Ministry of Defence

JSP 831 - Redress of Individual Grievances: Service Complaints

Procedure Document v4.4

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1 Introduction

This document sets out the procedure for Redress of Individual Grievances: Service Complaints. It should be read in conjunction with the Redress of Individual Grievances: Service Complaints Policy which sets out the governing principles/rules.

While you do not need to read this document from cover to cover, you should read any other section(s) or Chapter(s) that will help you to understand the Service Complaints (SC) process.

1.1 Aim of the Service Complaints System

1.1.1 The aim of the SC system is to provide serving and former Service personnel with a process that is efficient, effective and fair so they can resolve valid grievances on matters relating to their service in the Armed Forces and seek redress. It is the responsibility of all involved in the process to ensure complaints are handled fairly, promptly and correctly. The intent is complaints are dealt with quickly and at the most appropriate level.

1.1.2 The policy is that 90% of SCs should be resolved within 24 weeks. That time starts once the Specified Person has made a decision about whether a complaint is deemed admissible or the outcome of an Armed Forces Commissioner (AFC) admissibility review.

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

1.2 Overview of the Service Complaints process

1.2.1 The wellbeing of Complainants and Respondents at all stages of the SC system is important. In addition to support and advice provided by their Chain of Command (CoC), a range of independent support is available (see Annex O) for further information. An Easy Read Guide providing a short summary of the SC process and what you can expect from it is also available.

1.2.2 It is the responsibility of all involved in the process to ensure complaints are handled confidentially, fairly, promptly, and correctly. But it is important to note that if Complainants and/or Respondents do not engage in the investigation in a timely manner, the decision on a SC can be made on the basis of the evidence available.

1.2.3 This responsibility extends to Complainants, Respondents and all other persons involved in handling a SC, ensuring they cooperate fully within the prescribed time limits, and in good faith, at all times.

1.2.4 The intent is that SCs are dealt with at the lowest appropriate level possible and resolution achieved quickly. Many issues can be resolved, often without using the formal process, resulting in them being settled faster. This may be before a complainant submits a complaint, or where a complaint has been submitted, prior to an admissibility decision being made. Full information on the informal complaints process can be found in JSP 763 – The MOD Behaviours and Informal Complaint

Resolution Policy.

1.2.5 For certain types of complaints, Special-to-Type (STT) procedures exist that Complainants should follow before engaging with the SC process (see Chapter 2, paragraph 2.6 for further information).

1.2.6 The making of a SC in accordance with the legislation is a legal right. But if a Complainant is in the process of seeking alternative resolution, they have the right to submit a SC at any time within the specified time limits.

1.2.7 A Complainant may seek legal advice from a legal representative but in all cases, this is at their own expense.

1.3 Malicious and Vexatious Complaints

1.3.1 A SC is presumed to have been made in good faith and a Complainant has a right to be protected against adverse treatment or victimisation for making a complaint in good faith, even if it is not upheld later in the process. A complaint is made in bad faith where there is evidence it has been made dishonestly and or maliciously with the intent to deceive and/ or harm rather than, for example, that they were confused or mistaken.

1.3.2 A malicious complaint may be defined as one that is made with the intention of:

a. causing unnecessary harm, distress, or disruption.

b. seeking personal advantage or revenge.

1.3.3 A vexatious complaint may be defined as one that is made with the intention of:

a. repeatedly raising the same issue despite resolution or clear communication that the issue cannot be resolved.

b. making complaints without a reasonable basis or any legitimate concern.

1.3.4 If a Decision maker considers that a complaint may be vexatious or malicious, they should seek legal advice. In the event of a complaint being determined to be malicious or vexatious, administrative, or disciplinary action, as appropriate, may be considered against the Complainant.

1.4 Mass Service Complaints

1.4.1 There may be instances where SCs are identified as being part of a mass Service Complaint. Further guidance regarding the definition of a mass SC and how they should be managed is provided at Chapter 13.

2 Information for Complainants

2.1 What can you expect from the process?

2.1.1 During the SC process, you can expect:

a. not to feel discouraged from making a complaint for fear of negative consequences; nor should you feel reluctant to make a SC because of the stress or anxiety this may entail, if this is the case you are advised to seek welfare/pastoral support and/or medical help;

b. to have your complaint taken seriously and investigated impartially, thoroughly, sensitively and confidentially;

c. if your complaint includes allegations of a sexual nature, to have it fully dealt with outside of your Chain of Command (CoC). This will include through a single Service Secretariat Central Admissibility Team (CAT), decision makers from outside your immediate CoC, the use of an investigator from the Outsourced Investigation Service (OIS), and an Independent Member (IM) appointed at Decision Body (DB) and/or Appeal Body (AB) stage;

d. to be protected from victimisation for having made the complaint;

