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## 1 Introduction

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This document sets out the procedure for Service Police Complaints. It should be read in conjunction with the Service Police Complaints Policy which sets out the principles/rules governing Service Police Complaints.

### 1.1 Service Police Complaints

1.1.1 This document is intended as a guide for all MOD Service, MOD Civil Service personnel and civilians on the application of policy for Service Police complaints. It is designed to be used by anyone wanting to make a Service Police complaint and guidance on the processes involved and best practice to apply by all those responsible for handling and managing such complaints.

1.1.2 This document is structured in two parts:

- a. Part 1 - Policy, which provides the policy mandated by Defence or on Defence by Central Government.
- b. Part 2 - Procedure, which provides the guidance and best practice that will assist the user to comply with the Directives detailed in Part 1.

1.1.3 This guidance does not detail all the Service Police Complaints Commissioner's (SPCC) responsibilities under the Service Police (Complaints etc) Regulations 2023 ('the Regulations'), or how it will carry out those responsibilities. However, these are referred to where it is necessary to explain what is expected of the single Service Police forces and Defence Serious Crime Command (DSCC).

1.1.4 Flowcharts setting out processes for the handling of complaints and other matters are provided in the annexes.

1.1.5 Rather than including definitions throughout the guidance itself, key terms and concepts are defined in the Glossary at Annex A.



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## 2 Guidance for Complainants

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### 2.1 How to make a complaint

2.1.1 Complaints can be made by contacting the Service Police force unit concerned which may allow for local resolution, or for the matter to be passed onto that Service Police force's Professional Standards Department.

2.1.2 Alternatively, the Professional Standards Department for that Service Police force can be contacted directly (see Annex J for contact details), or a complaint can be made directly to the Service Police Complaints Commissioner (SPCC). However, if the complaint is made directly to the SPCC, the complaint will be directed to the appropriate authority unless the SPCC considers that there are exceptional circumstances that justify it not that justify it not being sent directly to the Service Police force<sup>1</sup>. The appropriate authority will then assess the complaint and contact the complainant about how it will be handled. The SPCC will not be involved with the initial assessment of the complaint.

2.1.3 A complaint does not have to be made in writing, nor must it explicitly state that it is a complaint for it to be considered as one<sup>2</sup>. However, complainants will be encouraged to use the Service Police Complaint Form at Annex L.

### 2.2 What can be complained about?

2.2.1 A complaint is defined as any expression of dissatisfaction with a Service Police force or a member of a Service Police force which is expressed by a person or on behalf of another person<sup>3</sup>.

2.2.2 A complaint can be made about any matter which has had an adverse effect on the person making the complaint. A person will be considered to have been adversely affected if they have suffered any form of loss, damage, distress or inconvenience as a result of the matter complained about, or if they have been put in danger or otherwise unduly put at risk of being adversely affected.

2.2.3 A person will not be considered to have been adversely affected solely by virtue of having seen or heard about the conduct or its effects (for example, in the news or being told about it by a third party), unless they:

- a. were physically present or sufficiently nearby when the conduct took place, or the effects occurred, and saw or heard the conduct or its effects.

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<sup>1</sup> See Regulation 12(2).

<sup>2</sup> Regulation 9 (1) states that any expression of dissatisfaction...which is expressed (whether in writing or otherwise)'.

<sup>3</sup> See Regulation 9.



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- b. were adversely affected due to the fact that they knew the person directly affected by the conduct before it happened.

2.2.4 A complaint can be in relation to the conduct of a member of a Service Police force. A complaint can also be made about a much wider range of issues including the service provided by the Service Police force as an organisation.

2.2.5 There is no bar on complaints being made about the conduct of a person who is no longer a member of the Service Police, as long as it concerns matters that occurred while they were serving.

2.2.6 In addition, a complaint may concern the actions of a member of the Service Police who was off-duty at the time of the incident. However, the Service Police complaints system will not cover complaints about the conduct of a person who is serving in another capacity which has no relevance to their role as a member of the Service Police<sup>4</sup>. Advice can be sought from the SPCC on where the conduct of a member of the Service Police in another capacity has the potential to undermine the confidence in the Service Police.

### 2.3 Who can make a complaint?

2.3.1 Who can make a complaint will be dependent on whether the complaint is about the conduct of a person serving as a member of a Service Police force, or if the complaint is about another matter.

2.3.2 Where the complaint relates to conduct of a person serving as a member of a Service Police force, a complainant can be either a member of the Armed Forces or a member of the public who:

- a. claims to be the person in relation to whom the conduct took place.
- b. claims to have been adversely affected by the conduct.
- c. claims to have witnessed the conduct<sup>5</sup>.
- d. is acting on behalf of someone who satisfies one of the above three criteria.

2.3.3 Where the complaint is about another matter, for example a complaint can be made about a much wider range of issues including the service provided by the Service Police force as an organisation, a complainant can be either a member of the Armed Forces or a member of the public who:

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<sup>4</sup> See Regulation 8.

<sup>5</sup> Regulation 9 (3)(c) states that a person can be said to be a witness to the conduct if, and only if they have acquired their knowledge of the conduct in a manner which would make them a competent witness capable of giving admissible evidence of that conduct in proceedings before a Court Martial or they possess or have in their control anything that could be used as admissible evidence in such proceedings.





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- a. was adversely affected by the matter complained about.
- b. is acting on behalf of someone who was adversely affected by the matter complained about.

2.3.4 However, a person cannot make a complaint about a matter if they are a member of the same Service Police force or were on duty in their capacity as a member of a Service Police at the time the matter is said to have taken place. There are internal processes that enable a member of the Service Police force to raise concerns. If those concerns relate to the conduct of another member of the Service Police, the matter will be taken forward as a conduct matter, and the procedures for conduct matters would apply.

2.3.5 A person can appoint someone to act on their behalf when making a complaint, for example a family member, friend or legal representative. The appointed person must have, and be able to produce, written consent of the person on whose behalf they are acting.

#### **2.4 Complaints made by people under 18**

2.4.1. In many cases, a person under 18 who makes a complaint against a person serving with the Service Police will be supported by a parent, guardian or other appropriate adult. In situations where a person under 18 makes a complaint alone, the Service Police force should still take action on their complaint. They should ask the young person whether they would like their parent or guardian to be notified, and their wishes should be followed. They should also consider whether an alternative form of support should be offered, such as an advocate.

2.4.2. If the young person is under 16, they should not normally need to provide written permission for a parent or guardian to act for them in this manner. However, if it becomes apparent that the young person's views about pursuing a complaint are at odds with those of their parent, guardian or advocate, the young person's views should be taken into account, giving due weight to their age and maturity.

2.4.3. When a young person makes a complaint, the Service Police force is responsible for ensuring that they understand the process and the potential outcomes. Young people should receive support not only when they first access the Service Police complaints system, but throughout the handling of their complaint, including ensuring that they understand the process and providing them with appropriate support.

#### **2.5 When can a complaint be made?**

2.5.1. Complaints about events that occurred before the Regulations came into force (19 June 2023), will not be handled under the statutory Service Police complaints system. Instead, these complaints will continue to be handled under the non-statutory arrangements established by the Provost Marshals.



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2.5.2. There is no time limit on making a complaint, but it is best to do it as quickly as possible after the incident(s) has occurred. The reasonable and proportionate response to an older complaint may be necessarily limited as the passage of time means that some evidence is no longer available (although this would be balanced against other factors such as the nature and seriousness of the matter).

2.5.3. If a complaint is made more than 12 months after the incident, it may assist the person assessing the complaint if an explanation for the delay is provided. However, providing an explanation does not guarantee that the complaint will be investigated.

#### **2.6 What happens to a complaint after it is made?**

2.6.1. Once a complaint is received by the appropriate authority responsible for the initial handling of the complaint, they will log the complaint and assess it. The appropriate authority will then contact the complainant to discuss how it will be handled as a complainant's dissatisfaction may not always be captured fully at the time the complaint was initially made.

2.6.2. Complaint handlers will explore with the complainant as to why they feel they have to make a complaint, as well as seek to understand what outcome the complainant wants. Depending on the nature of the complaint, some complaints can be dealt with informally, or will have to be formally recorded. This will be explained to the complainant.

2.6.3. The appropriate authority will also consider whether the complaint should be referred to the SPCC. If the complaint does not need to be referred to the SPCC, it will be handled by the relevant Service Police force.

2.6.4. The flowchart at Annex C provides an overview of the Service Police complaints process.

#### **2.7 How to apply for a review**

2.7.1. If a complainant is unhappy with the way a complaint was handled, or with the final outcome, they can apply for a review.

2.7.2. Where a complaint has been recorded, the complainant has a right to apply for a review of the outcome of the complaint whether it has been dealt with other than by investigation<sup>6</sup> or has had a local investigation<sup>7</sup>. The review body will consider whether the outcome of the handling of the complaint is reasonable and proportionate. Where the review body finds that the outcome of the complaint is not reasonable and proportionate, it will uphold the review. This applies whether the complaint has been investigated or handled in another way.

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<sup>6</sup> See Regulation 18.

<sup>7</sup> See Regulation 64.



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2.7.3. An application for a review<sup>8</sup> must be made in writing (the form at Annex M can be used) and must state the following:

- a. the details of the complaint.
- b. the date on which the complaint was made.
- c. the name of the appropriate authority whose decision is the subject of the application.
- d. the date on which the information mentioned in Regulation 78(10)(c) was provided to the complainant.

2.7.4. A complainant has 28 days to apply for a review. This means the relevant review body must receive the application within 28 days of the date of the letter explaining the outcome of the complaint. For example, if the letter is dated 1 April, the relevant review body must receive the review request by 29 April.

2.7.5. However, the relevant review body may extend the period (including retrospectively) where it is satisfied that, because of the special circumstances of the case, it is just to do so. For example, a complainant could be deployed overseas on operations when the letter informing them of the outcome is sent.

2.7.6. For more information on reviews see Chapter 15.

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<sup>8</sup> See Regulation 65.



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### 3 Principles of reasonable and proportionate handling

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#### 3.1 The importance of reasonable and proportionate handling

3.1.1 All complaints must be handled in a way that the appropriate authority considers to be reasonable and proportionate. While this chapter therefore refers to complaints, the principles outlined here should also be applied to the handling of recordable conduct and death and serious injury (DSI) matters, wherever possible.

3.1.2 The principles of reasonable and proportionate handling apply to decisions about how a complaint should be handled, and, as part of that handling, what steps are required to resolve it. Handling a case reasonably and proportionately includes providing a reasonable and proportionate outcome. This chapter articulates the principles of reasonable and proportionate handling and what these mean in the context of the Service Police complaints system.

#### 3.2 What does 'reasonable and proportionate' mean?

3.2.1 'Reasonable and proportionate' means doing what is appropriate in the circumstances, taking into account known facts and the context in which the matter has been raised. It means weighing up the seriousness of the complaint or other matter and its potential for learning, against the efficient use of policing resources, to determine the extent and nature of the matter's handling and outcome. Considering the seriousness of a matter should involve due regard to the nature of the incident, any actual or potential impact on, or harm to, individual(s), communities or the wider public and the potential impact on confidence in the Service Police and in the Service Police complaints system. A reasonable and proportionate response includes providing a clear and evidence-based rationale for any decisions taken.

#### 3.3 Principles of reasonable and proportionate handling

3.3.1 **Customer service focus** - delivering good customer service should be a central aspect of the handling of all complaints. All parties involved in a complaint should be treated with consideration throughout the process.

3.3.2 **Case-by-case approach** - what is reasonable and proportionate must be assessed on a case-by-case basis.

3.3.3 **Consider the wider context** - complaint handlers should take a holistic approach to handling complaints and act on any wider concerns. They should be alert to opportunities to identify learning and improve service delivery.

3.3.4 **Fair and effective decisions** - actions taken to handle a complaint should be, and should be seen to be, just and any conclusions drawn should be capable of withstanding appropriate scrutiny.



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## 4 Initial handling and recording of complaints

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### 4.1 Initial considerations and actions on receipt of a complaint

4.1.1 This section outlines initial considerations and actions on receipt of a complaint, including the definition of a complaint and what action can be taken before recording a complaint. A flowchart is also provided at Annex D.

4.1.2 Information must be captured about all matters that meet the definition of a complaint (see Glossary at Annex A) which are received by, or are brought to the attention of, a Provost Marshal, a single Service Board, the Defence Council or the Service Police Complaints Commissioner (SPCC), as an expression of dissatisfaction with a Service Police force<sup>9</sup>.

4.1.3 Information regarding the complaint must also be logged in a way that can be extracted and reported on and be made readily available upon request to the SPCC. Capturing such data is important to ensure that feedback about Service policing is attained and can be used to identify issues, trends and opportunities for learning and improvement.

### 4.2 Directing complaints to the correct body

4.2.1 Where a complaint is made to a body<sup>10</sup> which is not the appropriate authority for the complaint, the body that has received the complaint must provide a notification of the complaint to the appropriate authority<sup>11</sup>. For example, if the complaint was mistakenly sent to the Royal Navy Police and should have been sent to the DSCC, then the Royal Navy Police must forward the complaint to the DSCC and notify the complainant that this has happened.

4.2.2 The complaint must be forwarded to the appropriate authority in its entirety. This transparency is important. In some cases, for example, where a complaint contains sensitive data and the complainant has intentionally sent it to a particular body, or the complainant has expressed concern about sensitive information in their complaint being shared, consideration should be given to notifying the complainant in advance that this will happen.

4.2.3 There is, however, no requirement to seek consent from the complainant in order to forward a complaint to the appropriate authority.

4.2.4 Sometimes a complaint may involve more than one appropriate authority. For example, it may relate to additional Service Police force, or involve allegations directed at both the Provost Marshal and other personnel in the same Service Police force. In these circumstances, the relevant parts of the complaint must be sent to the correct body to deal with.

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<sup>9</sup> Here Service Police force includes all three single Service Police forces and the DSCC.

<sup>10</sup> Here Service Police force includes all three single Service Police forces and the DSCC.

<sup>11</sup> The term 'body' or 'bodies' here refers to a Provost Marshal, a single Service Board, Defence Council or the Commissioner.



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#### 4.3 Initial handling by the relevant body

4.3.1 From the point a complaint is received, it is important to acknowledge that the complainant has concerns, and to take prompt, effective steps to begin to address the matter. The way in which a complaint is dealt with at the outset can influence a complainant's confidence in, and participation with, the Service Police complaints system. For this reason, Provost Marshals are responsible for ensuring that all members of the Service Police are aware of, and able to advise individuals, how to make a complaint.

4.3.2 Once a complaint is received by the body responsible for the initial handling of the complaint, it should be logged.

4.3.3 Where the Defence Council, a single Service Board or Provost Marshal either determines or receives notification that it is the relevant authority, it must contact the complainant<sup>12</sup> to seek their views on how the complaint should be handled. This should be done as soon as possible after receipt of the complaint.

4.3.4 Any complaint that must be referred by an appropriate authority to the SPCC may be recorded before contacting the complainant. However, attempts to contact the complainant should not delay the referral of a complaint to the SPCC.

4.3.5 The complainant should be provided with the name and contact details of the person who will initially be handling their complaint, as soon as this is identified.

4.3.6 Complaint handlers should consider whether a complainant has any additional needs to enable them to participate effectively in the process and should, where practicable, make any reasonable adjustments.

#### 4.4 Understanding the complaint

4.4.1 Complaint handlers should consider whether a complainant has any additional needs to enable them to participate effectively in the process and should, where practicable, make any reasonable adjustments.

4.4.2 It is crucial to ensure that a complaint is properly understood, not only as it impacts on whether it must be recorded, but also to ensure that the concerns raised can be properly considered and addressed.

4.4.3 Complaint handlers should explore the nature of the complaint with the complainant, to ensure it is understood in its entirety. A complainant's dissatisfaction may not always be captured fully at the time of their initial contact to make a complaint, particularly if the complainant is vulnerable or has difficulty articulating fully the nature of their concerns and the impact of them. Certain types of complaints may require more exploration than others. For example, where a complainant includes allegations that may amount to discrimination,

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<sup>12</sup> See Regulation 12.



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complaint handlers should explore with the complainant why they feel that they have been discriminated against.

### 4.5 Explaining what the complainant can expect

4.5.1 Complaint handlers should explore with the complainant as to why they feel they have to make a complaint.

4.5.2 Complaint handlers should seek to understand what outcome the complainant wants. However, they should be open and transparent in managing a complainant's expectations if they appear to want or expect something that is either not possible or is highly unlikely to be reasonable or proportionate to provide.

4.5.3 Complainants must be informed whether their complaint has been formally recorded or if it has been (or is being) resolved informally. However, complaint handlers should be mindful of the terms they use when discussing the handling of a complaint. For example, referring to the complaint solely in terms of being handled under or outside of the requirements of Part 3 of the Regulations may be confusing. The Service Police complaints system may be more effectively and clearly explained to complainants by informing them of the steps involved in the process and ensuring that they understand what this means for their complaint.

### 4.6 The preserving of evidence in relation to a complaint

4.6.1 The appropriate authority must ensure all steps as are appropriate both initially and from time to time after that, for obtaining and preserving evidence relating to any conduct complained of<sup>13</sup>.

4.6.2 An appropriate authority must also comply with any directions made by the SPCC in relation to the performance of this duty.

### 4.7 Handling complaints informally

4.7.1 Complaints dealt with informally must be handled with a view to resolving them to the complainant's satisfaction<sup>14</sup>. Handling a complaint informally provides an opportunity to address promptly the concerns a complainant has raised. Some complaints do not require detailed enquiries in order to address them. For example, the complainant may only want an explanation, or for their concerns to be noted or passed on. Handling such complaints promptly, may be the most efficient, effective, and beneficial way to resolve the complaint. It can assure the complainant that their concerns have been listened to and addressed, while potentially providing a learning opportunity for the Service Police force and, if appropriate, any individuals involved.

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<sup>13</sup> See Regulation 11.

<sup>14</sup> That is a complaint being outside the requirements of Part 3 of the Regulations (see Regulation 12(9)).



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4.7.2 The key consideration, when handling a complaint informally, is whether a course of action is appropriate and whether it will be an effective response to a complaint, which will satisfy the complainant. Actions could include:

- a. providing information and an explanation either by telephone or in writing.
- b. providing an update on the complainant's outstanding matters.
- c. answering questions that the complainant has.
- d. organising the return of seized property.
- e. offering an apology for poor service.
- f. confirming that steps have been taken to prevent an error occurring again which may include signposting the complainant to appropriate processes.
- g. logging the complainant's concerns for consideration when a policy or procedure is next due for a review.

4.7.3 Complaints handled informally should be handled in a timely manner. This does not mean that a complaint should be resolved immediately if the complaint handler believes a short delay will mean the necessary information to resolve the complaint is available. Nor does it prevent additional steps being taken to resolve a matter following an initially unsuccessful attempt, if the complainant agrees those steps may be sufficient to remedy the matter to their satisfaction. If at any point it appears that remedying the matter to the complainant's satisfaction cannot be achieved in a timely manner or without substantial additional steps being taken, this is likely to indicate the matter should be recorded (i.e. given formal status and handled in accordance with the procedures set out in the Regulations). The complainant must be kept properly informed of the progress of the handling of the complaint, subject to certain exceptions (see Section 8.4).

4.7.4 A complaint will not be suitable for handling informally where accounts need to be taken from members of the Service Police force, or where other investigative type steps are needed to provide a satisfactory outcome.

4.7.5 The conclusion of handling a complaint informally must be communicated to the complainant within five working days of the outcome being determined. It should be discussed with the complainant unless it is not appropriate or possible to do so. The outcome should be communicated in writing.

4.7.6 If a complainant is dissatisfied with the way their complaint has been handled, complaint handlers should remind complainants that:

- a. they can ask for their complaint to be recorded; and





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- b. if it is recorded, that there will be a right to apply to have the outcome of their complaint reviewed (unless it is subject to a directed or independent investigation)

4.7.7 Where appropriate, the complainant's expectations of what further substantive action could result from recording should be managed. However, complainants should not be dissuaded from requesting that their complaint be recorded, if that is what they want.

#### 4.8 When must complaints be recorded

4.8.1 A complaint must be formally recorded and handled in accordance with the procedures set out in the Regulations, if at any point the person making the complaint wants it to be recorded or the appropriate authority deems it necessary. This applies even if previous attempts have been made to handle the complaint informally. Where a complainant's wishes are unclear, reasonable steps should be taken to clarify what they are.

4.8.2 Further, the appropriate authorities must record any complaint that must be referred to the SPCC.

4.8.3 A complaint must also be formally recorded and handled in accordance with the procedures set out in the Regulations, where the appropriate authority decides that it is appropriate to do so or if the complaint<sup>15</sup>:

- a. is an allegation that the conduct or other matter complained of resulted in death or serious injury.
- b. is an allegation that there has been conduct by a member of a Service Police force, which (if proved) might constitute the commission of a service offence or would justify the initiation of administrative action procedures (see Glossary at Annex A).
- c. is about conduct or any other matter which, if proved, might have involved the infringement of a person's rights under Articles 2 or 3 of the European Convention on Human Rights (see Glossary at Annex A).
- d. meets any of the mandatory referral criteria to the SPCC (see Chapter 8).
- e. the SPCC uses their power to treat a complaint as if it has been referred<sup>16</sup>.

4.8.4 These criteria must be assessed on the basis of the allegations, not on their apparent merit. No scoping is required before making this decision, except to ensure that the complainant's allegations are fully understood.

4.8.5 When considering whether it is appropriate to record a complaint which does not otherwise meet the criteria for recording, other factors to be considered include:

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<sup>15</sup> See Regulation 12(8).

<sup>16</sup> See Regulation 14.



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- a. the extent and nature of enquiries required to address the complaint.
- b. whether the allegations include an alleged breach of any of the articles of the European Convention on Human Rights (other than Articles 2 and 3).
- c. whether previous similar complaints have been recorded or logged (either about the same issue, or, where appropriate, about the same member of the Service Police or Service Police force).

4.8.6 Once it becomes apparent that a complaint must be recorded, it should be recorded as soon as possible. Where it is clear from the initial complaint that the complaint meets the criteria for recording, it is not necessary to wait to contact the complainant before making that decision. However, the complainant must still be contacted to discuss their complaint.

4.8.7 Complaints should be recorded in a format that can be easily accessed and inspected. Sufficient information should be recorded about each complaint to enable the monitoring and reporting of actions and outcomes that may result from it.

4.8.8 Complainants must be informed as soon as is practical that their complaint has been recorded and provide them with a copy of the record that has been made. A copy of the complaint must also be given to the person complained about (if any), unless to do so might prejudice an investigation or pending proceedings relating to a service offence or would otherwise be contrary to the public interest<sup>17</sup>. This decision must be kept under regular review. The identity of any person may be anonymised in the copy provided.

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<sup>17</sup> See Regulation 15.



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## 5 Recordable conduct matters

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### 5.1 Definition of a conduct matter

5.1.1. A conduct matter means any matter which is not, and has not been, the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a member of a Service Police force may have committed a service offence, or behaved in a manner that would justify the initiation of administrative action procedures (see Glossary at Annex A)<sup>18</sup>.

5.1.2. Where there are issues relating to the conduct of an individual, it is important that those issues are recognised and dealt with appropriately, even where no complaint is made.

