ This target is set by the MOD and its credibility is queried by the PPOs who have asked for another metric. The closure rates from 2014 to 2017 were, respectively: 48%; 37%; 25%; and 37%.

⁹⁹ SCO for the Armed Forces Annual Report 2017 - page v para 2.

¹⁰⁰ An explanation justifying this statement is contained at page vii of the Armed Forces Annual Report 2017.

¹⁰¹ The term affected person applies to Complainants, Respondents and Decision Body.

- c. examine the use of mediation and informal resolution as a way of dealing with potential non-Bullying Harassment and Discrimination (BHD) SC (and of dealing with those SC at the appropriate level), to give greater confidence in the process;
- d. noting the specified target time¹⁰² for resolving complaints, and that no individual Service has ever met the target, examine the length of time to resolve complaints, including the legacy complaint backlog log and identify where process improvements could be made and what an appropriate KPI should be; and,
- e. examine the lessons learned process and recommend how we might reduce the disproportionate representation by various cohorts in the complainants' group.

You should provide evidence and make recommendations to address any identified shortcomings.

- 3. **Freedom and constraints.** Your review must evaluate and consider:
 - a. observations and recommendations from previous SCC/SCO reports;
 - b. single Service narratives;
 - c. ECAB papers and minutes; and,
 - d. previous Army Inspectorate work.
- 4. **Consultation.** Your team has DIRLAUTH to engage with any Army formation HQ, units and individuals, and with the SCO. You should consult (as a minimum) with:
 - a. SCO;
 - b. CDP;
 - c. Our sister Services;
 - d. APSG and Army SC Sec;
 - e. Def Stats; and,
 - f. civilian organisations that have a similar grievance procedure.
- 5. **Timeline.** The review will take place from Jan 19, report early observations in Apr 19, and report its findings to me, in the first instance, by 30 Jun 19

DCGS

¹⁰² The KPI of 90% of complaints to be resolved within 24 weeks is the only agreed KPI for measuring the efficiency of the Service Complaints process.

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Annex B to
Review of the Army Service Complaints Process
Dated 28 Jun 19

**QUALITATIVE AND QUANTITATIVE DATA FROM THE COMMANDING OFFICERS / PAN
ARMY SURVEYS ON SERVICE COMPLAINTS**

COs' Survey on Service Complaints

Introduction

1. Of the 259 established Commanding Officer posts (as advised by the Army Personnel Centre), 221 COs responded to the survey, with 169 submitting full responses. Analysis showed that the 52 partially complete responses provided very little data and were therefore discounted; only the 169 full responses were considered.
2. **Type of command.** 67% of COs (113) were in command of a Regular unit, with 28% (48) in command of a Reserve unit; 8 COs commanded either hybrid or training units. When considering the type of unit, the range was roughly equal across the 4 main types of Training Unit (25%), Combat (28%), Combat Support (24%) and Combat Service Support (28%)¹⁰³. Units of all types were well represented in the survey.
3. **Tour length.** More than half of COs who responded had been in command for a year or more (63.32%, 107).
4. **Specified Officer (SO).** Of the 169 COs, 63% (106) had been designated as a SO. Of these 106 COs who had been a SO, 63% (67) had conducted the role twice or more.

Legal advice

5. **Importance of legal advice.** The vast majority of COs with SO experience confirmed that the receipt of legal advice was important, with 56% (60) strongly agreeing and an additional 33% (35) agreeing; only 6 COs (6%) disagreed.
6. **Utility of legal advice.** When asked if the legal advice was helpful, the results were still positive but slightly reduced. Of the 106 COs with SO experience, 78% (83) either agreed or strongly agreed; only 7 (7%) answered in the negative.
7. **Sufficiency of legal advice.** When asked if the legal advice was sufficient, the results were similar. Of the 106 COs with SO experience, 79% (84) either agreed or strongly agreed; only 11 (10%) answered in the negative.
8. **Legal advice on admissibility.** The results show that COs value the legal advice given to them during their admissibility decision and that the advice was well received, both in quality and quantity.
9. **Legal advice for deciding the outcome.** When asked if COs needed legal advice when deciding the outcome of a SC, 60% of COs (102) confirmed that this was the case; only

¹⁰³ COs could pick multiple definitions for their unit.

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9 COs disagreed (5%). This contrasts with the current policy of only providing legal advice for specific cases¹⁰⁴.

Training

10. The vast majority 96% (162) had completed the Commanding Officers' Designate Course (CODC). Given that 30 COs had been in command for less than 6 months, it is unsurprising that 7 of these 30 had not yet attended the CODC.

11. Of these 162 CO who attended the CODC, 83% (135) confirmed that they had received bespoke SC training on the course. Nine COs (6%) stated that they had not received SC training and 13 (8%) could not remember¹⁰⁵.

12. Of the 169 COs, 62% (104) stated that they provided SC training in addition to MATT 6. This highlights COs' commitment to awareness and accessibility.

Attitudes and awareness of supporting initiatives

13. **Awareness.** COs were emphatic in their view that their personnel understand their rights in submitting a SC. When asked, 50% (86) selected "strongly agree" and 44% (75) selected "agree"; only 1 CO disagreed.

14. **Accessibility to guidance.** COs were also emphatic in their view that their personnel have access to guidance and/or policy on how to submit a SC. When asked, 40% (69) selected "strongly agree" and 50% (84) selected "agree"; only 1 CO disagreed.

15. **Importance.** Although an excessive burden on the unit, COs overwhelmingly agreed (91%, 154 COs) that the SC process was important, with them affording it a "high priority" in their units. Only one CO disagreed that it was afforded a high priority.

16. **Encouraging submission of SCs.** COs were asked if they encouraged the submission of SCs within their unit. The results were a positive endorsement of the SC process, with 41% (70 COs) agreeing and only 12% (21 COs) disagreeing.

17. **"Speak Out" helpline.** The majority of COs (72%, 121) were aware of the "Speak Out" helpline.

18. **Army Mediation Service.** When considering COs' knowledge of the Army Mediation Service's ability to assist with workplace grievances, 99% of COs confirmed that they were aware of the AMS. This result correlates with COs' desire to have workplace grievances aired earlier and potentially resolved 'informally', negating the need for a SC.

19. **Chain of command's perception of numerous SCs.** Over half of the COs (56%, 95) felt that it would reflect badly on them if their unit had many SCs. This perception of being judged by the chain of command is worrying and a potential link exists between this and the delay in making a decision as Specified Officer. The theory here is that a 'wrong' decision (eg one that is subsequently overturned at appeal) will be a black mark against the CO. However, this is not the case; COs are encouraged (and required) to make a decision in good faith, based on their experience and the evidence presented to them.

¹⁰⁴ Often for those cases where financial compensation is an option.

¹⁰⁵ Five COs did not answer this question.

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Negative aspects of SCs

20. **Reputational damage to Complainants.** When asked about Complainants' reputations being tarnished by submitting a SC, the COs view was that this is not the case, with only 10% (17) agreeing. Of the 169 COs, 62% (105) disagreed with this statement. However, focus groups results showed that non-personal complaints (eg TACOS, pay) would probably be ok but that complaints against personnel would result in a tarnished reputation. This was greater in the combat units, where personnel often return to the battalion or regiment on subsequent postings. Focus groups highlighted that the privacy around a SC was minimal in units, as 'the Messes talk'. However, these junior ranks' perception of reputational damage is not mirrored by COs; more education is needed to ensure that all ranks are aware of the chain of command's view.

21. **Reputational damage to Respondents.** When asked about Respondents' reputations being tarnished by submitting a SC, COs' views were inconclusive; 34% agreed, 34% were non-committal and 32% disagreed. Interestingly, COs believed that Respondents' reputations were damaged more than the Complainants' reputations.

22. **Unit cohesion.** When asked if SCs damaged unit cohesion, COs' views were split, although they tended towards disagreeing with the question: 24% agreed, 33% were non-committal and 43% disagreed.

23. **Dissuasion.** COs were emphatic (91%, 154) that their personnel were not dissuaded from submitting a SC. Only 2 COs agreed that their personnel are dissuaded from submitting a SC.

24. **Threat.** COs were asked if they believed that SCs were used as a threat in the workplace. The findings were split but COs erred against this statement: 32% agreed, 24% were non-committal and 44% disagreed. This tallies with the qualitative responses, both from COs and from the general survey. Additionally, focus groups believed that SCs were used by some as leverage, especially for postings or courses.

Utility of the SC process

25. COs confirmed that the SC process was a useful way of **reporting** workplace grievances with 52% (89 COs) agreeing and only 25% (43 COs) disagreeing. This reinforces the COs commitment to the process and its importance.

26. However, when asked if the SC process was **effective** in resolving workplace grievances, the opinion was divided equally: 32% agreed, 33% were non-committal and 36% disagreed¹⁰⁶.

Optimal solution for addressing workplace grievances

27. When asked if COs believed that their personnel viewed SCs as the best way of dealing with a workplace grievance, only 6% (10) agreed with this statement. The majority disagreed (56%, 95).

28. **Informal Resolution at the lowest suitable level.** COs were emphatic in their support of seeking Informal Resolution at the lowest suitable level. Almost all COs (93%, 158) agreed that addressing grievances at the lowest suitable level will negate the need for a SC.

¹⁰⁶ Rounding errors account for the 101% total.

Importantly, 61% of the COs (103) chose to tick the "strongly agree" option. This view accords with the general view from across the rank range that Informal Resolution at the lowest suitable level is the best way of addressing workplace grievances.

29. **Benefits of Informal Resolution.** Further to the positive endorsement of adopting a culture of addressing workplace grievances at the lowest suitable level, COs were almost unanimous in their view that doing so would be of benefit to the unit by developing working practices and relationships. Of the 169 COs that were surveyed, 94% (159 COs) agreed and none disagreeing. We can surmise that adopting lowest suitable level will not only minimise current workplace grievances but will set the conditions for a reduction in future grievances through better communication.

30. **BHD cases.** COs were asked if BHD cases should be dealt with (and potentially resolved) informally within the unit, thus negating the need for a SC. Interestingly, the opinion was split: 35% agreed, 22% were non-committal and 43% disagreed. While this could be seen as contradicting the COs' overwhelming desire to address workplace grievances at the lowest suitable level, it is assessed that these results indicate the important of BHD and the COs' desire to be made aware of BHD occurrences.

31. **TORs specific question about non-BHD and Informal Resolution.** When asked if mediation and/or Informal Resolution could be used for non-BHD cases, COs were in strong agreement with 83% (141) agreeing and only 4% (7) disagreeing.

32. **Speed versus quality.** When asked whether speed of resolution was more important than a robust investigation, COs were clear (80%, 136) that quality was more important than speed. This counters the option that Defence should prioritise speed of investigation while accepting the risk that the decision may be wrong (and lead to more appeals).

33. **Mediation.** The differences between formal mediation (that done by the Army Mediation Service) and 'informal mediation' (that done by potentially untrained but willing personnel) was not discussed prior to the following question. COs agreed (75%, 127) that they would use their staff to mediate when an inter-personal workplace grievance had occurred. While linked to the resolution by informal means, this conflicts with the Inappropriate Behaviours team within HC, which wishes to deter non-trained mediators from conducting 'informal mediation'.

Lessons

34. When asked about confidence in the lessons process from SCs, the findings of COs were inconclusive: 26% agreed that the Army learns lessons from SCs, 43% were non-committal and 32% disagreed¹⁰⁷.

35. However, when asked if COs implemented lessons from their unit's SCs, 80% agreed (135 COs), with only one CO disagreeing.

Resources

36. COs generally agreed that the SC process placed an "excessive burden" on the unit, with 53% (90) agreeing and only 16% (29) disagreeing. This mirrors the general comments (from COs and the pan-Army survey responses) that the SC process adversely affects unit outputs.

¹⁰⁷ Rounding errors account for the 101% total.

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37. COs generally confirmed (57%, 97) that they lacked resources to manage SCs effectively.

Assisting Officer findings

38. When asked if Assisting Officers were vital in helping personnel (both complainants and respondents) in having confidence in the SC process, 83% (141) agreed; only 5% (9) disagreed.

39. Ninety-one COs (54%) agreed that being an AO was an opportunity to show leadership skills; only 15 % (26) disagreed.

40. **Time to perform the role.** In contrast to the views of Assisting Officers, COs confirmed (86%, 146 COs) that they ensured that Assisting Officers were given enough time to perform their duties.

41. **Inclusion in appraisals.** However, when asked if the Assisting Officer role should be reported on as part of the appraisal process, COs were less agreeable. When asked, 40% (67) agreed, 34% (58) were non-committal and 26% (44) disagreed. This reticence to formally recognise the role of the Assisting Officer conflicts with the otherwise positive views and suggests that the role is somewhat taken for granted.

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Pan-Army Survey on Service Complaints

Introduction

43. There were 1,121 total responses to the pan-Army SC survey. Of these, 215 were partial responses and were therefore discounted. The analysis below is from the 906 fully completed survey responses. The survey included questions that were specific to personnel who had undertaken the following, specific roles in the SC process:

- a. **Complainants.** Of the 906 personnel who answered the survey, 10% (90) had submitted a SC.
- b. **Respondents.** Of the 906 personnel who answered the survey, 19% (172) had been Respondents (on at least one SC).
- c. **Assisting Officers.** Of the 906 personnel who answered the survey, 17% (154) had been assigned the role of Assisting Officer (at least once).
- d. **Investigating Officers.** Of the 906 personnel who answered the survey, 12% (109) had been assigned the role of Investigating Officer (at least once).

Survey sample statistics

44. **Sex.** Of the 906 responses considered, 81% ((738) were from males and 15% (136) were from females (4% preferred not to say). This represents a slightly stronger response rate amongst females, which may suggest that they had a greater desire to raise their issues. This maps to the greater number of admissible SCs submitted by Army females when compared to their proportion of the Army.

45. **Age.** The ages of the Respondents were similar for those over 30 years of age but there was a lesser representation from those under 30.

46. **Ethnicity.** When considering ethnicity, 89% of Respondents classed themselves as "white" and %% preferred not to say. Extrapolating this, we can say that at least 6% of Respondents were BAME, which is representative of the Army's population when analysed by ethnicity.

47. **Cap badge.** There was a diverse response rate by capbadge.

48. **Rank.** There was a diverse response rate across the ranks: Private soldiers (7%); JNCO (12%); SNCO (16%); WO (13%); Junior Officers (15%); Majors (17%); Lieutenant Colonels (8%); Colonels and above (10%).

49. **Engagement.** There was a representative response rate across engagement type: regular service (75%); reserve service (25%). The reserve service includes those on Full Time Reserve Service contracts.

50. **MATT 6 training.** Only 58% (522) confirmed that they had received training on SC as part of MATT 6, with 12% (105) saying they were unsure. Considering it has been over a year since the MATT 6 programme was upgraded to include SC content, this figure is disappointingly low.

Awareness and knowledge

51. **Awareness of the SC process.** The level of awareness was extremely high, with 94% (850) confirming that they had the right to submit a SC. Only 16 personnel (2%) disagreed with this.

52. **Knowledge of the SC process.** When asked whether they knew how to submit a SC, 70% (632) confirmed that they knew the process. However, 18% (167) stated that they did not. This disparity was discussed in focus groups, which confirmed that this was not an issue, as personnel were confident that they had numerous sources of advice within the unit (eg the chain of command, colleagues, the Equality, Diversity and Inclusion Advisor (EDIA) and the Assistant EDIAs, Google, posters etc). They considered knowledge of the process to be unnecessary on a day to day basis, safe in the knowledge that they could find out at the point of need.