e. to have access to advice and support;

f. to have access to an Assisting Officer (AO) before submitting a SC, or at the earliest opportunity, who can support you and help you with procedural matters throughout the process; have access to your complaint documentation should you wish to request this from your single Service Secretariat (sSS); if your complaint includes allegations of bullying, harassment or discrimination, the AO can arrange access to a Diversity and Inclusion Adviser (D&I) (A);

g. a range of independent welfare advice to help you throughout the SC process; please refer to Annex O for further details;

h. if possible and appropriate, to try to resolve the matter including through mediation or the local grievance resolution pathway. However, it is your right to submit a SC at anytime, while considering and/or attempting alternative resolution;

i. to be kept regularly informed of the progress of your SC, with transparent live case tracking in the My Complaint application;

j. to be informed promptly of the decision/outcome;

k. if dissatisfied with the outcome, have the right to submit an appeal application against the decision. Your appeal should be made within two weeks beginning with the date you are deemed to have received notification of the decision on your complaint; and

l. to have the right to contact the Armed Forces Commissioner (AFC) in certain circumstances.

2.2 What are your responsibilities within this process?

2.2.1 You are responsible for:

a. familiarising yourself with the Policy document of this JSP, which sets out what the legislation says about SCs;

b. ensuring that you are eligible to make a SC;

c. using the Special-to-Type (STT) complaints process if there is one for the matter you want to complain about, before you make a SC; the sSS will be able to help you find who to contact about these other procedures - their contact details are at Annex O;

d. setting out clearly, accurately and in detail what has occurred and the redress or outcome you are looking for to put right the wrong(s), should your SC be upheld in full or in part;

e. exploring alternative routes for resolution where appropriate and doing all you can to resolve your complaint, when you have agreed to do so;

f. co-operating fully, and in good faith, throughout the process;

g. maintaining the confidentiality of the complaint and its outcome;

h. making sure that whoever is dealing with your SC has the most up-to-date contact details for you. The more methods of communication people have for you the less chance there is of unnecessary delay to your SC;

i. responding within time limits to requests for information via the My Complaint application, or by e-mail if you are not able to access the My Complaint application. If you are not able to respond within the time limit give clear reasons why. A DB or AB can make a decision on your SC if they do not get a response within a reasonable time to any requests they put to you;

j. not victimising others;

k. not making abusive, offensive or threatening comments to individuals handling your complaint or other individuals involved in your complaint;

l. not making excessive demands on the time and resources of staff while your SC is being progressed; and

m. providing a reason for your decision to withdraw your SC, should you decide to, as this will need to be recorded.

2.2.2 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in the SC process should conduct themselves, if the process is to be as efficient and as fair as possible. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles and apply them throughout your part in the process.

2.3 Who can make a Service Complaint?

2.3.1 If you are a serving or former Service person who is or was subject to the Armed Forces Act 2006 (AFA 06), in Regular or Reserve service, and think you have been wronged in any matter relating to your service in the Armed Forces, you may seek to make a complaint about that matter.

2.3.2 A SC can only be made by you as an individual - it cannot be made by a group and/or submitted on behalf of someone else.

2.3.3 To help you understand the SC process, you can nominate someone to be your AO, or an AO can be made available for you. The process for appointing, and the role of, the AO are set out in Chapter 8.

2.4 What matters can you not complain about?

2.4.1 There are certain matters that you cannot make a SC about, these are called excluded matters and are listed at Annex B of the Policy document.

2.5 Time limits for submitting a Service Complaint

2.5.1 If you want to make a SC, you must normally do so within three months of:

a. the date of the incident (if the matter is a single event);

b. the date of the latest incident (if the matter took place over a period of time); or

c. the date the special-to-type procedure ended.

2.5.2 If you are complaining about something that can be the subject of a claim to an Employment Tribunal (such as discrimination, harassment, victimisation or about an equal pay matter), different time limits apply for making your SC. More information about these situations is at Chapter 1, paragraph 1.3 of the Policy document. Your AO will also be able to help you if you have any questions.

2.5.3 If you submit a complaint beyond the time limit, it will normally be ruled out of time and deemed inadmissible. However, the Specified Person can consider whether it would be just and equitable to allow your complaint to proceed. To help the Specified Person, you will need to set out in your statement of complaint the reasons for not having submitted it within the required time limit. See Annex P for further guidance on what might constitute just and equitable reasons.

2.6 What is a Special-to-Type (STT) process and how does it affect my Service Complaint?

2.6.1 For certain types of complaint, STT procedures should be followed before the SC process is started[1], these include (but are not limited to):

a. housing;

b. pay and allowances; and

c. healthcare and medical treatment.

2.6.2 If you submit a complaint and have not yet followed an STT process, the Specified Person may put the matter on hold - you can come back to it, following the final decision under the relevant STT process.