### 5.2 Identifying conduct matters

5.2.1. Appropriate authorities should be proactive and alert to the potential for conduct matters to arise. Identifying and appropriately dealing with issues relating to the conduct of an individual ensures individual accountability. Such accountability helps to uphold and maintain high professional standards across the Service Police and build/maintain the trust and confidence of the Armed Forces community and the wider public.

### 5.3 Recording conduct matters arising in civil proceedings

5.3.1 The Regulations place a duty on appropriate authorities to identify and deal with conduct matters that come to their attention as a result of civil proceedings. Where an appropriate authority receives notification that civil proceedings relating to any matter have been brought or are likely to be brought, and those proceedings involve or would involve a conduct matter, they should make an initial assessment about whether any complaint has been made about the same conduct. If so, they should deal with that complaint in accordance with the guidance on handling complaints.

5.3.2 Where an appropriate authority determines that the matter requires to be referred to the Service Police Complaints Commissioner (SPCC), it must be referred, and the matter recorded. However, where the appropriate authority is satisfied that the matter in question is already being dealt with by means of administrative procedure or disciplinary proceedings against the person whom the conduct relates to, then there is no need to record any conduct matter.

### 5.4 Recording conduct matters arising other than by civil proceedings

5.4.1 When a conduct matter comes to the attention of the appropriate authority other than by civil proceedings, it must consider whether it is a conduct matter that must, or may, be formally recorded<sup>19</sup>.

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<sup>18</sup> See Regulation 9(4).

<sup>19</sup> See Regulation 22.



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5.4.2 Recordable conduct matters should be recorded as soon as practicable after they have come to light. A conduct matter should still be recorded even if there is a lengthy period of time between the events occurring and the matter coming to light<sup>20</sup>.

5.4.3 Where the conduct matter has been recorded, but there is no requirement to refer it to the SPCC, the appropriate authority may deal with the matter in such manner as the appropriate authority determines. Where the SPCC has decided to treat a conduct matter as referred, the conduct matter must be recorded<sup>21</sup>.

5.4.4 The process for considering whether it is a conduct matter is outlined in the flowchart at Annex E.

#### 5.5 What is meant be recordable?

5.5.1 A matter is recordable if it involves allegations of conduct that (assuming it to have taken place)<sup>22</sup>:

- a. appears to have resulted in the death or serious injury of any person.
- b. any person has been adversely affected by it.
- c. meets any of the following criteria:
  - (1) serious assault (see definitions of referral criteria at Annex B).
  - (2) a serious sexual offence (see definitions of referral criteria at Annex B).
  - (3) serious corruption including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship (see definitions of referral criteria at Annex B).
  - (4) a service offence or behaviour which is liable to lead to initiation of administrative action procedures (see Glossary at Annex A) and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status (see definitions of referral criteria at Annex B).
  - (5) a relevant service offence (see Glossary at Annex A).
  - (6) conduct whose gravity or other exceptional circumstances make it appropriate to record the matter in which the conduct is involved.
  - (7) conduct of a Provost Marshal.

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<sup>20</sup> Note that this only applies to matters that occur on or after the Regulations come into force (i.e.19 June 2023).

<sup>21</sup> See Regulation 25.

<sup>22</sup> See Regulation 22(2).



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(8) conduct which is alleged to have taken place in the same incident as one in which the conduct within paragraphs (1) to (5) is alleged.

5.5.2 Conduct matters may be 'repetitious' where they are being or have already been dealt with. In order to ascertain whether a matter is repetitious it is necessary to consider whether it concerns substantially the same conduct as a previous complaint or recorded conduct matter; and whether:

- a. force may have committed a service offence or behaved in a way which would justify the initiation of administrative action procedures).
- b. there is any fresh substantive evidence, which was not reasonably available at the time the previous complaint was made or previous conduct matter was recorded.
- c. the previous complaint or conduct matter has been, or is being, investigated or (in the case of a complaint) otherwise handled in accordance with the Regulations<sup>23</sup>.

5.5.3 In addition, if the appropriate authority is satisfied that the matter has been or is already being dealt with by way of disciplinary proceedings or administrative action, there is no requirement to record the matter.

5.5.4 If none of the aforementioned criteria apply under this heading, then the appropriate authority may, but need not, record the conduct matter and there is no requirement to refer the matter to the SPCC. Where the matter is recorded but is not required to be referred to the SPCC, the appropriate authority may deal with the matter as it deems appropriate.

#### **5.6 What is meant by 'must or should the matter be referred'?**

5.6.1 In determining whether a matter must or should be referred the following considerations apply:

- a. the matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury.
- b. it meets any of the mandatory criteria for referring a matter to the SPCC.
- c. the gravity of the conduct matter or any exceptional circumstances make it appropriate to refer the matter to the SPCC voluntarily either by the appropriate authority; or
- d. the appropriate authority has been notified by the SPCC that it is required to refer the matter due to the SPCC using their power to treat the matter as having been referred<sup>24</sup>.

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<sup>23</sup> See Regulations 22(5) and 21(6).

<sup>24</sup> See Regulation 24 Reference of conduct matters to the Commissioner.



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5.6.2 However, a conduct matter that has been referred to the SPCC previously (or that the SPCC has treated as having been referred) should not be referred again, unless the SPCC directs the appropriate authority to do so, or consents for the referral to be made. Therefore, a conduct matter that has been referred previously does not meet the definition of 'must or should the matter be referred'.

5.6.3 For information on the referral of conduct matters, see Chapter 7.

### **5.7 Conduct matters involving allegations of discrimination**

5.7.1 When considering whether conduct matters involving allegations of discrimination should be recorded, appropriate authorities will need to consider the gravity of the alleged conduct and where it is an aggregating factor in terms of a service offence, it must be referred to the SPCC.



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## 6 Death or serious injury matters

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### 6.1 Definition of a death or serious injury matter

6.1.1 A death or serious injury (DSI) matter means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter) in, or as a result of which, a person has died or sustained serious injury<sup>25</sup>, and:

- a. that at the time of the death or serious injury the person had been arrested by a member of a Service Police force and had not been released from that arrest or was otherwise detained in the custody of a member of a Service Police force<sup>26</sup>; or
- b. that at or before the time of the death or serious injury the person has had contact (of whatever kind, and whether direct or indirect) with a member of a Service Police force who was acting in the execution of their duties as a member of such a force, and there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.

6.1.2 A 'serious injury' means a fracture, a deep cut, a deep laceration, or an injury causing damage to an internal organ or the impairment of any bodily function<sup>27</sup>.

6.1.3 If a death or serious injury occurs while a person is under arrest or otherwise detained in the custody of a member of the Service Police, this meets the definition of a DSI matter. In these circumstances, there does not need to be any indication of a causal link between the contact with a member of the Service Police and the death or serious injury to meet the definition.

6.1.4 If a death or serious injury occurs following direct or indirect contact with a member of the Service Police, and the person who died, or was seriously injured, was not under arrest or otherwise in the custody at the time, the appropriate authority will need to assess whether there is any indication that the contact may have caused or contributed to the death or serious injury. For example, through action, or inaction. If there is such an indication, this meets the definition of a DSI matter.

### 6.2 Recording and preserving of evidence in relation to a DSI matter

6.2.1 Where a DSI matter comes to the attention of the appropriate authority, that authority must record that matter<sup>28</sup>. Further, there is a duty on the appropriate authority to take all appropriate and necessary steps to preserve evidence relating to a DSI matter which must be performed as soon as practicable.

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<sup>25</sup> See Regulation 9(14) - 9(16).

<sup>26</sup> This does not include a death or serious injury in Service Custody Premises where there has been no contact with the Service Police (e.g. sentenced by a CO and taken directly to a facility).

<sup>27</sup> See Regulation 2,

<sup>28</sup> See Regulation 27 - Handling of Death and Serious Injury Matters.



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6.2.2 To ensure timeliness, appropriate authorities must ensure that they have processes in place to identify and refer DSI matters without delay<sup>29</sup>. Therefore, all members of Service Police who are likely to handle such matters need to be able to recognise circumstances that may constitute a DSI matter and know how and when to raise them through the appropriate channels.

6.2.3 DSI matters should be recorded as soon as practicable after they are identified, and all DSI matters are mandatory referrals to the Service Police Complaints Commissioner (SPCC).

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<sup>29</sup> See Regulation 29 - reference to the Commissioner should be done so without delay and no later than the end of the day following the day on which the matter first comes to the attention of the appropriate authority.





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## 7 Referrals

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### 7.1 Complaints that must be referred to the Service Police Complaints Commissioner (SPCC)

7.1.1 Appropriate authorities must refer to the SPCC complaints which fulfil the following criteria<sup>30</sup>:

- a. the complaint alleges that the conduct resulted in a death or serious injury.
- b. any complaint not within (a) which is:
  - (1) a serious assault.
  - (2) a serious sexual assault.
  - (3) serious corruption.
  - (4) a service offence or behaviour liable to lead to administrative action and aggravated by discriminatory behaviour.
  - (5) a relevant service offence (see Glossary at Annex A).
- c. any complaint arising from the same incident in which conduct falling within (a) or (b) is alleged.
- d. any complaint not within (a), (b) or (c) but which relates to the conduct of a Provost Marshal, and the appropriate authority cannot satisfy itself that the conduct complained about would justify administrative action (see Glossary at Annex A).
- e. the SPCC notifies the appropriate authority that the matter be referred. However, a complaint that has been referred to the SPCC previously or that the SPCC has treated as having been referred cannot be referred again unless the SPCC directs the appropriate authority to do so, or consents for the referral to be made<sup>31</sup>.

7.1.2 Appropriate authorities may also refer a complaint where the gravity of the matter or where exceptional circumstances means that it is appropriate to do so.

### 7.2 Conduct matters that must be referred to the SPCC

7.2.1 Appropriate authorities must refer to the SPCC recordable conduct matter which falls under the following<sup>32</sup>:

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<sup>30</sup> Regulation 13 sets out the criteria where complaints must be referred to the Commissioner.

<sup>31</sup> Regulation 13(9).

<sup>32</sup> Regulation 24 sets out the criteria where conduct matters must be referred to the Commissioner.



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- a. any incident or circumstances involving a death of serious injury.
- b. a serious assault (see definition of referral criteria at Annex B).
- c. a serious sexual assault (see definition of referral criteria at Annex B).
- d. serious corruption (see definition of referral criteria at Annex B).
- e. a service offence or behaviour liable to lead to administrative action and aggravated by discriminatory behaviour (see definition of referral criteria at Annex B).
- f. a relevant service offence (see Glossary at Annex A).
- g. conduct of a Provost Marshal.
- h. conduct which is alleged to have taken place in (b) to (f).
- i. the SPCC notifies the appropriate authority that the matter is to be referred.

7.2.2 However, a conduct matter that has been referred to the SPCC previously or that the SPCC has treated as having been referred, cannot be referred again unless the SPCC directs the appropriate authority to do so, or consents for the referral to be made<sup>33</sup>.

7.2.3 Appropriate authorities may refer a complaint where the gravity of the matter or exceptional circumstances where it is appropriate to do so.

### 7.3 Referral of death or serious injury (DSI) matters

7.3.1 Appropriate authorities must refer all DSI matters to the SPCC<sup>34</sup>.

7.3.2 However, a DSI matter that has been referred to the SPCC previously or that the SPCC has treated as having been referred cannot be referred again unless the SPCC directs the appropriate authority to do so, or consents for the referral to be made<sup>35</sup>.

### 7.4 Voluntary referrals

7.4.1 Appropriate authorities have the option to voluntarily refer complaints or recordable conduct matters that do not have to be referred. This is where the gravity of the subject matter or exceptional circumstances justify referral. These 'voluntary referral' matters may, for example, include:

- a. where there is a significant impact on confidence in the Service Police and in the wider Service Justice System.

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<sup>33</sup> Regulation 24(7).

<sup>34</sup> Regulation 27.

<sup>35</sup> Regulation 29(3).



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- b. where a person is injured but the matter is not serious enough to be a DSI matter and otherwise must not be referred, but, there might be something in the conduct or circumstances in which the injury occurred that warrants referral.
- c. where there is a need for independent involvement in the investigation.

#### 7.5 SPCC power to treat matters as having been referred

7.5.1. The SPCC has the power to treat any complaint<sup>36</sup>, conduct matter<sup>37</sup> or DSI<sup>38</sup> matter which comes to their attention otherwise than by being referred by the appropriate authority, as having been referred, whether or not that matter has been recorded.

7.5.2. This power enables the SPCC to consider the matter for the purposes of determining whether an investigation is necessary and making a mode of investigation decision without receiving a referral from the appropriate authority irrespective of whether a matter has been recorded.

7.5.3. Upon treating a matter as having been referred, the SPCC must notify:

- a. the appropriate authority.
- b. the complainant (where there is one).
- c. the person complained about or whose conduct to which the matter relates (except in a case where it appears to the SPCC that to do so might prejudice an investigation).

7.5.4. Where an appropriate authority receives notification that a matter has been treated as referred, it must record the matter if it has not already done so. Further, the appropriate authority should provide to the SPCC, as soon as possible after the notification, all relevant information that has not already been supplied or make them aware that additional information will be forthcoming.

#### 7.6 Other factors to consider for referral criteria

7.6.1 If further information or evidence is obtained that indicates an incident was more serious than first thought and it meets the criteria for referral, the appropriate authority must refer the matter to the SPCC. Further, a repeat referral may be appropriate if further information or evidence is obtained that means that the SPCC may wish to review the mode of investigation.

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<sup>36</sup> Regulation 14 - Power of the Commissioner to treat complaint as having been referred.

<sup>37</sup> Regulation 25 - Power of the Commissioner to treat conduct matter as having been referred.

<sup>38</sup> Regulation 30 - Power of the Commissioner to treat DSI matter as having been referred.



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7.6.2 An appropriate authority may seek the SPCC's advice about whether to refer a specific incident or allegation. Where there is doubt about whether a complaint or recordable conduct matter must be referred, the SPCC encourages referral.

7.6.3 Where the appropriate authority makes a referral sometime after the original incident, an explanation should be provided for the delay, and any new evidence or information that has come to light leading to the referral of the matter.

7.6.4 For all matters meeting the mandatory referral criteria (for example allegations of a serious sexual assault) these must be referred to the SPCC without delay.

#### **7.7 Deadlines for referral**

7.7.1 A mandatory referral must be made without delay and in any case not later than the end of the day after the day it first becomes clear to the appropriate authority that it is a matter which must be referred.

7.7.2 Where the SPCC treats a complaint or matter as having been referred, it must be referred without delay and in any case by the end of the day after the day the SPCC notifies the appropriate authority that the matter must be referred.

7.7.3 Voluntary referrals should be made as soon as possible after the appropriate authority determines that the matter warrants a referral to the SPCC.

7.7.4 The process of referral must not delay any initial action by an appropriate authority to secure or preserve evidence.

7.7.5 When referring a matter, an appropriate authority should provide as much relevant information as possible to the SPCC to enable them to make an informed decision about whether an investigation is necessary and, if so, the appropriate mode of investigation. The need to provide information should be balanced against the timeliness of making the referral.

#### **7.8 Determining whether and how a matter should be investigated**

7.8.1 In determining whether a complaint, conduct matter or a DSI matter should be investigated, the following applies:

- a. where the SPCC decides that a matter does not need to be investigated, then it may refer the matter back to the appropriate authority, to be dealt with by the appropriate authority in a manner it sees appropriate; or
- b. if the appropriate authority is already investigating the matter, the SPCC must refer the matter back to the appropriate authority, in order for it to complete the investigation; or



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- c. if there is no investigation already underway, the appropriate authority must handle the matter in whatever reasonable and proportionate manner it determines.

7.8.2 Where the SPCC decides that a matter must be investigated, they will decide the mode of investigation based upon such factors as seriousness of the matter and the public interest.

7.8.3 The mode of investigation can be:

- a. an investigation by appropriate authority on its own behalf (or a local investigation).
- b. an investigation which is conducted by the appropriate authority under the direction of the SPCC (directed investigation).
- c. an investigation by the SPCC (independent investigation).

7.8.4 The SPCC has the power to revisit a determined mode of investigation at any time and change it. For example, where further information comes to light. In the case of a directed investigation, the SPCC is obliged to keep the mode of investigation under review to ensure that this form of investigation continues to be the most appropriate.

## 7.9 Notification of mode of investigation decisions

7.9.1 For complaints, conduct matters and DSI matters the SPCC must notify the following about the mode of investigation decision and the reason for it:

- a. the appropriate authority.
- b. every person entitled to be kept properly informed under Regulation 78.
- c. the complainant (if there is one).
- d. the person to whose conduct the investigation relates.



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## 8 Duties and considerations relevant in the handling of complaints, conduct matters and DSI matters

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This chapter should be read alongside Chapters 9 and 10 as they set out the duties and considerations that apply irrespective of whether a matter is being investigated or handled otherwise than by investigation. A complaint, conduct matter, or DSI matter must be handled in a reasonable and proportionate manner, in line with the principles set out in Chapter 3.

All complaints that have been formally recorded, must be handled in a reasonable and proportionate manner. Depending on the circumstances, this may mean:

- a. an investigation of the matter concerned;
- b. otherwise responding to concerns raised and seeking to resolve them; or
- c. notifying a complainant that no further action will be taken.

While the legislative requirement places a duty upon the appropriate authority to handle complaints in a reasonable and proportionate manner<sup>39</sup>, this principle should also be applied to the handling of recordable conduct and DSI matters insofar as possible.

The approach to handling should be made on a case-by-case basis. However, some matters must be investigated and there are certain requirements for the handling of all matters, irrespective of whether they are being investigated or handled otherwise than by investigation.

### 8.1 Assessing what is reasonable and proportionate

8.1.1 The appropriate authority must consider whether the reasonable and proportionate way to handle a complaint is by investigation or otherwise than by investigation. To this end, both the appropriate authority and complaint handler must consider what steps are reasonable and proportionate in handling a complaint and should take a number of factors into account. These include:

- a. the seriousness of the matter, including:
  - (1) what is alleged.
  - (2) the impact and/or harm that has, or could have been, caused to the public interest.
  - (3) the public interest.

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<sup>39</sup> See Regulation 17(3) - Handling of complaints by the appropriate authority.



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- (4) whether any articles of the European Convention on Human Rights are engaged.
  - (5) the wider context and whether the matter gives rise to concerns additional to those alleged by the complainant.
  - (6) whether a number of previous similar complaints have been recorded or logged (either about the same issue, or, where appropriate, about the same officer or unit).
  - (7) the potential for learning for individuals or Service Policing in general.
  - (8) whether there appears to be an indication that whilst the matter may not be misconduct or gross misconduct, it appears to be gross incompetence.
- b. what facts need to be established and whether they are in dispute.
  - c. how long ago any incident took place and whether evidence is still likely to be available.
  - d. what might be done to remedy any issues.
  - e. what outcome the complainant may have indicated that they are seeking.

8.1.2 In some circumstances, the reasonable and proportionate response to a complaint may be necessarily limited. For example, where the passage of time means that some evidence is no longer available. However, it is always important to balance this with the factors outlined above. The complaint handler should consider what can be done to address the dissatisfaction, to learn and avoid repetition of any mistakes, and to provide a reasonable and proportionate outcome. This is particularly important when the matters alleged had, or had the potential to have, a serious effect on the complainant or Service policing.

8.1.3 Complaint handlers should regularly review whether their initial approach remains appropriate. A sound approach to complaint handling will assist in identifying common trends, systemic failures and will provide the opportunity to learn from, remedy and avoid future mistakes.

## 8.2 Appointment of a person to handle the matter

8.2.1 Persons appointed to handle a matter must have the necessary experience, knowledge and skills. Depending on the nature of the matter, the handler may require a specific skillset. They must not be someone whose involvement in this role could reasonably give rise to a concern about whether they could act impartially. Perceived conflicts of interest may arise, for example, where the handler works either directly or indirectly, under the management of the person whose conduct is being investigated, or where the Provost Marshal is under investigation and the investigator is from their Service Police force.



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8.2.2 There are specific requirements regarding the appointment of an investigator (see Chapter 10).

#### 8.3 Matters that must be investigated

8.3.1 A complaint must be investigated where the appropriate authority determines that is the reasonable and proportionate way to handle it.

8.3.2 In addition, save for the exceptions to the duties to investigate listed below (paragraph 8.4.1), the following must be investigated:

a. any complaint where there is an indication, either from the complaint itself or from handling, that:

(1) a person serving with the police may have committed a service offence or behaved in a manner that justifies administrative action procedures (see Glossary at Annex A).

(2) there may have been the infringement of a person's rights under Articles 2 or 3 of the European Convention on Human Rights (see Glossary at Annex A).

b. any complaint, recordable conduct or DSI matter that the SPCC has determined must be investigated, following the referral of the matter to the SPCC or the SPCC treating the matter as having been referred.

c. any complaint, recordable conduct or DSI matter or that the SPCC has determined must be investigated or re-investigated following their decision in respect of a review.

8.3.3 'Indication' is to be given its ordinary meaning. In making the decision about whether there is 'an indication', the appropriate authority should consider whether the circumstances, and the readily available evidence, show or reasonably imply that a member of the Service Police may have committed a service offence, behaved in a manner that justifies administrative action, or that there may have been an infringement of a person's rights under Articles 2 or 3. An allegation does not need to be accompanied by corroborating evidence for there to be an indication. However, the decision should take account of the facts being asserted by the complainant, alongside any readily available evidence, and not focus solely on what the complainant says those facts amount to.

8.3.4 Where there is doubt as to whether or not there is an indication, this may suggest that it is reasonable and proportionate to investigate.





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#### 8.4 Exceptions to the duty to investigate complaints

8.4.1 There are exceptions<sup>40</sup> to the duty to investigate a complaint where the appropriate authority determines that:

- a. the complaint concerns substantially the same:
  - (1) conduct or other matter as a complaint made previously.
  - (2) conduct as a conduct matter that was previously recorded.
- b. there is no fresh indication in respect of that conduct or other matter that:
  - (1) a member of a Service Police force may have committed a service offence or behaved in a manner that would justify the bringing of disciplinary proceedings.
  - (2) there may have been the infringement of a person's rights under Article 2 or 3 of the European Convention on Human Rights.
- c. there is no fresh substantive evidence which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded.
- d. the previous complaint or conduct matter:
  - (1) has been, or is being, investigated.
  - (2) (in the case of a complaint) has been, or is being, otherwise handled in accordance with the Regulations.
  - (3) (in the case of a complaint) has previously been withdrawn<sup>41</sup> and, therefore, the provisions of the Regulations ceased to apply to that previous complaint.

8.4.2 'Substantive' evidence means, for example, evidence of a material fact which is in dispute or may have a bearing on the outcome of the complaint, as distinct from evidence of matters peripheral to the complaint and highly unlikely to have any bearing on the outcome. However, the matter should still be handled in a reasonable and proportionate manner.

#### 8.5 Members of the Service Police

8.5.1 Members of the Service Police, including witnesses, are expected to co-operate with investigations, inquiries and formal proceedings, this includes their attendance for interviews. They must participate openly and professionally in line with the expectations as

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<sup>40</sup> See Regulation 17(6)

<sup>41</sup> See Regulation 19



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a member of the Service Police when they are identified as a witness. Failure to do so may be treated as a breach of professional standards.