53. **Ombudsman's role.** When asked if the Ombudsman was there to hold the chain of command to account, the majority (52%, 472) agreed, with 34% being unsure. When asked if the Ombudsman would help them submit their complaint, roughly half were unsure (46%).

54. **Financial compensation.** When asked if SCs were "a good way of getting money (compensation) from the system", the majority of soldiers disagreed: 8% (75) agreed, 33% (299) were non-committal and 59% (532) disagreed. This is encouraging, as it confirms that the majority of SCs are not done purely for financial reasons.

Confidence and trust

55. **Confidence in the SC process.** When asked if they had confidence in the SC process, answers swayed towards the positive: 42% agreed, 33% were non-committal and 26% disagreed. Although many were unsure, this is probably due to the majority never have been involved in the process.

56. **The right to submit a SC.** The majority of soldiers (53%, 484) confirmed that their chain of command reinforces their right to submit a SC. This correlates with views from the COs, who consider the SC process, important and support the right to complain.

57. **Chain of command support for Complainants.** The majority of soldiers (58%, 523) believed that the chain of command would support their submission of a SC. However, a small cohort disagreed, signifying a worrying lack of trust. However, the question only specified "chain of command"; this could be taken as the JNCO up to the Commanding Officer. This issue was discussed in focus groups, which confirmed that soldiers were very confident if the SC reached the Commanding Officer. It was the lower levels of the chain of command that raised the concern / doubt.

58. **Trust in the chain of command.** The vast majority of soldiers (73%, 664) confirmed that they trusted their chain of command to take all SCs seriously; only 12% (108) disagreed. This follows on from the previous question, which confirmed that the chain of command would support the submission of a SC.

59. **Trust in investigation.** The vast majority of soldiers (70%, 633) confirmed that they trusted their chain of command to investigate all SCs thoroughly; 14% (125) disagreed. This follows on from the previous question, which confirmed that the chain of command would

support the submission of a SC. This trust in the chain of command would likely be eroded if speed of investigation was prioritised over thoroughness.

60. **Fairness of the SC process.** When asked if the SC process was fair, opinion tended towards agreement with this statement, which is a positive finding: 41% (368) agreed, 41% were non-committal and 19% disagreed.

61. **Utility of the SC process.** When asked if SC are a useful way of addressing workplace grievances, the opinion was split evenly: 31% agreed that it was useful, 38% were non-committal and 31% disagreed. These responses correlate with the COs' views.

62. **Dissuasion by chain of command.** Army personnel were clear in their belief that personnel were not dissuaded from submitting a SC. The majority (59%, 532) disagreed that 'people in their unit are advised against submitting a SC'; only 13% agreed that this was the case. This view is reinforced by 91% of the COs surveyed.

63. **Dissuasion by direct line manager.** When asked if their direct line manager would advise them not to submit a SC, only 15% (139) agreed. The majority of soldiers (54%, 481) disagreed with this statement.

Opinions of the SC process

64. Personnel were asked if submitting a SC was the only way their workplace grievance would be taken seriously. The majority 53% (476) disagreed, supporting the wide desire for Informal Resolution and increased communication. However, a worrying 24% (213) agreed with this statement, suggesting that other options were ineffective.

65. **Last resort.** The majority of soldiers (55%, 499) believed that SC are seen as the last resort; 19% (179) disagreed with this statement. This reinforces the belief that workplace grievances would benefit from Informal Resolution at the lowest suitable level.

66. **Chain of command should listen more.** When asked of the chain of command should listen more to reduce the need to submit a SC, soldiers tended towards agreement: 45% (408 agreed), 32% were non-committal and 23% disagreed.

67. **Mediation.** Support for official mediation (the Army Mediation Service) to help resolve inter-personal workplace grievances was strong amongst soldiers with the majority (69%, 623) confirming their willingness to take part; only 9% (81) responded that they would be unwilling.

68. **SCs are dealt with quickly by the chain of command.** Answers were inconclusive: 23% agreed, 40% were non-committal and 37% disagreed.

69. **Indicator of a poor unit.** When asked if a unit with many SCs indicated a unit with problems, soldiers tended towards agreement with this statement; 43% agreed, 36% were non-committal and 21% disagreed.

70. **Reputational damage to Complainants.** The issue of submitting a SC and being subsequently tagged as a "troublemaker" split opinion: 26% agreed, 32% were non-committal and 42% disagreed. This was explored more in focus groups, with the opinion being that non-personal SCs (eg TACOS, pension) would be seen as justifiable complaining but that inter-personal SCs were more likely to result in reputational damage to the Complainant.

71. **IT access.** When asked if those with access to computers are more likely to submit a SC, the opinion was split but erred towards the negative: 24% agreed, 42% were non-committal and 35% disagreed¹⁰⁸.

BHD

72. **BHD based on gender.** When asked if they were more likely to be bullied, harassed or discriminated based on their gender, 54 soldiers agreed. The results were analysed against ethnicity, engagement type and cap badge. Of these, there was one significant finding; the AGC(SPS) constitutes only 4.3% of the Army trained strength but made up 30% (16) of all 54 responses; 7 times more likely to complain.

73. **BHD based on ethnicity.** When asked if they were "more likely to be bullied, harassed or discriminated based on their ethnicity", the results were inconclusive. Unsurprisingly, the data from "white" respondents was weighted heavily against this question. This was also the case for "Asian" respondents, many of which may have been Gurkhas. Once the data was 'cleaned' to leave the remaining ethnic groups, there were 35 respondents with the following findings: 14% (5) "strongly agreed", 23% (8) "agreed", 14% (5) were non-committal, 26% (9) "disagreed" and 23% (8) "strongly disagreed". These inconclusive results match the feeling of the BAME focus group respondents, who believed that BHD based on race was not an issue.

74. **Treatment of 'attached arms'.** When asked if personnel believed that 'attached arms' are treated worse than 'cap-badged personnel' in units, the majority (53%, 482) disagreed. This does not reinforce the theory that 'attached arms' are more susceptible to bullying and therefore submit more SCs.

75. **Unit resolution of BHD cases.** Soldiers were asked if BHD cases could be resolved informally within the unit, thus negating the need for a SC. Like the COs who were asked a similar question, opinion was split but tended towards agreement with the statement: 48% agreed, 31% were non-committal and 21% disagreed. Interestingly, soldiers were significantly more positive about the unit resolving BHD issues than the COs (the COs' responses were: 35% agreed, 22% were non-committal and 43% disagreed).

Responses from Respondents

76. **Offer of Assisting Officer.** Of the 172 Respondents who answered the survey, 92% (159) had been offered an Assisting Officer.

77. **Regularity of updates.** When asked about regular updates on the progress of the SC, the findings were inconclusive. While 52% (89) confirmed that they had received regular updates, 34% (58) disagreed. Of all those that responded to the question, 14% (25) selected "strongly disagree", indicating severe dissatisfaction. Good communication depends on the quality of the AO and while the data shows a slim majority are good at communication, it is clear that the Army needs to improve in this area.

78. **Vulnerability.** The majority of Respondents (72%, 123) confirmed that they felt vulnerable during the SC. Of the 172 Respondents who answered the survey, 41% selected "strongly agree" when asked about vulnerability, indicating the strength of feeling on this subject.

¹⁰⁸ Rounding errors account for the 101% total.

79. **Professional reputation.** Further to the vulnerability findings, Respondents felt more strongly when asked if they felt that their professional reputation was being questioned. The vast majority agreed (82%, 141), with 58% (99) of all Respondents selecting the "strongly agree" option.

Responses from Assisting Officers

80. **Provision of advice and guidance.** When asked if Assisting Officers had been given advice and guidance on how to undertake their duties, the majority (61%, 94) confirmed that they had. However, a significant amount (31%, 47) disagreed. These findings suggest that there is either a need for standardised training or, where this need already exists, that an assurance process is created to ensure that all AOs have access to this training.

81. **Time to conduct the role.** The majority of Assisting Officers (55%, 85) confirmed that they had been given enough time to complete their duties. However, this is assuming that all AOs conducted their duties to the satisfaction of their customers (Complainants and Respondents), which we have found not to be the case. On the negative side, 30% (46) disagreed that enough time had been given, which may account for the negative responses from their customers.

82. **Leadership skills.** When asked if being an Assisting Officer allowed them to show their leadership skills, the results from Assisting Officers were inconclusive: 42% agreed, 38% were non-committal and 21% disagreed¹⁰⁹. These results are slightly less than the COs (54% of COs agreed that it was an opportunity).

Responses from Investigating Officers

83. **Provision of advice and guidance.** When asked if Investigating Officers had been given advice and guidance on how to undertake their duties, the majority (77%, 84) confirmed that they had. However, (18%, 20) disagreed.

84. **Time to conduct the role.** Although almost half of the Investigating Officers (49%, 85) confirmed that they had been given enough time to complete their duties, 38% (41) disagreed that enough time had been given. This variation may have implications for the quality of the investigation.

85. **Leadership skills.** When asked if being an Investigating Officer allowed them to show their leadership skills, the results from Investigating Officers were inconclusive: 30% agreed, 38% were non-committal and 33% disagreed¹¹⁰.

Responses from Complainants

86. **Offer of Assisting Officer.** Of the 90 Complainants who answered the survey, 77% (69) had been offered an Assisting Officer whereas 20% (18) confirmed that they had not. It is surprising that this figure of 77% is less than the Respondents' answer to the same question (92%).

87. **Provision of support.** When asked if Complainants received sufficient support, the results were inconclusive but tended towards the negative: 36% agreed, 18% were non-committal and 47% disagreed¹¹¹. Of the 90 Complainants who answered the survey, 28%

¹⁰⁹ Rounding errors account for the 101% total.

¹¹⁰ Rounding errors account for the 101% total.

¹¹¹ Rounding errors account for the 101% total.

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(25) selected "strongly disagree", indicating the level of dissatisfaction with the support received by them.

88. **Damage to career progression.** When the 90 Complainants were asked if the submission of a SC damages career progression, the results were inconclusive but tended towards agreement with the statement: 46% agreed, 28% were non-committal and 27% disagreed¹¹².

89. **Damage to working environment.** When the 90 Complainants were asked if the submission of a SC damages the working environment, the results were inconclusive but tended towards agreement with the statement: 43% agreed, 36% were non-committal and 21% disagreed.

¹¹² Rounding errors account for the 101% total.

Qualitative responses to both questionnaires

90. **BAME responses.** Of the 20 BAME written responses, the largest finding (5 personnel mentioned it) was that cultural differences exist and are a causal factor. This finding suggests that the continued focus on understanding the cultural backgrounds of all soldiers is still needed and should be continued. The BAME focus groups participants commented that they did not believe that the Army had a racial discrimination problem. If there was an occasion where an individual behaved inappropriately, they would tackle the issue head on. This fits with the COs' desire to have issues tackled immediately and at the lowest suitable level.

91. **Female responses.** Of the 136 females who responded to the questionnaire, 70% (95) made written comments, with the following top 3 issues being raised:

a. 26% (25) of females commented that BHD issues based on their sex were a causal factor. In addition, 12% (11) commented that senior personnel (both officers and soldiers) still retained sexist attitudes.

b. 16% (15) opined that females were more willing to express themselves and deal with issues as they arose. In support of this, 11% (10) stated that men bottle things up, so are likely to complain less. These findings were reinforced by focus groups and by a range of personnel in unstructured interviews and informal discussions.

c. 15% (14) of females commented that they were not listened to by the chain of command and that this was a contributory factor in their choice to adopt the formal route that the SC process provides.

92. **Complainants' responses.** Of the 90 that had been a Complainant, 80% (72) made written comment in the questionnaire. The following were the top issues raised:

a. 11% (8) stated that the SC process (ie investigation and decision bodies) should be independent of the Army.

b. 8% (6) believed that personnel involved in the SC process should receive more training so that they become SQEP.

c. 8% (6) stated that the process should stick to the stated timelines.

d. 7% (5) opined that Complainants should be given better advice before submitting the Annex F, including the reality of the process, what resolution can be expected and financial compensation.

93. **Respondents' responses.** Of the 172 that had been a Respondent, 85% (146) made written comment in the questionnaire. The following were the top issues raised:

a. 30% (44) expresses their desire for the SC process to be able to remove malicious and / or vexatious SCs at the outset.

b. 24% (35) stated that better support (eg welfare) should be made available for Affected Persons.

c. 17% (25) opined that the SC process was weighted in favour of the Complainant and to the detriment of the Respondent.

- d. 16% (24) wished for reduced bureaucracy and a speedier process.
- e. 16% (23) highlighted the need to utilise Informal Resolution (and/or mediation) at the lowest suitable level.

94. **Assisting Officers' responses.** Of the 154 that had been an Assisting Officer, 76% (117) made written comment in the questionnaire. The following were the top issues raised:

- a. 19% (22) stated that Assisting Officers needed more training for the role.
- b. 15% (17) recommended that those selected as Assisting Officers should have their other duties reduced accordingly.
- c. 14% (16) highlighted the need to utilise Informal Resolution (and / or mediation) at the lowest suitable level.

95. **Investigating Officers' responses.** Of the 109 that had been an Investigating Officer, 79% (86) made written comment in the questionnaire. The following were the top issues raised:

- a. 30% (26) recommended that those selected as Investigating Officers should have their other duties reduced accordingly.
- b. 17% (15) stated that Investigating Officers needed more training for the role.
- c. 10% (9) highlighted the need to utilise Informal Resolution (and/or mediation) at the lowest suitable level.

96. **Final, additional comments from the pan-Army survey.** Of the 906 Army personnel that had responded to the general SC survey, 35% (320) made written comment in the questionnaire. The following were the top issues raised:

- a. 16% (52) highlighted the need to utilise Informal Resolution (and/or mediation) at the lowest suitable level.
- b. 10% (32) commented on the negative impact of submitting a SC and the resulting stigmas that is attached to the Complainant.
- c. 10% (32) believed that soldiers were abusing the SC process, using it to punish the chain of command.
- d. 9% (30) raised the fact that the SC process was resource and time intensive.
- e. 8% (27) opined that was a lack of awareness and training on the SC process.
- f. 7% (23%) wanted the process to root out trivial/malicious/vexatious SCs.

97. **COs' responses on additional SC training.** Of the 169 Army COs that had responded to the COs' SC survey, 52% (88) made written comment on the provision of additional SC training. The main finding was that half of the COs provided SC training in addition to that mandated as part of MATT 6. While this training occurred in many forms, inclusion of the SC process on G1/Regimental study days was the main method used.

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98. **COs' final, additional comments from the COs' survey.** Of the 169 Army COs that had responded to the COs' SC survey, 56% (95) made written, additional comments. The following were the top issues raised:

- a. 36% (34) commented that SCs were an additional burden on the unit outputs. Having said this, 35% (33) confirmed that the SC process was important.
- b. 35% (33) highlighted the need to utilise Informal Resolution (and / or mediation) at the lowest suitable level.
- c. 6% (19%) believed that the SC process was being misused (eg malicious and vexatious SCs; those made as a threat; those made for personal gain).

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**Annex C to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

LIST OF SC DATA TABLES EXTRACTED FROM JPA

Table AA – Male and female admissible SCs submitted by rank 1 Jan 16 - 30 Apr 19.