2.7 Submitting a Service Complaint

2.7.1 To make a statement of complaint, you should complete a SC Form on the My Complaint application (accessible via the SCIO portal on Defence Gateway) - this is the recommended route. Alternatively, you can submit a SC in writing or by using the Service Complaint Form which can be accessed here and send this to your sSS Central Admissibility Team (CAT). Details of these teams and who to send your Service Complaint Form to can be found at Annex O or ask your unit's HR team for advice if you are not sure who to make your complaint to.

2.7.2 In setting out your statement of complaint you must include the following information:

a. the facts and circumstances of your complaint and how you consider you have been wronged.;

b. the name of any person who you allege to be the subject of or implicated in any way in the matter, or matters complained about;

c. the name of any policy or organisation that you believe is connected to the matter, or matters complained about;

d. whether you are alleging discrimination, victimisation, harassment, bullying, dishonest behaviour or bias or any other unacceptable behaviour[2], and the facts to support the allegations;

e. whether you are alleging a failure by MOD to provide medical, dental or nursing care for which MOD is responsible, and the facts to support your complaint;

f. if you are making your complaint and the complaint is not made within the three-month time limit (a longer time limit will apply if your complaint is about a matter that can be the subject of claim to an Employment Tribunal - see Chapter 1, paragraph 1.3, of the Policy document), and the reasons why;

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[1] There may be some circumstances where the Specified Person considers that there are good reasons to allow the Service Complaint to proceed before the STT has been exhausted; however legal advice should be sought where this course of action may be deemed necessary.

[2] JSP763 - The MoD Behaviours and Informal Complaint Resolution Policy

g. any STT processes you have followed (if applicable to this complaint) detailing the complaint that you made and the outcome; and

h. the redress you are looking for.

2.7.3 You must also state one of the following:

a. the date on which, to the best of your recollection, the matter complained about occurred or probably occurred;

b. that the matter complained about occurred over a period, and the date on which, to the best of your recollection, that period probably ended;

c. that the matter complained about is continuing to occur; or

d. that you are unable to recollect the date.

2.7.4 In order to assist in the investigation of your complaint, name any witnesses to the event(s) if applicable.

2.7.5 Before submitting your statement of complaint, it is good practice to familiarise yourself with Chapters 1 and 2 of this document. Your complaint will be presumed to have been made in good faith even if it is not upheld later in the process. However, if a Decision maker decides your complaint is malicious or vexatious, action may be taken against you – see Chapter 1, paragraph 1.3 for further guidance.

2.7.6 If you have submitted a statement of complaint without having exhausted a relevant STT complaint process, the decision on admissibility should be stayed until the STT process has been exhausted. Once the STT complaints process has been exhausted, you must inform the Specified Person whether you wish to proceed with the SC process or not. If you do decide to proceed with a SC, then the Specified Person will make a decision concerning the admissibility of your complaint.

2.8 How a Specified Person within a Central Admissibility Team (CAT) decides whether your Complaint is admissible and if it can proceed

2.8.1 A Specified Person within the CAT will decide whether your complaint is admissible as a SC. On receiving your statement of complaint and before making a decision on admissibility, the CAT:

a. will acknowledge receipt in writing within 2 working days;

b. may speak to you, or ask someone to do so on their behalf, to understand the nature of the complaint and the redress you are looking for, and to see if there is any additional information available or required;

c. will offer you or arrange for the services of an AO if you do not already have one;

d. will discuss with you, or ask someone to do so on their behalf, and, if appropriate, consider the possibility of alternative resolution to resolve your complaint prior to an admissibility decision being made. This might for example

include the use of mediation between you and the parties involved. This would be entirely voluntary, and you would not be put under pressure to take part if you did not want to. More information about informal resolution can be found in JSP 763 - The MoD Behaviours and Informal Complaint Resolution Policy; and

e. may, in cases alleging bullying, harassment, victimisation and discrimination or other unacceptable behaviour speak to the CoC to help establish whether separating the parties is appropriate pending the outcome of the complaint. They may also speak to other business areas to focus on resolving the matter at the lowest appropriate level through alternative resolution.

2.8.2 The Specified Person will decide that your complaint is not admissible if any or all of the following apply to the matter or matters that you are complaining about:

a. your complaint is about an excluded matter as listed at Annex B of the Policy document.

b. your statement of complaint has been submitted more than three months after the date on which the matter complained about occurred, and the Specified Person does not consider that it is just and equitable to allow it to proceed outside of the time limit (a longer time limit will apply if you are making a complaint about a matter that can be the subject of claim to an Employment Tribunal - see paragraph 1.3 of the Policy document).

c. you are not a serving or former Service person, or you have not set out an alleged wrong relating to a matter arising from your Service in the Armed Forces under AFA06.

d. your complaint is substantially the same as a SC that you have already submitted, and which has either been decided previously under the SC process or is currently being considered under the SC process.