8.5.2 Where a member of a Service Police force is required to attend an interview, a written notice should be given to them and if reasonably practicable a date and time agreed for the interview to be conducted<sup>42</sup>.

### 8.6 Communicating with the complainant and other parties

8.6.1 The SPCC (in both directed or independent investigations), or appropriate authorities (where they have taken on responsibility for updating complainants), must keep the complainant and/or interested persons properly informed about the progress and outcome of the handling of the complaint, recordable conduct matter or DSI matter.

8.6.2 Appropriate authorities must ensure that they are able to respond to any questions or requests for information. To achieve this, the relevant Service Police force which has taken on responsibility for updating complainants should ensure that appropriate processes are in place. This will enable them to accurately respond in a timely fashion to any queries or requests for information, whilst still taking into account the exceptions listed below (paragraphs 8.7.1 to 8.7.5).

8.6.3 To deliver a quality service, Service Police forces should, where practicable, tailor communication to meet the needs of the individual. They should also ask the complainant how they wish to be kept informed of the progress of their complaint, making where required any reasonable adjustments.

8.6.4 The first update to a complainant and/or interested persons must be meaningful and provided promptly. The update must be in writing, and, at the latest, within four weeks of the start of the handling of the matter<sup>43</sup>.

8.6.5 Subsequent updates should be provided both in writing or another method depending upon the complainant's and/or an interested person's preferences. An update should include:

- a. the stage reached.
- b. what has been done and what remains to be done.
- c. a summary of significant evidence (where relevant).
- d. likely timescales for completing the investigation or other handling and revisions to this.
- e. reasons behind the revision on timescales (where relevant).

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<sup>42</sup> See Regulation 53.

<sup>43</sup> See Regulation 80.



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- f. reasons for delay (where relevant).
- g. steps taken to mitigate against the delay (where relevant).

8.6.6 The appropriate authority must in any event decide whether it is appropriate to offer, or grant a request for, a meeting with a complainant and/or interested person in order to comply with its duties to keep them properly informed. As soon as practicable after any such meeting, the appropriate authority must send the complainant or interested person a written record of the meeting and explain how any concerns raised will be addressed.

8.6.7 The SPCC expects any person who is complained about (if any), or to whose conduct the matter relates, to be provided with updates in a similar fashion, taking into account the exceptions below (paragraphs 8.7.1 to 8.7.5).

8.6.8 Where an investigation is subject to special procedures, there are specific requirements regarding the provision of information to the person who is complained about, or to whose conduct the matter relates (see Chapter 10).

#### 8.7 Exceptions to the duty to provide information

8.7.1 The first update to a complainant and/or interested persons must be meaningful and provided promptly. The update must be in writing, and, at the latest, within four weeks of the start of the handling of the matter<sup>44</sup>.

8.7.2 The duty to keep the complainant and interested persons informed does not apply in circumstances where the SPCC or appropriate authority deems that non-disclosure is necessary<sup>45</sup>:

- a. to prevent premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings.
- b. to prevent the disclosure of information in any circumstances in which its non-disclosure:
  - (1) is in the interest of national security.
  - (2) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders.
  - (3) is required on proportionality grounds.
  - (4) is otherwise in the public interest.

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<sup>44</sup> Regulation 80 sets out the exceptions to the duties to keep the complainant and interested person informed.

<sup>45</sup> See Regulation 81.



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8.7.3 The SPCC or appropriate authority must consider whether the non-disclosure of information is justified under any of the above grounds where:

- a. that information is relevant to, or may be used in, any actual or prospective administrative action procedures.
- b. the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings.
- c. the disclosure of that information may prejudice the welfare or safety of any third party.
- d. that information constitutes criminal intelligence.

8.7.4 Information must not be withheld on one of these grounds unless the appropriate authority concludes that there is a real risk of the disclosure of the information causing a significant adverse effect. In considering whether disclosure may have a significant adverse effect, it is necessary to bear in mind that the risk may not be obvious from one document but may be more apparent when several documents are taken together. For example, an informant may not be named in paper(s), but it may be possible to identify them when several documents are considered together .

8.7.5 Handlers must consider how such risks may be avoided or minimalised by redacting harmful or personal material from the document or information requested. What needs to be removed will depend on what information is requested and what harm may arise from its disclosure. Handlers should consider what information can reasonably and proportionately be provided to the complainant or interested person without breaching any of the exceptions above.

## 8.8 Keeping an audit trail

8.8.1 Persons handling matters must be able to demonstrate what has been done, what decisions have been made and why, including where a decision has been made not to do something. Therefore, all documentary evidence seen or created should be collated and preserved with an available audit trail in relation to every matter, irrespective of its complexity. The availability of such information will assist if the complaint is subject to a review and must be provided to the relevant review body.

8.8.2 There is a duty on parties to obtain and preserve evidence relating to matters, whether this is the appropriate authority or Provost Marshal.



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## 9 Handling recorded complaints other than by investigation

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### 9.1 Taking a flexible approach

9.1.1 Although the Regulations distinguish between those matters that are 'investigated' and those that are not, in practice, certain investigative steps may be reasonable and proportionate even when not carrying out an investigation. For example, where conflicting accounts cannot be reconciled without some investigative steps being undertaken.

9.1.2 Complaint handlers should think creatively about what action will be most useful to provide a meaningful response. Handlers should consider the following non-exhaustive factors when handling a non-investigative matter:

- a. what action will be most useful to provide meaningful answers to issues or concerns raised?
- b. how do I remedy the dissatisfaction of the complainant?
- c. where applicable, is mediation between parties (i.e. the complainant and person complained about) a way to resolve the matter?
- d. do I need to take certain investigative steps equivalent to a recorded and investigated matter to clarify issues (for instance, where there are conflicting accounts)?
- e. have lessons learnt or changes that are required to policies and procedures been identified?

9.1.3 It is important that, from an early stage, complaint handlers should consider setting out the scope of what they plan to do to address the complaint. This should be shared with the complainant, interested persons or people whose actions are under consideration (if any), taking in to account any exceptions to the duty to provide information (see Chapter 8, paragraphs 8.7.1 to 8.7.5). This will help to ensure that the complainant understands what to expect from the outset and that all the issues are addressed.

9.1.4 The person complained about should be actively encouraged to participate in the handling of the complaint. It is expected that they will, at a minimum, comment on the complaint. Where a complaint is not being investigated, any account taken as part of the handling of the complaint is not admissible in any subsequent criminal, civil or disciplinary (either the commission of a service offence or administrative action) proceedings, except to the extent it consists of an admission relating to a matter that is not under consideration as part of the handling<sup>46</sup>.

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<sup>46</sup> See Regulation 17(7).



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9.1.5 Reasonable and proportionate handling must lead to a reasonable and proportionate outcome. Complaint handlers should consider the guidance on outcomes as set out in Chapter 14.

#### 9.2 Deciding to take no further action

9.2.1 Complaint handlers should seek to resolve a complainant's concerns wherever possible and reasonable and proportionate to do so, even if it is only reasonable and proportionate to take limited steps. However, in some circumstances, it may not be reasonable and proportionate to take any further action with a complaint after recording it; these may include (but are not limited to):

- a. if the complaint is about the off-duty behaviour of a member of the Service Police which has no relevance to their role as a member of a Service Police force and, even if proved, would not discredit the Service Police or undermine public confidence in it.
- b. if the complaint (rather than the alleged incident giving rise to the complaint) is fanciful; this means that, by its very nature, no reasonable person could consider it to be credible.
- c. if the complaint contains too little information to be able to progress any enquiries and attempts to clarify it with the complainant have been unsuccessful.

9.2.2 There may be circumstances where some enquiries are needed before it can be established that it is reasonable and proportionate to take no further action to handle the complaint after recording it. These circumstances include, for example, where:

- a. the complaint has already been responded to and no new evidence or concerns are apparent. This is in accordance with the principle that complaints should not usually be revisited and where this may raise unrealistic expectations of different outcomes. However, if a complainant raises issues that are similar to ones raised previously, it may indicate that more should be done to address the complainant's dissatisfaction.
- b. evidence demonstrates that the complainant is using the complaints system purely to frustrate, embarrass, worry, or annoy parties and there is no foundation to the complaint.

9.2.3 A decision to take no further action should never be taken simply because, for example, the complaint is 'difficult' to deal with. Complaint handlers should always endeavour to take positive action towards the resolution of a complaint wherever it is reasonable and proportionate to do so irrespective of the complexity of a matter.

9.2.4 Where it is decided that no further action can be taken as part of the reasonable and proportionate handling of a complaint, a detailed explanation should be provided to the complainant, in line with the duties around communicating the outcome of a complaint and the right to apply for a review.



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## 10 Requirements for Investigations

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### 10.1 General

10.1.1 Where it is decided that no further action can be taken as part of the reasonable and proportionate handling of a complaint, a detailed explanation should be provided to the complainant, in line with the duties around communicating the outcome of a complaint and the right to apply for a review.

10.1.2 An investigation within the context of the Service Police complaints system could mean a complaint investigation, a Professional Standards investigation or even a Service offence/criminal investigation depending upon the circumstances of a particular case.

10.1.3 An investigation must be effective and capable of leading to the establishment of the facts of the case, any learning to be identified, and, where appropriate, accountability for those responsible. While there are some specific requirements for investigations, particularly where they are subject to special procedures, all investigations should be reasonable and proportionate, conducted promptly and allow effective participation from complainants or interested persons (if any).

### 10.2 Appointment of a person to carry out the investigation

10.2.1 The appropriate authority is responsible for appointing the investigator in a local or directed investigation<sup>47</sup>. However, in a directed investigation the Service Police Complaints Commissioner (SPCC) may:

- a. require that no appointment is made until the SPCC has confirmed that they approve the proposed person.
- b. at any time, if the SPCC is not satisfied with the person investigating, require the appropriate authority to select someone else to investigate, and to notify the SPCC of who is selected.

10.2.2 An appropriate authority may appoint a member of a Service Police force as an investigator. However, the appointment is subject to a number of important qualifications. These are:

- a. the investigator must have an appropriate level of knowledge, skills and experience to plan and manage the investigation.
- b. the investigator must not work, directly or indirectly, under the management of a person being investigated.

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<sup>47</sup> See Regulation 35 - Appointment of persons to carry out investigations.



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- c. a person must not be appointed if their involvement in that role could reasonably give rise to a concern about whether they could act impartially.
- d. where an investigation relates to a senior officer, the investigator must not be a member of the same Service Police force as the senior officer.

10.2.3 The appointment of an investigator should be recorded in writing. Where any concerns have been raised about the appointment (including about any real, perceived, or alleged conflict of interest) the appropriate authority should also record in writing their decision about whether or not to appoint the investigator, together with its rationale.

10.2.4 At the start of each investigation, the investigator should make a written declaration as to whether there is anything that could reasonably give rise to a concern about whether they, or any member of the investigation team, could act impartially.

10.2.5 Where there is concern, the investigator should raise it with the appropriate authority (and the SPCC in a directed investigation) before they, or any member of the investigation team, takes any steps other than preservation of evidence in connection with the investigation. Where no such concern is identified, this should be noted for the purposes of transparency.

10.2.6 The appropriate authority (or the SPCC in a directed investigation) should then decide whether the investigator should be replaced. If concerns are identified about any other member of the investigation team, the appropriate authority (or the Commissioner in a directed investigation) should advise the investigator whether to replace the team member. Any decision made, together with the reasons, should be recorded in writing.

### 10.3 Terms of reference

10.3.1 While the regulations only mandate terms of reference for investigations that are subject to special procedures, it is considered best practice for all investigations to have terms of reference. Terms of reference will vary according to the complexity of an investigation. In straightforward investigations that are not subject to special procedures, they may be as simple as a summary of the complaint being investigated. Other investigations will require more detailed terms of reference to ensure clarity from the outset about what will, and will not be, addressed.

10.3.2 Subject to the exceptions at paragraphs 8.7.1 to 8.7.5 above, a copy of the terms of reference as well as any revisions to them should be sent to complainants, interested persons and any person whose actions are under investigation. It may be useful to offer to meet the complainant and any interested person to discuss these further if they have any questions about the terms of reference.

### 10.4 Death or serious injury matters becoming conduct matters

10.4.1 If, during an investigation of a DSI matter, it appears to the investigator that there is





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an indication that a member of a Service Police force may have committed a service offence or behaved in a manner that would justify initiating administrative actions procedures (see Glossary at Annex A), the investigator must make a submission to that effect. This should be in writing to the appropriate authority of a local investigation, or the SPCC in a directed or independent investigation and should set out the reasons for reaching this conclusion.

10.4.2 In a local investigation, if the appropriate authority agrees with the submission, it must notify the relevant appropriate authority for the person whose conduct is in question (if it is not the relevant authority itself), and the SPCC, and send them a copy of the investigator's submission. The relevant appropriate authority must then record the matter as a recordable conduct matter and consider whether it should be referred to the SPCC. In any case, the SPCC may reconsider the mode of investigation.

10.4.3 In a directed or independent investigation, if the SPCC agrees with the submission, they will send a copy of the submission to the appropriate authority for the DSI matter (and the appropriate authority for the person whose conduct is in question, if different). The appropriate authority for the person whose conduct is in question must record the matter as a recordable conduct matter. The SPCC may also decide to reconsider the mode of investigation.

10.4.4 Once the matter has been recorded, the person who was investigating the DSI matter must investigate the matter as a conduct matter (unless the SPCC has decided to reconsider the mode of investigation). They must make a severity assessment (see below) in relation to the conduct of the person concerned.

10.4.5 A DSI investigation should be kept under review to establish whether, at any time, there is an indication that a service offence has been committed or behaviour that would justify initiating administrative actions procedures.

#### **10.5 Special procedures**

10.5.1 Special procedures exist to protect the rights of those under investigation for more serious matters and must be followed if:

- a. the investigation concerns a recordable conduct matter.
- b. at any time during an investigation of a complaint, it appears to the investigator (or the SPCC in a directed or independent investigation) that there is an indication that a member of a Service Police force may have committed a service offence or behaved in a manner that would justify initiating administrative actions procedures.

10.5.2 The investigator must record the reasoning behind their decision as to whether an investigation should be subject to special procedures. Once the decision has been made that the investigation is subject to special procedures, a severity assessment must be conducted (see Section 10.6 below).



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10.5.3 If at any time during a directed or independent investigation the SPCC determines that the investigation should be subject to special procedures, the investigator must follow the special procedures.

### 10.6 Severity assessments

10.6.1 Severity assessments provide the person who is the subject of investigation with an indication of the investigator's view (or the SPCC's view in directed or independent investigations) of the level of seriousness of the conduct.

10.6.2 A severity assessment is an opinion on whether the conduct of the person under investigation, if proven, would amount to misconduct that is so serious as to justify the initiation of administrative action procedures<sup>48</sup>. In a local investigation, the investigator must make this assessment.

10.6.3 In a directed investigation, the investigator will form an opinion, but will refer to the case to the SPCC, for the SPCC to make a severity assessment in relation to the conduct of the person concerned.

10.6.4 In an independent investigation the person investigating must, as soon as is reasonably practicable, refer the case to the SPCC to make the assessment.

10.6.5 However, in all cases, a severity assessment may only be made after consultation with the appropriate authority<sup>49</sup>.

10.6.6 After consultation with the appropriate authority, the severity assessment may be revised if the investigator (or the SPCC in a directed or independent investigation) believes this is appropriate<sup>50</sup>. In a directed investigation, if the investigator forms the opinion that the severity assessment should be revised, they should notify the SPCC of their opinion. The SPCC may also indicate that it is appropriate to revise the assessment. If so, the investigator must refer the case to the SPCC for them to revise the assessment.

10.6.7 Any severity assessment must be fully reasoned and documented.

### 10.7 Notices of investigation and providing terms of reference

10.7.1 On the completion of a severity assessment, the person investigating must give the person concerned written notice<sup>51</sup> that they are under investigation (unless giving the notification might prejudice the investigation or any other investigation). The notice must state:

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<sup>48</sup> Under the Service Police (Complaints etc.) Regulations 2023, 'misconduct' means a breach of the professional standards, and 'gross misconduct' means a breach of the professional standards that is so serious as to justify termination of a person's membership of the relevant Service Police force.

<sup>49</sup> See Regulation 47 - Special procedure: severity assessment.

<sup>50</sup> See Regulation 49 - Special procedure: revision of severity assessment.

<sup>51</sup> See Regulation 48 - Special procedure: notification of severity assessment etc.



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- a. the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the professional standards.
- b. that there is to be an investigation into the matter and the identity of the person investigating.
- c. the result of the severity assessment.
- d. the effect of Regulation 50 (see 'Representations to the investigator' below).
- e. that whilst the person concerned does not have to say anything it may harm the person's case if the person does not mention when interviewed or when providing any information under Regulation 50 (see below) something later relied on in any administrative action procedures.

10.7.2 The person investigating must also provide the person concerned with a copy of the terms of reference of the investigation and any subsequent revised terms of reference. Where practicable, and subject to paragraph 10.7.4 below, these should be provided at the time of giving the written notice or, if not then, within five working days of this (beginning with the first working day after the day on which the notice is given).

10.7.3 The written notice and terms of reference must be:

- a. given to the person concerned in person; or
- b. left with a person at, or sent by recorded delivery to, the last known address of the person concerned; or
- c. given to the person concerned in any other manner agreed between the person investigating and the person concerned (for example, by email).

10.7.4 However, the notice and/or the terms of reference should not be given to the person concerned if the investigator (or the SPCC in a directed or independent investigation) considered that to do so might prejudice the investigation or any other investigation). If a notice is provided, but the terms of reference are not, the investigator must provide (within the same timescale as in paragraph 10.7.2 above) a further notice explaining that the terms of notice are not being provided and why.

## 10.8 Representations to the investigator

10.8.1 During an investigation that is subject to special procedures, the investigator (in a local investigation) or the SPCC (in a directed or independent investigation) must consider any relevant statement or document provided by the person concerned. This only applies, however, where the document or statement has been provided within ten working days (unless this period has been extended by the investigator), starting the day after the day on



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which a copy of the terms of reference is sent (or notice explaining why a copy of the terms is not being sent).

10.8.2 Where the investigation is a directed or independent investigation the investigator must send a copy of any relevant statement or document received to the SPCC for consideration<sup>52</sup>.

10.8.3 The investigator should make a record of any oral statement or response. The person concerned should be asked to sign the record as an accurate reflection of what has been said.

#### 10.9 Conducting an investigation

10.9.1 Investigations will vary greatly in their scope, purpose and complexity depending on the nature of the complaint or matter under investigation. The investigator should take all reasonable steps available to them to secure the evidence concerning the incident, including witness statements and forensic evidence. Investigations may require only limited enquiries or more substantial activity to gather and analyse a wide range of evidence.

10.9.2 The investigator should attempt to obtain an account from the complainant (if there is one). In investigations into a DSI, the investigator should consider whether any injured person should be engaged with during the investigation, as a witness (as injured persons will often have evidence to offer about how they suffered their injury).

10.9.3 In addition, where the actions of a member of the Service Police are under investigation, it will usually be reasonable and proportionate to obtain an account from them. While the account must be recorded in such a way that it can be reviewed, it is not always reasonable and proportionate for that account to be taken via an interview. For example, a written statement provided by the person in question may suffice.

10.9.4 Where a decision is taken not to obtain information or material that has been identified, a record should be made of why it is not considered reasonable and proportionate to do so.

#### 10.10 Interviews

10.10.1 Where an investigation is subject to special procedures, there are certain processes, outlined below, which must be applied where a member of a Service Police force, whose actions are under investigation is going to be interviewed. The investigator must consider whether the person to be interviewed reasonably requires any adjustments in order to ensure procedural fairness. For example, modification to the timescales referred to below.

10.10.2 These provisions apply to interviews conducted under the Service Police (Complaints etc.) Regulations 2023. An interview of a person regarding their involvement or

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<sup>52</sup> See Regulation 50 - Special procedure: representations to the person investigating.



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suspected involvement in a Service offence, must also comply with the Service Police Codes of Practice and relevant case law.

10.10.3 During an investigation that is subject to special procedures, if an investigator proposes to interview, they must agree a date and time for the interview with the person concerned (the interviewee).

10.10.4 If a date and time is not agreed, the investigator must specify a date and time. If the interviewee is not available to attend at the specified time but proposes an alternative that is reasonable and that falls within five working days (beginning with the first working day after the day specified by the investigator), then the interview will be postponed to the time proposed.

10.10.5 The interviewee must be given a written notice of the date, time and place of interview. This should happen as soon as reasonably practicable after these are either agreed or, in the absence of agreement, specified by the investigator.

10.10.6 In advance of an interview, the investigator must also provide the interviewee with such information as the investigator considers appropriate in the circumstances of the case to enable the interviewee to prepare for the interview.

10.10.7 Decisions about what should be disclosed should be made in light of the circumstances of the case and documented. The purpose of disclosure is to give the interviewee a clear understanding of the allegations to enable them to respond fully. It does not follow that the interviewee is entitled to the disclosure of every document; it is only those that the investigator considers appropriate in the circumstances of the case to enable the interviewee to prepare for interview.

10.10.8 An investigation must be effective and capable of leading to the establishment of the facts of the case, any learning to be identified, and, where appropriate, accountability for those responsible. While there are some specific requirements for investigations, particularly where they are subject to special procedures, all investigations should be reasonable and proportionate, conducted promptly and allow effective participation from complainants or interested persons (if any).

10.10.9 In some situations – for example, where the allegations are at the more serious end of the spectrum – the interviewer may wish to consider using methods to assist accurate recording of the interview (e.g. audio or video), or techniques to assist accurate recollection such as cognitive interviewing. Only investigators who have been trained appropriately should undertake such interviews.

10.10.10 At the beginning of the interview, the interviewee should be reminded of the content of any written notice of investigation given to them and reminded of the warnings it contains.



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#### 10.11 Timeliness of investigations

10.11.1 It is important that investigations are conducted in a timely manner. This can affect what outcomes may be available and therefore the ability to secure a fair result. It helps to secure confidence in the Service Police complaints system and minimise the impact of an investigation on all those involved. However, acting promptly should not come at the expense of necessary diligence.

10.11.2 Where a local investigation is not completed within 12 months, the Service Police force must provide certain information to the relevant appropriate authority i.e. the relevant single Service Board or the Defence Council (except where it appears to that Provost Marshal that to do so might prejudice the investigation or any other investigation), and to the SPCC.

10.11.3 The information to be provided is as follows:

- a. the date on which:
  - (1) the complaint was made; or
  - (2) the conduct matter or DSI matter to which the investigation relates came to the attention of the appropriate authority.
- b. the date on which any notice of a severity assessment was given.
- c. the progress of the investigation.
- d. an estimate of when the report on the investigation will be submitted.
- e. the reason for the length of time being taken to complete the investigation.
- f. a summary of planned steps to progress the investigation and bring it to a conclusion.

10.11.4 The 12 months starts from:

- a. the date on which the complaint to which the investigation relates was made; or
- b. the date on which the conduct matter or DSI matter to which the investigation relates came to the attention of the appropriate authority.

10.11.5 An investigation is completed once the report has been completed and submitted to the appropriate person (see Chapter 11).