Male Rank	No	%
OF0		0.3%
OF1		1.0%
OF2		7.3%
OF3		10.6%
OF4		4.9%
OF5		0.8%
OF6		0.2%
OR3		6.6%
OR7		7.9%
OR8		5.9%
OR9		3.2%
Unspecified		3.3%
Total		

Average Age	41
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Female Rank	No	%
OF0		1.9%
OF1		1.3%
OF2		9.5%
OF3		11.4%
OF4		2.5%
OF5		1.9%
OF6		0
OR3		12.7%
OR6		15.9%
OR7		14.0%
OR8		10.8%
OR9		10.5%
OR8		3.2%
OR9		1.3%
Unspecified		3.5%
Total		

Average Age	37
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Table BB - Army SC resolution for white and BAME data 1 Jan 16 - 30 Apr 19.

	White	BAME	Male	Female
Not Upheld	28.0%	41.3%	31.3%	25.3%
BHD	8.1%	25.2%	10.3%	11.9%
Other (TACOS)	19.9%	16.1%	21.0%	13.4%
Remedy Pre-Appeal	0.6%	2.1%	1.0%	0.5%
BHD	0.1%	0.7%	0.3%	0.0%
Other (TACOS)	0.5%	1.4%	0.7%	0.5%
Remedy Pre-Decision	14.0%	8.4%	13.8%	10.9%
BHD	1.9%	0.7%	1.4%	3.0%
Other (TACOS)	12.1%	7.7%	12.4%	7.9%
Upheld - Full	11.6%	3.5%	6.5%	13.4%
BHD	2.0%	0.0%	0.6%	6.0%
Other (TACOS)	9.6%	3.5%	9.0%	7.4%
Upheld - Partial	27.6%	28.7%	25.7%	34.6%
BHD	9.6%	18.9%	9.4%	16.8%
Other (TACOS)	18.0%	9.8%	16.3%	17.8%
Withdrawn	18.3%	16.1%	18.7%	15.3%
BHD	4.3%	7.7%	4.1%	7.4%
Other (TACOS)	14.0%	8.4%	14.6%	7.9%

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Table CC - Army SC submitted by Ethnicity during the period during period 1 Jan 16 - 30 Apr 19.

Male Ethnicity	No	%	Female Ethnicity	No	%
Any Chinese Background		0.2%	Any Chinese Background		0.3%
Any other White background		0.3%	Any other White background		0
Asian Bangladeshi		0.1%	Asian Bangladeshi		0.3%
Asian Indian		0.6%	Asian Indian		1.0%
Asian Pakistani		0.7%	Asian Pakistani		0
Black African		6.5%	Black African		2.9%
Black Caribbean		2.5%	Black Caribbean		4.8%
Declined to Declare		0.6%	Declined to Declare		0.6%
Mixed Asian and White		0.3%	Mixed Asian and White		0.6%
Mixed Black African & White		0.2%	Mixed Black African & White		0.3%
Mixed Black Caribbean & White		0.3%	Mixed Black Caribbean & White		1.0%
Not Specified		1.6%	Not Specified		0.3%
Diverse Asian Background		2.6%	Other Asian Background		0
Other Black Background		0.3%	Other Black Background		0.6%
Other Ethnic Background		0.6%	Other Ethnic Background		0.3%
Other Mixed Ethnic Background		0.7%	Other Mixed Ethnic Background		1.6%
White Background		73.2%	White Background		74.0%
White English/Welsh/Scottish/NI		6.8%	White English/Welsh/Scottish/NI		11.4%
Grand			Grand		
Total			Total		

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Table DD - Comparison of female and male admissible Army SC submitted 1 Jan 16 - 30 Apr 19.

Female Admissible compared with Male Admissible SC from 1 Jan 16 - 30 Apr 19 (1392 in total)				
Female		Male		
Bullying		27.0%	Bullying	16.2%
Asian Bangladeshi			Any Chinese Background	
Black African			Asian Pakistani	
Black Caribbean			Black African	
Declined to Declare			Black Caribbean	
Mixed Black Caribbean and White			Mixed Black Caribbean and White	
Not Specified			Not Specified	
Other Ethnic Background			Other Asian Background	
Other Mixed Ethnic Background			Other Ethnic Background	
White Background			Other Mixed Ethnic Background	
White English/Welsh/Scottish/NI			White Background	
Career Management		26.7%	White English/Welsh/Scottish/NI	
Black African			Career Management	29.9%
Black Caribbean			Any Chinese Background	
Mixed Black Caribbean and White			Any other White background	
Other Black Background			Asian Indian	
Other Mixed Ethnic Background			Asian Pakistani	
White Background			Black African	
White English/Welsh/Scottish/NI			Black Caribbean	
Direct Discrimination		9.8%	Declined to Declare	
Black African			Mixed Asian and White	
Black Caribbean			Mixed Black Caribbean and White	
Mixed Black Caribbean and White			Not Specified	
White Background			Other Asian Background	
White English/Welsh/Scottish/NI			Other Black Background	
Discipline		2.2%	Other Ethnic Background	
Black Caribbean			Other Mixed Ethnic Background	
Other Mixed Ethnic Background			White Background	
White Background			White English/Welsh/Scottish/NI	
Harassment		7.3%	Direct Discrimination	6.1%
Asian Indian			Asian Indian	
Black African			Black African	
Black Caribbean			Black Caribbean	
Mixed Asian and White			Mixed Asian and White	
White Background			Other Asian Background	
White English/Welsh/Scottish/NI			White Background	
Improper Behaviour		9.5%	White English/Welsh/Scottish/NI	
Black African			Discipline	3.1%
Declined to Declare			Asian Indian	
Mixed Black African and White			Black African	
White Background			Not Specified	
White English/Welsh/Scottish/NI			Other Asian Background	
Indirect Discrimination		3.5%	Other Mixed Ethnic Background	
Any Chinese Background			White Background	
Black African			White English/Welsh/Scottish/NI	
White Background			Harassment	3.5%
White English/Welsh/Scottish/NI			Asian Indian	

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Manning and Discharge	2.5%	Asian Pakistani	
Black Caribbean		Black African	
White Background		Black Caribbean	
Medical and Dental	3.9%	Other Asian Background	
Black African		White Background	
White Background		White English/Welsh/Scottish/NI	
White English/Welsh/Scottish/NI		Improper Behaviour	8.3%
Pay Pension Allowances	5.1%	Asian Pakistani	
Black African		Black African	
White Background		Black Caribbean	
White English/Welsh/Scottish/NI		Not Specified	
Terms and Conditions of Service Misc	1.6%	Other Asian Background	
Mixed Asian and White		Other Mixed Ethnic Background	
White Background		White Background	
Grand Total		White English/Welsh/Scottish/NI	
		Indirect Discrimination	1.1%
		Black African	
		Black Caribbean	
		Mixed Black African and White	
		Other Asian Background	
		White Background	
		Manning and Discharge	4.5%
		Black African	
		Mixed Black Caribbean and White	
		Not Specified	
		Other Asian Background	
		White Background	
		White English/Welsh/Scottish/NI	
		Medical and Dental	5.1%
		Black African	
		Mixed Black African and White	
		Other Asian Background	
		White Background	
		White English/Welsh/Scottish/N	
		Pay Pension Allowances	16.8%
		Any other White background	
		Asian Bangladeshi	
		Black African	
		Black Caribbean	
		Declined to Declare	
		Other Asian Background	
		Other Black Background	
		Other Mixed Ethnic Background	
		White Background	
		White English/Welsh/Scottish/NI	
		Terms and Conditions of Service Misc	5.4%
		Asian Pakistani	
		Declined to Declare	
		Other Ethnic Background	
		White Background	
		White English/Welsh/Scottish/NI	
		Grand Total	

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Table EE - Male and Female Admissible Complaints by cap badge 1 Jan 16 - 30 Apr 19.

Male - Cap Badge	No	%	Female - Cap Badge	No	%
1		0.1%	13		0.3%
15		0.2%	14		0.3%
17		0.1%	15		0.6%
18		0.1%	17		0.3%
8		0.2%	8		0.3%
AAC		5.6%	AAC		1.9%
ACF		1.9%	ACF		0.3%
AGC (ALS)		0.4%	AGC (ETS)		0.3%
ACC (ETS)		0.2%	AGC (MPGS)		0.3%
AGC (MPGS)		1.5%	AGC (RMP)		3.8%
AGC (MPS)		0.3%	AGC (SPS)		22.5%
AGC (RMP)		3.1%	CAMUS		1.3%
AGC (SPS)		5.8%	GEN SERVICE		0.3%
Air Ops		0.1%	GENERAL STAFF		1.0%
CAMUS		0.4%	INFANTRY		0.3%
CHAPLAIN 2000		0.1%	INT CORPS		4.8%
ENGINEER RAF		0.1%	LOGISTICS		0.3%
FLT OPS		0.1%	MEDICAL SUPPORT		0.3%
GEN SERVICE		0.2%	PERS(SPT)		0.3%
GENERAL STAFF		0.6%	QARANC		4.1%
HCAV		0.9%	R SIGNALS		6.0%
INFANTRY		14.6%	RA		2.9%
INT		0.1%	RACHD		0.6%
INT CORPS		2.6%	RADC		1.0%
LEGAL		0.1%	RADC DO		0.6%
PERS(TRG)		0.1%	RAMC		13.3%
PILOT		0.2%	RAMC MO		4.1%
PROV		0.3%	RAVC		1.3%
R SIGNALS		6.5%	RE		2.2%
RA		5.5%	REME		4.1%
RAC		2.7%	RLC		13.7%
RACHD		0.3%	RN Logistics GS		0.3%
RADC		0.2%	RN Medical GS		0.3%
RADC DO		0.2%	RN QARNNS (OF)		0.3%
RAMC		6.4%	STAFF		0.6%
RAMC MO		0.7%	Unspecified		3.5%
RAPTC		0.9%	UOTC B		0.3%
RAVC		0.1%	WSO(NAV)		0.3%
RE		7.6%	Grand Total		
REGT		0.1%			
REME		5.8%			
RLC		14.7%			
RN Engineer FAA (OF)		0.2%			
RN Engineer GS		0.1%			
RN Engineer SM (OF)		0.1%			
RN Logistics GS		0.1%			
RN Logistics GS (OF)		0.1%			
RN Medical GS		0.1%			
RN Royal Marines GS		0.5%			
RN Royal Marines GS (OF)		0.3%			
RN Royal Marines SF (OF)		0.1%			
RN Warfare GS (OF)		0.8%			
RN Warfare SM (OF)		0.1%			
SASC		0.3%			

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STAFF		0.2%	
Unspecified		4.0%	
UOTC A		0.1%	
WSO (Air Eng)		0.1%	
WSO(NAV)		0.2%	
Grand Total			

Table FF - Female and Male AGC & AMS Admissible Complaints 1 Jan 16 - 30 Apr 19.

Female AGC		%
Career Management		35.9%
Bullying		20.5%
Improper Behaviour		12.8%
Harassment		10.3%
Direct Discrimination		7.7%
Pay Pension Allowances		7.7%
Medical and Dental		2.6%
Discipline		1.3%
Indirect Discrimination		1.3%
Manning and Discharge		1.3%

Female AMS		%
Bullying		28.6%
Career Management		24.7%
Direct Discrimination		14.3%
Improper Behaviour		9.1%
Harassment		5.2%
Indirect Discrimination		5.2%
Medical and Dental		5.2%
Manning and Discharge		2.6%
Pay Pension Allowances		2.6%
Terms and Conditions of Service Misc		2.6%

Male AGC		%
Career Management		32.4%
Bullying		16.9%
Pay Pension Allowances		14.2%
Improper Behaviour		12.2%
Direct Discrimination		7.4%
Terms and Conditions of Service Misc		5.4%
Harassment		3.4%
Medical and Dental		3.4%
Discipline		3.4%
Manning and Discharge		1.4%

Male AMS		%
Career Management		38.3%
Bullying		20.9%
Direct Discrimination		9.6%
Pay Pension Allowances		6.1%
Discipline		6.1%
Medical and Dental		4.3%
Improper Behaviour		3.5%
Manning and Discharge		3.5%
Harassment		2.6%
Indirect Discrimination		2.6%
Terms and Conditions of Service Misc		2.6%

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Table GG - Sex / Sexual categories and time to closure / resolution SC 1 Jan 16 - 30 Apr 19

		Sex/Sexual/Sexual Orientation Harassment	Closed	Mean time to closure in days	Direct Sex/Sexual Orientation Discrimination	Closed	Mean time to closure in days	Indirect Sex/Sexual Orientation Discrimination	Closed	Mean time to closure in days
	Submitted Male									
	Admissible Male			362		249			0	
	Submitted Female									
	Admissible Female			262		529			211	
	Submitted Male									
	Admissible Male			290		0			0	
	Submitted Female									
	Admissible Female			208		0			0	
	Submitted Male									
	Admissible Male			0		0			0	
	Submitted Female									
	Admissible Female			423		654			0	

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**Annex D to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

ABBREVIATIONS

A SC(FA) Act 15	Armed Forces (Service Complaints and Financial Assistance) Act 2015
Acas	Advisory, Conciliation and Arbitration Service
ACSO	Army Command Standing Order
AGAI	Army General Administration Instruction
AMS	Army Mediation Services
AO	Assisting Officer
APC	Army Personnel Centre
APSG	Army Personnel Support Group
ASC Sec	Army Service Complaints Secretariat
BAME	Black, Asian and Minority Ethnic
BH&D	Bullying, Harassment and Discrimination
CDP	Chief of Defence People
CO	Commanding Officer
CoC	Chain of Command
COO	Chief Operating Officer
D AFP Pol	Director Armed Forces People Policy
DB	Decision Body
DBS	Defence Business Services
DCGS	Deputy Chief of the General Staff
DIN	Defence Instructions and Notices
DIO	Defence Infrastructure Organisation
DJEP	Defence Judicial Engagement Policy
DLAB	Decision Level Appointment Board
DLIMS	Defence Lessons Identified Management System
DST	Defence Strategy Team
ECAB	Executive Committee of the Army Board
EDA	Equality and Diversity Advisor
ET	Employment Tribunal
ExCo	Army Executive Committee
Fd Army	Field Army
FEHIO	Fee Earning Harassment Investigation Officer
HC	Home Command
HCDC	House of Commons Defence Committee
HIO	Harassment Investigation Officer
IM	Independent Member
IO	Investigating Officer
JPA	Joint Personnel Administration
JSP	Joint Service Publication
KPI	Key Performance Indicator
LM	Line Manager
MATTs	Military Annual Training Tests
MIS	Management Information System
MOD	Ministry of Defence

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MoE	Measurement of Effectiveness
MoP	Measurement of Performance
MS	Military Secretary
OSCO	Office of the Service Complaints Ombudsman
PAP	Potentially Affected Persons
PPO	Principle Personnel Officer
SC	Service Complaint
SCO	Service Complaints Ombudsman
SCOAF	Service Complaints Ombudsman for the Armed Forces
SCRPB	Service Complaints Review Project Board
SCSWG	Service Complaints Statistics Working Group
SCTSC	Service Complaints Training Sub-Committee
SCWG	Service Complaints Working Group
SO	Specified Officer
SOP	Standard Operating Procedure
SP	Service Personnel
SPPG	Service Personnel Policy Group
sS	single Services
STT	Special To Type
TACOS	Terms and Conditions of Service
UNGP on Business Human Rights	United Nations Guiding Principles on Business and Human Rights

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**Annex E to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