2.8.3 The Specified Person should make a decision as to whether your complaint is admissible within ten working days of the CAT receiving it and notify you of their decision in writing. If the Specified Person decides that it is admissible and can proceed, they will refer your SC to the appropriate sSS for the next part of the process - information about the sSS is at Chapter 7.

2.8.4 If the Specified Person decides that all or any part of your complaint is not admissible, they will notify you in writing, stating the reasons for the decision and informing you of your right to apply for a review of the decision by the AFC, and the time limit for doing so. Any admissible aspects of your complaint will be forwarded to the appropriate sSS in line with sub-paragraph 2.8.3 above.

2.8.5 If after the Specified Person has made a decision on the admissibility of your SC you raise a new matter by way of complaint at any time, you cannot add it to the existing SC. Instead, you will have to submit that matter as a new, separate statement of complaint, and it will be dealt with as a new SC.

2.9 The Armed Forces Commissioner (AFC) review of an admissibility decision

2.9.1 It is your right to apply to the AFC for a review of the decision taken by the Specified Person that your complaint is partially inadmissible or not admissible in full. The AFC will then decide whether the Specified Person's decision was correct.

2.9.2 You must submit your application to the AFC within four weeks of the date that you received the decision on admissibility from the Specified Person. This will ensure that a decision is made quickly and fairly. If you apply outside that time limit, the AFC will not consider your application unless the AFC considers it is just and equitable to allow you to submit an application outside that period. It is important therefore that if your application is made outside the time limit you set out the reasons why that is the case.

2.9.3 The AFC has produced guidance on what an application must include and how to make one. This can be found at: www.afcommissioner.org.uk/how-can-we-help/service-complaints.

2.9.4 The AFC will notify you and the Specified Person in writing of their determination and reasons.

2.9.5 The AFC's decision following a review is binding. You will not be able to make a SC about this decision or about the same original matter that you raised in your statement of complaint.

2.10 Considering your Service Complaint

2.10.1 Where the Specified Person has decided, or been informed by the AFC, that your SC is admissible/partially admissible, the sSS will appoint a DB with the authority to consider and decide your SC and to grant any appropriate redress. Information on the DB and how appointments are made can be found at Chapter 5.

2.10.2 If your SC includes allegations of a sexual nature, the DB should not include anyone from your immediate CoC. The sSS will contact you and any Respondent(s) in writing to tell you who has been appointed as the DB.

2.10.3 If the sSS determines that your SC will be decided by a Service Board or by the Defence Council itself, they will inform you and any Respondent(s). In such circumstances there will be no appeal stage available to you if you are dissatisfied with the decision on your complaint. You will, however, have the right to apply to the AFC for a review of the decision that you have received.

2.10.4 In certain circumstances, it may become apparent that a new DB should be appointed. This could be because, for example, it has become known that a member of the DB is implicated in some way, or a member of the DB is no longer able to take part (these examples are not exhaustive). If this happens the sSS will notify you in writing and tell you who has been appointed to the new body.

2.10.5 The sSS can appoint an IM to a DB if it considers that it would be helpful in achieving a decision on your complaint. Where a SC includes allegations of a sexual

nature, an IM should be appointed to the DB. Details about the appointment and role of IMs can be found at Chapter 10.

2.11 Deciding your Service Complaint

2.11.1 Your SC will be investigated, then decided on the balance of probabilities - if it is well founded to any extent, the DB will decide and grant what redress (if any) is appropriate.

2.11.2 The DB can ask someone to investigate your SC on its behalf, but it will be the DB that has to reach the final decision on your complaint. They may ask you or anyone else they consider appropriate, to provide them with information or documents. If that information or those documents are not provided within a reasonable period of time, the DB can go on to reach a decision based on the information or documents they have. It is therefore in your interests to respond within any time limit that is set, and to let anyone know as soon as possible if you will need more time.

2.11.3 If your SC includes allegations of bullying, harassment, victimisation or discrimination or any other Unacceptable Behaviour, the DB should appoint a suitably trained investigator to your complaint. If your SC includes allegations of a sexual nature, any investigation should be carried out by an investigator from the Outsourced Investigation Service (OIS) - Chapter 9 provides more detail about investigators and the process involved.

2.11.4 Having completed an investigation, the DB will share the Initial Investigation Report (IIR) with you via the My Complaint application. The same material (redacted where appropriate) will also be shared with the Respondent(s) and any other person who might be affected by the outcome. This gives you and the other parties the chance to comment in writing on the report, and for those comments to be made available to the DB for consideration when making their decision on your complaint. Your response should be provided within ten working days to avoid any unnecessary delay, however in exceptional circumstances, a longer period may be offered - see Annex P for further guidance on how you can request an extension to this timeframe. Responses should be limited to the disclosed documents; this is not an opportunity to attempt to submit new matters of complaint, these would need to be raised as a new SC.