10.11.6 In a directed or independent investigation, the SPCC must provide this information to the Defence Council or single Service Board depending on the relevant Service Police



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force and, unless it is the conduct of the Provost Marshal that is under investigation, the Provost Marshal of that Service Police force.

10.11.7 The information provided should be sufficient to enable all parties to clearly understand the reason that the investigation has not been completed within 12 months, and what the next steps are. Clear, reasonable, timescales for when the investigation will be completed should also be provided.

10.11.8 A copy of the information should be provided to the complainant and any interested person, unless it is of the opinion of the SPCC or appropriate authority (as the case may be) that the non-disclosure of the information is necessary<sup>53</sup>.

10.11.9 The information should also be provided to the person to whose conduct the investigation relates unless the SPCC or appropriate authority (as the case may be) considers that to do so might prejudice the investigation or any other investigation.

10.11.10 This process must be repeated subsequent every six months if the investigation has not been completed. However, efforts should be made to ensure that the proposed timescales are kept, wherever possible.

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<sup>53</sup> Regulation 80 states that non-disclosure of information is necessary for the following purposes:

- a. preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective disciplinary or criminal proceedings.
- b. preventing the disclosure of information in any circumstances in which its non-disclosure:
  - (1) is in the interests of national security.
  - (2) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders.
  - (3) is required on proportionality grounds.
  - (4) is otherwise necessary in the public interest.



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## 11 Investigation Reports

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### 11.1 The requirement to complete an investigation report

11.1.1 At the end of an investigation, an investigation report must be completed. It is an important document as it is the primary record of the investigation, the evidence and the investigator's analysis of the evidence. The appropriate authority will rely on the report to guide them through the evidence, as may others including the Service Police Complaints Commissioner (SPCC), the relevant review body, the court martial and/or those conducting administrative action.

11.1.2 Subject to certain exceptions (see Section 8.7) the report will usually be sent to the following:

- a. the complainant;
- b. the person whose actions are under investigation; and
- c. any interested persons.

11.1.3 The report needs to be written in clear and unambiguous terms. It must also be factually accurate, and any opinions expressed must be based on the evidence gathered during the course of the investigation.

### 11.2 Who owns the report

11.2.1 In an investigation by the appropriate authority on its own behalf, the final report is submitted to the appropriate authority by the appointed investigator. Any opinion expressed in the report must be that of the investigator and not the appropriate authority. The appropriate authority can only make their own determinations following submission of the report.

11.2.2 In an investigation directed by the SPCC, the report is submitted to the SPCC by the investigator who has been appointed by the appropriate authority. However, as the SPCC has direction and control of the investigation, they should be consulted about the report's content before it is finalised. Where there is a dispute between the SPCC and the investigator on any matter in the report, the SPCC may provide an addendum to the report setting out their views.

11.2.3 In investigations by the SPCC acting personally or by an investigating officer appointed by them, the report belongs to the SPCC. Where there is a dispute between the SPCC and the appointed investigator on any matter in the report, the SPCC may provide an addendum to the report setting out their views.





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#### 11.3 Investigations not subject to special procedures

11.3.1 The report should include an accurate summary and analysis of the evidence and should attach or refer to any relevant documents.

11.3.2 Where relevant, it may also be appropriate to explain in the report why the investigation was not subject to special procedures (for example, that there was no indication of a service offence or behaviour that would justify the initiation of administrative action, as defined in the Glossary at Annex A). This may be particularly useful where, for example, the investigation relates to a complaint and the complainant made allegations of misconduct.

11.3.3 It is important to note that the investigator should not express an opinion in the report on whether there is a case to answer for misconduct<sup>54</sup> or gross misconduct<sup>55</sup>. However, the investigator should highlight any areas of learning they have identified.

11.3.4 In the investigation of a complaint, the report should address each of the allegations made and state whether, in the investigator's opinion, any of the following determinations are appropriate:

- a. the service provided by the Service Police was acceptable.
- b. the service provided by the Service Police was not acceptable.
- c. the investigator has looked into the complaint but has not been able to determine if the service provided was acceptable.

11.3.5 The determinations should be underpinned by a clear rationale for the benefit of the appropriate authority and the complainant.

11.3.6 Where the investigation has considered the actions of a member of a Service Police force, the investigator should draw attention to and provide sufficient information about matters that would assist the appropriate authority or SPCC in making recommendations.

11.3.7 For a DSI investigation the report should include:

- a. an analysis of the evidence as to how, and to what extent (if any), the person who died or was seriously injured had contact with the Service Police.
- b. the degree to which this contact (if any) caused or contributed to the DSI matter.

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<sup>54</sup> 'Misconduct' in the Regulations is defined as a breach of the professional standards.

<sup>55</sup> 'Gross misconduct' in the Regulations is defined as a breach of the professional standards that are so serious as to justify termination of their membership of the Service Police force.



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- c. any concerns or questions raised by interested persons such as the injured person or next of kin<sup>56</sup>.
- d. any areas of learning identified.

### 11.4 Investigations subject to special procedures

11.4.1 This section deals with investigation reports where there has been a recordable conduct matter or a complaint that has been subject to special procedures there is an indication that a member of a Service Police force may have committed a service offence or behaved in such a manner that may justify the initiation of administrative action procedures.

11.4.2 Any report must provide both an accurate summary of the evidence and attach or refer to any relevant documents. However, a report that has been subject to special procedures must also include an opinion of the person investigating as to whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer<sup>57</sup>.

### 11.5 Mixed complaints

11.5.1 A complaint may contain several different allegations. In such matters the investigator should break down the complaint into its underlying allegations for the purpose of analysis in the report. Some of these allegations may be subject to special procedures and others not.

11.5.2 While it is possible to formally split the investigation<sup>58</sup>, it is also possible to deal with all allegations in the same report and give an opinion on determinations for the allegations that were not subject to special procedures. However, it is particularly important that the report clearly outlines the allegations and identifies those that are subject to special procedures and those that are not, and that the report is structured so that it is clear which allegations are being addressed. This should be done only where there is a clear distinction between the elements of the complaint, so that making determinations on the non-special procedures allegations does not determine the matters that are also subject to the investigator's opinion on the case to answer.

### 11.6 Submission of the report

11.6.1 Where a person is investigating on behalf of the appropriate authority, the final report into a complaint or conduct matter, a report of the investigation must be submitted by that person to the appropriate authority<sup>59</sup>. In a matter where the investigation is directed, the appointed person to the investigation must submit a report to the SPCC and forward a copy

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<sup>56</sup> See Regulation 78.

<sup>57</sup> See Regulation 56(8)(c).

<sup>58</sup> See Regulation 38 - Combining and splitting investigations.

<sup>59</sup> See Regulation 56 - Final reports on investigations: complaints, conduct matters and certain DSI matters.



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to the appropriate authority. For recorded conduct matters that were formerly DSI matters, the same approach applies in relation to the submission of reports.

11.6.2 However, the report in a DSI investigation, where there has been no related recordable conduct matter, must be submitted to the SPCC and a copy sent to the appropriate authority<sup>60</sup>.

11.6.3 Where a person has been designated to carry out the investigation on behalf of the SPCC, they must submit the report to the SPCC or where the SPCC is acting in person, they must complete the report.

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<sup>60</sup> See Regulation 60 - Final reports on investigations: other DSI matters.



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## 12 Suspending an investigation or other procedure and resuming handling

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### 12.1 Power to suspend an investigation or other procedure

12.1.1 The Service Police Complaints Commissioner (SPCC) or an appropriate authority may suspend an investigation or other procedure related to the handling of a matter that in either's opinion would, if it were to continue:

- a. prejudice any investigation relating to a service offence or disciplinary proceedings<sup>61</sup>.
- b. prejudice any criminal investigations or criminal proceedings<sup>62</sup>.

12.1.2 For the SPCC or an appropriate authority to suspend an investigation or procedure on grounds that it would prejudice an investigation into a service offence or disciplinary proceedings, that prejudice should be identified, and should be significant and specific. To determine whether such prejudice arises, it will be necessary to consider:

- a. the extent to which the matter raises issues that are the same as, or closely connected with, the issues in the ongoing service offence, disciplinary, criminal investigation or criminal proceedings investigation.
- b. what prejudice (if any) would be caused to the ongoing service offence, disciplinary, criminal investigation or criminal proceedings by the investigation or other procedure.

12.1.3 If the power to suspend arises, the SPCC or appropriate authority should consider whether it is appropriate to exercise that power, or whether measures can be put in place to reduce or remove the risk of prejudice. When deciding whether to exercise the power to suspend, the SPCC or appropriate authority should consider whether, even if appropriate measures were taken, there would be significant prejudice to the criminal investigation or proceedings, which is not outweighed by the public interest in ensuring the prompt consideration of the matter, and the prompt bringing of criminal or disciplinary proceedings against Service Police officers, where these are warranted.

12.1.4 A balancing exercise should be carried out. As part of this balancing exercise the following factors should be considered:

- a. the severity of the allegation against the member of the Service Police and the allegation against the suspect or defendant in the ongoing investigation into a service offence, disciplinary proceedings, or criminal investigation or criminal proceedings.

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<sup>61</sup> 'Disciplinary Proceedings' under the Regulations mean proceedings in relation to a service offence (see Section 50(2) of the Armed Forces Act 2006 for the meaning of 'service offence').

<sup>62</sup> See Regulation 40 - Suspension of investigation or other procedure.



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- b. the relative strength of the evidence in support of each allegation.
- c. whether delay would lead to the frustration of any potential criminal proceedings, disciplinary proceedings or administrative action against the member of the Service Police.
- d. whether suspending the investigation or other procedure would risk the expiration of the twelve-month period for concluding an investigation or any extended 6-month period<sup>63</sup>.
- e. whether delay would otherwise lead to injustice to the complainant, interested person or to the subject of the complaint.

12.1.5 Steps that may be taken to reduce or remove the risk of prejudice to a criminal investigation or proceedings, while still allowing the investigation or other handling of the matter to proceed, include:

- a. carrying out a single interview with each relevant witness covering both the subject matter of the criminal proceedings and the matter under investigation.
- b. interviewing witnesses to the matter in the presence of the solicitor for the defendant to the criminal proceedings.

12.1.6 There will be cases where the balance exercise falls in favour of continuing the investigation or other handling<sup>63</sup>, even though the issues raised by the criminal investigation or proceedings and by the complainant are closely linked.

12.1.7 In a matter which is being investigated by the appropriate authority on its own behalf, the Provost Marshal who is the appropriate authority conducting the investigation should seek the advice and views of their appropriate authority (i.e. the single Service Board or Defence Council) and the SPCC prior to exercising the power to suspend. In a directed investigation or one carried out in person or by an individual on the SPCC's behalf, the SPCC should consult with the Provost Marshal where they are the appropriate authority and that Provost Marshal's appropriate authority or in any other case the appropriate authority, prior to suspending an investigation.

12.1.8 Where an investigation or other procedure is suspended, steps may still be taken without prejudicing the investigation into the service offence, disciplinary proceedings, criminal investigation, or criminal proceedings. For example, securing evidence, such as CCTV, which may otherwise be lost or taking witness statements from those not involved in the other matter.

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<sup>63</sup> This decision should be made in consultation with the Service Prosecuting Authority.



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12.1.9 In any instance where an investigation or other procedure of a complaint is suspended, the complainant should be notified in writing and be provided with an explanation for the decision.

12.1.10 The SPCC may direct that the investigation or other procedure shall continue, or be resumed, if the SPCC is of the view that it is in the public interest to make such a direction. The SPCC must consult with the appropriate authority prior to making this direction.

#### **12.2 Resumption of investigation of complaint after disciplinary and criminal proceedings**

12.2.1 Where circumstances change and it is no longer necessary to continue the suspension of the handling of a complaint that was being handled otherwise than by investigation, the appropriate authority should contact the complainant and resume the handling of the complaint. Where the complaint was being investigated prior to the suspension, the following processes must be followed<sup>64</sup>:

- a. where the whole or part of an investigation of a complaint has been suspended until the conclusion of disciplinary or criminal proceedings, unless the complainant has indicated that they wish for the investigation to start or be resumed, the SPCC or appropriate authority (depending on who suspended the investigation) must write to them to ascertain whether they wish for the investigation to be started or resumed.
- b. where the complainant indicates that they want the investigation to be started or resumed, the SPCC or appropriate authority must do this.
- c. if the complainant indicates that they do not want the investigation started or resumed or if they fail to reply within 28 days starting on the day after the date of the letter sent to them, then the SPCC or appropriate authority must determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.
- d. where the SPCC or appropriate authority decides that it is not in the public interest to treat the matter as a recordable conduct matter then they should notify the complainant of this.
- e. where the SPCC or appropriate authority decides that it is in the public interest to treat the matter as a recordable conduct matter then the matter should be handled in accordance with the procedures set out in the Regulations.
- f. the SPCC or appropriate authority must also notify any person whose actions are or were under investigation whether it will treat the matter as a recordable conduct matter, unless doing so might prejudice any criminal investigation or pending proceedings, or it would not be in the public interest.

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<sup>64</sup> See Regulation 41 - Resumption of investigation of complaint after disciplinary or criminal proceedings.



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12.2.2 The SPCC expects the appropriate authority to ensure that they have the up-to-date contact details for the complainant, and to take all reasonable steps to contact them. This is especially important in these circumstances as, given the passage of time, the complainant's circumstances may have changed, and a "no response" may not be due to an unwillingness to co-operate.

12.2.3 In a directed investigation the SPCC will be responsible for writing to the complainant (or their solicitor or other representative) following the conclusion of criminal proceedings, and for determining whether it is in the public interest for the complaint to be treated as a recordable conduct matter.



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#### 13 Dealing with withdrawn complaints, notification and treating a complaint as a recordable conduct matter

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##### 13.1 Signed notification for withdrawn complaints

13.1.1 A complainant, or someone acting on their behalf, may decide to withdraw a complaint by notifying the appropriate authority in writing. The appropriate authority must record this. The same procedure applies to where the complainant does not wish to take any further steps with the complaint<sup>65</sup>.

13.1.2 Where the complainant has indicated a wish to withdraw a complaint, or that they wish no further steps to be taken in relation to the complaint, but have not provided signed confirmation in writing, in person or by someone acting on their behalf, the appropriate authority must write to the complainant to determine how they wish to proceed. Where the complainant replies and confirms that they wish to either withdraw or do not want to take any further steps in regard to the matter, or they do not reply within a period of 28 days from the date the letter was sent, the appropriate authority must proceed as if it had received a signed notification from the complainant withdrawing the matter<sup>66</sup>. The letter to the complainant must be sent in a way that can be audited.

##### 13.2 Matters to which the notification for withdrawn complaints applies

13.2.1 The notification for withdrawn complaints:

- a. may relate to a matter that has been referred to the Service Police Complaints Commissioner (SPCC) or has been treated by the SPCC as having been referred; and
- b. has not yet been referred back to the appropriate authority; or
- c. is subject to review by the relevant review body; or
- d. falls within another category.

13.2.2 For matters under (a) and (b), the appropriate authority must notify the SPCC that they have recorded the withdrawal or the fact the complainant does not wish to take any further steps with the matter. For withdrawal notifications relating to reviews under (c), the appropriate authority is responsible for notifying the relevant review body which may be, for example, the SPCC, Defence Council or single Service Board. The appropriate authority must let the appropriate review body know that it has recorded the withdrawal or the fact the complainant does not wish to take any further steps with the matter.

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<sup>65</sup> See Regulation 19 - Withdrawn complaints.

<sup>66</sup> See Regulation 20 - Withdrawn complaints: no written signed notification.





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#### 13.3 Whether to treat the complaint as a recordable conduct matter

13.3.1 Upon being notified by the appropriate authority, the SPCC must then determine whether it is in the public interest to treat matters within 13.2.1 (a), (b) and (c) where the SPCC is the reviewing body, as a recordable conduct matter. As such, the SPCC must then proceed to notify the appropriate authority and review body (for example the Defence Council or a single Service Board) of the SPCC's decision.

13.3.2 In a matter falling within (c), where the appropriate authority is the body that must determine whether it is in the public interest to treat a matter as a recordable conduct matter, they are responsible for notifying the relevant review body of their decision and the reasons for it. In these circumstances, where the complaint is already subject to review by the SPCC with respect to an investigation, and the appropriate authority determines that the complaint is not a recordable conduct matter, the SPCC must consider whether it is in the public interest to overturn this decision; if so, the SPCC must instruct the appropriate authority to change their decision.

13.3.3 A complaint may fall within (d) (another category) where a complaint has not been referred or has been referred and the SPCC has already referred it back to the appropriate authority. Where a matter falls within (d), the appropriate authority is responsible for determining the public interest and whether it is a recordable conduct matter.

13.3.4 Unless the appropriate authority believes that to do so might prejudice any investigations relating to a service offence or pending proceedings, or would otherwise be contrary to the public interest, the appropriate authority must, as soon as practicable, inform the person complained against (if any) if:

- a. it records a matter as withdrawn.
- b. a determination has been made to treat the complaint as a recordable conduct matter.
- c. the SPCC has instructed the appropriate authority to overturn the decision not to treat the complaint as a recordable conduct matter.
- d. the procedures set out the Regulations cease to apply to the complaint.

13.3.5 Timeliness is vital in determining whether a complaint should be treated as a recordable conduct matter, in order to prevent unnecessary delay. This applies both where the SPCC determines that a complaint is to be treated as a recordable conduct matter and must notify the appropriate body of that decision as soon as practicable, and where the appropriate body must notify the SPCC if they determine that the complaint is not a recordable conduct matter.

13.3.6 Where a conduct matter comes to the attention of the appropriate authority, they must consider whether it must, or may, be formally recorded. Recordable conduct matters



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should be recorded as soon as practicable. A conduct matter should still be recorded even if there is a lengthy period between the events occurring and the matter coming to the attention of the appropriate authority.



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### 14 Outcomes following an investigation or handling other than by investigation

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#### 14.1 Reasonable and proportionate outcomes

14.1.1 The outcome should be reasonable and proportionate to the matter in question. This will be achieved by properly considering all the relevant factors. Decisions should be taken after considering the relevant evidence gathered, the wider context and the perspectives of any complainants, interested persons and persons complained about or to whose conduct the matter relates.

14.1.2 To ensure outcomes are both reasonable and proportionate, the conclusions reached should:

- a. be impartial and logical.
- b. be based on the facts of the case.
- c. give appropriate weight to relevant evidence.
- d. be supported by sound rationale.
- e. address and remedy any issues identified during handling.

#### 14.2 Determinations on a complaint

14.2.1 Where a complaint has been investigated but the investigation has not been subject to special procedures, or a complaint has been handled otherwise than by investigation, the outcome of the complaint should include a determination of whether:

- a. the service provided by the Service Police force was acceptable; or
- b. the service provided by the Service Police force was not acceptable; or
- c. the complaint handler is unable to determine if the service provided was acceptable.

14.2.2 In relation to an investigation not subject to special procedures, the investigator will offer an opinion on the above in the report. However, the final determination will be made by the appropriate authority. In relation to a complaint that has been handled otherwise than by investigation, this determination should be made by the complaint handler.

14.2.3 The determination should set out whether the service provided by the respective Service Police force was of an acceptable standard or not, in accordance with the standards of that force. In addition, the person making the determination should apply an objective test: that of a reasonable person in possession of the available facts. Where the service provided



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by the Service Police was not of an acceptable standard, the determination should identify whether this was due to the actions of an individual or organisational failings, or a combination of the two.

14.2.4 Wherever possible, the person making the determination should endeavour to draw a conclusion as to whether the service provided was acceptable or not. There may be occasions where the complaint handler is unable to determine if the service provided was acceptable or not. This may occur where there is insufficient information available to reach any firm conclusions on the service provided.

14.2.5 It is essential that whatever determination is reached, the complainant must be provided with sufficient information to be able to understand the rationale for the findings.

#### 14.3 Remediating dissatisfaction

14.3.1 Upon receipt of an investigation report, or at the conclusion of handling otherwise than by an investigation, the appropriate authority should consider what action can and should be taken as part of the outcome to provide a remedy where something has gone wrong.

14.3.2 When considering possible remedies, the appropriate authority should have regard to the principles of reasonable and proportionate handling.

14.3.3 Effective remedies could include, but are not limited to:

- a. an apology (although it is not always necessary to wait until the end of handling a complaint before giving an apology; if it becomes apparent that an apology is appropriate).
- b. an explanation of the circumstances surrounding the incident that gave rise to the complaint or of other aspects relating to the complaint.
- c. committing to review a policy or procedure to ensure that it remains fit for purpose.
- d. holding a meeting to discuss service improvement between the appropriate authority, the complainant/interested persons and other suitable attendees.
- e. providing mediation may be appropriate where it can be established that parties are amenable to mediation, particularly where there is a strong likelihood of the complainant encountering the same member of a Service Police force again particularly if serving or working on the same military establishment.
- f. returning seized property, where it is appropriate and lawful to do so.
- g. sharing evidence of learning or service improvement.



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14.3.4 The SPCC, Defence Council or a single Service Board may make recommendations with a view to remedying the dissatisfaction of a complainant<sup>67</sup>:

- a. by the SPCC, Defence Council or a single Service Board, to the appropriate authority, when the relevant review body upholds a review (see Chapter 15).
- b. by the SPCC, to the appropriate authority, at the conclusion of an independent or directed investigation into a complaint.
- c. by the Defence Council or a single Service Board, following a local investigation into a complaint for which they are the appropriate authority. In this case the recommendation would be made to the relevant Provost Marshal to whose conduct the complaint relates.

14.3.5 The remedies recommended by the SPCC, the Defence Council or a single Service Board may include that an apology should be made to the complainant or that any property seized from the complainant should be returned. However, other than a recommendation that compensation be paid (as the Regulations do not allow recommendations for compensation)<sup>68</sup>, any recommendation can be made under this power where it is considered appropriate to remedy the dissatisfaction expressed by the complainant.

14.3.6 It is important that a recommendation cannot determine the lawfulness of Service Police actions and therefore should not imply that action has been taken lawfully. A recommendation should only be issued where the investigation or handling of the complaint has properly established that the remedy would be appropriate, reasonable and lawful. The person making the recommendation should be mindful of whether there are, or are likely to be, any ongoing proceedings that may make a recommendation inappropriate.

14.3.7 The person to whom the recommendation is made must respond to the SPCC, the Defence Council or single Service Board (as appropriate) within 28 days (starting with the day after the day on which the recommendation is made). The response must include:

- a. whether they accept the recommendation.
- b. if they do, the steps they propose to take to give effect to the recommendation.
- c. if they do not, the reasons why.

14.3.8 The person making the recommendation must send a copy of it and the response to:

- a. the complainant;
- b. any interested person; and,

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<sup>67</sup> See Regulation 68.

<sup>68</sup> See Regulation 68(3)(c).



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- c. the person complained against (if any), unless the person making the recommendation considers that to do so might prejudice any investigation.

14.3.9 Where necessary, the SPCC, Defence Council or single Service Board may extend the time limit for a response. However, a response must still be provided by the person to whom the recommendation is made prior to the end of the extended timeframe.