GLOSSARY

Annex F	A Service complaint form (Annex F to Part 2 of JSP 831) which captures key information about the issues being complained about and the redress that is being sought. It is the primary method for formalising a complaint, although the legislation only requires that the complaint be in writing.
Army Mediation Service	The Army Mediation Service (AMS) provides soldiers and civil servants with the opportunity to address workplace relationships which have broken down by offering resolution at the appropriate level of escalation. Mediation is most effective when used to address problems when they first occur so that individuals can resolve issues before they get out of hand. ¹¹³
Army Service Complaints Secretariat (Army SC Sec)	The Service Complaints Secretariat for the Army
Assisting Officer (AO)	A person who is appointed by the chain of command to provide help and support to a complainant or respondent during the Service complaints process. A complainant or respondent can also nominate someone to act as their AO.
Bullying	<p>Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010.¹¹⁴</p> <p>Examples of bullying or harassing behaviour include:</p> <ul style="list-style-type: none"> • spreading malicious rumours • unfair treatment • picking on or regularly undermining someone • denying someone's training or promotion opportunities <p>Bullying and harassment can happen:</p> <ul style="list-style-type: none"> • face-to-face • by letter • by email • by phone

¹³ <http://www.army.mil.uk/personnel-and-welfare/>

¹⁴ <http://www.gov.uk/workplace-bullying-and-harassment>

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.
Complainants	A serving or former Service person who has made a Service Complaint. ¹¹⁵
Contact	Recorded instance of an enquiry or application being made to the OSCO.
Decision Body	One or more individuals who have been appointed by a single Service Complaints Secretariat to investigate and make a decision on a Service Complaint.
Discrimination	<p>Discrimination can come in one of the following forms:¹¹⁶</p> <ul style="list-style-type: none"> • Direct Discrimination - treating someone with a protected characteristic less favourably than others • Indirect Discrimination - putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage • Harassment - unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them • Victimisation - treating someone unfairly because they've complained about discrimination or harassment
Equality Diversity and Inclusion Advisor (EDIA)	EDIAs are the command/establishment focal point for providing impartial advice to all Service personnel on any Equality and Diversity issue, including allegations of bullying and harassment.
Fee Earning Harassment Investigation Officer (FEHIO)	An individual appointed to investigate formal complaints of bullying and harassment and who receives a fee for undertaking that investigation.
Finally determined	A complaint that has completed the internal process i.e. a decision has been taken on the complaint by the Decision Body and, if an appeal is available, there has been a determination by the Appeal Body. In some cases, there will be a decision stage with no appeal because of the seniority of the Decision Body. A complaint has not been finally determined for the purposes of an Ombudsman investigation if an appeal is available, but the complainant chooses not to pursue it.
Harassment	Harassment may include bullying behaviour, and it refers to bad treatment that is related to a protected characteristic, such as age, sex,

¹¹⁵ JSP 831 Redress of Individual Grievances: Service Complaints Part 2: Guidance. Effective from 22 January 2016.

¹¹⁶ <http://www.gov.uk/equality-and-diversity/how-you-can-be-discriminated-against>

	<p>disability, race, gender, religion or sexual orientation.</p> <p>More specifically, the law defines it as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.'¹¹⁷</p>
Harassment Investigation Officer (HIO)	An individual appointed to investigate formal complaints of bullying and harassment.
Independent Member (IM)	A person who is not a member of the Armed Forces or the Civil Service, who has been recruited by the Ministry of Defence on a fee earning basis to provide an independent view on appointment to complaints of a specific type.
Informal complaint	Any allegation(s) or issue(s) raised with the relevant Service ahead of a written, signed and dated complaint being submitted.
Informal Resolution (Informal Resolved)	Refers to a complaint which is resolved prior to a formal decision being made.
Internal process	The process that is handled by the Services from receiving a Service complaint through to making a final decision. The processes of the OSCO sit outside of this internal process.
Investigating Officer (IO)	An individual appointed by a Decision or Appeal Body to investigate a complaint on its behalf and to report back with findings of fact.
Joint Personnel Administration (JPA)	JPA is the intranet-based personnel administration system used by the Services to log all complaints dealt with under JSP 831. All complaints must be entered by the complainant's unit admin staff at the earliest opportunity after submission.
Joint Service Publication (JSP)	An authoritative set of rules or guidelines with defence-wide applicability or interest.
Maladministration	There is no set legal definition of maladministration, although it generally means that there was a failure to follow correct procedure. ¹¹⁸
Naval Service Casework Secretariat	The Service complaints secretariat for the Naval Service.
Non-Commissioned Officers and Warrant Officers (NCOs and WOs)	Non-Commissioned Officers (including corporals, sergeants and chief technicians) and Warrant Officers. The Royal Navy does not use NCOs but calls them senior ratings (or senior rates).
Office of the Service Complaints Ombudsman (OSCO)	Refers to the office and personnel that assist to carry out the functions of the Ombudsman as a whole, rather than the specific position of the Service Complaints Ombudsman.
Officers	A member of the Armed Forces holding the Queen's Commission to lead and command elements of the Armed Forces. Officers form the

¹¹⁷ <http://www.acas.org.uk/index.aspx?articleid=5535>.

¹¹⁸ Service Complaints Ombudsman for the Armed Forces, Annual Report 2017.

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	middle and senior management of the Armed Forces.
Out of time	When a complaint is made more than three months after the alleged incident(s) and it is not considered just and equitable to extend the time limit.
Pte & Equivalent	A private is a soldier of the lowest military rank (equivalent to NATO Rank Grades OR-1 to OR-2 depending on the Service served in).
Red flag complaint	A complaint which has missed the 24-week target and remains unresolved.
Referral	The Ombudsman's statutory power to refer an individual's intention to make a Service complaint to their chain of command. An individual does not need to give reasons for using the Ombudsman as an alternative point of contact to their chain of command.
Respondent	A person who is the subject of a Service complaint. ¹¹⁹
Service Complaint	A formal complaint made by a serving or former member of the Armed Forces about a wrong that occurred during, and which was related to, their Service life.
Service Complaints Ombudsman	The Ombudsman provides independent and impartial oversight of the Service complaints system.
Service Complaints Team	The Service complaints secretariat for the RAF.
Special to type (STT)	A category of complaint where there is "another formal system" that must be exhausted prior to a Service complaint being acted upon, eg Service medical care, housing complaints, pay and allowances.
Specified Officer (SO)	The person to whom a complainant submits a statement of complaint at the start of the Service complaints process. The SO is usually the individual's Commanding Officer.
Statement of Complaint	The document in which a Service person must set out the particulars of their Service complaint. The Annex F provides a template for this.
The protected characteristics	The following characteristics are protected characteristics— age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation. ¹²⁰
Undue delay	There is no legal definition of undue delay, but it is generally taken to mean an unreasonable or unfair delay. What constitutes undue 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 for which there is justifiable cause.
Victimisation	Poor or unfair treatment of an individual who has made a complaint due to the fact that they made a complaint. This includes instances where an

¹¹⁹ JSP 831 Redress of Individual Grievances: Service Complaints Part 2: Guidance. Effective from 22 January 2016.

¹²⁰ Equality Act 2010, chapter 15.

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	individual has not yet made a complaint, but it is suspected that they will do so, and they are treated poorly or unfairly because of that.
Withdrawn	A complainant can decide to withdraw their Service Complaint at any point in the process. The complaint will then be recorded as withdrawn.

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**Annex F to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

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Annex G to
Review of the Army Service Complaints Process
Dated 28 Jun 19

STAKEHOLDER LIST

Ser	Rank/Grade/Title	Forename	Surname	Role	Organisation	Category
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	B2	[REDACTED]	[REDACTED]	Head of Investigations	SCOAF	External to Defence
2	B1	[REDACTED]	[REDACTED]	Chief of Operations	SCOAF	External to Defence
	C1	[REDACTED]	[REDACTED]	Statistics Manager	SCOAF	External to Defence
3	B2	[REDACTED]	[REDACTED]	Chief of Staff	SCOAF	External to Defence
4	Senior Manager	[REDACTED]	[REDACTED]	Senior Manager, Grievance Management Team	Metropolitan Police	External to Defence
5	C1	[REDACTED]	[REDACTED]	Policy Manager	SCOAF	External to Defence
6	SCS	Nicola	Williams	Service Complaints Ombudsman for the Armed Forces	SCOAF	External to Defence

G-1

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Ser	Rank/Grade/Title	Forename	Surname	Role	Organisation	Category
(a)	(b)	(c)	(d)	(e)	(f)	(g)
7	Lieutenant Colonel	[REDACTED]	[REDACTED]	Military Assistant to Chief of Defence People	MOD	External to Army
8	Commander RN	[REDACTED]	[REDACTED]	SO1 Navy Legal Complaints	RN SC Secretariat	External to Army
9	B1	[REDACTED]	[REDACTED]	Navy Service Complaints Secretary	RN SC Secretariat	External to Army
10	C2	[REDACTED]	[REDACTED]	SO2 Service Complaints Team	RAF SC Secretariat	External to Army
11	Lieutenant General	Richard	Nugee	Chief of Defence People	Defence Authority for People, MOD	External to Army
12	C1	[REDACTED]	[REDACTED]	Navy Legal Litigation	RN SC Secretariat	External to Army
13	Squadron Leader	[REDACTED]	[REDACTED]	RAF Case Manager SO2	RAF SC Secretariat	External to Army
14	Wing Commander	[REDACTED]	[REDACTED]	SO1 Legal Service Complaints Team	RAF SC Secretariat	External to Army
15	B1	[REDACTED]	[REDACTED]	Discipline, Conduct, Complaints and Legislation	People Secretariat, MOD	External to Army
16	Group Captain	[REDACTED]	[REDACTED]	DACOS A1 Pers Pol (RAF Complaints Secretary)	RAF SC Secretariat	External to Army
17	E1	[REDACTED]	[REDACTED]	HR Advisor	Defence Equipment & Support	External to Army
18	Lieutenant Colonel	[REDACTED]	[REDACTED]	SO1 Projects	Army SC Secretariat, APSG	Internal
19	C1	[REDACTED]	[REDACTED]	Service Complaints C1	Defence Personnel Secretariat	Internal
20	Colonel	[REDACTED]	[REDACTED]	Army Legal Advisor	Army Headquarters	Internal

G-2

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Ser	Rank/Grade/Title	Forename	Surname	Role	Organisation	Category
(a)	(b)	(c)	(d)	(e)	(f)	(g)
21	Lieutenant Colonel	[REDACTED]	[REDACTED]	SO1 Unacceptable Behaviours	Home Command	Internal
22	Colonel	[REDACTED]	[REDACTED]	SO1 Career Management Service Complaints	Army Personnel Centre	Internal
23	Lieutenant Colonel	[REDACTED]	[REDACTED]	SO1 Army Service Complaints Ombudsman Liaison Team	Army SC Secretariat, APSG	Internal
24	Brigadier	Chris	Coles	Head Army Personnel Services Group	Army Personnel Services Group	Internal
25	Colonel	[REDACTED]	[REDACTED]	Assistant Head Service Complaints	Army Personnel Centre	Internal
26	C2	[REDACTED]	[REDACTED]	SO2 Occupational Psychologist	Army Personnel Research Capability, Army HQ	Internal
27	Colonel	[REDACTED]	[REDACTED]	Assistant Head, Workforce Policy	Army HQ	Internal
28	Lieutenant Colonel	[REDACTED]	[REDACTED]	SO1 Legal	Army SC Secretariat, APSG	
29	Warrant Officer Class 1	[REDACTED]	[REDACTED]	Service Complaints Investigation Team	Army SC Secretariat, APSG	Internal
30	C2	[REDACTED]	[REDACTED]	SO2 Service Complaints Decision Body Secretary	Army Personnel Centre	Internal
31	Brigadier (Retd)	[REDACTED]	[REDACTED]	Army Service Complaints Secretary (until 28 Feb 19)	Army SC Secretariat, APSG	Internal
32	C2	[REDACTED]	[REDACTED]	Case Manager	Army SC Secretariat, APSG	Internal
33	C1	[REDACTED]	[REDACTED]	SO1 Occupational Psychologist	Army Personnel Research Capability, Army HQ	Internal
34	Lieutenant Colonel	[REDACTED]	[REDACTED]	SO1 Directorate Army Legal Services	Army Headquarters	Internal

G-3

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Ser	Rank/Grade/Title	Forename	Surname	Role	Organisation	Category
(a)	(b)	(c)	(d)	(e)	(f)	(g)
35	B2	[REDACTED]	[REDACTED]	Principal Psychologist	Army Personnel Research Capability, Army HQ	Internal
36	C2	[REDACTED]	[REDACTED]	SO2 Occupational Psychologist	Army Personnel Research Capability, Army HQ	Internal
37	Captain	[REDACTED]	[REDACTED]	1 Regiment Royal Logistic Corps Unit Welfare Officer	1 Regiment RLC	Internal
38	C2	[REDACTED]	[REDACTED]	SO2 Discipline	12 Armd Inf Brigade	Internal
39	Lieutenant Colonel (Retd)	[REDACTED]	[REDACTED]	SO1 Operations	Army SC Secretariat, APSG	Internal
40	Brigadier	James	Johnston	Head Legal Advice	Army HQ	Internal
41	Major	[REDACTED]	[REDACTED]	SO2 Performance	Army SC Secretariat, APSG	Internal
42	Lieutenant Colonel	[REDACTED]	[REDACTED]	Military Assistant to Deputy Chief of the General Staff	Army HQ	Internal
43	C2	[REDACTED]	[REDACTED]	Service Complaints C2	Defence Personnel Secretariat	Internal
44	Brigadier (Retd)	[REDACTED]	[REDACTED]	Army Service Complaints Secretary (from 1 Apr 19)	Army SC Secretariat, APSG	Internal
45	Major	[REDACTED]	[REDACTED]	SO2 MIS and Assurance	Army SC Secretariat, APSG	Internal
46	Lieutenant General	Nick	Pope	Deputy Chief of the General Staff	Army HQ	Internal
47	Captain	[REDACTED]	[REDACTED]	Equality Diversity & Inclusion Advisor	32nd Regiment Royal Artillery	Internal

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Ser	Rank/Grade/Title	Forename	Surname	Role	Organisation	Category
(a)	(b)	(c)	(d)	(e)	(f)	(g)
48	Major	[REDACTED]	[REDACTED]	SO2 Cohesion	Army SC Secretariat, APSG	Internal
49	Major	[REDACTED]	[REDACTED]	SO2 Diversity and Inclusion	Army HQ	Internal
50	C2	[REDACTED]	[REDACTED]	SO2 Occupational Psychologist	Army Personnel Research Capability, Army HQ	Internal
51	Lieutenant General	Ty	Urch	Commander Home Command	Home Command	Internal
52	Major	[REDACTED]	[REDACTED]	SO2a Unacceptable Behaviours Team (Army Mediation Service)	Home Command	Internal

CONSOLIDATION OF SINGLE SERVICE SC TRAINING

Single Service SC Training. The Ombudsman made 3 training specific recommendations in the Annual Report 2017. The single Services have recorded the existing SC training that they deliver in the 3 tables that follow this page.

2.3	That by April 2019, all guidance and training provided to Commanding Officers and Specified Officers is reviewed to ensure that it includes specific reference to the extended timeframes to make a Service complaint that concerns a matter that could be taken to an Employment Tribunal. This guidance should include examples of the types of complaints which may give rise to the extended timeframe.
2.4	That by April 2019 training is available to personnel involved in making decisions as part of the Service complaints process, including Specified Officers, Decision Bodies and Appeal Bodies, on decision writing for complaints handlers. This could be discreet training or part of a wider package on Service complaints as referred to in recommendation 2.7.
2.7	That by April 2019, an online training module on the Service complaints process, including a module on how to handle Service complaints for personnel charged with that process i.e. Commanding Officers, Specified Officers, Decision Bodies and Appeal Bodies, is developed and implemented tri-Service.