2.11.5 You should also be aware that the DB has to give any person who is the subject of your complaint (a Respondent) or any other person who is likely to be criticised in a decision it might make, an opportunity to comment on allegations about them in your complaint. Any comments received must then be given due weight by the DB in making its decision on your SC.

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

2.11.7 Having considered your SC, the DB must notify you in writing of:

a. their decision and the reasons for it;

b. your right to seek to appeal the decision if an appeal is available to you;

c. the time limits for submitting an appeal application; and

d. who to send your appeal application to.

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

2.11.9 If your SC has been decided by a Service Board or the Defence Council itself, and there is no appeal process available to you, the letter will notify you instead of your right to apply to the AFC for an investigation if you are dissatisfied and the time limit for doing so.

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

2.12.1 It is important for all parties concerned that complaints are progressed in a timely manner. If you believe that there has been undue delay in the handling of your SC, and it is still active within the SC system, you have the right to make an application to the AFC to investigate that. The AFC has provided guidance on how to make an application; it can be found at: www.afcommissioner.org.uk.

2.12.2 There is no time limit for making an application in relation to undue delay when your SC is still active within the system. See Chapter 3 of the Policy document for more details on the role of the AFC.

2.12.3 If the sSS is notified by the AFC that you have made an application, work on your SC will continue, as awaiting a response from the AFC may delay matters further.

2.13 How you submit an appeal

2.13.1 Once the DB has notified you of its decision on your SC, you have the right to submit an appeal application (unless your SC was decided by a Service Board or by the Defence Council itself). Should you wish to appeal, you must do so within two weeks of the date that you have been deemed to have received notification of the decision. You may be able to bring a later appeal where it is just and equitable to do so - for further guidance see Annex P.

2.13.2 A copy of the DB's decision is also sent to the Respondent(s). They do not have the right to appeal against the decision reached on your SC. Only you can do that. However, they may be able to raise their own separate complaint if they feel that they had been wronged during the process, but this would not impact the outcome of your complaint.

2.13.3 You can Appeal a decision on a SC using the My Complaint application (accessed via Defence Gateway). Alternatively in circumstances where the app cannot be used, an appeal can be made in writing or by using the Service Complaint Appeal Form which can be accessed here to the relevant sSS that was referred to in the decision letter (see also Annex O). In your appeal, you must set out one or more of the following grounds on which you would like to appeal together with evidence showing that:

a. there was a material procedural error. This is an error in the procedure followed that was relevant to the outcome of your complaint. A minor procedural error which did not bear on the outcome of the decision will not fall within this ground. their decision and the reasons for it;

b. the decision was based on a material error as to the facts. This means that the decision was based on a mistake of fact which was relevant to the outcome of your complaint. You may disagree with the DB's view of the evidence, but this is not sufficient to establish that they made a mistake of fact. An error which is of no significance to the outcome of the decision will not fall within this ground.

c. there is new evidence (meaning evidence which was not available, and could not with the exercise of reasonable diligence by the complainant have been made available, before the decision was made), and it is likely that the decision would have been materially different if the new evidence had been made available to the DB. This means:

i. there is evidence which was not before the DB, and which you could not reasonably have produced before the DB; and

ii. it is likely that the outcome of your complaint would have been different if that new evidence had been available to the DB. Evidence which merely reinforces existing evidence is unlikely to fall within this ground, unless it could have led the DB to take a different view on the weight of that evidence.

2.13.4 If you submit your appeal application outside of the two-week time limit, you must state the reasons why you were not able to appeal within the time limit - see Annex P for more information. Please see also sub-paragraph 2.13.3 above for further information on the grounds for and timelines for bringing an appeal.

2.13.5 An AB may consider a SC afresh and can reach a different decision about your SC and any redress.

2.14 Deciding whether your appeal can proceed

2.14.1 The relevant sSS will contact you in writing to confirm receipt of your appeal. They must then decide whether your appeal can proceed. If the appeal is made outside the time limit, the sSS will decide whether or not it is just and equitable to let it proceed.

2.14.2 If the sSS decides that your appeal cannot proceed on the basis that is out of time or has not been brought on a valid ground, they must inform you in writing, giving reasons for that decision and informing you of your right to apply for a review of that decision by the AFC, and of the time limit for doing so.

2.14.3 The AFC has produced guidance on how you make an application for that decision to be reviewed, and what it must include. This can be found at: www.afcommissioner.org.uk - AFC review of a decision not to proceed with an appeal.