#### 14.4 Recommendations of the SPCC

14.4.1 As well as the power to make a recommendation with a view to remedying the dissatisfaction of a complainant, the SPCC can also make recommendations where there is a potential area of organisational learning for a Service Police force<sup>69</sup>. They may, for example, recommend a change to policy, guidance, training or practice where they believe this may improve policing practice or prevent a recurrence of something that went wrong.

14.4.2 The SPCC can also make recommendations<sup>70</sup> in relation to a review, or where a report has been received for a directed or independent investigation, or where an independent investigation has been carried out by the SPCC personally.

14.4.3 A recommendation can be made to any person where the report relates to a complaint, conduct matter, or DSI matter. In all other cases, the SPCC can only make a recommendation to the Defence Council, a single Service Board, or a member of a Service Police force. All recommendations must be published.

14.4.4 A recommendation could include a recommendation that the person's conduct appears to justify the institution of administrative procedures. Where administrative procedures are brought as a result of any matter dealt with by the SPCC, the appropriate authority must notify the SPCC of the outcome of those procedures.

#### 14.5 Action on receipt of an investigation report of a DSI matter - local, directed and independent investigations

14.5.1 On receipt of an investigation report of a DSI matter, the SPCC must determine whether the report indicates that a member of a Service Police force may have committed a service offence or behaved in a manner that would justify the initiation of administrative action procedures (see Glossary at Annex A). The SPCC may also make a determination on any other matter dealt with in the report.

14.5.2 Where the SPCC determines that the report does indicate that a member of a Service Police force may have committed a service offence or behaved in a manner that would justify the initiation of administrative action procedures, they must notify the appropriate authority. The appropriate authority must then record the matter as a recordable conduct matter. The investigator of the DSI matter must then investigate the matter as a

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<sup>69</sup> See Regulation 3.

<sup>70</sup> See Regulation 69.



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conduct matter. As with all recordable conduct matters the appropriate authority must consider whether it should be referred to the SPCC.

#### **14.6 Action on receipt of an investigation report of a complaint or recordable conduct matter - local investigations**

14.6.1 On receipt of a report of a local investigation of a complaint or recordable conduct matter, the appropriate authority must determine:

- a. whether the report indicates that a service offence may have been committed by a person to whose conduct the investigation relates, and whether the circumstances are such that it is appropriate for it to be passed to the 'appropriate prosecutor'<sup>71</sup> to consider this; and
- b. as regards any member of a Service Police force whose conduct the investigation relates to:
  - (1) whether or not they have a case to answer in respect of misconduct, gross misconduct or no case to answer; and
  - (2) what action, if any, the appropriate authority must or will take in respect of the matters dealt with in the report.

14.6.2 The appropriate authority must also if it considers it appropriate, make a determination as to any other matter dealt with in the report (apart from the one already required above) and determine what other action it will take (if any). These decisions are for the appropriate authority, not the investigator. They must be made in all investigations, whether or not the investigation is subject to special procedures, and whether or not there are any persons whose actions were under investigation.

#### **14.7 Action on receipt of an investigation report of a complaint or recordable conduct matter - directed and independent investigations**

14.7.1 On receipt of a report of a directed or independent investigation, the SPCC will determine whether the report indicates that a service offence may have been committed, and whether the circumstances are such that it is appropriate for the appropriate prosecutor to consider. The SPCC will also seek the views of the appropriate authority on whether any person investigated has a case to answer for misconduct, gross misconduct or no case to answer, and any other matters dealt with in the report.

14.7.2 The SPCC should receive the appropriate authority's views (if any) on these matters as soon as practicable, and in any case must be received within 28 days (starting with the day after the SPCC seeks these views), unless the time limit is extended by the SPCC. Also,

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<sup>71</sup> Appropriate prosecutor is defined under regulations as the person that a service policeman would have been under a duty to refer the case to under Section 116 of the Armed Forces Act 2006 had it been investigated by a Service Police force.



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the appropriate authority should provide their views (if any) contained in the report. Once the SPCC is in receipt of, and considered any views of the appropriate authority, the SPCC will determine whether any person has a case to answer for misconduct, gross misconduct or no case to answer.

#### 14.8 Complaints and interested persons

14.8.1 The appropriate authority must inform the complainant and/or interested person(s) of the outcome of the handling of a complaint, recordable conduct matter or DSI matter. This must be done promptly, and in any event within five working days of the outcome. In a directed or independent investigation, it is the responsibility of the SPCC to inform the complainant and/or interested person(s) of the outcome.

14.8.2 The complainant and/or interested person(s) must be provided with sufficient information to ensure that they are properly informed. This should include a written explanation that contains the following:

- a. how the matter has been handled and its progress.
- b. the actions that have been taken or are to be taken.
- c. the findings and the outcome of the matter.
- d. if appropriate, the reasons for not taking certain actions where this was in line with reasonable or proportionate handling.
- e. the progress of any disciplinary or criminal proceedings brought in relation to, or arising from, any matter that was the subject of the complaint, recordable conduct or DSI matter.
- f. the outcome of any disciplinary or criminal proceedings (if any).
- g. where an appeal is brought against the outcome of such proceedings, the facts and outcome of the appeal.

14.8.3 Where it was considered that it was reasonable or proportionate to take no further action in relation to a matter, the reasons for this should be explained clearly and, if necessary, information provided about any next steps in the matter.

14.8.4 In addition to providing the information in writing, it may also be appropriate to communicate this by another method that may better meet any individual's needs, to ensure that the complainant or interested person fully understands the decisions that have been made. It should be remembered that providing information and investigation reports to a complainant or interested person will always be subject to certain exceptions (see Section 8.7).





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14.8.5 Where a complaint has been subject to a local investigation, or handled otherwise than by investigation, the appropriate authority must also inform the complainant about:

- a. their right to apply for a review of the outcome of their complaint.
- b. who the application for a review should be made to.
- c. where the relevant review body is the SPCC, the reason why.
- d. that there is no right of review to the SPCC where the Defence Council or single Service Board (as the case may be) is the relevant review body.
- e. the time limit for applying for the review, and what should be included in the application.

14.8.6 The complainant should be advised of the date by which an application for a review must be received (this is 28 days after the day after the day on which the complainant is sent the information). The written communication complainant should be sent the written communication on the day it is dated.

#### **14.9 Person(s) complained about or to whose conduct the matter relates (if any)**

14.9.1 It is important that any person whose actions are under consideration receives a clear explanation of the outcome of the handling of the matter, wherever possible.

14.9.2 Following an investigation, where either the SPCC does not recommend (in a directed or independent investigation) that administrative action procedures should be initiated against the person complained against, or the appropriate authority determines that there is no case to answer for misconduct or gross misconduct, they must provide that person with a copy of the report on the investigation, or such parts of it as relate to that person<sup>72</sup>.

14.9.3 This information should not be provided where there are restrictions on the disclosure of sensitive information (for example, where information disclosure could cause damage to national security, international relations or the economic interests of the United Kingdom)<sup>73</sup> or if the appropriate authority (or the SPCC in a directed or independent investigation) believes that to do so might prejudice any investigation or proceedings, or any subsequent review of the investigation.

14.9.4 Where there has been a complaint that has been the subject of a local investigation, or handled otherwise than by investigation, there is a possibility that the complainant may apply for a review of the outcome, which could result in a change to the conclusions reached initially. This should be highlighted to any person complained about.

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<sup>72</sup> See Regulation 59.

<sup>73</sup> See Regulation 81.



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# JSP 849: Service Police Complaints

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### 14.10 Publication

14.10.1 The SPCC is responsible for publishing investigation reports or summaries following directed or independent investigations. In the majority of cases, they will do this in the interests of transparency. However, information may not be published where the SPCC is of the opinion there are sound reasons for non-disclosure of information.

14.10.2 Appropriate authorities should consider whether it is appropriate to publish reports and summaries following local investigations or other handling. This may be appropriate in the interests of transparency. However, due regard must be given to data protection issues and reports may require some redaction.



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## 15 Reviews

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### 15.1 The right of review

15.1.1 Where a complaint has been recorded, the complainant has a right to apply for a review of the outcome of the complaint. A flowchart is also provided at Annex I. This applies whether the complaint has been investigated by the appropriate authority or handled otherwise than by investigation. The review will consider whether the outcome of the handling of the complaint is reasonable and proportionate. Where the relevant review body finds that the outcome of the complaint is not reasonable and proportionate it will uphold the review.

15.1.2 There is no right to apply for a review of the outcome of a directed or independent investigation. There is no right to apply for a review of the outcome of a complaint that has been handled outside of the regulations (i.e. where it has not been recorded), or where the person making the complaint is not eligible to be a complainant.

### 15.2 Who is the 'relevant review body'?

15.2.1 The appropriate authority should decide on the relevant review body, and this must be communicated to the complainant (see flowchart at Annex I). Depending on the circumstances of the complaint, the application for a review will be considered either by the Service Police Complaints Commissioner (SPCC), the Defence Council, or the appropriate single Service board.

15.2.2 The SPCC is the relevant review body where:

- a. the appropriate authority is the Defence Council or a single Service Board.
- b. the complaint is about the conduct of a senior officer.
- c. the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not justify the bringing of disciplinary proceedings or initiation of administrative action procedures against a member of a Service Police force or would not involve an infringement of a person's rights under Article 2 or 3 of the European Convention on Human Rights.
- d. the complaint has been, or must be, referred to the SPCC (under Regulation 13).
- e. the SPCC is treating the complaint as having been referred to the SPCC.
- f. the complaint arises from the same incident as a complaint falling within (b) to (e).
- g. any part of the complaint falls within (b) to (f).



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### JSP 849: Service Police Complaints

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15.2.3 In any other case the relevant review body is:

- a. the Defence Council where the complaint relates to the DSCU.
- b. the appropriate Single Service Board for the Service Police force the complaint relates to.

15.2.4 The test at paragraph 15.2.2 (c) must be assessed on the substance of the complaint alone, not on the apparent merit of the allegations or with hindsight after the complaint has been dealt with.

15.2.5 When considering the test at paragraph 15.2.2 (f), appropriate authorities should consider whether the complaints arise from the same time and place and involve the same or substantially the similar persons serving with the Service Police. This includes where the complaints are made by different complainants. A number of separate complaints that are otherwise unconnected but arise from the same large-scale event should not be considered as having arisen from the same incident.

15.2.6 The relevant review body must ensure that anyone considering applications for reviews has sufficient training. The consideration of a review should not be handled by:

- a. anyone who was involved in the handling of the complaint, including anyone who was responsible for deciding whether the complaint should be recorded, deciding how the complaint should be handled or providing updates.
- b. anyone who has a close personal connection to any person whose conduct is complained about, to the complainant or to the incident complained about.

### 15.3 Receiving an application for review

15.3.1 Where an application for review is received incorrectly, the body must forward the application to the relevant review body notify the complainant that it has been forwarded. The application should be forwarded to the correct review body as soon as reasonably practicable and, where possible, digitally.

15.3.2 An acknowledgment of an application for a review should be sent to the complainant by the relevant review body. This should tell the complainant what they can expect to happen next and when they can expect to hear about the outcome. It should also give the complainant a point of contact should they have any queries.

15.3.3 The relevant review body must also notify the appropriate authority, any interested person and the person complained about (if any). The person complained about may be notified via the appropriate authority. Once notified that an application for a review has been made, the appropriate authority should not take any steps that would prejudice the review or any action that may be taken as a result.



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15.3.4 The relevant review body must request any information from any person which it considers necessary to deal with a review. Where required, the appropriate authority must provide the relevant review body with a copy of the report of the investigation, and any information requested concerning the appropriate authority's determinations at the conclusion of the investigation. All documents or evidence created or obtained during the handling of a complaint should also be provided.

#### 15.4 Validity

15.4.1 There are a number of reasons why an application for a review may be invalid. If it is invalid, the complainant should be advised of this, and the reason should be explained clearly.

15.4.2 When deciding whether the application for a review is valid, the relevant review body will need to consider whether the application is complete.

15.4.3 An application for a review must be in writing and include the following information:

- a. the details of the complaint.
- b. the date on which the complaint was made.
- c. the name of the appropriate authority whose decision is the subject of the application.
- d. the date on which the complainant was provided with the details about their right of review at the conclusion of the investigation or other handling of their complaint.

15.4.4 However, the relevant review body may decide to consider a review even though it does not comply with one or more of these requirements. The relevant review body should consider a review in the absence of any of the information above (or where the complainant is unable to make their application in writing), unless the lack of information makes it impossible to identify the case to which the application relates. In some circumstances, it may be appropriate to contact the complainant to clarify which complaint the application relates to, or any points they have raised. If, after taking all reasonable steps to contact the complainant, it has not been possible to make contact, or it has not been possible to gather sufficient information to conduct the review, the application may be considered invalid.

#### 15.5 Is there a right to apply for a review?

15.5.1 Only a complainant, or someone acting on their behalf, can make an application for a review in relation to a complaint. If anyone other than the complainant or someone acting on their behalf tries to make an application, the application will be invalid.

15.5.2 Before an application can be made there must be a written notification of the outcome of the complaint.



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#### 15.6 Has the application been made in time?

15.6.1 Applications for reviews must be made within 28 days, starting with the day after the day the complainant was provided the information, at the conclusion of the investigation or other handling of their complaint. Where the application was made to the wrong review body, any time elapsing between the application being received by the Defence Council, single Service Board, or the SPCC, and it being forwarded on to the correct relevant review body will not be taken into account for the purposes of the 28-day period.

15.6.2 A complainant cannot exercise their right to apply for a review before the completion of the handling of a complaint. However, if the handling is complete, but any of the information about the complainant's right to apply for a review that the appropriate authority was obliged to provide was not given, the application should not be treated as out of time.

15.6.3 The relevant review body may extend the period for making an application for a review where it is satisfied that because of the special circumstances of a case it is just to do so. This should be considered on a case-by-case basis. The following matters should be taken into account (though this is not an exhaustive list):

- a. any reasons for the delay - this should include whether the delay is outside the complainant's control, whether they have taken all reasonable steps to submit their review in time, and consideration of any particular vulnerabilities or needs of the complainant. Where an application has been made out of time, the complainant should be asked to provide any reasons for this, where this is not already apparent. Any reasons provided must be taken into account when deciding whether an application for a review should be considered.
- b. the subject matter of the complaint - whether it is a particularly serious case or one that it would be in the public interest to consider;
- c. links to other complaints being handled or reviewed.
- d. the length of the delay beyond the 28 days for receipt of the application.
- e. fairness - for example, the potential impact on the complainant or any other member of the public, and on any person complained about.

15.6.4 The fact that a person complained about has been told about the conclusion of an investigation, or other handling, before an application for review is made does not prevent a review from being conducted, and disciplinary proceedings or other outcomes may still follow a review.

15.6.5 If, having considered any special circumstances, the application for a review is judged to be out of time and the relevant review body is not satisfied that it is just to extend the time period, the application should be treated as invalid and not be considered further.



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#### 15.7 Notifying the complainant where the application is invalid

15.7.1 The complainant should be informed of the decision to treat the application as invalid. This notification should be made in writing (and by other means where appropriate, taking into account any particular needs or requests) as soon as reasonably practicable. The reason for deciding the application is invalid should be explained clearly to the complainant.

#### 15.8 Conducting the review

15.8.1 An application for a review offers the opportunity to consider whether the complaint outcome is reasonable and proportionate and, if not, to seek to address it. Conducting a review should not be merely a quality check of what has happened before. The reviewer should come to their own conclusions about whether the outcome is reasonable and proportionate.

15.8.2 While each review must be considered on a case-by-case basis, a consistent approach should be taken to considering reviews overall. The consideration of any review should be conducted fairly and in good faith. Decisions must be reached as soon as practicable.

15.8.3 Any representations made by the complainant, the person who is complained about (if any) and the appropriate authority should be given due consideration.

15.8.4 If the reviewer concludes that the outcome was not reasonable and proportionate, the review should be upheld. In reaching a decision, the reviewer should take into account whether it is appropriate to the circumstances of the individual complaint, rather than the process followed to reach that outcome.

#### 15.9 A decision to take no further action

15.9.1 There are various reasons why a complaint handler may have decided to take no further action in relation to a complaint or aspects of it. The reviewer, however, should consider whether there were steps that could or should have been taken to provide a reasonable and proportionate outcome.

15.9.2 For example, where no further action has been taken because the complaint handler believed that further information was needed from the complainant, the reviewer should consider what efforts were made to communicate with the complainant, any communication preferences or needs of the complainant, any attempts to communicate through their representative (if any) and whether they consider that further information from the complainant was necessary.

#### 15.10 Findings and determinations

15.10.1 When deciding whether any findings or determinations are reasonable and



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proportionate, the reviewer should first consider whether these were reached in relation to all matters required. The reviewer should then consider whether those findings and determinations were reasonable and proportionate. In doing this, they should consider, for example:

- a. was the complaint fully understood and were all allegations or concerns addressed?
- b. were reasonable lines of enquiries undertaken to be able to provide a reasonable and proportionate outcome?
- c. was due regard given to relevant guidance?
- d. if any aspects of the complaint were not addressed, or any lines of enquiry were not pursued, were there sound reasons for this?
- e. was information or evidence weighed appropriately and fairly?
- f. do the findings or determinations reached, logically follow from the information or evidence obtained?

#### 15.11 Actions proposed

15.11.1 When deciding whether any actions proposed are reasonable and proportionate, the reviewer should consider whether:

- a. due regard was given to the relevant guidance.
- b. the complaint handler attempted to understand the outcome the complainant was seeking and gave that due consideration.
- c. the proposed actions have sought to remedy the issues raised by the complainant, so far as is reasonably possible.
- d. the proposed actions are reasonable and proportionate, considering all the circumstances.
- e. actions have been proposed or taken in respect of any learning or other issues identified through the handling of the complaint.

#### 15.12 Other issues identified while undertaking a review

15.12.1 Sometimes issues with complaints handling may be identified that have not prevented a reasonable and proportionate outcome. These would not be a reason to uphold the review. However, such issues should be fed back to the appropriate authority as a part of the relevant review body's oversight role.





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15.12.2 Appropriate authorities should ensure that processes are in place to collate any issues identified with complaint handling, in order to identify any trends that can be addressed with the appropriate authority. Any issues like this should be noted to the complainant as part of the decision they receive.

#### **15.13 Outcome of the review**

15.13.1 Where the Defence Council or a single Service Board is the relevant review body and it finds that the outcome is not reasonable and proportionate they may make certain recommendations, depending on whether the complaint has been investigated or handled other than by investigation. And, where the SPCC is the relevant review body, as well as an ability to make recommendations, the SPCC is able to make certain directions where it finds that the outcome is not reasonable and proportionate. These are outlined below.

#### **15.14 Reviews of the outcome of complaints dealt with other than by investigation**

15.14.1 Where the Defence Council or a single Service Board is the relevant review body and finds that the outcome is not reasonable and proportionate, they may:

- a. recommend that the appropriate authority refer it to the SPCC, if the complaint has not been previously referred.
- b. recommend that the appropriate authority investigate the complaint.
- c. make a recommendation with a view to remedying the dissatisfaction expressed by the complainant concerned.

15.14.2 Where the SPCC is the relevant review body and finds that the outcome is not reasonable and proportionate, they may:

- a. determine that it is necessary for the complaint to be investigated.
- b. make a recommendation with a view to remedying the dissatisfaction expressed by the complainant concerned.

#### **15.15 Reviews of the outcome of complaints that have been investigated**

15.15.1 Where, following a local investigation, the Defence Council or a single Service Board is the relevant review body and finds that the outcome is not reasonable and proportionate, they may:

- a. recommend that the appropriate authority reinvestigate the complaint.
- b. if the complaint has not been previously referred to the SPCC, recommend that the appropriate authority refer it to the SPCC.



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- c. make a recommendation to the appropriate authority in respect of any member of a Service Police force:
  - (1) where it appears the person has a case to answer in respect of misconduct or gross misconduct, or has no case to answer in relation to the person's conduct to which the investigation related.
  - (2) where the person's conduct appears to justify the initiation of administrative action procedures (see Glossary at Annex A).
- d. make a recommendation with a view to remedying the dissatisfaction of a complainant.
- e. make a recommendation to the appropriate authority that they notify, and send a copy of the report, to the appropriate prosecutor (as the report indicates that a service offence may have been committed).

15.15.2 Where, following an investigation, the SPCC is the relevant review body and finds that the outcome is not a reasonable and proportionate outcome, they may:

- a. make their own findings (in place of, or in addition to, the findings of the investigation).
- b. direct that the complaint be reinvestigated and determine the mode of investigation.
- c. make a recommendation to the appropriate authority in respect of any member of a Service Police force:
  - (1) where it appears the person has a case to answer in respect of misconduct or gross misconduct, or has no case to answer in relation to the person's conduct to which the investigation related.
  - (2) where the officer's conduct appears to justify the initiation of administrative action procedures.
- d. make a recommendation under Regulation 68 with a view to remedying the dissatisfaction of a complainant.
- e. make a recommendation to the appropriate authority that they notify, and send a copy of the report, to the appropriate prosecutor (as the report indicates that a service offence may have been committed).

15.15.3 Any decision by a relevant review body about whether to recommend that the appropriate prosecutor be notified should be made in light of the findings of the review and the evidence gathered during the handling of the complaint. The reasons given by the



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appropriate authority for not referring the report to the appropriate prosecutor should also be taken into account. A full rationale will be required from the relevant review body if it decides not to recommend that a referral be made, despite the report indicating that a service offence may have been committed.

### 15.16 Notifications of the outcome

15.16.1 After undertaking a review, the relevant review body must notify the following of the outcome of the review, and the reasons for their decision:

- a. the appropriate authority.
- b. the complainant.
- c. any interested person.
- d. the person complained against (if any), unless it would prejudice an investigation.
- e. the reinvestigation of the complaint (notification may be given via the appropriate authority).

15.16.2 The outcome should be communicated in writing (and by other means where appropriate, taking into account any particular needs or requests) and should use clear language, avoiding use of jargon wherever possible. Sufficient information should be provided to enable recipients to understand what decisions and recommendations have been made, and why.

15.16.3 Where the relevant review body recommends (or in the case of the SPCC, directs) investigation or re-investigation, it is good practice to outline what the reviewer considers should be addressed. This makes clear to the complainant and complaint handler what is expected from the investigation or reinvestigation.

### 15.17 Appropriate authority responses to the outcome of a review

15.17.1 Where the SPCC has made directions, the appropriate authority must comply with those directions.

15.17.2 Where recommendations have been made by the Defence Council or single Service Board (or by the SPCC), the appropriate authority must consider them and respond in writing within 28 days (starting with the day after the day the recommendation was made). The response from the appropriate authority must include whether they accept the recommendation, including, if they do, the steps they propose to take to give effect to the recommendation and, if they do not, the reasons why.



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15.17.3 Where the appropriate authority does not agree with the recommendation, they must provide a clear rationale for why it will not be followed. It is therefore important that the reasons for any recommendations made are outlined clearly by the relevant review body.

15.17.4 The appropriate authority may also wish to discuss any recommendations made with the reviewer before deciding whether to accept them. Even where the recommendation is disagreed with, the appropriate authority may, having considered the rationale, propose an alternative. However, the expectation is that recommendations will be complied with.

15.17.5 The person making the recommendation must send a copy of the recommendation and the response to:

- a. the complainant.
- b. any interested person.
- c. the person complained against (if any), unless the person making the recommendation considers that to do so might prejudice any investigation (including any criminal investigation).