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Army SC Training

Ser (a)	Cse (b)	Audience (c)	Delivered by (d)	Audience/Nos (e)	SCO Trg Rec (f)	Frequency (g)	Remarks (h)
1	Commanding Officer's Designate Course	Newly appointed COs	SO1 Ops	OF3/4 (c40 pax)	2.3, 2.4, 2.7	4	
2	Officer Commanding Discipline and Administrative Course	Newly appointed OCs	SO1 Ops/SO2 Cohesion	OF3 (c40 pax)	2.4, 2.7	10	
3	Late Entry Officers Cse	Newly commissioned LE Offrs	SO1 Ops	OF2 (c80 pax)	2.4, 2.7	7	
4	RMAS Offrs Cse	OCDTs in their final term	SO1 Ops	OCDTs (c120)	2.4, 2.7	2	
5	Unit Briefs	Commanders, G1 Pers	SO1 Ops	OR6 - OF3 (c120 pax)	2.3, 2.4, 2.7	c50	
6	G1 Div/Bde Discipline Days	Div/Bde G1 Staff	SO1 Ops SO2 MIS Legal	OR6 - OF4 (c10-50 pax) E1-C2	2.3, 2.4, 2.7	4	In support of Commanding Officers, Specified Officers, Decision Bodies
7	Adjutants Cse	Newly appointed Adjts	SO2 Cohesion SO2 MIS Legal	OF2 (c36 pax)	2.3, 2.4, 2.7	12	In support of Commanding Officers, Specified Officers, Decision Bodies
8	Staff Support Assistants Cse	Newly appointed SSAs	SO3 MIS SNCO MIS	OR6 (c12 pax)	2.4, 2.7	12	In support of Commanding Officers, Specified Officers, Decision Bodies
9	HFDA	Newly appointed Div/Bde G1 Staff	SO2 Cohesion SO2 MIS	OF3 (c10 pax) E1-C1	2.3, 2.4, 2.7	3	In support of Commanding Officers, Specified Officers, Decision Bodies
10	Intermediate Command and Staff Cse	Newly promoted OF3	SO1 Ops	OF3 (c150 pax)	2.3, 2.4, 2.7	2	
11	Visiting Warrant Officer/SO2 SPS	Newly appointed Bde SPS G1 Audit staff	SO2 MIS	OR8-OF3 (c40 pax)	2.4, 2.7	2	Staff inspecting Commanding Officers, Specified Officers, Decision Bodies
12	Defence Recovery Employment Trg Cse	PRU CO/Welfare Staff	SO1 Ops/SO2 Cohesion	OR8 - OF4 (c30pax)	2.4, 2.7	4	PRU, Welfare staff

H-2

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RN SC Training

Ser (a)	Cse (b)	Audience (c)	Delivered by (d)	Nos (e)	SCO Trg	Frequency (g)	Remarks (h)
1	Royal Marines Commanding Officers Designate Course (RM CODC)	Newly appointed COs	Casework Legad SO2	20		When course is convened, normally annually	Up to 30 personnel per year.
2	Royal Navy Commanding Officers and Executive Officers Designate Course	Newly appointed COs and XO's	Casework Legad SO2	30		When course is convened, normally termly	Up to 90 personnel per year.
3	Initial Logistics Officers' Course (ILOC)	Newly appointed Logistics Officers	DMLS CMD CTO1 and LEGAD WEST SO2	8		When course is convened, normally termly	Up to 24 personnel per year.
4	Leading Rates Leadership Course (LRLC)	Leading Rates	Royal Navy Leadership Academy	30		When course is convened, rolling throughout the year	Up to 1170 personnel per year.
5	Senior Rates Leadership Course (SRLC)	Senior Rates	Royal Navy Leadership Academy	20		When course is convened, rolling throughout the year	Up to 740 personnel per year.
6	Divisional Officers Course (DOC)	Divisional Officers	Royal Navy Leadership Academy	24		Rolling throughout the year	Up to 840 personnel per year.
7	Divisional Officers Refresher Course (DOC)	Divisional Officers	Royal Navy Leadership Academy	varies		DLE based training	Only recently placed on DLE, we will be in a better place to provide this data in 12 months.
8	Service Complaint Basic Awareness - Royal Marines	New Joiners: Officers, Other, Other Ranks and Trainees	Commando Training Centre Royal Marines	varies		For every troop intake, normally termly	Approx 700 personnel per year
9	Service Complaint Basic Awareness - Royal Navy sailors	New Joiners: Trainees	HMS RALEIGH	varies		For every intake, normally termly	Approx 2000 recruits per year
10	Service Complaint Basic Awareness - Royal Navy Officers	New Joiners: Trainees	BRNC DARTMOUTH	varies		For every intake, normally termly	Approx 450 cadets per year
11						TOTAL	Up to 6046 per year, not including DO Refresher course on the DLE. This equates to 20% of the Service every year.

H-3

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RAF SC Training

Ser (e)	Case (b)	Audience (c)	Delivered by (d)	Audience/Nos (e)	SCD Trg Rec (f)	Frequency (g)	Remarks (h)
1	Future Commanders Study Period.	Newly appointed COs	DACOS A1	OF4 to OF5/circa 20	2.3, 2.4, 2.7	4 per year	1. DACOS A1 has a dedicated slot for SCs. 2. This course is for anyone going in to a command appointment so OF3s could attend.
2	Service Discipline Course	New appointed Unit P1 staff.	SO3 Case Managers	OR2 to OF3/circa 20	2.3, 2.4, 2.7	6 per year	1. In support of Commanding Officers. Specified Officers and Decision Bodies 2. Includes specific IPA training.
3	Career Management Induction Module (CMIM).	New arrivals to Career Management posts in the COS Pers AOR.	SO3 Case Managers	OR4 to OF4/circa 15	2.4, 2.7	6 per year	
4	HR Management Course	Unit HR specialists	SO3 Case Managers	OR6 to OF4/circa 10	2.3, 2.4, 2.7	4 per year	In support of Commanding Officers. Specified Officers and Decision Bodies.
5	Initial Officer Development Course No 2.	Development of OF2s	SO3 Case Managers	OF2/circa 40	2.4, 2.7	6 per year	
6	Higher Management and Leadership Course.	Newly promoted OR9s	SO3 Case Managers	OR9/circa 15	2.4, 2.7	12 per year	
7	Advanced Management and Leadership Course.	Newly promoted OR7s	SO3 Case Managers	OR7/circa 20	2.4, 2.7	12 per year	
8	Air Personnel Casework Workshop	Unit HR specialists	SO3 Case Managers	OR2 to OF3/circa 10-15.	2.3, 2.4, 2.7	2 per year	1. In support of Commanding Officers. Specified Officers and Decision Bodies. 2. The SCT has a dedicated slot for SCs.
9	Unit Investigation Officer Training.	Unit volunteers for investigations.	SO3 Case Managers	OR6 to OF2/circa 20	2.4, 2.7	4 per year	Delivered on a regional basis
10	Service Complaints Workshop.	The SCT (including the SCIT and VeRR cadre of DB, AB and HIOs) and Regional Legal Offices.	SO1 SCT	OR4 to OF7/circa 50	2.4, 2.7	Annual	Ombudsman attends or provides an appropriate representative.
11	Service Complaints Conference.	The SCT (including the SCIT and VeRR cadre of DB/ABs), Regional Legal Offices, Unit BSW and P1 staffs	SO1 SCT	OR4 to OF8/circa 100	2.3, 2.4, 2.7	Annual	1. In support of Commanding Officers. Specified Officers and Decision Bodies. 2. Ombudsman attends or provides an appropriate representative
12	Oral Hearing Training	The SCT Case Management, Legal and Governance teams.	SO3 Legal	OR4 to OF7/circa 15-20	2.4, 2.7	Annual	
13	DB, AB and HIO Training	Newly appointed DB, AB and HIO members of the VeRR cadre	SO1 SCT (DB and AB) OC SCIT (HIO)	OF2 to OF7/circa 1-2	2.4, 2.7	On Appointment	
14	Case Manager Induction	Newly appointed Case Managers.	SO3/Band D Case Managers	OF2 and Band D/circa 1-2	2.4, 2.7	On Appointment	
15	Independent Members Induction	Newly appointed Independent Members.	SO3/Band D Case Managers	No NATO Rank available/circa 4-6.	2.4, 2.7	On Appointment	

H-4

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**Annex I to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

**ROLE AND RESPONSIBILITIES OF THE EQUALITY DIVERSITY AND INCLUSION
ADVISER (EDIA)**

INTRODUCTION

1. This annex sets out the roles and responsibilities of the Defence Equality, Diversity & Inclusion Adviser (EDIA). It is preferable to have at least two EDIAs in a unit or establishment (appointing one as the Lead EDIA) and to create a network of Asst EDIAs at a variety of rank / grade levels. Wherever possible EDIAs must ensure that their identity, position and availability are widely publicised within their area of responsibility.
2. Civilian employees should also contact Defence Business Services (DBS) Civilian Personnel for any support or guidance.

EQUALITY, DIVERSITY AND INCLUSION ADVISER

3. Whilst the Commanding Officer (CO)/Head of Establishment (HoE)/senior Line Manager (LM) retains overall responsibility for complaint handling, the nominated EDIAs are the local command/establishment/station/unit focal point for impartial advice and support to all Defence people on any Equality, Diversity and Inclusion (ED&I) issue. This includes alleged bullying, harassment and discrimination, and the MOD bullying and harassment complaints procedure. The EDIA will have completed, and remain in-date for, the Defence EDIA course at the Joint Equality and Diversity Training Centre (JEDTC), at the Defence Academy, and should always be regarded as the primary source of advice and support to all personnel in resolving a complaint. Their role is also to assist the CO/senior LM in implementing MOD ED&I policies and initiatives, local training/awareness-raising, and ensuring policy is being followed and monitoring overall effectiveness.

The EDIA's role is to advise and support the CO/senior LM to ensure that:

- a. Every effort is made to resolve personal differences as quickly, fairly and amicably as possible;
 - b. Impartial advice and support is available to all, both complainants and respondents, including, where appropriate, the provision of AOs; and,
 - c. A follow-up report is raised 4 weeks after any Informal Resolution is attempted, or formal complaint decided upon.
4. EDIAs are also responsible to the CO/senior LM for:
 - a. Ensuring that the unit Equality, Diversity and Inclusion Log (unit ED&I Log) reflects all complaints of bullying, harassment and discrimination, whether formal or informal. Records of all informal approaches to the EDIA for advice should be maintained for audit purposes;

- b. Raising the monthly unit ED&I Log based executive summary sheets for the CO/senior LM's inspection;
- c. Raising bi-annual or annual ED&I reports as required by individual Services;
- d. Ensuring that all personnel in the unit are aware that any form of bullying and harassment will not be tolerated and that any allegation of such behaviour will be properly investigated, and appropriate action taken against the perpetrator(s);
- e. Advising on all aspects of MOD ED&I policies and anti-discrimination legislation;
- f. Assisting the CofC in developing and maintaining an annual ED&I action plan, ensuring that all aspects of MOD and appropriate individual Service ED&I policies are included;
- g. Ensuring, by means of a comprehensive ED&I training and awareness-raising programme, that every individual who exercises authority over subordinates understands their responsibility to:
 - (1) Promote an environment in which every individual is treated with dignity and respect;
 - (2) Promote an environment conducive to harmonious working relationships, productive team work, and overall operational efficiency;
 - (3) Take prompt action to ensure that personal differences are resolved early, fairly and amicably; and,
 - (4) Have the moral courage to take firm action against any inappropriate behaviour, including harassment, bullying or unlawful discrimination.
- h. Ensuring that all personnel are familiar with basic ED&I principles, in particular what constitutes discrimination, harassment and bullying;
- i. Ensuring that ED&I briefings form part of all induction programmes;
- j. Ensuring that relevant ED&I publicity and education material is widely available on unit notice boards, etc;
- k. Ensuring that all personnel are aware of the existence and contact telephone numbers of the relevant confidential support/helplines;
- l. Ensuring that all areas of the workplace and communal recreation/accommodation areas are free from potentially offensive material;
- m. Ensuring that personnel of all faiths and beliefs are given every reasonable opportunity to observe their religious practises, subject to operational circumstances;
- n. Ensuring that every effort is made within unit/establishment catering facilities to meet the cultural and religious requirements of all personnel; and,

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- o. The continuous monitoring of the ED&I 'climate' within the unit/establishment to assess the effectiveness of training and information provision, taking remedial action as necessary.

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**Annex J to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

CONVERSATIONAL INTELLIGENCE TRAINING COURSE

1. This one day training package is a pilot course which is delivered by CMP Solutions, a company which offers workplace conflict management solutions including, investigation, mediation, training and consultancy. This is the second set of pilot course delivered in a 4-day block. It is delivered to all ranks, but the groupings are kept separate (ie OR, JNCO-SNCO, WO and Officers). The review team attended the one-day training package. The course consisted of mostly OR5 with 2-3 OR6. Of the 8 attendees, all had been directed to attend with no real understanding of what they were attending.
2. This one element focusses on conversational intelligence aspect. There are other elements delivered as part of a wider training package which is made up, harnessing difference, self-management and relational resilience. These are currently not delivered to the Army. The conversational intelligence package focusses on the 5 main themes of:
 - **Situational awareness** - In what way can you adapt the circumstances in which a conversation takes place to make it effective?
 - **Curiosity** - What is important to the other person?
 - **Reflective listening** - What does the other person need to hear to feel understood?
 - **Empathy** - What is really important for the other person?
 - **Self-awareness** - How is your own inner state influencing the conversation?
3. The whole day consists of discussion and exercises to get the trainee to consider the above elements when conversing.
4. The definition of conversational intelligence is stated as 'The art of conversing interactively, enabling deeper, more effective conversations' with the instructor opening the training with the statement that most organisations do not have a conversation culture. This means that issues are only discussed in order to close them i.e. when they have gone so far that they become a SC and require formal procedures. If organisations were able to converse intelligently then more time could be spent preventing the issue becoming a SC and so less time would be spent in closing them.
5. It is feasible that this training could be effective at improving communication and it was mentioned by the audience that soldiers do receive similar training during certain times in their career, such as coaching and mentoring training delivered to recruit instructors. By putting into practice the training it could open the door to more open and meaningful communication which could benefit the organisation in the longer term.
6. However, it seemed evident that some members of the audience, one being a recruit training instructor at a trade training establishment, was unwilling to talk to recruits unless they had a problem or issue with work or training and he dismissed anything else as "nonsense" this seemed to be a common to all but 1 or 2 of the audience. It was also mentioned by some that they feel they could not speak freely to their Officers as they perceived that rank was a barrier and prevented this from happening.
7. The same members of the audience who were unwilling to speak to their soldiers about anything, but training was critical of their Officers, particularly the Young Officers as

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they believe they are not willing to or do not engage with their soldiers and so do not know them, thus preventing them from identifying issues and problems.

8. I was quite surprised by some of the comments from the audience, a lack of willingness to talk to recruits and so get to know those under their command. And their perception that they could not speak to their Officers. They also criticised Officers for not getting to know their soldiers when they were doing the same thing. I also briefly spoke to them at the end to gauge their understanding of SC, they were aware but not did not have a good level of understanding. Some see it as a means to threaten the chain of command with and that is the only way they can be heard.

J-2

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**Annex K to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

SERVICE COMPLAINTS WORKING GROUP (SCWG) - TERMS OF REFERENCE

1. **Background.** The requirement for a Service Complaints Working Group (SCWG), at a practitioner level, was agreed by the Service Complaints Review Project Board (SCRPB) as part of the work leading up to the implementation of the new service complaints system on 1 January 2016. Such a working group existed under the old service complaints system, but had been put in abeyance whilst work to reform the system was being conducted.