2.14.4 The AFC must determine whether the decision made by the sSS was right or not. The AFC must notify both you and the sSS in writing of their decision, giving reasons for the decision.

2.14.5 Applications to the AFC for a review of the admissibility decision must be made within four weeks after the date that you received notification of the sSS decision that your appeal will not proceed. Applications outside of the four-week period may be accepted if the AFC considers it is just and equitable to allow you to apply outside the timeframe.

2.14.6 A determination by the AFC in relation to a review is binding on you and on the Service. The only mechanism for challenging the findings would be by Judicial Review.

2.15 Appointing an Appeal Body to determine your appeal

2.15.1 Where the sSS, or, following a review, the AFC decides that your appeal can proceed, the sSS must appoint an AB with the authority to consider and determine the appeal, and to grant appropriate redress. Where a SC includes allegations of a sexual nature, anyone appointed to the AB should not be from your immediate CoC. Further details about the AB are at Chapter 6.

2.15.2 The sSS will contact you and any Respondent(s) in writing to tell you who has been appointed.

2.16 Determining your appeal

2.16.1 The AB appointed by the sSS to determine your appeal must decide whether, on the balance of probabilities, it is well founded, and, if it is, what redress (if any) is appropriate, and grant any such redress. The AB can also ask someone to investigate your SC on its behalf, but it will be the AB that has to reach the final decision on your complaint. If your SC includes allegations of a sexual nature, any further investigation required should be carried out by an investigator from the OIS, again not from your immediate CoC.

2.16.2 If appropriate, the AB may decide that further investigation of your SC, or aspects of it, is required. If this is the case, the AB, or person they appoint, will carry out an investigation to establish the facts of your complaint. As part of this investigation and consideration of your SC, they may ask you or anyone else they consider appropriate, to provide them with information or documents. If that information or those documents are not provided within a reasonable period of time, the AB can go on to reach a decision based on the information or documents they have. It is therefore in your interests to respond within any time limit that is set, and to let anyone who is asking for your reply know as soon as possible if you will need more time.

2.16.3 The AB can be made up of one or more people and will make its decision on a simple majority basis. If your SC alleges bullying, harassment, discrimination or any of the behaviours set out at Chapter 1, paragraph 1.6.2 of the Policy document, the AB must include an IM.

2.16.4 Having completed an investigation and before making its determination, the AB will disclose to you all relevant documentation and information on which the appeal is to be determined - this will be shared with you via the My Complaint application. The same material will also be disclosed to the Respondent(s) (redacted where appropriate) and any other person who might be affected by the outcome. This gives you and the other parties the chance to comment in writing on the papers, and for those comments to be made available to the AB for consideration when making their determination on your appeal. Your response must be provided within ten working days to avoid any unnecessary delay, however in exceptional circumstances, a longer period may be offered - see Annex P for further guidance on how you can request an extension to this timeframe. Responses should be limited to the disclosed documents; this is not an opportunity to produce new evidence.

2.16.5 You should also be aware that the AB has to give any person who is the subject of your complaint (a Respondent) or any other person who is likely to be criticised in a decision it might make, an opportunity to comment on allegations about them in your complaint. Any comments received must then be given due weight by the AB in making its decision on your SC.

2.16.6 Once the AB has considered and determined your appeal they will notify you in writing of the decision giving their reasons for the decision. They will also inform you of your right to apply to the AFC for an investigation if you are dissatisfied and the time limit for doing so.

2.17 Approaching the Armed Forces Commissioner (AFC)

2.17.1 Detailed guidance on how and when to approach the AFC and help with making an application is on the AFC's website: www.afcommissioner.org.uk

2.17.2 Before approaching the AFC, you should also refer to Chapter 3 of the Policy document, which sets out details about the AFC, including what the AFC can do, how they might conduct investigations, and the reports they produce.

2.17.3 There is no time limit for applying for an investigation into undue delay when your SC is still on-going. However, once your complaint has been finally determined, you need to make your application within six weeks of the date that you received the final decision on the SC - the 'final decision' will depend on the stage that your SC reached:

a. where your SC has had an appeal, the final decision will be the determination on that appeal.

b. where you have received a decision that your appeal is inadmissible only because you do not have valid grounds of appeal, the final decision will be:

i. the decision of the sSS that the appeal is inadmissible (if you did not apply to AFC for a review of this decision); or

ii. the decision of AFC that the appeal is inadmissible (if you did apply to AFC for a review).

c. where you do not have grounds of appeal that you are aware of, the final decision will be the decision on the SC.

d. where your SC was heard directly by the Defence Council, the final decision will be the decision on the SC.

2.17.4 If you are unable to apply within the time limit, you should state the reasons why the application was not made within that period. The AFC can accept an application that is made after six weeks if the AFC considers that it is just and equitable to do so.