15.17.6 The SPCC, Defence Council, or single Service Board may extend the time limit for a response.



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### 16 Support Available

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Personal questions not answered within this publication and cases of doubt over eligibility or entitlement are to be directed through chains of command.

To access the correct support and for any aspect of personnel administration, Service personnel should approach their Unit HR section.

Further information on statutory (i.e. legal) entitlements can be found on [GOV.UK](https://www.gov.uk) and the [Advisory, Conciliation and Arbitration Service \(ACAS\) website](https://www.acas.co.uk).



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### 17 Roles and Responsibilities

MOD expects all those involved to apply this procedure in accordance with the following generic roles and responsibilities.

Role	Key responsibilities in carrying out this procedure
Service Person	Responsible for familiarising yourself with the policy and procedure documents as they apply to you.
Line Manager and/or Chain of Command	Responsible for: <ul style="list-style-type: none"> <li>• familiarising yourself with the policy and procedure documents as they apply to you.</li> <li>• ensuring complainants are aware of the appropriate advice and support available to help them through the Service Police complaints process.</li> </ul>
Defence Business Services (DBS)	Responsible for: <ul style="list-style-type: none"> <li>• publishing announcements in support of the Policy SME.</li> <li>• managing policy documents in the Military People Policy Optimisation team site.</li> <li>• uploading documents and employee-centric material into the Military People Policy Optimisation team site.</li> </ul>
Mil HR Advisor SME (from Wtr, TG17 and AGC Specs)	Responsible for: <ul style="list-style-type: none"> <li>• working closely with senior leaders supporting development of business strategies through HR consultancy and interventions on people issues.</li> <li>• delivering change programmes and initiatives through comprehensive people change approaches.</li> <li>• directing employees to DBS if they have any queries.</li> </ul>
Chief of Defence People (CDP)	Responsible for: <ul style="list-style-type: none"> <li>• the sign-off, and fair and consistent application of this procedure.</li> <li>• overseeing Military HR compliance audit requirements and compliance action plans that arise as a result.</li> </ul>



# Procedure

## JSP 849: Service Police Complaints

### 18 Document Information

#### 18.1 Document Coverage

This procedure supersedes all previous MOD procedures on Service Police Complaints. The totality of documents included in this Policy Suite, of which this document is a part, are listed in the Policy and Guidance Portal.

#### 18.2 Document Information

Filename:	Service Police Complaints Procedure
Document ID:	To be confirmed
Owning Function / Team:	<b>Conduct, Equity and Justice Directorate</b> <a href="mailto:People-Diversity-Inclusion@mod.gov.uk">People-Diversity-Inclusion@mod.gov.uk</a>
Service Owner (1*):	Head, Service Complaints and Behaviours Transformation
Approving Authority:	Chief of Defence People

#### 18.3 Document Versions

Version	Publication Date	Revision History	Revised Pages
1.1	23/09/2024	Policy simplification revamp.  Amendment to paragraph 2.7.1 of the policy document to make clear those matters which are not excluded from the Service Complaints process.	Multiple  Page 10 of policy document

MOD will review this procedure in two years or when changes to legislation or best practice dictate.

#### 18.4 Linked JSPs

JSP Number	JSP Name
831	Redress of Individual Grievances: Service Complaints



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### Annex A: Glossary

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#### **Administrative Action procedures**

Under the Regulations this means the procedures and processes under which the conduct of a member of a Service Police force is considered in order to determine whether it is misconduct or gross misconduct, and if so whether as a result any administrative action is to be taken in relation to it.

#### **Adversely affected**

A person is adversely affected if they suffer any form of loss or damage, distress or inconvenience, if they are put in danger or are otherwise unduly put at risk of being adversely affected.

#### **Appropriate authority**

In general terms, an appropriate authority is the Provost Marshal of the Service Police force about which dissatisfaction is expressed or, where a complaint relates to the conduct of an individual, the Provost Marshal who had direction and control over that person.

Where a complaint relates to the Provost Marshal, the appropriate authorities are:

- a. the Admiralty Board in relation to the Provost Marshal (Navy).
- b. the Army Board in relation to the Provost Marshal (Army).
- c. the RAF Board in relation to the Provost Marshal (RAF).
- d. the Defence Council in relation to the Provost Marshal (DSCU).

#### **Articles 2 and 3 of ECHR**

Article 2 of the European Convention on Human Rights provides that everyone's life shall be protected by law.

Article 3 of the European Convention on Human Rights provides that no one shall be subjected to torture or to inhuman or degrading treatment or punishment.

#### **Complaint handler**

Any person who has been appointed to handle a complaint. This includes, where a complaint is being investigated, the investigator.

#### **Conduct**

Includes acts, omissions, statements and decisions (whether actual, alleged or inferred).

#### **Conduct matter**

Any matter which is not and has not been the subject of a complaint, but in the case of which there is an indication (whether from the circumstances or otherwise) that a member of a





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Service Police force may have committed a service offence or behaved in a manner which would justify the initiation of administrative action procedures.

### **Death or Serious Injury matter - 'DSI matter'**

Any matter (unless the circumstances are or have been the subject of a complaint or amount to a conduct matter) in, or as a result of which, a person has died or sustained serious injury.

### **Directed investigation**

An investigation conducted by the appropriate authority under the direction and control of the SPCC. The SPCC directs the investigation in terms of its scope, investigative strategy and findings of the report.

### **Disciplinary proceedings**

Proceedings in relation to a service offence.

### **Formal handling**

A complaint or conduct matter that has been recorded and must be handled in accordance with the procedures set out in the Regulations.

### **Gross misconduct**

Within the context of the Service Police complaints system, gross misconduct means a breach of the professional standards that is so serious as to justify termination of their membership of the Service Police force.

### **Independent investigation**

An investigation carried out by the SPCC. An independent investigation is often used for the most serious incidents.

### **Informal handling**

A complaint or conduct matter that has not been recorded (i.e. given 'formal status'), and is handled outside the requirements of the Regulations.

### **Interested person**

A person who has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter.

### **Local investigation**

An investigation carried out by the appropriate authority on its own behalf.

### **Misconduct**

A breach of the professional standards (see below).

### **Person complained against**

In relation to a complaint that relates to conduct of a member of a Service Police force, means the person whose conduct is the subject matter of the complaint.



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### **Person concerned**

In relation to an investigation of a complaint, means the person in respect of whom it appears - to the person investigating the complaint - may have committed a Service offence or behaved in a manner which would justify the initiation of administrative action procedures. In relation to an investigation of a recordable conduct matter, this means the person whose conduct is the subject of the investigation.

### **Professional standards**

The values and standards that apply to members of a Service Police force, which are set out in policies, and which they are required to comply with.

### **Recordable conduct matter**

A conduct matter that is required to be recorded by the appropriate authority under the regulations or has been so recorded.

### **Recording**

Recording a complaint, conduct matter or DSI matter gives it formal status under the Regulations.

### **Relevant Officer**

In relation to a DSI matter, means the member of a Service Police force:

- a. who arrested the person who has died or suffered serious injury;
- b. in whose custody that person was at the time of the death or serious injury; or
- c. with whom that person had the contact in question.

Where there is more than one member of a Service Police force involved it means the member who dealt with that person last before the death or serious injury occurred.

### **Relevant service offence**

An offence under Section 42 of the Armed Forces Act 2006 for which the sentence is fixed by law; or a person of 18 years or over (not previously convicted) may be sentenced to imprisonment for a term of seven years or more or might be so sentenced.

### **Relevant review body**

The SPCC, where the appropriate authority is the Defence Council or a single Service Board, or where:

- a. the complaint is about the conduct of a 'senior officer'.
- b. the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not justify the bringing of disciplinary proceedings or initiation of administrative action procedures against a member of a Service Police force.



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- c. the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not involve an infringement of a person's rights under Article 2 or 3 of the ECHR (within the meaning of the Human Rights Act 1998).
- d. the complaint has been or must be referred to the SPCC.
- e. the SPCC has treated the complaint as though it has been referred.
- f. the complaint arises from the same incident as a complaint falling within (a) to (e).
- g. any part of the complaint falls within (a) to (f).

In any other case the relevant review body is either the Defence Council or relevant single Service Board.

#### **Senior Officer**

Under the Regulations it means a member of a Service Police force holding a rank of or above that of:

- a. Lieutenant Commander in relation to the Royal Navy Police.
- b. Major in relation to the Royal Military Police.
- c. Squadron Leader in relation to the Royal Air Force Police.

#### **Service complaint**

A complaint made under the Service Complaints system (JSP 831) that comes under the oversight of the Service Complaints Ombudsman. Under this system a Service person is able to make a complaint about any matter relating to their service in the Armed Forces, unless it is an excluded matters under the Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015.

#### **Serious injury**

A fracture, deep cut, deep laceration or injury causing damage to an internal organ or the impairment of any bodily function.

#### **Severity assessment**

An assessment requiring the person investigating to consider whether the conduct of the person concerned, if proved, would amount to a failure to meet the Professional standards, and whether that conduct would become the subject of administrative action procedures.



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### **Special procedures**

Procedures for investigations relating to either a recordable conduct matter, or a complaint where there is an indication that the person complained against may have committed a Service offence or the initiation of administrative action procedures is justified.

### **Voluntary referral**

A complaint or recordable conduct matter that is not required to be referred to the SPCC, but where the gravity of the subject matter or any exceptional circumstances justifies referral.



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### Annex B: Definitions of referral criteria

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#### **Serious assault**

'Serious assault' is conduct that has resulted in an injury that amounts to actual bodily harm and in accordance with the law 'the offence is committed when a person intentionally or recklessly assaults another, thereby causing Actual Bodily Harm' ([Section 47 of the Offences Against the Person Act 1861](#)).

The Crown Prosecution Service legal guidance on [the charging standard for the offence of assault occasioning actual bodily harm](#) should be consulted and applied in determining whether an allegation is one of assault occasioning actual bodily harm, as opposed to common assault.

Any allegation of an attempt, incitement, conspiracy, assistance or encouragement to commit assault occasioning actual bodily harm or a more serious offence against a person must also be referred to the Service Police Complaints Commissioner (SPCC).

#### **Serious sexual assault**

The SPCC deems an allegation that a member of a Service Police force has committed any sexual offence is, in light of their position, likely to be serious. The term 'serious sexual offence' refers to conduct by a person serving with the Service Police that constitutes a sexual offence under the [Sexual Offences Act 2003](#).

However, 'sexual activity in a public lavatory'<sup>74</sup> while off-duty at the time of the offence is likely to be a private and consensual activity (unless there are other matters) and so the SPCC would not expect a referral. For other sexual offences the matter should be referred whether it was committed off- or on-duty at the time of the alleged offence.

Any attempt, incitement, conspiracy, assistance or encouragement to commit any offence captured by the above must also be referred to the SPCC.

#### **Serious corruption**

Where an allegation of serious corruption is made, or potential serious corruption is otherwise identified, this requires referral to the SPCC.

The term serious corruption refers to conduct that includes:

- a. any conduct that be amount to an improper exercise of any powers of a Service policeman for the purpose of obtaining a benefit for themselves or a benefit or detriment for someone else and a reasonable person would not expect the power to be exercised for that purpose.
- b. perverting the course of justice or other conduct that is likely to seriously harm

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<sup>74</sup> Section 71, Other offences, Sexual Offences Act 2003.



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the administration of justice, in particular the Criminal Justice System or the Service Justice System.

- c. payments or other benefits or favours received in connection with the performance of duties amounting to an offence for which the individual concerned, if convicted, would be likely to receive a sentence of more than six months.
- d. abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship.
- e. provision of confidential information in return for payment or other benefits or favours where the conduct could lead to a possible prosecution for an offence under [Section 170 of the Data Protection Act 2018](#) (Unlawful obtaining etc of personal data) or a more serious offence.
- f. extraction and supply of seized controlled drugs, firearms or other material.
- g. any other abuse of position whether off- or on-duty to take advantage of inappropriately or illegitimately their position, the authority of their position, or any powers conferred on them by virtue of their position, as a member of a Service Police force.
- h. attempts, conspiracies, incitements, assistance or encouragement to do any of the above.

#### **Service offences or behaviour liable to lead to the initiation of administrative action procedures and which, in either case, is aggravated by discriminatory behaviour**

This refers to any service offence or other behaviour liable to lead to the initiation of administrative procedures that, in accordance with [Section 4 of the Equality Act 2010](#) (The protected characteristics), is aggravated by discrimination on the grounds of a person's:

- a. age.
- b. disability.
- c. gender reassignment.
- d. marriage and civil partnership.
- e. pregnancy and maternity.
- f. race.
- g. religion or belief.
- h. sex.
- i. sexual orientation.

The criterion is met where the alleged behaviour, without the discrimination element, amounts to a service offence or behaviour which is liable to lead to the initiation of administrative action procedures (see Glossary at Annex A) and it is alleged that discrimination was a reason for this behaviour.



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## Procedure

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The referral grounds require an assessment of the gravity of the underlying conduct, without the discrimination element (to decide if it is an allegation of a service offence or behaviour liable to lead to the initiation of administrative action procedures - see Glossary at Annex A). It will not be necessary to assess the gravity of the discrimination element; only that discrimination is alleged as an aggravating factor.

The form of the alleged discrimination may be direct through language or behaviour. For example, the use of offensive and discriminatory words or use of stereotypes to describe individuals. The complainant or interested person may allege that the conduct was motivated by discrimination. They may allege treatment that amounts to discrimination when compared with the treatment given to others. Although it is not for the complainant to prove that a member of a Service Police force discriminated against them, it is important that they are able to identify (where possible) how their treatment was discriminatory.

In order to ascertain the background to the alleged discrimination the person dealing with the complainant should encourage them to provide as much information as possible to articulate why they believe they were discriminated against.

#### **Relevant Service Offence**

A relevant Service offence means an offence under Section 42 of the Armed Forces Act 2006 (i.e. something which is an offence under the criminal law of England and Wales or would be such an offence if done in England or Wales) for which the sentence is fixed by law. A person of 18 years or over (not previously convicted) may be sentenced to imprisonment for a term of seven years or more or might be so sentenced.

In order to assess whether an offence meets this definition, guidance should be taken from sentencing guidelines for the offence in question. This assessment should not consider what the likely sentence would be, only whether the offence has the possibility to result in a sentence of imprisonment for seven years or more.

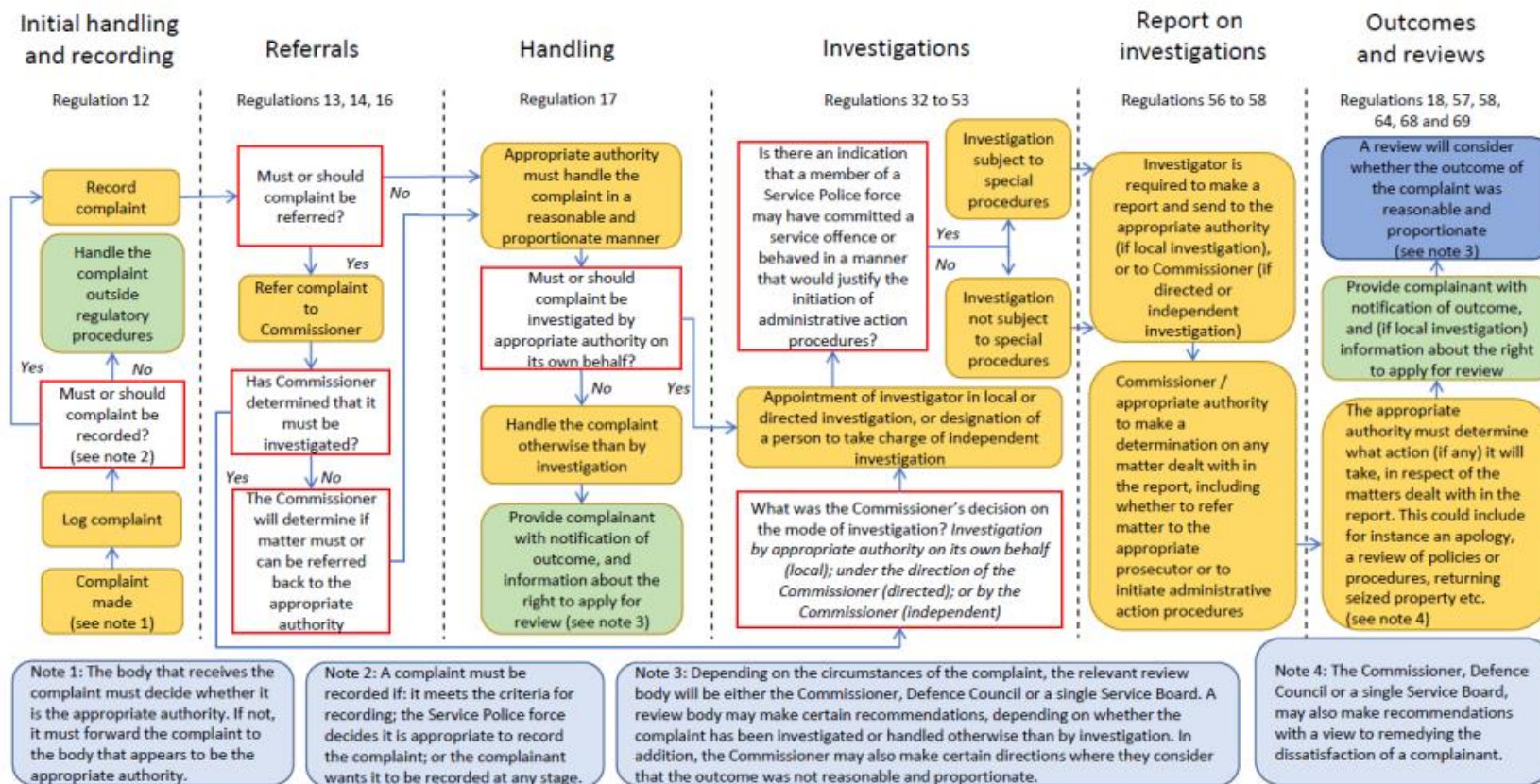
#### **Complaints and conduct matters concerning Provost Marshals**

Appropriate authorities must refer to the SPCC any conduct matter relating to a Provost Marshal.

An appropriate authority must also refer to the SPCC any complaint relating to the conduct of a Provost Marshal where the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of, if it were proved, would not justify the bringing of disciplinary proceedings or the initiation of administrative action procedures (see Glossary at Annex A).



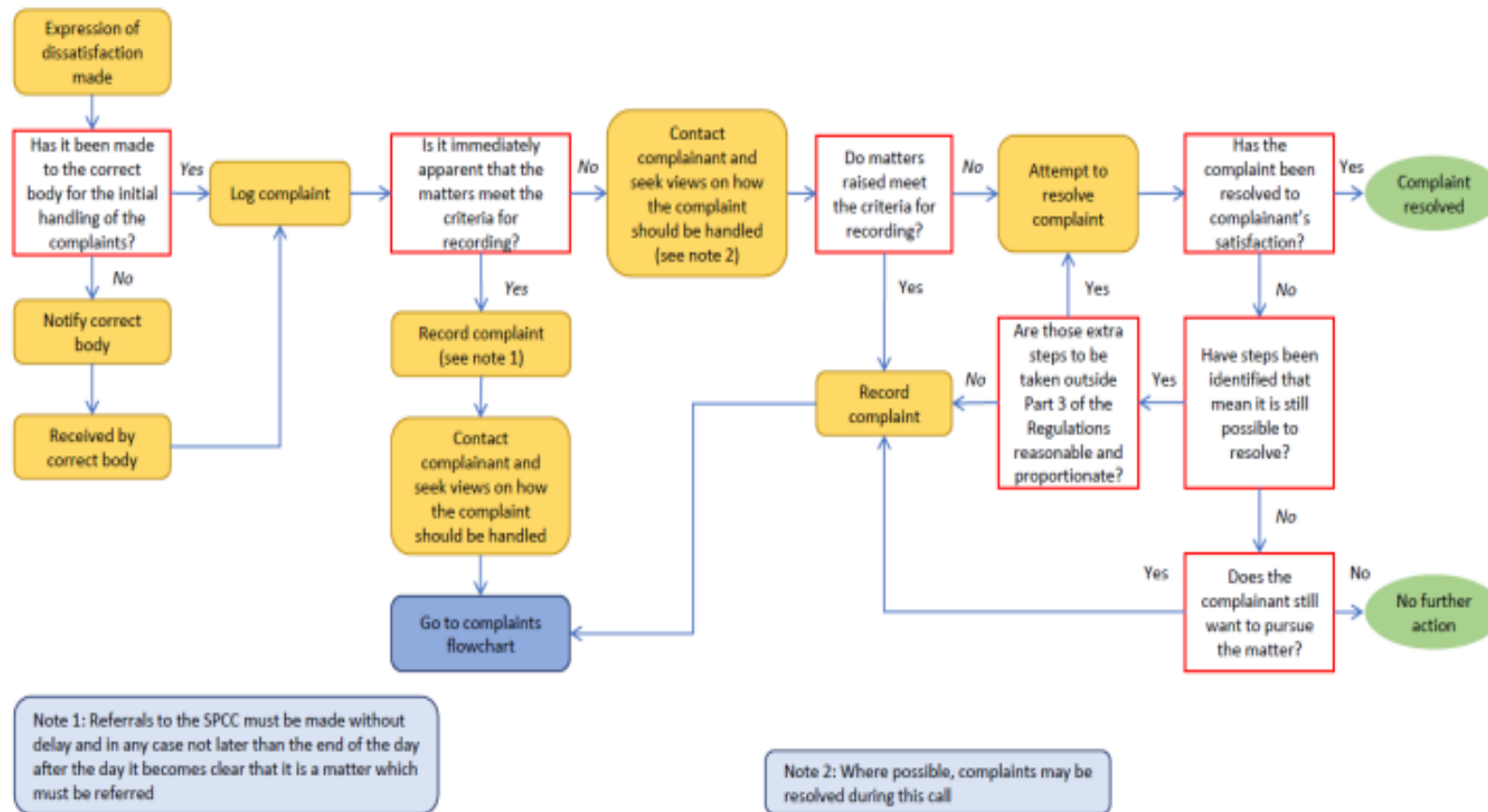
### Annex C: Service Police complaints flowchart







