



Service Prosecuting Authority
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GUIDANCE ON THE HANDLING OF COMPLAINTS AGAINST THE SERVICE PROSECUTING AUTHORITY

Issued: Apr 26

Date of Review: Aug 26

INTRODUCTION

1. The Service Prosecuting Authority (SPA) aims to provide the highest standards of service and to get things right. However, there may be occasions when we fall short of these standards. The purpose of this Guidance is to outline how to make a complaint on any aspect of our service.

OUR COMMITMENT

2. The SPA is committed to developing a culture of excellence by setting clear standards about the service that all who find themselves involved in a case before the Service Courts can expect from us. As such, this policy provides the opportunity to tell us if we may not have met those standards. The way in which we handle complaints is underpinned by the values of the SPA which are:

- a. independence and fairness;
- b. honesty and transparency;
- c. respectful treatment; and,
- d. professional behaviour.

COMPLAINTS HANDLING STANDARD

3. We will provide a service that complies with the principles of effective complaints handling. The benchmarks of quality are:

- a. Responding to complaints sensitively, fairly and thoroughly.
- b. Getting it right, taking account of the rights of complainants by acting in accordance with relevant law and providing clear governance for complaints management.
- c. Providing an accessible complaints service with clear and simple procedures.
- d. Being open and accountable, providing honest evidence-based explanations.
- e. Acting fairly and proportionately and without discrimination.

- f. Putting things right, acknowledging mistakes and apologising where appropriate with prompt and proportionate remedies.
- g. Seeking continuous improvement, by regularly reviewing and using all feedback and the lessons learnt from complaints to improve service design and delivery.

WHAT DOES THE POLICY COVER?

- 6. The policy applies to complaints about the service provided by the SPA.

Complaints

- 7. We consider a complaint to be an expression of dissatisfaction about any aspect of our service by a member of the public or their representative who has been directly affected by it.

- 8. Complaints can be:

- a. **Legal**- these are complaints relating to legal decisions made by the SPA.

(Example of a legal complaint: Pte Blue was assaulted in the NAAFI bar. He writes to the SPA because he is unhappy about the SPA decision only to charge his assailant with common assault believing that it should be a more serious charge such as assault occasioning actual bodily harm.)

- b. **Service**- these are complaints relating to the way in which we have conducted ourselves.

(Example of a service complaint: AB Orange was a victim of harassment and was not given the opportunity to read her Victim Personal Statement aloud in court.)

- c. **Mixed**- these are complaints containing both legal and service complaints.

(Example of a mixed complaint: SAC Red is unhappy about the decision of the SPA to change the charge against his assailant from Actual Bodily Harm to common assault; he is also concerned that he did not receive a letter informing him of the decision.)

WHAT IS NOT COVERED BY THE POLICY?

Victims' Right to Review cases

- 9. Victims who are unhappy about an SPA decision not to bring **any** charges, or to end **all** proceedings, have a right to request a review of the decision under the Victims' Right to Review (VRR) Policy. Victims who are dissatisfied with the outcome of their VRR request cannot lodge a legal complaint under this complaints policy.

Defence applications or appeals

10. The SPA complaints procedure is not an avenue for defendants in ongoing cases to seek to have the cases against them discontinued or for convicted individuals to seek to have their conviction overturned. Defendants/convicted individuals in these situations should seek independent legal advice.

Complaints about ongoing legal proceedings

11. Where a complaint relates to ongoing legal proceedings, we may only be able to provide limited information or redress. In some situations, it may be necessary to defer the consideration of a complaint if doing otherwise might prejudice the proceedings.

Service Complaints

12. This policy does not apply to Service Complaints which are managed by single-Service secretariats in accordance with the policies set out in JSP 831 'Redress of Individual Grievances: Service Complaints'. However, in circumstances where a service person wishes to make a Service Complaint about the SPA, the SPA complaints process is to be treated as a 'special-to-type process' which must be exhausted before a Service Complaint can proceed.

Abusive or vexatious complaints

13. We may decline to deal with complaints that are abusive or vexatious, or complaints where our formal complaints procedure has already been exhausted.

Complaints about other organisations

14. This policy does not apply to complaints or feedback about other partner organisations such as the Service Police, the Military Court Service or the Office of the Judge Advocate General. Complaints and feedback about services provided by other organisations should be directed to them.

Complaints about SPA recruitment or employment practices or SPA responses to Freedom of Information (FOI) requests or Subject Access Requests (SAR)

15. Complaints from members of the public about the outcome of recruitment campaigns or SPA employment practices fall outside the remit of this policy. FOI and SAR have their own separate and bespoke handling mechanisms and complaints procedures.

COMPLAINTS PROCEDURE

Who can make a complaint?

16. Any member of the public who has been directly affected by the service SPA provides can make a complaint. A complaint can be made directly by the individual concerned or on their behalf by a nominated representative such as a family member, friend, support group, solicitor or other professional. If a representative is used then we will need to see permission in writing from the

person they are representing along with proof of identification. We will liaise with the representative and treat them as if they are the complainant.

The Complaints Procedure

17. Complaints can be submitted in email or letter form. In whatever form, all complaints will be directed in the first instance to the Practice Manager (PM) who will determine with the Deputy Director Service Prosecutions (DDSP) how the complaint will be handled.

18. Complaints will be managed under the stages of the Complaints Procedure. Through this process the DDSP or Director of Service Prosecutions (DSP) may decide that a stage is not appropriate and the complaint should be escalated to another stage.