2.17.5 It is important to have a time limit, as it ensures not only that allegations relating to SC that have been finally determined are examined while the circumstances are still reasonably current, but also that, after a set period, all parties can have some confidence that the matter is closed.

2.17.6 It is open to the AFC to reach a different decision on the issues that you want to be investigated. You need to be aware that there is a possibility that the AFC's findings and recommendations may not be as favourable to you as the outcome of the SC process.

2.17.7 The Service that dealt with your SC will have to respond to any investigation report on your complaint that the AFC issues following an investigation. You can find out more about how they will be expected to deal with the report, and what will happen if the decision is taken to reconsider any part of your SC, at Chapter 7, paragraphs 7.14.1 - 7.14.5.

2.18 Can the Armed Forces Commissioner (AFC) pay expenses?

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

2.18.2 It is for individuals to decide whether they wish to seek their own legal advice (at their own cost), and AFC will decide whether to engage with these legal representatives during the process. AFC will not reimburse the cost of any legal fees incurred.

2.19 Continued support throughout the Armed Forces Commissioner (AFC) process

2.19.1 The AFC's office is not part of the internal complaints process. It exists to provide an independent view for serving and former Service personnel as to whether the complaints process has handled their grievance in accordance with our own rules and legal obligations and in a fair, effective and efficient way. However, it is right that if you decide to approach the AFC at any stage of the SC process you should continue to be supported by your CoC and/or your AO.

2.19.2 Your CoC will continue to provide welfare and pastoral support to you as you go through the AFC process, through the usual channels such as the welfare service and chaplains. You will also be told in the final decision letter you receive as part of the

internal process about who can provide you with general information about the AFC process. This will not though be your main source of information about using the AFC's service - for that you should you contact the AFC's office or see their website, as they are best placed to advise on their processes.

2.19.3 You should not be victimised for exercising your right to apply to the AFC, nor be discouraged from doing so. If you believe that you are, and this arises when your SC is still being considered you should discuss this with your AO, or if after the end of the SC process with welfare services or your CoC.

2.20 Is it possible to make a further application to the AFC about the same Service Complaint?

2.20.1 In certain circumstances you can apply to the AFC for an investigation into a SC that has already been investigated by the AFC. Those circumstances are that:

a. you applied to the AFC for an investigation into the substance of your SC or into how it was handled;

b. following an investigation, your SC was reconsidered by the CoC in response to the AFC's report; and

c. you are dissatisfied with the outcome of that reconsideration or how it was handled.

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

2.20.3 If you have approached the AFC for an investigation into the delay of an initial admissibility decision (often referred to as 'Delay in a Service Matter'), or into undue delay in relation to an on-going SC, there is nothing to prevent you from applying to the AFC for an investigation on the substance or the handling of the complaint once it has been finally determined.

3 Information for Respondents

3.1 What are your responsibilities as a Respondent within this process?

3.1.1 You should familiarise yourself with the Policy document, which sets out what the legislation says about how the SC process is to operate. As a SC in which you are involved progresses, you should also refer to this procedure document.

3.1.2 If you are no longer subject to Service law, are a MOD civilian employee or are a civilian, there is no obligation for you to engage with the process at all if you choose. In these circumstances, the decision on the SC will be made on the balance of probability with the evidence available.

3.1.3 Where you have agreed to try alternative resolution where appropriate, which might include mediation, you should do all you can to make the attempt succeed. This is, however, voluntary and you cannot be compelled to take part.

3.1.4 You will be expected to co-operate fully, and in good faith, with any investigation of the SC within the prescribed time limits, and to maintain the confidentiality of all aspects of the investigation process and its outcome.

3.1.5 You should ensure that whoever you are dealing with during the process has up-to date contact details for you. The more methods of communication held to maintain contact, the less chance there is of this becoming an unnecessary cause of delay to the process.

3.1.6 You will be required to respond within time limits specified in respect of requests for further information or documents, and if you are unable to do so to give clear reasons why - this will be required to ensure you have access to these documents in the My Complaint application. You will also be required to keep within timeframes given to comment on documents as part of disclosure. You need to be aware that a Decision Body (DB) or an Appeal Body (AB) that is considering a SC that involves you can make a decision on it if they do not get a response within the timeframes specified in any requests they put to you.

3.1.7 You are not to victimise or retaliate against anyone involved in a SC, or make abusive, offensive or threatening comments to individuals handling the complaint or other individuals who are involved. You are also not to make excessive demands on the time and resources of the staff handling a complaint while it is being progressed, as this can lead to delays that can affect you as much as anyone else involved.

3.1.8 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in the SC process should conduct themselves if the process is to be as efficient and as fair as possible. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice when dealing with complaints. You should familiarise yourself with the principles and apply them throughout your part in the process.