### Annex D: Initial handling of complaints flowchart

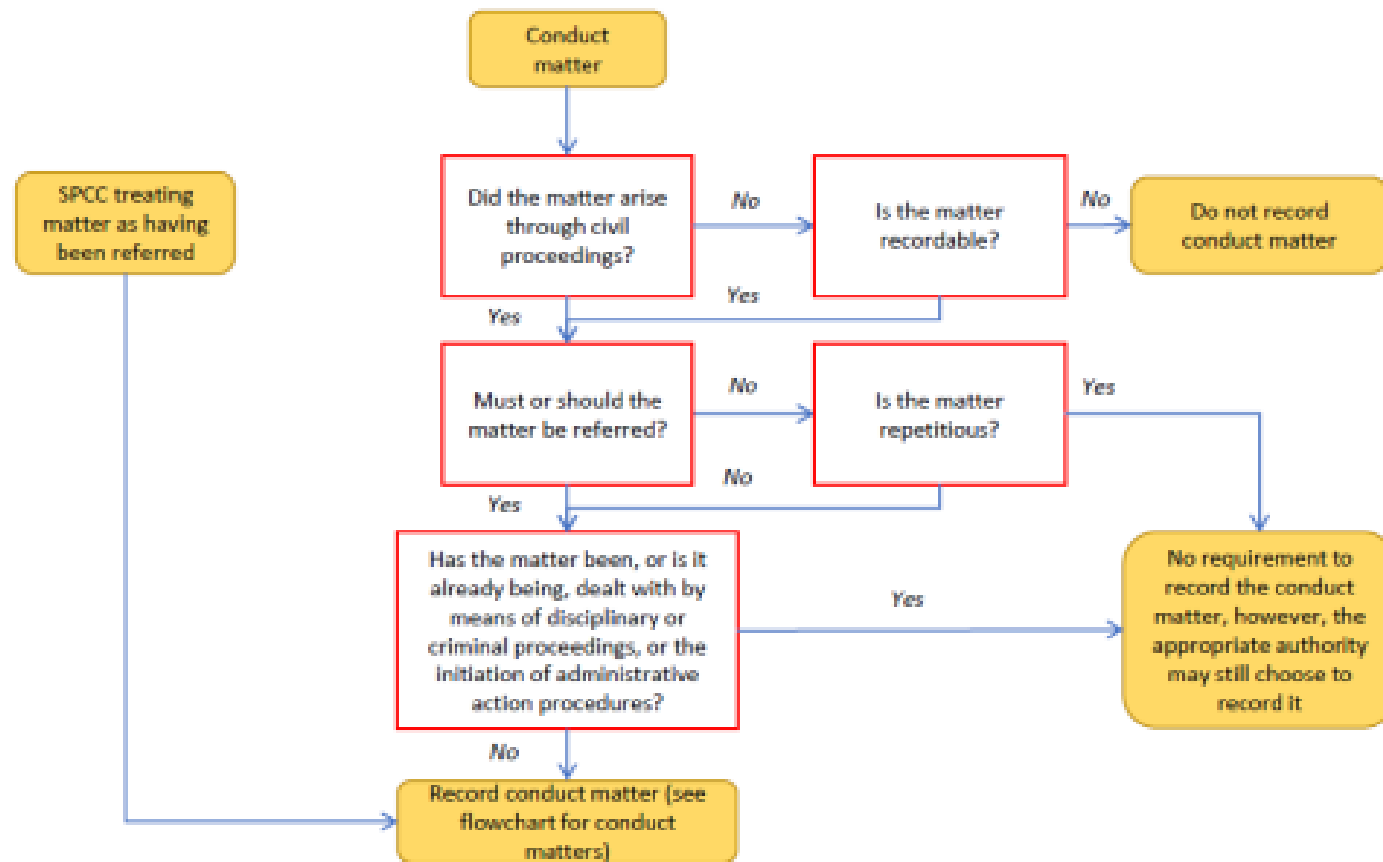




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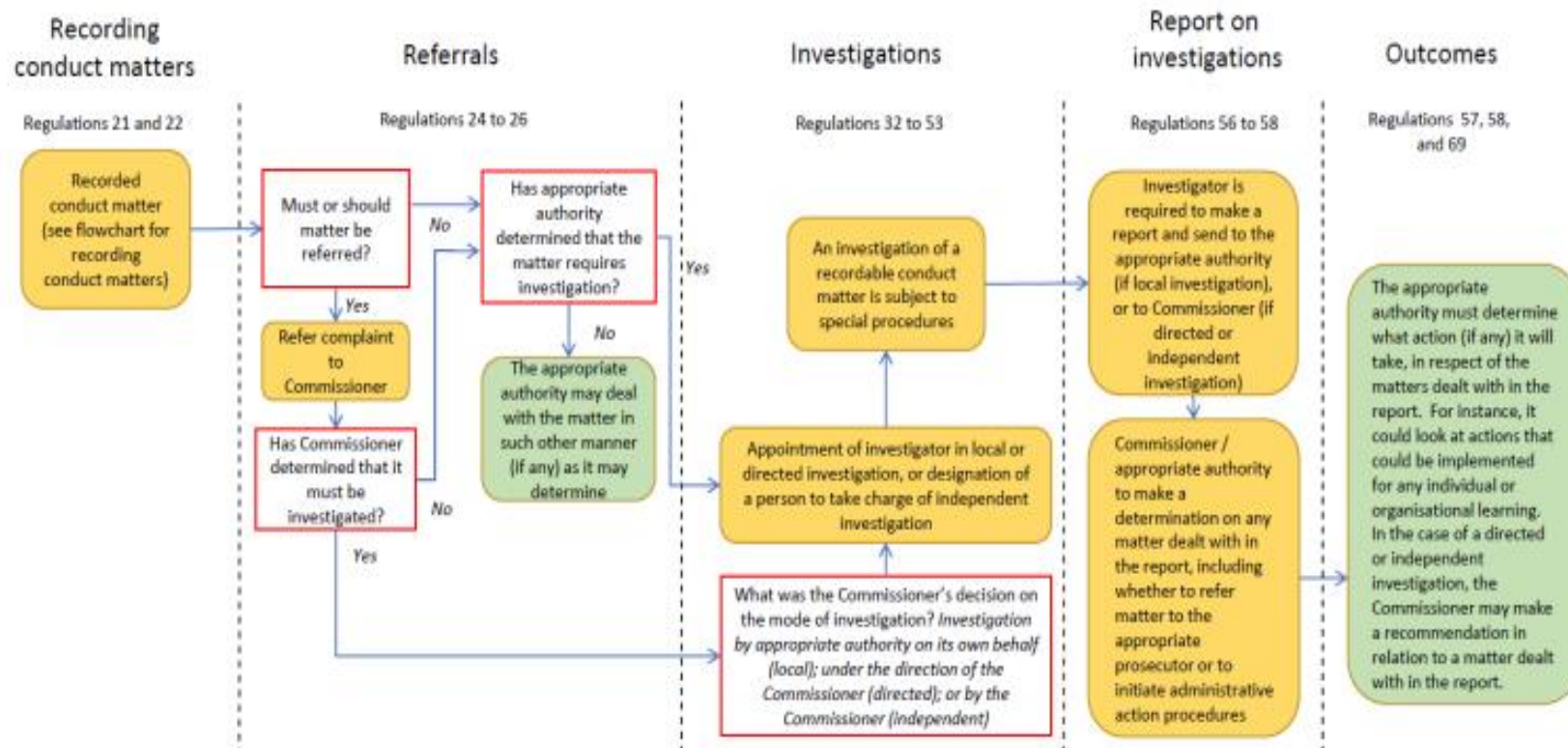
### Annex E: Recording conduct matters flowchart

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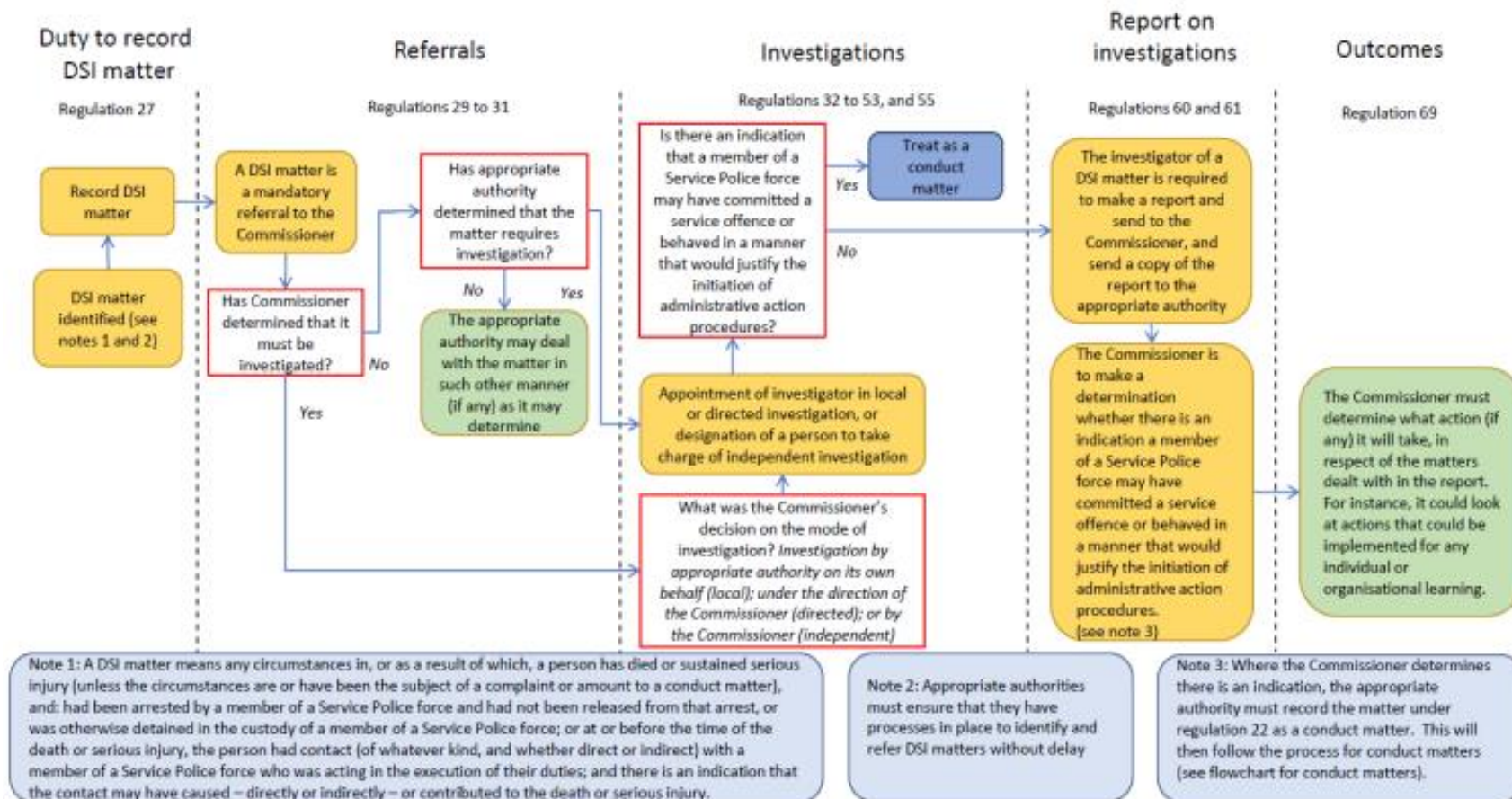


### Annex F: Conduct matters flowchart





### Annex G: Death or Serious Injury matters flowchart

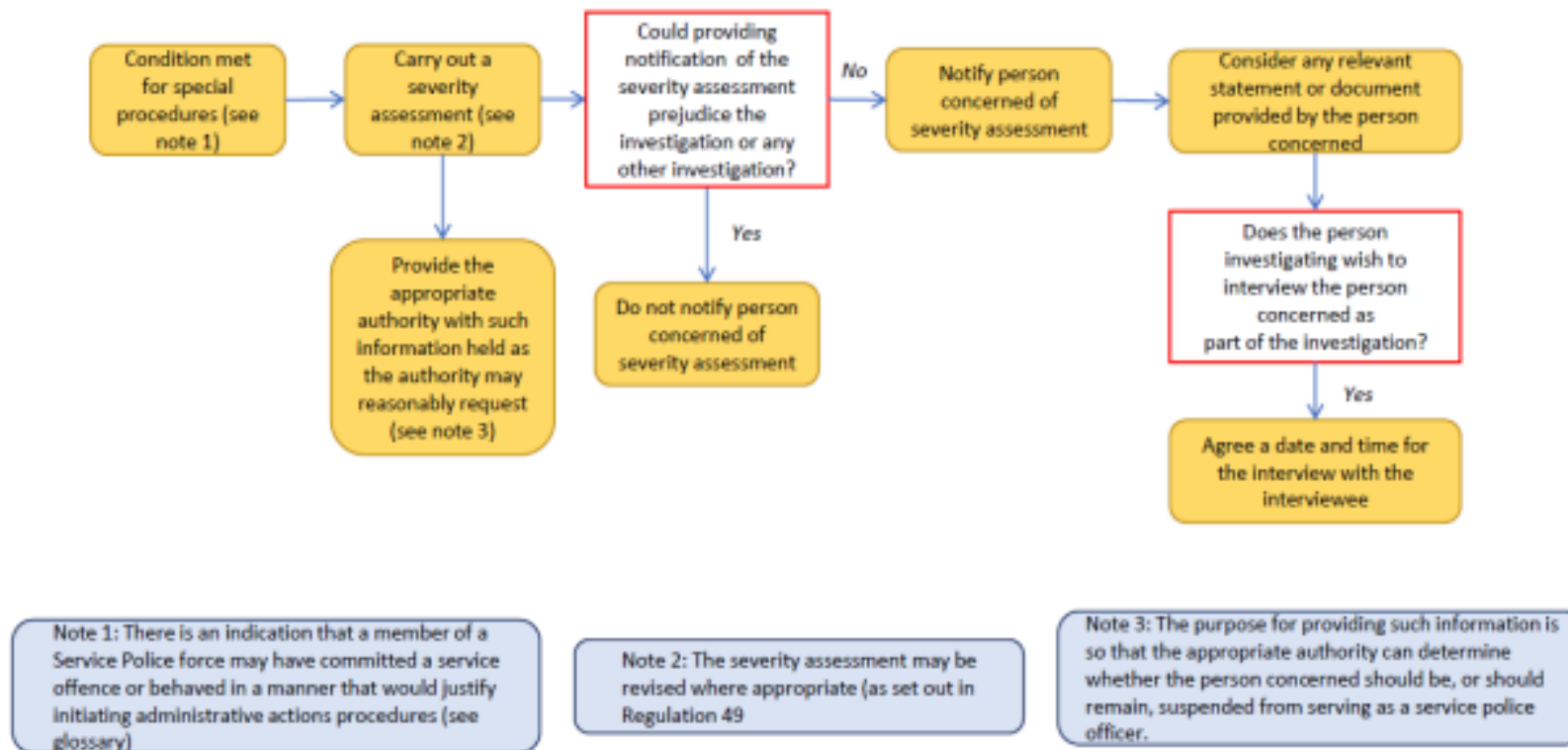




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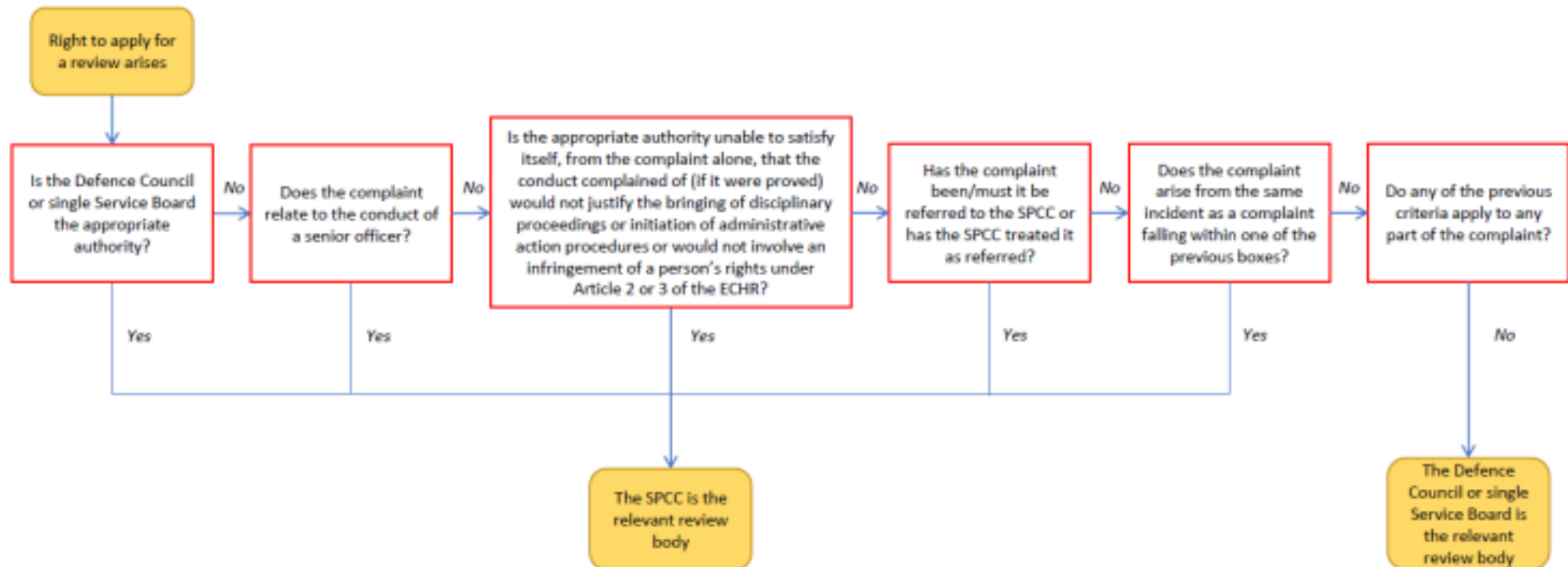
### Annex H: Special Procedures flowchart

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Annex I: Relevant Review Body flowchart





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## Procedure

# JSP 849: Service Police Complaints

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### Annex J: Points of Contact for Submission of Service Police Complaint and Application for Review Forms

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#### **Royal Navy Police**

RN Police Professional Standards Department  
HQ Provost Marshal (Navy)  
West Battery Ground Floor  
HMS EXCELLENT  
Whale Island  
Portsmouth  
PO2 8ER

Email: [NAVYPOLICE-HQPSDMAILBOX@mod.gov.uk](mailto:NAVYPOLICE-HQPSDMAILBOX@mod.gov.uk)

#### **Royal Military Police**

RMP Professional Standards Department  
Building 398  
Trenchard Lines  
Upavon  
Wiltshire  
SN9 6BE

Email: [ArmyPM-PSD-Mailbox@mod.gov.uk](mailto:ArmyPM-PSD-Mailbox@mod.gov.uk)

#### **Royal Air Force Police**

RAFP Professional Standards Department  
Bldg 36  
RAF Henlow  
Bedfordshire  
SG16 6DN

Email: [RAFP-PSDMULTIUSER@mod.gov.uk](mailto:RAFP-PSDMULTIUSER@mod.gov.uk)

#### **Defence Serious Crime Command**

DSCC Professional Standards Department  
3rd Floor  
Overlord Building  
Southwick Park  
Hampshire  
PO17 6EJ

Email: [People-DSCC-PSDMailbox@mod.gov.uk](mailto:People-DSCC-PSDMailbox@mod.gov.uk)



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### Annex K: Sources of Independent Support

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#### **Victim Support**

Tel: 0808 168 9111 (in Scotland please call 0300 3321000 and in Northern Ireland please call 0289 0243133).

#### **Health Assured**

B&H Helpline: 0800 014 2381 or 0330 008 5942 (overseas) - free to call 24/7.

#### **Veterans' Gateway**

Tel: 0808 802 1212 or website: [www.veteransgateway.org.uk](http://www.veteransgateway.org.uk).

#### **Royal British Legion**

Tel: 0808 802 8080 or website: [www.britishlegion.org.uk](http://www.britishlegion.org.uk).

#### **Combat Stress**

Veterans - Tel: 0800 138 1619

Serving personnel - Tel: 0800 323 444

Text number: 07537 404719

Email: [helpline@combatstress.org.uk](mailto:helpline@combatstress.org.uk)

Employee Assistance Programme

Tel: 0800 731 8629 - free to call 24/7.

#### **Samaritans**

Tel: 116 123

#### **Army Welfare Service**

Tel: 01904 882503/504

#### **Forces Helpline**

Tel: 0800 260 6767

Civilians who are members of a Trade Union can call their National Trade Union Helpline or they can contact ACAS on 0300 123 1100 for free advice on workplace rights, rules and best practice.





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## Procedure

# JSP 849: Service Police Complaints

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### Annex L: Service Police Complaint Form

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#### What can you complain about?

A complaint is defined as any expression of dissatisfaction with a Service Police force, or a member of a Service Police force, which is expressed by a person or on behalf of another person. Please see Chapter 2 of this document for further guidance.

#### Timeline for making a complaint

There is no time limit on making a complaint, but it is best to do so as quickly as possible after the incident(s) has occurred. Please see Chapter 2 of this document for further guidance.

#### Support and advice

In many cases, a person under 18 who makes a complaint against a person serving with the Service Police will be supported by a parent, guardian or other appropriate adult. In situations where a person under 18 makes a complaint alone, the Service Police force should still take action on their complaint. The Service Police force should ask the person whether they would like their parent or guardian to be notified, and their wishes should be followed. The Service Police force should also consider whether an alternative form of support should be offered, such as an advocate

A range of independent help is also available to you throughout the Service Police complaints process; this can be found in the Part 1 policy document at Annex C and in this document at Annex K.

#### How to fill in a Service Police Complaint Form

If your complaint involves a number of similar or related incidents e.g. involving the same individuals or situation, you should submit a single Service Police complaint form. Otherwise, each complaint should be made using a separate form.

In setting out your complaint you are required to include the facts and circumstances of the matter that you consider to have been adversely affected by.

We know you are more likely to feel satisfied with the Service Police complaints system if your complaint has been captured and reflected properly. To help achieve this, you will need to set out in Section 3 the following so that your complaint is easily understood:

- a. which Service Police force is your complaint about?
- b. when did it happen? (if known)
- c. what time did it happen? (if known)
- d. where did it happen? (if known).



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## Procedure

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You should clearly and concisely express the matters that are being alleged, to ensure the whole issue is considered and the full impact understood when the case is being investigated.

Please note that fields marked with an \* are mandatory where applicable.

### **Accessibility**

If it is difficult for you to use this form or this service, please contact us by email at [People-DPT-SPCC-Enquiries@mod.gov.uk](mailto:People-DPT-SPCC-Enquiries@mod.gov.uk).

If you require any adjustments to support you through the Service Police complaints system, please outline these in Section 1. For example, if you have a visual impairment, you may require the Service Police to provide written responses in larger text.

### **Where do I send my complaint form?**

Once completed the form should be sent to the appropriate Service Police force as detailed in Annex J.