2. **Purpose.** The purpose and focus of the SCWG is to regularly review and actively monitor how the new system is working and delivering against the three benefits expected from the reformed process, as set out in the Armed Forces Service Complaints Reform Benefits Plan at annex A. The group will continually review current policy to ensure it is fit for purpose; monitor how the system is performing (including through the provision of statistics and data); share best practice and lessons learnt; and address matters that might prevent the system from working how it should.

3. **Performance of the Service Complaints System.** To review and monitor the performance of the service complaints system, and measure its effectiveness in delivering the expected benefits, the work of SCWG will include the regular review and discussion of the following areas:

- a. JSP 831 (Redress of Individual Grievances: Service Complaints).
- b. JSP 763 (The MOD Bullying and Harassment Complaints Procedures).
- c. JPA capability and data.
- d. Best practice and lessons learnt.
- e. Role of the Independent Members.
- f. Role and performance of the Fee Earning Harassment Investigation Officers.
- g. Communications (single Service, corporate and Service Complaints Ombudsman).
- h. Resources.

The 2* Service Personnel Policy Group (SPPG) will be used to highlight any issues of concern identified by the SCWG.

4. **Membership.** The membership of the SCWG is shown below. Those in attendance may be varied by the Chair, the single Services and the office of the Service Complaints Ombudsman where appropriate.

People-Sec Complaints Pol 1 (Chair)

People-Sec Complaints Pol 2 (Secretary)

K-1

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sS SC Secretariats

Service Complaints Ombudsman Policy Manager

5. **Meeting Frequency**

The Group will meet on a quarterly basis.


People-Sec Policy 1

30 November 2016

**Annex L to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

SUMMARY OF SEXUAL HARASSMENT SURVEY 2018

Key Findings

1. **General sexualised behaviours:** Overall, the percentage of Service personnel who experienced generalised sexualised behaviours had reduced since 2015. However, these behaviours were still common, with almost nine out of ten Service personnel saying that they were told sexual jokes and stories, sometimes or a lot, in the preceding 12 months. ORs and Regular personnel were more likely than Officers and Reserve personnel to experience generalised sexualised behaviours. Although the percentage of those who were offended by these behaviours was consistently lower than those who experienced them, Service personnel were more likely (up to nine percentage points) in 2018 than they were in 2015 to be offended. Servicewomen were more likely than Servicemen to be offended. Men were most likely to be responsible for these behaviours (50%), although both men and women were jointly responsible in almost half of situations (48%).

2. **Targeted sexual behaviours:** The percentage of those experiencing targeted sexualised behaviours was lower than those experiencing generalised sexualised behaviours. Generally, Service personnel were overall less likely to experience targeted behaviours than they were in 2015 with one exception: the percentage of those saying that they were sent sexually explicit materials has increased since 2015; this is particularly noteworthy for Junior-ranking Servicemen, and it is now the most commonly experienced behaviour (22%), along with unwelcome comments (22%). Overall, the more junior personnel were in rank, the more likely they were to experience targeted sexualised behaviours. In most cases, men were solely responsible for the behaviours (64%), and they were most likely to occur in the workplace, at a Service personnel's home base or training unit (60%).

3. **Perceptions of sexual harassment:** Since 2015, the percentage of Service personnel who thought that targeted sexualised behaviours counted as sexual harassment has increased, with at least seven out of ten thinking the least severe form of behaviour, unwelcome comments, counts as sexual harassment. This is consistent across gender, rank and commitment type, although Servicewomen, Officers and Reserve personnel were more likely than Servicemen, ORs and Regular personal to think this. As the severity of the behaviour increases, the more likely Service personnel were to think it counted as sexual harassment. When asked directly if they had experienced sexual harassment in the last 12 months, a similar percentage said yes (5%) to those who said they had experienced targeted sexualised behaviours that made them feel upset (4%); this suggests that the types of behaviours included in the survey as targeted sexualised behaviours provide an appropriate definition of sexual harassment. Excluding those who said they had experienced sexual harassment, a further 5% of Service personnel said that they had

observed a situation that they thought was sexual harassment; this suggests that 8% of Servicemen and 21% of Servicewomen had either experienced or observed sexual harassment at work in the last 12 months.

4. **Upsetting experiences:** Overall, the percentage of Service personnel who said that they had an experience involving targeted sexualised behaviours that made them feel particularly upset remained unchanged since 2015 (4%); however, this figure has increased for Servicewomen (from 13% in 2015 to 15% in 2018). Junior-ranking Officers (3%) and junior-ranking ORs (5%) were more likely than their senior counterparts to have an upsetting experience. The most common behaviours experienced were unwelcome comments (74%), touching someone in a way that made them feel uncomfortable (45%), and unwelcome attempts to talk about sexual matters (41%). Male JNCOs were most likely to be responsible for causing the upsetting experience (39%), and the person responsible was most likely to be a colleague (31%). Over half of upsetting experiences happened in the workplace (57%), and around half were 'one-off' incidents (47%). Alcohol was involved in around one-third (31%) of upsetting experiences. A lack of understanding on unacceptable behaviour, along with negative attitudes towards women or biases towards those with certain characteristics, were the most common reasons given by Service personnel for the upsetting experience.

5. **Dealing with the upsetting experience:** Overall, Service personnel were most likely to say they felt embarrassed and uncomfortable at work as a result of the upsetting experience. Around a third (31%) of Service personnel said that their productivity was affected, with the majority (87%) saying that it had decreased. The most common response to the experience was to ask the person responsible to stop or to avoid them if they could; most Service personnel said that this response was effective at stopping the behaviour. Less than half (46%) of Service personnel who had an upsetting experience told someone at work what was happening; Servicewomen were more likely than Servicemen to tell someone. Most Service personnel told a colleague; this person was also able to help resolve the situation for around half of Servicemen and a third of Servicewomen. The most common reason for not telling someone at work was not wanting to make it into a bigger issue and thinking it would make their work situation unpleasant.

6. **Formal complaints process:** Overall, the percentage of those who made a formal, written complaint to their Commanding Officer about the upsetting experience has increased since 2015; this is particularly noteworthy for Servicemen (from 2% in 2015 to 16% in 2018). Those who did make a formal complaint were more satisfied in 2018 than they were in 2015 with the availability of information on how to make a complaint (from 30% in 2015 to 34% in 2018). However, satisfaction was lowest (and dissatisfaction highest) with the outcome of the investigation, both in terms of how well this was communicated (9% satisfied, 70% dissatisfied), follow up action taken against those responsible (4% satisfied, 70% dissatisfied), and the amount of time taken to resolve the complaint (6% satisfied, 70% dissatisfied). Three-quarters (75%) of those who made a formal complaint said that they had suffered negative consequences as a result; the most

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common was feeling uncomfortable at work (98%) however, nine in ten (93%) Service personnel had thought about leaving the Army, lost respect for the people involved (92%) or felt humiliated (91%). The most common reasons for not making a formal complaint were because Service personnel thought they could handle the situation themselves (42%) and because they didn't think anything would be done about it (42%).

7. Prevention and management: Around half (47%) of Service personnel thought that sexual harassment is a problem in some parts of the Army; Servicewomen and Officers were most likely to think this. Service personnel were also more likely in 2018 than they were in 2015 to think that sexual harassment is a problem in the Army. Overall, Service personnel were positive about the extent to which the Army deals with sexual harassment, with the majority thinking that the Army prevents sexual harassment (73%) and supports those who have been sexually harassed (69%) to a large or very large extent. Service personnel were also positive about the extent to which their Chain of Command demonstrates behaviours that create a positive command climate based on trust and respect, and the way in which they think the Chain of Command would respond to reports of sexual harassment. However, a fifth (20%) of Service personnel thought it very likely that someone making a complaint about sexual harassment would be labelled a troublemaker by unit personnel. Recent initiatives put in place by the Army appear to have reached a wide audience, with those who have seen the two poster campaigns and/or received sexual consent training consistently rating them as effective in raising awareness. The most common suggestion for what else the Army could do to better prevent and manage sexual harassment was more education on unacceptable behaviour.

Conclusions

8. The following conclusions were drawn from overall patterns in the data; a more detailed summary can be found at the beginning of each section of findings in the main report. Although sexualised behaviours remain a common experience in 2018 for most Service personnel, there has been a small downward shift in experiences since 2015. More noteworthy, however, is the change in the way that these behaviours were perceived by those who experienced them; Service personnel were more likely to find these behaviours offensive, more likely to be upset by them, and more likely to make a complaint about them. This change is further compounded by an apparent increase in awareness of the fact that sexualised behaviours are considered sexual harassment.

9. Consistent with 2015, junior ranking female personnel were most likely to experience unwanted targeted sexualised behaviours. The findings suggest that some sexual harassment, specifically that experienced by women, is part of a wider issue of gender inequality and the way in which women are viewed in society. There were several factors specific to the military, such as the ratio of men to women, that have to some extent enabled these views to perpetuate and become part of the military culture. Though not unique to the military, a cultural change is required whereby all personnel, regardless of their personal attributes, are treated fairly.

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10. The findings suggest an increased use of social media in the workplace, which provides an easily accessible way to distribute sexual materials. The use of social media in the workplace is not straightforward; notwithstanding security issues, many Service personnel talked about the benefits of using technology and social media, particularly with communication. However, with increased use comes the opportunity for misuse, and the Army needs to better understand the consequences of this.

11. Although Service personnel who have an upsetting experience are now much more likely to make a formal complaint than they were in 2015, there still appear to be significant barriers to speaking out about sexual harassment; the most significant being the perceived stigma of making a complaint. The findings also suggest that improvements need to be made to the formal complaints process, particularly around how and when information is communicated once a complaint has been made, and how the complaint was handled. The use of formal support mechanisms, such as welfare personnel and the Speak Out helpline, were under-utilised.

12. Despite the fact that Service personnel thought that sexual harassment is a problem in the Army, even if only in some parts, they were positive about the extent to which the Army tries to prevent it. This is particularly noteworthy for Reserve personnel, who are more likely to be able to make comparisons with other civilian organisations. Although some perceive the Chain of Command as part of the problem, overall, Service personnel were positive about the extent to which the Army's leadership demonstrate positive behaviours with respect to sexual harassment. It is important to take this into account when interpreting the findings; whilst this research highlights areas for improvement, the Army has made significant efforts in this area and these efforts are having a positive impact on the lived experience of its personnel. The findings support previous research that suggests sexual harassment can have wide-reaching implications at the individual, team and organisational level. The impact that sexual harassment could have on the reputation of the Army is particularly pertinent now, given the current level of interest in sexual harassment and sexual assault from the general public.

Recommendations

13. The following recommendations are made based on the key findings:

- a. Training: Develop a formalised programme of training on sexual harassment through career, tailored to different cohorts, using methods which engage Service personnel and allow them to relate to the topic.
- b. Reporting: Consider introducing a web-based anonymous reporting tool for unacceptable behaviours so Service personnel can make the Army aware of these behaviours without fear of repercussion. The implications of this must be carefully thought through to avoid misuse.

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- c. Support: Consider how a formal or informal mentoring or support system could be implemented to support Service personnel who form a minority cohort within a unit. What the support system looks like in practice should depend on the context of a unit. Consideration should be given as to how Service personnel can seek advice and guidance on sexual harassment informally and 'off the record', without having to make a complaint.
- d. Social media: Conduct a review into the use, benefits and risks of using social media in the workplace, which doesn't purely focus on security. Review policy and training requirements accordingly.
- e. Leadership: Consider how leaders are monitored with regards to the extent to which they create a positive unit culture that prevents sexual harassment, and the way in which the Chain of Command deal with incidences.
- f. Policy: Review how sexual harassment is addressed in existing policy.
- g. Transparency: Consider a review of the reporting process for sexual harassment to ensure that a consistent approach is used when responding to reports, and how outcomes could be communicated to provide greater transparency and perceived fairness.

Formal Written Complaint Process - Headline Findings

- h. Overall, the percentage of those making a formal complaint about the upsetting experience has increased since 2015. This is particularly noteworthy for Servicemen.
- i. The most common reason for not making a formal complaint was because Service personnel thought that they could handle the situation themselves (42%), and/or because they didn't think anything would be done about it (42%).
- j. Those who did make a formal complaint were most likely to be satisfied with the availability of information (34%) and their understanding on how to make a complaint (33%).
- k. Dissatisfaction was highest with the outcome of the investigation, both in terms of how well this was communicated and follow up action taken against those responsible.
- l. Three-quarters (75%) of those who made a formal complaint said that they experienced negative consequences as a result.
- m. The most experienced negative consequence was feeling uncomfortable at work (98%). Just over nine in ten (93%) Service personnel thought about leaving the Army, lost respect for the people involved (92%) and felt humiliated (91%).

L-5

OFFICIAL SENSITIVE

SCWG RECOMMENDATIONS MONITORING SHEET

The table below is owned by MOD and captures the progress to date on all existing recommendations made by the SCO in her 2016 and 2017 Annual Reports. The status of some of the recommendations may differ from the status reported by the Ombudsman. Recommendations made in the 2018 Annual Report have not yet been captured. The SCWG to collectively discuss the recommendations was postponed from May 19 and is now rescheduled for 12 Jun 19.

No.	Recommendation	AR Issue	Completion Date	Update on Progress	Complete
1.1.	That the Ministry of Defence and the individual Services review the guidance they provide to Specified Officers on how to make an admissibility decision. The purpose of the review is to ensure that the guidance clearly directs Specified Officers on what issues they must consider in reaching their decisions and to ensure that the guidance includes a model decision letter and standard wording that correctly communicates: a) the complainant's statutory right to appeal to the Ombudsman; b) the complainant's right to seek a Judicial Review of the Service's decision; and, the correct timelines for both a) and b) to be done. A common approach across the Services should be adopted where practical.	AR 2016		The MOD has undertaken work with the single Services to develop and agree standard wording to communicate the complainant's statutory right to appeal to the Ombudsman and to seek judicial review of the relevant Service's decision. Having carefully considered this recommendation, the Services did not agree however that a model decision letter would be an improvement on the flexibility that a bespoke decision letter offers when explaining their decision to the Complainant.	Complete
1.2	That all Service complaints policy, including JSPs 831 and 763, whether owned by the Ministry of Defence or the individual Services is reviewed by the end of 2017 to ensure that more detail is provided about the role of respondents in the process and when/how Specified Officers, Decision Bodies etc. should be	AR 2016	30/04/2018	The single Services undertook a review of their own procedures and the following action was taken: The Naval Service continue to provide information for respondents on its website.	