Local Resolution

19. It may be possible for the cause of dissatisfaction to be resolved locally and the SPA should aim to do so by providing an explanation, apology or other appropriate outcome within **three** working days if this is the case. If we are unable to resolve concerns satisfactorily then the complainant may wish to pursue a formal complaint following the outlined procedure.

Stage One

20. Complaints will be formally recorded and managed by the PM. A member of SPA staff of appropriate experience and seniority will be allocated to investigate, decide and respond to the complaint. The target time for determining and responding to a complaint at Stage One is **30** working days. Where it is not possible to complete the investigation and provide a response within that timeframe, the SPA will write to the complainant providing the date by which we hope to reply.

Stage Two

21. If the complainant remains dissatisfied with the response received at Stage One they may ask for the complaint to be referred to DDSP. The complainant should outline the details of why they remain dissatisfied and DDSP will review the complaint and provide a response within **30** working days. Where it is not possible to complete the investigation and provide a response within that timeframe, the SPA will write to the complainant providing the date by which we hope to reply.

Stage Three - Independent Review

22. If the complaint refers to the way in which the SPA have conducted ourselves and the complainant remains dissatisfied following Stages One and Two of the complaints procedure, a complainant can ask for the complaint to be investigated by the Director Service Prosecutions (DSP).

23. The DSP has a discretion to invite an independent person (such as an external lawyer) to provide a report to assist the DSP in answering a complaint at Stage Three. A complainant is entitled to express a preference as to whether the DSP should invite an independent person to provide the DSP with advice at Stage Three.

24. The decision as to whether it is proportionate to instruct an independent person remains with the DSP. The DSP will consider instructing an independent person in a case in which the DSP concludes that there is either a need for specialist advice (for example, complex legal issues are

raised) or where there is a particular need for a view external to the view of the SPA (for example, the DSP was in some way involved at an early stage in the complaint process; there is a need for a fact-finding investigation to resolve conflicting accounts of events; there is criticism of SPA policy that is best considered by someone external to the organisation). The DSP remains responsible for answering a Stage Three complaint whether with or without external input.

25. The DSP will acknowledge receipt of the complaint and determine whether the request for an independent review will be accepted. If it is accepted, a full response will be provided within **40** working days of acceptance. If it is not possible to complete the investigation and reply within that time, the DSP will contact the complainant to explain why there is a delay and provide a date by which he hopes to provide a response. If the DSP does not accept a complaint, e.g. because it has not been through Stages One and Two of the complaints process, the complainant will be notified of the reason for rejection within **five** working days of the decision.

Outcome of the Complaint

26. The SPA will inform the complainant whether their complaint has been upheld, either wholly or in part, or not upheld. Each stage of the complaints process outlined above constitutes a fresh review, and each decision-maker will take into account all the evidence available to them including additional representations made. Each decision-maker may reach a different conclusion from the previous decision maker. Each decision-maker should set out a rationale for their conclusions.

27. Complaints will be upheld if the decision-maker has concluded that the SPA is at fault in some way, either through action or inaction. If the complaint is upheld, we will apologise, try wherever possible to put the matter right and take steps to ensure that it does not happen again. The SPA is a taxpayer-funded public body and does not offer financial compensation under this complaints policy.

How can I make a complaint?

25. Complaints about the SPA can be made by email or post to the address at the top of the first page.

What information will need to be provided

26. To ensure that a complaint can be dealt with quickly and efficiently, the complainant or their representative should provide the following information:

- Full name
- Postal address
- Email address
- Contact details (including the detail of the complainant's nominated representative, where applicable)
- Full details of the complaint and whether the person is a victim, witness or other complainant
- Preferred method of contact (letter, email, telephone)

27. If the complaint relates to a case, the complainant should also include:

- The name(s) of the defendant(s) (*Please note that we require this information to identify a case*)
- The nature and date(s) of any offence(s)
- The place where the offence(s) occurred
- The police force that investigated the offence(s)
- The court(s) that dealt with the case (if the case reached court).

28. If a complainant has already tried to resolve their concerns informally with the SPA, the complainant should provide details of the SPA member of staff who assisted them.

Time Limits - Complainants

29. Complaints will only be considered if they are received **within three months** of the matter which gives rise to the complaint. If the complaint is not made within this time limit, the SPA will not examine the complaint.

30. If a complainant remains dissatisfied following a reply to their complaint they may wish to escalate their complaint to the next stage. Again, this must be done **within three months** of the decision under the previous stage.

31. Complaints received outside of the time limits will only be considered in exceptional circumstances.

Time Targets - SPA

32. The SPA will acknowledge a complaint within **three** working days of receipt.

33. The SPA will reply to complaints at Stages One and Two within **30** working days of receipt

34. The DSP will respond to complaints within **40** working days of accepting referral of the complaint.

35. If it is not possible to provide a response within these timescales, the SPA will contact the complainant to explain why there is a delay and the date by which the SPA hopes to provide a response.

36. The above time limits do not apply to local resolution (see para 19).

CIRCUMSTANCES NOT PROVIDED FOR

37. It is almost impossible to encapsulate every possible type of complaint. The SPA reserves the right to deviate from the strict letter of this policy where appropriate. Where that is the case, the complainant will receive a written explanation as to why it has been necessary to deviate from this policy and what this means for the complaint. However, even where such a deviation takes place, the standards at paragraph 3 continue to apply.

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