**SERVICE POLICE COMPLAINT FORM**

<b>Section 1 - About you</b>	
<b>1.1 *Title:</b>	
<b>1.2 *First name(s):</b>	
<b>1.3 *Last name(s):</b>	
<b>1.4 *Date of birth:</b>	
<b>1.5 *Are you currently:</b> <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> <b>Member of the Armed Forces</b> <input type="checkbox"/> <b>MOD civilian staff</b> <input type="checkbox"/> <b>MOD contractor</b> <input type="checkbox"/> <b>Member of the public</b>
<b>1.6 *If you are or were in the Armed Forces, please provide your rank and service number:</b>	<b>Rank:</b> <b>Service Number:</b>
<b>1.7 Please indicate which Service you are or were in:</b> <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> <b>Royal Navy</b> <input type="checkbox"/> <b>Royal Marines</b> <input type="checkbox"/> <b>Army</b> <input type="checkbox"/> <b>RAF</b>
<b>1.8 Are you or were you previously a reservist at the time of the incident?</b> <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>1.9 Are you currently serving?</b> <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>1.10 Address:</b> <i>Please include street number/name, town/city, county, postcode, country.</i>	
<b>1.11 Email:</b>	
<b>1.12 Phone (mobile):</b>	
<b>1.13 Phone (home):</b>	
<b>1.14 Phone (work):</b>	
<b>1.15 What is your preferred method of contact?</b> <i>Please put an 'x' in the appropriate box(es).</i>	<input type="checkbox"/> <b>Email</b> <input type="checkbox"/> <b>Phone (mobile)</b> <input type="checkbox"/> <b>Phone (home)</b> <input type="checkbox"/> <b>Phone (work)</b> <input type="checkbox"/> <b>Post</b>
<b>1.16 Do you require any reasonable adjustment(s) to support you through the Service Police complaints process as, for example, you may be suffering from a disability or long-term health condition?</b> <i>If the answer is 'yes', please give as much detail as possible in the space provided.</i>	

<p><b>1.17 If we need to follow up on something to do with your application, are there any restrictions on when/how we can contact you?</b>  <i>If the answer is 'yes', please provide us with details of the days and times when you can't be contacted. Please be aware that if we can't contact you, we might have to close your case on our system.</i></p>	
<p><b>1.18 Are you making the complaint for someone else?</b>  <i>If the answer is 'no', you do not need to complete Section 2, so go straight to Section 3.</i></p>	<p><input type="checkbox"/> Yes <span style="margin-left: 200px;"><input type="checkbox"/> No</span></p>
<p><b>Section 2 - Details of person on whose behalf you are making a complaint</b></p>	
<p><i>Do not complete this section if you are making a complaint on your own behalf. If you are making this complaint on behalf of someone else, you must have permission from that person.</i></p>	
<p><b>2.1 What is your relationship to the person making the complaint?</b></p>	
<p><b>2.2 *Title:</b></p>	
<p><b>2.3 *First name(s):</b></p>	
<p><b>2.4 *Last name(s):</b></p>	
<p><b>2.5 *Date of birth:</b></p>	
<p><b>2.6 * Are you currently:</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Member of the Armed Forces  <input type="checkbox"/> MOD civilian staff  <input type="checkbox"/> MOD contractor  <input type="checkbox"/> Member of the public  <input type="checkbox"/> Other (please state):</p>
<p><b>2.7 *If you are or were in the Armed Forces, please provide your rank and service number:</b></p>	<p>Rank:  Service Number:</p>
<p><b>2.8 Please indicate which Service you are or were in:</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Royal Navy <span style="margin-left: 100px;"><input type="checkbox"/> Royal Marines</span>  <input type="checkbox"/> Army <span style="margin-left: 100px;"><input type="checkbox"/> RAF</span></p>
<p><b>2.9 Are you or were you previously a reservist?</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Yes <span style="margin-left: 100px;"><input type="checkbox"/> No</span></p>
<p><b>2.10 Are you currently serving?</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Yes <span style="margin-left: 100px;"><input type="checkbox"/> No</span></p>
<p><i>Please provide at least one form of contact below.</i></p>	
<p><b>2.11 Address:</b>  <i>Please include street number/name, town/city, county, postcode, country.</i></p>	
<p><b>2.12 Email:</b></p>	

2.13 Phone (mobile)	
2.14 Phone (home):	
2.15 Phone (work):	
<p><b>2.16 What is your preferred method of contact?</b>  <i>Please put an x in the appropriate box(es).</i></p>	<p><input type="checkbox"/> Email  <input type="checkbox"/> Phone (mobile)  <input type="checkbox"/> Phone (home)  <input type="checkbox"/> Phone (work)  <input type="checkbox"/> Post</p>
<p><b>2.17 Does the person on whose behalf you are applying require any reasonable adjustment(s) to support them through the Service Police complaints process as, for example, they may be suffering from a disability or long-term health condition?</b>  <i>If the answer is 'yes' please give as much detail as possible in the space provided.</i></p>	
<p><b>2.18 If we need to follow-up on something to do with this application, are there any restrictions on when/how we can contact you?</b>  <i>If the answer is 'yes', please provide us with details of the days and times when you can't be contacted. Please be aware that if we can't contact you, we might have to close this case on our system.</i></p>	
<b>Section 3 - About the complaint</b>	
3.1 Which Service Police is your complaint about?	
3.2 When did it happen? <i>(if known)</i>	
3.3 What time did it happen? <i>(if known)</i>	
<p><b>3.4 Where did it happen?</b>  <i>This information will help the Service Police identify the correct incident. Please provide the address of the incident (if known) or as much detail as possible to allow identification of the location, e.g. name of the road or landmarks nearby.</i></p>	
<p><b>3.5 Incident reference number</b>  <i>If you have one. An incident reference number may have been provided to you if the Service Police attended an incident you were involved in.</i></p>	

<p><b>3.6 *What is your complaint about?</b>  <i>Please consider using the following details to describe your complaint: what your complaint is about, who was involved, if there was any damage or injury, what was said and done.</i></p>	
<p><i>This will not be your only opportunity to explain what happened. The Service Police force will contact you about your complaint and ask for more details.</i></p>	
<p><b>3.7 *What would you like to happen as a result of your complaint?</b>  <i>Please put an 'x' in any of the boxes that apply.</i></p>	
<p><input type="checkbox"/> The Service Police force to learn from the incident.</p>	
<p><input type="checkbox"/> The individual member(s) of the Service Police involved to learn from the incident.</p>	
<p><input type="checkbox"/> The individual member(s) of the Service Police involved in the incident to be investigated for an alleged service or criminal offences.</p>	
<p><input type="checkbox"/> The individual member(s) of the Service Police involved to be investigated for an alleged behaviour that could result in disciplinary procedures.</p>	
<p><input type="checkbox"/> Service Police force to apologise/acknowledge something went wrong.</p>	
<p><input type="checkbox"/> Explanation from the Service Police force.</p>	
<p><input type="checkbox"/> Service Police force to return property.</p>	
<p><input type="checkbox"/> Removal of information from the Service Police systems.</p>	
<p><input type="checkbox"/> Don't know (if possible, please state here your reasons for providing this response).</p>	
<p><input type="checkbox"/> Other (please state here what you would like to happen as a result of your complaint).</p>	
<p><b>3.8 Do you believe the incident you are complaining about involved discrimination? Discrimination refers to being treated differently because of who you are or because you possess certain characteristics.</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Yes                      <input type="checkbox"/> No</p>
<p><b>3.9 If you believe discrimination was involved in the incident you are complaining about, please mark one or more of the characteristics involved with an 'x':</b></p>	
<input type="checkbox"/> Age	<input type="checkbox"/> Sex
<input type="checkbox"/> Disability	<input type="checkbox"/> Sexual orientation
<input type="checkbox"/> Gender reassignment	<input type="checkbox"/> Other (please state below):
<input type="checkbox"/> Marriage and civil partnership	
<input type="checkbox"/> Pregnancy and civil partnership	
<input type="checkbox"/> Race	
<input type="checkbox"/> Religion and belief	

<b>Section 4 - Details of the Service Police member that you are complaining about</b>	
<b>4.1 Do you know any details about the Service Police member involved in your complaint?</b> <i>Please note, when you are contacted about your complaint you will be given further opportunity to describe any Service Police member.</i>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>4.2 Please provide the rank, Service number, first name(s) and/or last name(s) of the Service Police member(s).</b>	
<b>Section 5 - Witnesses to the incident</b>	
<i>Please note, when you are contacted about your complaint you will have the opportunity to describe any further witnesses.</i>	
<b>5.1 Were there any witnesses?</b>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>5.2 Do you know the contact/identification details of any witnesses?</b>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
<b>5.3 Please provide the rank, first name(s), last name(s), Service number (if applicable and known) and any other relevant contact details for the witness(es) below:</b>	
<b>Section 6 - Additional information</b>	
<i>Would you like to give us any other information? Please add any other relevant information below:</i>	
<b>Section 7 - Confirmation that information provided is correct</b>	
I confirm that the information I have provided is truthful and accurate to the best of my knowledge.	
Signature:	
Name:	
Date:	

<b>Section 8 - Equality of service monitoring form</b>	
<p>We want to make sure everyone has an equal chance to use and benefit from our services. To help us ensure we continue to do this, it would help us if you could answer the following questions. If you prefer, you do not have to answer these questions as it will not affect your complaint in any way. The information provided in this form will be used by public bodies involved in the Service Police complaints system, including the Service Police and SPCC. You can find out how your personal information will be used by contacting us at <a href="mailto:People-DPT-SPCC-Enquiries@mod.gov.uk">People-DPT-SPCC-Enquiries@mod.gov.uk</a>.  <i>Please mark all the answers that apply with a 'x'.</i></p>	
<p><b>8.1 What is your gender identity?</b></p> <p><input type="checkbox"/> Male</p> <p><input type="checkbox"/> Female</p> <p><input type="checkbox"/> Non-Binary</p> <p><input type="checkbox"/> Prefer not to say</p> <p><input type="checkbox"/> Prefer to self-describe</p> <p><i>If you prefer to self-describe then please give details below:</i></p>	<p><b>8.5 Religious belief/faith:</b></p> <p><input type="checkbox"/> Buddhist</p> <p><input type="checkbox"/> Christian</p> <p><input type="checkbox"/> Hindu</p> <p><input type="checkbox"/> Jewish</p> <p><input type="checkbox"/> Muslim</p> <p><input type="checkbox"/> Sikh</p> <p><input type="checkbox"/> Kirati</p> <p><input type="checkbox"/> Humanist</p> <p><input type="checkbox"/> Pagan</p> <p><input type="checkbox"/> Rastafarian</p> <p><input type="checkbox"/> No Religion or beliefs</p> <p><input type="checkbox"/> Prefer not to say</p> <p><input type="checkbox"/> Prefer to self-describe</p> <p><i>If you prefer to self-describe then please give details below:</i></p>
<p><b>8.2 What was your sex registered at birth:</b></p> <p><input type="checkbox"/> Male</p> <p><input type="checkbox"/> Female</p> <p><input type="checkbox"/> Prefer not to say</p>	
<p><b>8.3 Is the gender you identify with the same as your sex registered at birth?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Prefer not to say</p>	
<p><b>8.4 Sexual orientation:</b></p> <p><input type="checkbox"/> Asexual</p> <p><input type="checkbox"/> Bisexual</p> <p><input type="checkbox"/> Gay Man</p> <p><input type="checkbox"/> Homosexual/Lesbian/Gay Woman</p> <p><input type="checkbox"/> Heterosexual/Straight</p> <p><input type="checkbox"/> Prefer not to say</p> <p><input type="checkbox"/> Prefer to self-describe</p> <p><i>If you prefer to self-describe then please give details below:</i></p>	<p><b>8.6 Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Prefer not to say</p>



<p><b>8.7 If you have answered 'yes' to the question at 8.6, which of the options below best describe your physical or mental health condition or illness?</b></p> <p><input type="checkbox"/> Cancer</p> <p><input type="checkbox"/> Hearing</p> <p><input type="checkbox"/> HIV</p> <p><input type="checkbox"/> Learning difficulty/disorder</p> <p><input type="checkbox"/> Mental health issue</p> <p><input type="checkbox"/> Mobility</p> <p><input type="checkbox"/> Social or behavioural issues/disorders</p> <p><input type="checkbox"/> Stamina or breathing difficulty</p> <p><input type="checkbox"/> Vision</p> <p><input type="checkbox"/> No disability</p> <p><input type="checkbox"/> Prefer not to say</p> <p><input type="checkbox"/> Prefer to self-describe</p> <p><i>If you prefer to self-describe then please give details below:</i></p>	<p><b>8.8 Pregnancy and maternity; please describe your current pregnancy status if applicable.</b></p> <p><input type="checkbox"/> Pregnant</p> <p><input type="checkbox"/> On maternity/paternity/adoption leave</p> <p><input type="checkbox"/> Returning from maternity/paternity/adoption leave</p> <p><input type="checkbox"/> None of the above</p>
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**8.8 Ethnicity - What is your Ethnic Group?**

<p><b>White</b></p>	<p><input type="checkbox"/> White: English/Welsh/Scottish/Northern Irish/British</p> <p><input type="checkbox"/> White: Gypsy or Irish Traveller</p> <p><input type="checkbox"/> White: Irish</p> <p><input type="checkbox"/> White: Pacific Islander</p> <p><input type="checkbox"/> White: Any other White background</p>
<p><b>Mixed</b></p>	<p><input type="checkbox"/> Mixed: English/Welsh/Scottish/Northern Irish/British</p> <p><input type="checkbox"/> Mixed: Pacific Islander</p> <p><input type="checkbox"/> Mixed: White and Arab</p> <p><input type="checkbox"/> Mixed: White and Asian</p> <p><input type="checkbox"/> Mixed: White and Black African</p> <p><input type="checkbox"/> Mixed: White and Black Caribbean</p> <p><input type="checkbox"/> Mixed: Any other Mixed Ethnic background</p>
<p><b>Asian</b></p>	<p><input type="checkbox"/> Asian: Bangladeshi</p> <p><input type="checkbox"/> Asian: English/Welsh/Scottish/Northern Irish/British</p> <p><input type="checkbox"/> Asian: Chinese</p> <p><input type="checkbox"/> Asian: Indian</p> <p><input type="checkbox"/> Asian: Nepalese</p> <p><input type="checkbox"/> Asian: Pacific Islander</p> <p><input type="checkbox"/> Asian: Pakistani</p> <p><input type="checkbox"/> Asian: Any other Asian background</p>

<b>Black</b>	<input type="checkbox"/> <b>Black: African</b> <input type="checkbox"/> <b>Black: English/Welsh/Scottish/Northern Irish/British</b> <input type="checkbox"/> <b>Black: Caribbean</b> <input type="checkbox"/> <b>Black: Pacific Islander</b> <input type="checkbox"/> <b>Black: Any other Black/African/Caribbean background</b>
<b>Arab</b>	<input type="checkbox"/> <b>Arab: English/Welsh/Scottish/Northern Irish/British</b> <input type="checkbox"/> <b>Arab: Any other Arab background</b>
<b>Other Ethnic Groups</b>	<input type="checkbox"/> <b>Other: Ethnic background</b> <input type="checkbox"/> <b>Other: Pacific Islander</b> <input type="checkbox"/> <b>Other: Prefer to Self-Describe</b>
	<input type="checkbox"/> <b>Prefer not to say</b>
<b>Section 9 - Feedback</b>	
<b>9.1 We are constantly striving to improve our service. Please provide any feedback below:</b>	
<b>9.2 Would you be happy to be contacted about your experience of the Service Police complaints system?</b>	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>

Thank you for the information you have provided.



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## Procedure

# JSP 849: Service Police Complaints

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### Annex M: Application for Review Form

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#### Using this form

Please use this form if you are unhappy about the outcome of your complaint about a Service Police force or about how your complaint has been handled. Before you start, please ensure you have your final complaint outcome letter from the Service Police force as you will need to send this to us along with this application form.

If the Service Police sent the outcome letter to you as an electronic document. Please attach it to this form before you send it. Alternatively, you can send us screenshots or photos of the letter but please make sure you send us every page of the letter and not just the first page. It would also be helpful to receive the following, which you can upload or attach in the same way:

- a. a copy of your original complaint letter or form.
- b. copies of any correspondence received from the relevant Service Police force, other appropriate authority, or the Service Police Complaints Commissioner, including the investigation or complaint handler's report.

Your application for review must be received within 28 days from the day after the date stated on your outcome letter. If your request for review is being made outside of this timeframe, please provide us with an explanation for the delay so we can consider whether there are any just and equitable reasons to proceed with your out of time application.

Please note that fields marked with an \* are mandatory where applicable.

#### Accessibility

If it is difficult for you to use this form or this service – for example, if you have a disability – please contact us via email at: [People-DPT-SPCC-Enquiries@mod.gov.uk](mailto:People-DPT-SPCC-Enquiries@mod.gov.uk).

If you require any adjustments to support you through the Service Police complaints system, please outline these in Section 1. For example, if you have a visual impairment, you may require the relevant review body to provide written responses in larger text.

#### What happens to the information in my review form?

The information you provide on this form will be entered into our systems. We may also need to pass the details of your review to the relevant review body. Please note, all the contents of this form may be passed to the relevant Service Police force.



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of Defence

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## Procedure

# JSP 849: Service Police Complaints

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If you have any concerns about your information being passed to the Service Police force or you require further information about how your data will be handled including your personal information, please email us at: [People-DPT-SPCC-Enquiries@mod.gov.uk](mailto:People-DPT-SPCC-Enquiries@mod.gov.uk).

### **Where to send this review form**

Once completed the form should be sent to the Service Police force (see Annex J) who initially handled your complaint. They will assess it and forward to the relevant review body.

## APPLICATION FOR REVIEW FORM

Section 1 - About you	
1.1 *Title:	
1.2 *First name(s):	
1.3 *Last name(s):	
1.4 *Date of birth:	
1.5 *Are you currently: <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> Member of the Armed Forces <input type="checkbox"/> MOD civilian staff <input type="checkbox"/> MOD contractor <input type="checkbox"/> Member of the public
1.6 *If you are or were in the Armed Forces, please provide your rank and service number:	Rank: Service Number:
1.7 Please indicate which Service you are or were in: <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> Royal Navy <input type="checkbox"/> Royal Marines <input type="checkbox"/> Army <input type="checkbox"/> RAF
1.8 Are you or were you previously a reservist at the time of the incident? <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
1.9 Are you currently serving? <i>Please put an 'x' in the appropriate box.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
1.10 Address: <i>Please include street number/name, town/city, county, postcode, country.</i>	
1.11 Email:	
1.12 Phone (mobile):	
1.13 Phone (home):	
1.14 Phone (work):	
1.15 What is your preferred method of contact? <i>Please put an 'x' in the appropriate box(es).</i>	<input type="checkbox"/> Email <input type="checkbox"/> Phone (mobile) <input type="checkbox"/> Phone (home) <input type="checkbox"/> Phone (work) <input type="checkbox"/> Post
1.16 Do you require any reasonable adjustment(s) to support you through the Service Police complaints review process as, for example, you may be suffering from a disability or long-term health condition? <i>If the answer is 'yes', please give as much detail as possible in the space provided.</i>	

<p><b>1.17 If we need to follow up on something to do with your application, are there any restrictions on when/how we can contact you?</b>  <i>If the answer is 'yes', please provide us with details of the days and times when you can't be contacted. Please be aware that if we can't contact you, we might have to close your case on our system.</i></p>	
<p><b>1.18 Are you applying for a review for someone else?</b>  <i>If the answer is 'no', you do not need to complete Section 2, so go straight to Section 3.</i></p>	<p><input type="checkbox"/> Yes <span style="margin-left: 200px;"><input type="checkbox"/> No</span></p>
<p><b>Section 2 - Details of person on whose behalf you are applying for a review</b></p>	
<p><b>Do not complete this section if you are applying for a review on your own behalf. If you are applying for a review on behalf of someone else, you must have permission from that person.</b></p>	
<p><b>2.1 What is your relationship to the person applying for a review?</b></p>	
<p><b>2.2 *Title:</b></p>	
<p><b>2.3 *First name(s):</b></p>	
<p><b>2.4 *Last name(s):</b></p>	
<p><b>2.5 *Date of birth:</b></p>	
<p><b>2.6 * Are you currently:</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Member of the Armed Forces  <input type="checkbox"/> MOD civilian staff  <input type="checkbox"/> MOD contractor  <input type="checkbox"/> Member of the public  <input type="checkbox"/> Other (please state):</p>
<p><b>2.7 *If you are or were in the Armed Forces, please provide your rank and service number:</b></p>	<p>Rank:  Service Number:</p>
<p><b>2.8 Please indicate which Service you are or were in:</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Royal Navy <span style="margin-left: 100px;"><input type="checkbox"/> Royal Marines</span>  <input type="checkbox"/> Army <span style="margin-left: 100px;"><input type="checkbox"/> RAF</span></p>
<p><b>2.9 Are you or were you previously a reservist?</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Yes <span style="margin-left: 100px;"><input type="checkbox"/> No</span></p>
<p><b>2.10 Are you currently serving?</b>  <i>Please put an 'x' in the appropriate box.</i></p>	<p><input type="checkbox"/> Yes <span style="margin-left: 100px;"><input type="checkbox"/> No</span></p>
<p><i>Please provide at least one form of contact below.</i></p>	
<p><b>2.11 Address:</b>  <i>Please include street number/name, town/city, county, postcode, country.</i></p>	
<p><b>2.12 Email:</b></p>	

2.13 Phone (mobile)	
2.14 Phone (home):	
2.15 Phone (work):	
<p><b>2.16 What is your preferred method of contact?</b>  <i>Please put an x in the appropriate box(es).</i></p>	<p><input type="checkbox"/> Email  <input type="checkbox"/> Phone (mobile)  <input type="checkbox"/> Phone (home)  <input type="checkbox"/> Phone (work)  <input type="checkbox"/> Post</p>
<p><b>2.17 Does the person on whose behalf you are applying require any reasonable adjustment(s) to support them through the Service Police complaints review process as, for example, they may be suffering from a disability or long-term health condition?</b>  <i>If the answer is 'yes' please give as much detail as possible in the space provided.</i></p>	
<p><b>2.18 If we need to follow-up on something to do with this application, are there any restrictions on when/how we can contact you?</b>  <i>If the answer is 'yes', please provide us with details of the days and times when you can't be contacted. Please be aware that if we can't contact you, we might have to close this case on our system.</i></p>	
<b>Section 3 - Review details</b>	
<p>Please remember to send us your final complaint outcome letter from the relevant Service Police force. You can send us screenshots or photos of the letter but please make sure you send us every page of the decision letter and not just the first page. It would also be helpful to receive the following, which you can attach in the same way:</p> <ul style="list-style-type: none"> <li>a. a copy of your original complaint.</li> <li>b. copies of any correspondence received from the relevant Service Police force, other appropriate authority or the Service Police Complaints Commissioner, including the investigation/complaint handler's report.</li> </ul> <p>If your application for review is out of time (received more than 28 days from the day after the date stated on your outcome letter) we will need to consider if we are able to proceed with your application, so please provide us with reasons for the delay.</p>	
3.1 Which Service Police force handled the complaint?	
3.2 Service Police force reference number? <i>If known, although this should be on any correspondence you have had from the Service Police force.</i>	

<p><b>3.3 Please explain why you want to apply for a review.</b>  <i>Please outline if you are unhappy with the way your case was recorded or handled, the way it was investigated or the final outcome of the case. Please provide details explaining why.</i></p>	
<p><b>3.4 Please explain what you would like to happen.</b>  <i>What can happen is dependent on the circumstances of the case and whether it is a review. If you are unhappy with the outcome of your complaint or the way it was investigated, you may want to suggest an alternative final outcome.</i></p>	
<p><b>Section 4 - Confirmation that information provided is correct</b></p>	
<p>I confirm that the information I have provided is truthful and accurate to the best of my knowledge.</p> <p>Signature:</p> <p>Name:</p> <p>Date:</p>	
<p><b>Section 5 - Feedback</b></p>	
<p><b>5.1 We are constantly striving to improve our service. Please provide any feedback below:</b></p>	
<p><b>5.2 Would you be happy to be contacted about your experience of the Service Police complaints system?</b></p>	
<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

Thank you for the information you have provided.