M-1

	<p>communicating with respondents throughout the life of the Service complaint and their duties/responsibilities towards them.</p>			<p>The Army have produced tri-fold leaflets specifically for respondents that are available online and in hard copy. They have also introduced a dedicated point of contact for respondents.</p> <p>The RAF have produced tri-fold leaflets specifically for respondents. They have also appointed a respondents' champion and ACOS Pers Pol has written to all Station Commanders reminding them of their responsibilities towards respondents.</p> <p>The Ministry of Defence will undertake a review of JSP 831 in 2019. This will include a review of the current advice and guidance concerning the role of respondents in the Service complaints process.</p>	
<p>1.3</p>	<p>That the individual Services conduct a review of the procedures that underpin the Service complaints process and make recommendations for change to ensure a targeted and effective use of resources in order to minimise delay in the handling of Service complaints. These recommendations should be made by the end of April 2018.</p>	<p>AR 2016</p>	<p>30/04/2018</p>	<p>The Services continually review their process, procedures and ways of working to improve the manner in which they handle complaints. This includes work in the following areas:</p> <p>Naval Service – A Continuous Improvement Event was conducted in early June 2017 which resulted in a reconfiguration of assets and Service complaint outputs within Naval Legal Services. Captain Naval Legal Services (CNLS) directed that all Service complaint handling would come under DACOS casework to ensure a consistency in admissibility decision letters and the provision of timely legal advice.</p> <p>At the end of 2017 the Navy established a small in-house team to act as a Fast-Track Service Complaint resolution focal point to engage and assist units.</p>	<p>Complete</p>

			<p>Army - The refocussing of legal advice to target undue delay in the system. Close oversight of Army Decision Body progress by the chain of command. The delivery of the Service complaint process has been considered as part of future PSTP work. Maintaining the profile and priority of Service complaint work through regular communications and CoC engagement remains key. DCGS has placed a tight time limit of three weeks from completion of investigation for Commanders to issue decision letters.</p> <p>RAF -The RAF undertook a number of studies throughout 2016, including the review of areas such as investigations, mediation, respondents and Assisting Officers. Outcomes of those reviews have been taken forward. Of note, the Fast Track Cell for TAGOS-related complaints has seen significant improvements.</p> <p>In 2017 the RAF established an in-house cadre of nine additional investigators to augment their Service Complaint Investigation Team.</p>	
1.4	<p>That the Ministry of Defence reviews the current level of Fee Earning Harassment Investigations Officers and Independent Members by the end of April 2018 to ensure that the Service complaints system is adequately resourced in those areas. As part of this process the Ministry of Defence is invited to carefully consider the diversity of the pool of Independent Members going forward.</p>	AR 2016	<p>FEHIOs: Defence Business Services (DBS) manage a cadre of Fee Earning Harassment Investigating Officers (FEHIOs) to investigate Service and MOD Civilian complaints of bullying and harassment.</p> <p>In November 2017, DBS put in place a plan to improve the provision of the service, this included the recruitment and training of new FEHIOs to meet MOD demand. As a result, the size of the</p>	Complete

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				<p>cadre has increased to 97, with all the new FEHIOs security cleared and ACAS trained.</p> <p>Independent Members (IMs): The MOD undertook a recruitment campaign in 2018 to appoint an additional 10 IMs. To increase the chances of a diverse pool of applicants, the advert was reviewed by the MOD's Defence Diversity and Inclusion team to ensure compliance with the required standards and the wording was assessed using an online gender tool to ensure the advert had no subtle bias.</p> <p>Following a successful recruitment campaign, 10 IMs were appointed, increasing the size of the available pool to 14. All the new IMs have been security cleared; undertaken an induction programme, which included a presentation from the Service Complaints Ombudsman; and are now actively being appointed to Decision/Appeal Bodies.</p> <p>Of the 10 new IMs appointed, 5 are male, 5 are female and three identify as BAME.</p>	
1.5	That the Ministry of Defence instigates a review of JSPs 831 and 763 to ensure that the language is accessible to all Service personnel by the end of December 2017, using "plain language" standards and make the necessary changes by the end of June 2018.	AR 2016	31/06/2018	The MOD will be conducting reviews of both JSP 763 and JSP 831 in 2019, additional resource is now in place to specifically take forward and co-ordinate a full review of JSP 763. As part of these reviews, 'plain language' standards will be applied to the documents.	
1.6	That the Ministry of Defence reviews the training provided to Fee Earning Harassment Investigation Officers by the end of April 2018 to ensure it is adequate and that this training and the procedures used to monitor and manage the performance of Fee	AR 2016	30/04/2018	The MOD is fully engaged with Defence Business Services (DBS), who manage the cadre of FEHIOs. All new FEHIOs now receive training from ACAS prior to being allocated to an investigation, and in 2018 DBS reviewed their processes and how they communicate with FEHIOs and the TLBs who	Complete

	<p>Earning Harassment Investigation Officers is enhanced as required.</p>			<p>engage their services. This included:</p> <ul style="list-style-type: none"> - a new system to simplify and streamline the allocation process; - the introduction of monthly dial-ins with TLB points of contact and the People Secretariat Complaints Policy team to discuss performance; - the production of a monthly 'Defence Business Services - HIO Service Performance Dashboard' to inform senior management teams and meetings; - the introduction of a revised questionnaire to seek feedback from both the FEHIOs and the Services for each investigation undertaken. 	
<p>1.7</p>	<p>That the Ministry of Defence develops or procures specialised training for those complaint handlers and Assisting Officers who are appointed to deal with sensitive matters, including those of a sexual nature and that the single Service secretariats embed a mechanism within their processes to ensure that sensitive complaints are assigned to those individuals who have completed this training. This should be rolled out by the end of June 2018.</p>	<p>AR 2016</p>	<p>31/06/2018</p>	<p>Prior to the Ombudsman's recommendation the Naval Service's Complaints and Mediation Team and the Army's Service Complaints Investigation Team (SCIT), both of which are assigned the most sensitive cases including those of a sexual nature, were already trained for handling such complaints.</p> <p>In response to the Ombudsman's recommendation, the Services also undertook the following:</p> <ul style="list-style-type: none"> - The Army's SCIT received Mental Health First Aid and EDA training. - The RAF's Service Complaints Team, VeRR Decision & Appeal Bodies and Investigating Officers received training in a number of areas including, Interviewing vulnerable persons; Sexual assault awareness; Diversity and inclusion; and Mental health awareness. - The RAF produced a leaflet for AOs with guidelines for handling sensitive matters and offers 	

M-5

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				<p>bespoke briefings to AOs dealing with complex cases.</p> <p>To ensure what is being provided is appropriate and that best practice is shared, the Services will continue to review all the training they provide to those personnel involved in the Service Complaints system, including this area, through the newly formed Service Complaints Working Group training committee.</p>	
1.8	That the Ministry of Defence develops a general training programme for all Assisting Officers and that a record of their completion of that training is held centrally to ensure that suitably qualified Assisting Officers can be identified with greater ease. This should be rolled out by the end of April 2018.	AR 2016	30/04/2018	<p>As a result of recommendations made by the SCO in her 2016 and 2017 Annual Reports that related to the provision of training to those personnel involved in the Service Complaints system, a Service Complaints Working Group training committee has been formed. The purpose and focus being to review training from a tri-Service perspective to ensure what is being provided is appropriate and that best practice is shared. The working group will also consider how training is delivered; identify if there are any gaps; and how it might be provided in the future.</p> <p>As part of the work of the working group we will keep this recommendation under review.</p>	
1.9	That training/education on the Service complaints system, including the role of the OSCO, is provided to all Service personnel, including new recruits and reservists. The OSCO should be invited to contribute to the development of those portions of the training that concern the role of the Ombudsman to ensure that the independent and impartial message of the office is shared with personnel. The Ministry of Defence should report to the Ombudsman on the progress made by the end of December 2017.	AR 2016	31/12/2017	<p>All three Services provide training to personnel on the Service Complaints system and the role of the Service Complaints Ombudsman, with the Ombudsman's office contributing to training events through the provision of slides and information, or face-to-face presentations. For example, a representative from the Ombudsman's office, or the Ombudsman herself, briefs all future Commanding Officers across the single Services as part of their training programme.</p>	Complete

				<p>In 2017 the Ombudsman's office was invited to contribute slides to the MATT 6 Values and Standards Package for the Army which it believes is the simplest and most effective method of providing information on the Ombudsman to all of its personnel.</p> <p>The Service Complaints Working Group Training Committee are also currently working with the Ombudsman's office to film an address by the Service Complaints Ombudsman which could be used at certain training courses. It is envisaged that this work will conclude in the summer.</p> <p>At the end of 2017, each Service was provided with banners containing information about the Ombudsman for use during training and briefings.</p> <p>In 2018 the MOD provided the Ombudsman's office with a database that captures the breadth and depth of all Service Complaints related training provided by the Services, including the name of the course/training provided; the audience; the training provider; the method of training; and the frequency.</p>	
1.10	That the Ministry of Defence commissions a study by the end of April 2018 to determine the root causes of the overrepresentation of female and BAME personnel in the Service complaints system and that appropriate action is taken to try and redress this by the end of December 2018, including putting the appropriate support mechanisms in place.	AR 2016	31/12/2018	In response to this recommendation each of the Services undertook analysis, although all the findings did not wholly support the Ombudsman's concerns regarding the overrepresentation of both female and BAME Service personnel in the Service complaints system. In her 2017 annual report, the Ombudsman re-iterated these concerns and highlighted that it was an independent study that she had envisaged was required. MOD is currently considering this revised recommendation.	
1.11	That the Ministry of Defence identifies an appropriate working group by the end of April 2017 to evaluate	AR 2016	30/04/2017	The SCSWG has been identified as the appropriate working group to take this recommendation	Complete

M-7

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	the current target for resolving 90% of Service complaints within 24 weeks to ensure that it is appropriate, including the method for calculating when the 24 weeks begins. A representative from the OSCO should be involved in this review.			forward. A number of courses of action have been identified and metrics have been developed by the SCSWG. A detailed analysis paper with proposals is currently being considered by the Ministry of Defence.	
1.12	That the Ministry of Defence, in line with recommendation 1.3, facilitates a review of the internal processes developed by the single Service secretariats by the end of June 2018 to ensure that they use a common approach where appropriate and that best practice is shared. This includes, but is not limited to, the standardisation of template letters and reports.	AR 2016	31/06/2018	<p>The Services continually review their process, procedures and ways of working to improve the manner in which they handle complaints, through normal day to day business and through the quarterly Service Complaints Working Group. Examples of this are provided at recommendation 1.3.</p> <p>This also includes those areas of work where the Services take a common approach or share best practice. Examples of this include:</p> <ul style="list-style-type: none">- The formation of the Service Complaints Working Group training committee. The purpose and focus being to review training from a tri-Service perspective to ensure what is being provided is appropriate and that best practice is shared. The working group will also consider how training is delivered; identify if there are any gaps; and how it might be provided in the future.- In response to the SCO's recommendation 1.1, the standardisation of wording across the Services to communicate the complainant's statutory right to appeal to the Ombudsman and to seek judicial review of the relevant Service's decision.- The standardisation of delegated authority from Her Majesty's Treasury, as per the SCO's recommendation 2.6.	

M-8

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2.1	That by December 2018, the Ministry of Defence completes its review of JSP 763 and publishes the updated version that corresponds with the reformed Service complaints process.	AR 2017	31/12/2018	Additional resource is now in place to take forward and co-ordinate a full and thorough review of JSP 763. The terms and reference for the review are currently being produced.	
2.2	<p>That by December 2018, JSP 831 is amended to explicitly set down as a required step that upon receipt of:</p> <p>a written statement of complaint (whether on an Annex F), or a referral from the Ombudsman</p> <p>the Specified Officer <i>speaks</i> to the individual Service person to establish the nature of their complaint. Given the nature of the work of the Armed Forces, this could be done in a face to face meeting, by phone or video conferencing. The guidance should further acknowledge that in some cases there will be legitimate reasons for omitting this step, but that it is expected that such instances will be rare. Furthermore, any such decisions must be properly documented.</p>	AR 2017	31/12/2018	<p>Timely and appropriate communication with the complainant is an important feature of the complaints process, and we are not aware of this being an issue amongst complainants. The role of the Specified Officer (SO), as set out in JSP 831, Part 2, Chapter 3, requires that they communicate clearly with the complainant and that communication is an important part of the process. The SO is reminded of the Principles of Fairness at Annex G, which set out the ways in which all those involved in handling a complaint should conduct themselves, including the need to ensure early contact is established with the complainant</p> <p>The JSP also specifically sets out in Part 2, Chapter 3, paragraph 22 that having checked the complainant's statement of complaint, the SO <i>'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'</i>.</p> <p>In light of existing provisions, there is limited scope for improvement. However, we have added this proposal to the JSP 831 'Issues Log' for consideration as part of the review of the document which will take place this year and will review the current wording to see if the message to have these conversations can be reinforced.</p>	
2.3	That by December 2018, all guidance and training provided to Commanding Officers and Specified	AR 2017	31/12/2018	Information about extended timeframes for Service Complaints which could go to an Employment	Not Accepted

M-9
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	Officers is reviewed to ensure that it includes specific reference to the extended timeframes to make a Service complaint that concerns a matter that could be taken to an Employment Tribunal. This guidance should include examples of the types of complaints which may give rise to the extended timeframes.			<p>Tribunal can be found in JSP 831, Part 1, Chapter 1, paragraphs 12 to 14. It sets out that the usual time limit for making a Service Complaint of three months is extended to six (discrimination claims) and nine months (equal pay claims). This advice is reinforced in Part 2 of the JSP in the specific chapter for the Specified Officer (SO), and the single Service secretariat teams are able to provide initial advice to any SO who is unsure whether a Service Complaint should be ruled admissible.</p> <p>We do not believe it is necessary to include such detail and depth on this subject in Commanding Officer (CO) or SO training. COs and SOs are provided with comprehensive advice on each complaint and that case specific advice is more likely to be effective than generic training.</p>	
2.4	That by April 2019, training is available to personnel involved in making decisions as part of the Service complaints process, including Specified Officers, Decision Bodies and Appeal Bodies, on decision writing for complaints handlers. This could be discreet training or part of a wider package on Service complaints as referred to in Recommendation 2.7.	AR 2017	30/04/2019	See recommendation 2.7 regarding MOD's approach to those recommendations made by the SCO in her 2016 and 2017 Annual Reports that relate to the provision of training to those personnel involved in the Service Complaints system, and the creation of a Service Complaints Working Group Training Committee.	Not Accepted
2.5	That by December 2018, the Ministry of Defence develops guidelines on the handling of informal complaints that can be included as an Annex to JSP 831. This guidance must provide, as a minimum, information on when it is and is not appropriate to follow informal processes and the steps to be taken in recording the informal process. The guidelines must also state that a complainant cannot be forced or unduly pressured/encouraged to agree to informal resolution.	AR 2017	31/12/2018	In MOD's Formal Response to the SCO's Annual Report we advised that JSP 831 currently sets out that the intent of the system is that Service Complaints are dealt with at the lowest appropriate level and that resolution, where possible, is achieved informally. The JSP also informs Service personnel in the process of seeking informal resolution of their right at any time to submit a Service complaint within the specified time limits. The single Services also reiterate this message in their own Service Complaint guidance documents.	

				We have added this proposal to the JSP 831 'Issues Log' for consideration as part of the review of the document which will take place this year. We will engage further with the Ombudsman's office to explore the scope of those matters which are, and are not appropriate for informal resolution.	
2.6	That by October 2018, the method for approval and payment of compensatory sums of £500 or less is standardised across the single Services. The Ombudsman recommends that the Naval Service and RAF follow the lead of the Army and seek delegated authority from Her Majesty's Treasury to make such payments in order to avoid further delays.	AR 2017	31/10/2018	All three Services now have delegated authority from Her Majesty's Treasury.	Complete
2.7	That by April 2019, an online training module on the Service complaints process, including a module on how to handle Service complaints for personnel charged with that process, i.e. Commanding Officers, Specified Officers, Decision Bodies and Appeal Bodies is developed and implemented tri-Service.			<p>As set out in MOD's Formal Response to the SCO's 2017 Annual Report, careful thought was given to the possibility of an on-line training module for the Service complaints process. It was considered however, that this may not represent an improvement on what is currently provided by the Services.</p> <p>However, as a result of the number of recommendations made by the SCO in her 2016 and 2017 Annual Reports that related to the provision of training to those personnel involved in the Service Complaints system, a Service Complaints Working Group training committee has been formed. The purpose and focus being to review training from a tri-Service perspective to ensure what is being provided is appropriate and that best practice is shared. The working group will also consider how training is delivered, identify if there are any gaps, and how it might be provided in the future. A database that captures the breadth</p>	Not Accepted

M-11
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				<p>and depth of all training provided by the Services, including the name of the course/training provided; the audience; the training provider; the method of training; and the frequency has been provided to the SCO.</p> <p>As part of the work of the working group we will keep this recommendation under review.</p>	
2.8	<p>That by April 2019, the Ministry of Defence reviews the existing primary and secondary legislation and determines how amendments can be made to provide a mechanism for respondents to a Service complaint to ask the Ombudsman to investigate alleged undue delay in the handling of that complaint. This mechanism should be available to all respondents, regardless of whether they are currently serving.</p>	<p>AR 2017</p>	<p>30/04/2019</p>	<p>The next Armed Forces Bill will be introduced to Parliament in 2020. As previously advised in MOD's Formal Response to this recommendation, this represents a significant change to the current complaints process and needs careful consideration so that all outcomes and consequences, including additional resources, can be considered. MOD are currently engaged with the SCO's office to better understand the Ombudsman's recommendation.</p>	
2.9	<p>That by December 2018, in time for the 2019 survey, a section is added to the Reserves Continuous Attitude Survey that mirrors that in the Armed Forces Continuous Attitude Survey looking at fairness at work, the Service complaints process and knowledge of the Service Complaints Ombudsman.</p>	<p>AR 2017</p>	<p>31/12/2018</p>	<p>The Reserves (Continuous Attitude Survey) (ResCAS) 2019 is now open and contains within the 'Fairness within the Service Environment' section, questions that mirror those in Armed Forces Continuous Attitude Survey (AFCAS) that relate to Service Complaints and the role of the Service Complaints Ombudsman.</p>	<p>Complete</p>
2.10	<p>That by December 2018, the Ministry of Defence amends JSP 831 to stipulate that the single Service secretariats are responsible for challenging withdrawals where the complainant, or potential complainant, has indicated they have been discouraged from making a complaint, or had undue pressure placed on them to withdraw their complaint. This must be accompanied by clear processes to be followed in such instances. Such processes can be developed at the local level so long as there is a consistency in approach across the single Services.</p>	<p>AR 2017</p>	<p>31/12/2018</p>	<p>The MOD can now confirm that all three Services have provisions in place for complaints to be withdrawn.</p> <p>The RAF request written reasons from individuals when a complaint is withdrawn, these are recorded on JPA and reviewed by their Secretariat team prior to the case being closed – if it was considered that a Service complaint was being withdrawn due to an individual being discouraged or undue pressure being placed on them, the complaint</p>	

M-12

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				<p>would not proceed to closure.</p> <p>The Navy have similar procedures in place, and should a complainant wish to withdraw their complaint at any time, the SO and/or the DB are advised to engage with the Naval Service Secretariat, having understood the reasons for withdrawal and whether the complainant believes they experienced any undue pressure. A decision to withdraw should be committed to writing by the complainant.</p> <p>This is already Army practice and referred to in their Service Complaints Standard Operating Procedures (SOPs) - Annex G of the SOP provides a draft withdrawal certificate which specifically asks if the complainant was coerced into withdrawing their complaint. All training provided by the Army Service Complaints Secretariat emphasises that no pressure is to be placed on individuals in an effort to dissuade them from submitting a complaint and complainants who already have a Service Complaint in the system should not be coerced into withdrawing/closing them.</p> <p>We have added this proposal to the JSP 831 'Issues Log' and will consider as part of the next review how we might amend the document to reinforce this message.</p>
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M-13

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**Annex N to
Review of the Army Service Complaints Process
Dated 28 Jun 19**

DISCIPLINE AND GRIEVANCE - ACAS CODE OF PRACTICE

1. The Acas Code of Practice on disciplinary and grievance procedures gives practical guidance for handling these issues in the workplace. Failure to follow the Code doesn't make a person or organisation liable to proceedings, however, an employment tribunal will take it into account when considering relevant cases.
2. Key Code of Practice points
 - a. Many potential disciplinary and grievance issues can be resolved informally.
 - b. Employment Tribunals are legally required to take the Acas Code of Practice into account when considering relevant cases.
 - c. Tribunal can adjust any awards made in relevant cases by up to 25 per cent for unreasonable failure to comply with any provisions of the code.
 - d. Employers and employees should always look to resolve disciplinary and grievance issues in the workplace.
 - e. A non-statutory guide (Discipline and grievances at work: The Acas guide) provides additional information on handling discipline and grievance solutions in the workplace.
3. The guides here provide a useful insight into how the Acas Code of Practice is delivered:
 - a. Acas Code of Practice on Discipline and Grievance [341kb].
 - b. Discipline and grievances at work: The Acas guide [840kb]
 - c. Conducting workplace investigations [484kb].

Note to readers of code

4. Many potential disciplinary or grievance issues can often be resolved informally. Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally. A quiet word is often all that is required to improve an employee's conduct or performance.
5. The Acas Code of Practice sets out the basic requirements of fairness that will be applicable in most cases; it provides the standard of reasonable behaviour for most cases. The Code will help employers, employees and representatives deal with disciplinary and grievance issues in the workplace. Where some form of formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular case. Employers should deal with issues promptly, fairly and consistently. Investigations should be carried out to gather and establish all the facts of the case.

N-1

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Acas training and other ways that Acas can help

6. Acas offers a range of Training Courses, Workshops and Projects to support businesses and individuals dealing with discipline issues. You can also try Acas Learning OnLine, Helpline Online or view our range of Training. View related Acas training and course dates in your area for:

- a. Managing Discipline and grievance.
- b. Improving Skills for supervisors.
- c. Staff appraisals and Performance management.
- d. Conducting Investigations.

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Annex O to
Review of the Army Service Complaints Process
Dated 28 Jun 19

ACADEMIC ARTICLES ON GRIEVANCE PROCESSES

HR professionals have relied on formal grievance procedures for years, but are they still fit for purpose?

In an extract from his new book, *Managing Conflict*, David Liddle argues that resolution policies, rather than traditional grievance procedures, have a better chance of achieving harmony in the workplace.

"I will go to HR" or "I will take a grievance out against you" is used as an existential threat against a colleague or a manager. HR, in these cases, become the Sword of Damocles hanging above people's heads. For many employees, the HR function is seen as the controlling parent, the police officer or the authoritarian arm of management.

Put resolution at the heart

At the heart of the HR paradox lies the grievance procedure. However, there is good news. It is possible to change and it is possible to reject the old paradigms and begin to embrace a new approach for managing conflict at work. Instead of focusing on the grievance, focus on the outcome – resolution. It really is that simple.

Newham Council in east London is an organisation that has made the transition to a resolution policy as an alternative to the traditional grievance and anti-bullying policies.

Catherine Anderson, organisational development manager at oneSource (which provides the back-office functions at the London Boroughs of Newham and Havering) expands:

"Anything that diverts a grievance is worth doing. They just take up too much time and they certainly, as far as I've seen, are completely ineffective," she says. "It's so important to get people to sit down and talk and that is the main thing that the resolution policy does. Our aim is to make dialogue the normal way for people to resolve an issue.

"Like if you had an issue in your family or with a friend or with a neighbour, I would like to think most people – well first thing you would do would be to have a chat. I don't know why we don't do that at work. It just makes good sense.

"The unions were fully on board as they knew that we had retained the formal elements of the old grievance procedure as well as promoting new routes to resolution for our employees. I suppose that you could say that we have lost nothing, but we have gained absolutely everything. It's early days for the resolution policy but since it's been introduced (six months ago) there hasn't been a single grievance."

The benefits of a resolution policy

Clearly, there is an urgent need for a radical rethink of dispute resolution within our organisations.

O-1

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We need a new vernacular to define the issues and we urgently need a new way to handle and resolve conflicts and disputes. The resolution policy promotes and encourages positive relationships and constructive dialogue. It's about leaders and managers walking the talk.

The focus of this new approach is on resolution rather than retribution, peace rather than polarisation, dialogue rather than division.

What makes a resolution policy so effective?

- It links dispute resolution with your values and vision
 - It promotes and actively encourages positive and constructive behaviours in the workplace
 - It replaces your existing grievance and bullying and harassment policies with a single resolution policy
 - Employees, employers and unions can work collaboratively to achieve constructive resolutions
 - It develops a conflict-resilient workplace
 - It integrates the values and principles of mediation in your organisation – mutual respect, openness, collaboration, fairness
 - It gives control and responsibility for resolution directly to your employees and managers
 - There is a significant emphasis on mediation and early resolution
 - It takes the grief out of grievances
 - It makes empathy, dignity and respect explicit features of dispute resolution
 - It reduces the amount of time HR professionals and managers spend on grievance case management
 - It will help your organisation to transition from a grievance culture to a resolution culture
 - It includes a comprehensive resolution triage process that HR and ER professionals can use
 - It is fully compliant with the Acas disciplinary and grievance code of practice
 - In more serious disputes, it offers the opportunity to escalate an investigation or other formal action
 - It gives greater control and offers greater flexibility to all parties
 - It supports return to work procedures following absence or suspension
- This is an edited extract from *Managing Conflict* by David Liddle, ©2018 and reproduced with permission from Kogan Page Ltd. David Liddle

David Liddle is the CEO of The TCM Group, the UK's leading mediation and resolution consultancy. Having implemented over 300 integrated conflict management systems, David is

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a leading authority on all aspects of workplace mediation and resolution. David is also the founding president of the Professional Mediators' Association (PMA), the founder of the Collaborative Justice Institute and an engagement guru for Engage for Success.

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Grievances: Do they do more harm than good? Yes says

██████████ (29 Mar 2016 ██████████, CEO and Principal Lawyer at
YES)



- by ██████████
- CEO and Principal Lawyer

Early resolution of workplace issues before they escalate is clearly the best outcome for employer and employee. Litigation is usually the worst outcome – uncertain, costly, time consuming, career-limiting and stressful for all concerned.

The scene is set for battle, not resolution. The grievance processes I have seen could not be more different to mediation.

Of course an employee should raise their concerns but the focus should be on finding a solution. Grievances are usually limited to what has gone wrong without looking at possible solutions. If a lawyer is involved, a grievance will be phrased so the possible legal claims are clear and comprehensive. The employer must defend themselves, so is only safe making admissions which do not give rise to legal liability.

The grievance process should be replaced with a procedure that is more akin to mediation, where employees feel their concerns will be listened to and where solutions are discussed, possibly with the help of a mediator. This has been adopted by one large financial institution which has seen a drop in the number of grievances and an increase in the early resolution of issues.

Another advantage in informal dispute resolution is that it might keep lawyers out of the frame, encouraging the employer and employee to have a constructive dialogue and move forward. If it does not work, then ratcheting up with lawyers may be necessary.

In my view:

- Grievances cement rather than resolve disputes. Good communication and alternative dispute (or issue) resolution should be the starting point.
- Threats, overstatements and aggression are best avoided when raising issues or defending allegations. It should be enough to state the facts, which speak for themselves.
- It is not a sign of weakness to be the first to open 'a discussion' about how to resolve matters – including through settlement.

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- A good way of starting a discussion is to talk about the options going forward, focussing on solutions.
- It helps to try and put yourself in the shoes of the other side, including what they are trying to achieve. Consider how any letter/email you write will resolve, not entrench, any disagreement or conflict. It helps to suggest an outcome or next step.
- The parties should be clear with each other about what they want. Thinking 'outside the box' about possible solutions, considering all options, will help.
- It is often easier to find a solution without lawyers doing the negotiating. Legal arguments more often lead to battle, not resolution.
- It is easier to maintain a continuing working relationship with positive negotiations which may enable an employee to remain employed.
- Constructive dialogue is less stressful and time-consuming – for employer, employee and their advisers.

Life's too short to litigate. It's a 'win-win'.

O-5

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Grievances do more harm than good

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██████████ and ██████████ from Yess Law, experts in employment law and *resolving workplace disputes*, discuss *grievances at work*.



Let's start with the assumption that early resolution of workplace issues is the best outcome for you and your employer, and legal action is the worst.

The purpose of a *grievance process* is meant to be to resolve concerns, problems or complaints raised by employees. In practice, we find this is often not the case. Unfortunately, a grievance by its nature is usually a criticism of your employer. It is therefore often seen by the employer, rightly or wrongly, as 'disloyal' or an 'attack' on individuals or the business.

Acas recommends an initial chat to try to resolve any concerns and we agree. Frequently though, both parties recommend this potentially crucial first step is missed. Employees incorrectly think that a grievance is the only way to raise concerns. Conversely some employers wrongly refuse to consider an employee's concerns unless they raise a written formal grievance.

We give some tips on how to constructively engage with an employer below. However, remember that Acas does require that at a certain point you should raise the matter formally, in writing, and without unreasonable delay. Unreasonable failure to raise a grievance can lead to up to 25% reduction in compensation if you eventually take legal action and win a tribunal claim. That is the problem. If all else fails, you may have to raise a grievance in any event.

The downsides of standard grievance procedures:

- Grievances focus on what has gone wrong and contain allegations and legal threats – for example, bullying, discrimination, whistleblowing, unfairness. You may, or may not, have a legal claim, but the grievance needs to be framed as though you do. The reality may be more complicated.
- An employer's most common reaction is to defend itself. A response may include counter allegations such as poor performance. The scene is now set for battle.
- Grievances often entrench the dispute or ratchet up the tension. It is difficult for both sides to backtrack unless they engage in mediation. Both sides put their energies into defending their position rather than finding a solution. Both sides dwell on what has gone wrong – they rarely consider what can be done to rectify the problem.
- The grievance is the first step in a legal system which pits one side against the other: a route towards the employment tribunal, not resolution.

- Grievances are rarely upheld – at least not if upholding a complaint would form the basis of a legal claim – and so matters escalate further.
- You will then have to appeal against the grievance finding.
- Employers spend time going through the process, but there is rarely a happy ending. You may feel that you have not been listened to, the outcome was pre-determined and anger mounts. The only justice you are going to get is in a tribunal.
- Battle begins. Both parties spend time and money, stress levels rocket, and threats are made.
- Many employees do not stay in their job after raising a grievance.
- Grievances rarely achieve your objectives. Most employees want an apology, to avoid conflict and may be to leave with dignity. Employers will rarely 'risk' admitting fault for fear of opening themselves up to a legal claim. Apologies are often the first thing an employee wants but the last thing an employer is willing to give.

The alternatives

- Raise your concerns early on and informally with the right person. This doesn't rule out a grievance if you don't get the response you need.
- Suggest using a workplace mediator at an early stage before the relationship has deteriorated too far.
- State the facts, rather than make legal threats. It is more effective and is less likely to produce a defensive response.

Our YESS top tips for engaging with your employer at all stages

- Avoid being aggressive – it rarely helps – and aggression breeds aggression.
- Avoid legal threats unless all else fails: the facts usually speak for themselves.
- Never overstate your position e.g. "I will resign if you don't say sorry." How will this help if you cannot afford to resign?
- Avoid making threats generally – they are often a sign of weakness, and rarely achieve a positive outcome.
- Focus on solutions to your problem or concern – decide on your objectives and work out how you could achieve what you want.
- Put yourself in the shoes of the other person to try to work out their main concerns and what they may want.
- Consider how emails or letters may be received – read them back to yourself – will they help to resolve or entrench any disagreement? Are they focussing on resolution or on what has gone wrong?
- Ask for an off the record chat to discuss possible solutions resolution – it can break the cycle of distrust.

Constructive dialogue often works best and achieves as good an outcome as legal threats