3.2 What can you expect if you are named as a Respondent in a Service Complaint?

3.2.1 You will be notified by a Specified Person from the sSS CAT within ten working days once it has been decided whether the complaint has been found to be admissible and will go forward as a SC. More details about the Specified Person and how they reach that decision can be found in Chapter 4.

3.2.2 You are entitled to have access to an Assisting Officer (AO) who can support and help you with procedural matters throughout the process. The process for appointing, and the role of, the AO are set out at Chapter 8. You may also have access to a Diversity and Inclusion Adviser (D&I (A)) if the complaint includes allegations of bullying, harassment or discrimination.

3.2.3 There is a range of independent help available to you throughout the SC process, please refer to Annex O for further details.

3.2.4 You have the right to be protected from victimisation during the process. If you feel that you are being victimised at any time, you should raise it with your AO or with the SP/DB/AB/Chain of Command (CoC).

3.2.5 To be kept regularly informed of the progress of your SC and will be informed promptly of decisions that are taken, with transparent live case tracking in the My Complaint application.

3.2.6 You will be notified when a DB, and if applicable an AB, has been appointed to investigate the SC. Details of the role of the DB can be found in Chapter 5.

3.2.7 You will be given the opportunity to comment on any allegations made against you in the SC via the My Complaint application before a decision is taken on it. Your comments must be given due weight by the DB or AB in making its decision on the SC.

3.2.8 If the SC includes allegations of bullying, harassment or discrimination or other unacceptable behaviours, the DB/AB should appoint a suitably trained Investigator to the complaint. Chapter 9 has more detail about Investigators and the process involved.

3.3 What is disclosure?

3.3.1 Once the DB, AB, or Investigator if applicable have completed their investigation of a SC, and before making their decision, all relevant documentation and information on which the complaint or appeal is to be decided will be disclosed to you (redacted where appropriate)- this will be done via the My Complaint application. You have the right to comment in writing, and for those comments to be made available for consideration when the decision is made. Your response must be provided within ten working days to avoid any unnecessary delay, however in exceptional circumstances, a longer period may be offered - see Annex P for further guidance on how you might be able to request an extension to this timeframe. Responses should be limited to the disclosed documents; this is not an opportunity to produce new evidence.

3.4 What happens if the Complainant submits an appeal?

3.4.1 If the Complainant appeals against the decision made by the DB, and it is accepted, an AB will be appointed. Details of the appointment and role of the AB can be found at Chapter 6. You will be kept fully informed throughout this process. You will not be able to appeal the DB's decision - only the Complainant can do that, as it is their SC that is being dealt with.

3.5 Who can approach the Armed Forces Commissioner (AFC) and about what?

3.5.1 Once a SC has been finally determined, the Complainant has the right to approach the Armed Forces Commissioner (AFC) in certain circumstances. The Complainant can also apply to the AFC if they consider there was undue delay before they submitted a statement of complaint, or if they believe that their SC is being unduly delayed before it is finally determined (so, when it is still open and being considered). The role of the AFC, and details about who can approach them and about what matters, are found in Chapter 3 of the Policy document, with more information available on the AFCs website: www.afcommissioner.org.uk

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

3.5.3 If you are dissatisfied with the determination given by an AB, you will not be able to apply to the AFC. That is because the process has considered the Complainant's SC. If there are issues that have arisen during the consideration of the SC and you feel you have been wronged by the process, you can make a complaint of your own, by raising a SC if you are a Service person, by raising a grievance if you are a MOD Civil Servant or by complaining directly to the MOD.

3.5.4 In certain circumstances, a Complainant can apply to the AFC again in connection with the same SC, when the AFC has already carried out an investigation into the substance of that complaint or how it was handled. More information is at Chapter 3, paragraph 3.17 of the Policy document. If the AFC does decide to conduct a further investigation, you will be notified if this involves you.

3.6 What happens after the Armed Forces Commissioner (AFC) report following an investigation?

3.6.1 The AFC may send you a draft copy of an investigation report on which you will be able to comment and will send you a copy of the final report. Following full and careful consideration of the recommendations made, the Service that acts on the final report will notify you of what action, if any, is to be taken. Chapter 7, paragraphs 7.14.1 - 7.14.5, provide more information about how a Service will respond to an investigation report from the AFC.

3.6.2 Similarly, you will be notified if a decision is taken to reconsider any part of the original SC in response to a recommendation made by the AFC in a report. The single Service Secretariat will let you know if there is any need for you to be directly involved in that process, but in any event will inform you in writing of the outcome.

3.6.3 Once the MOD's final response has been issued the matter is closed. If the Complainant or Respondent is not content with MOD's final response to the report,

they cannot take the matter up with the AFC or with MOD. They can, however, consider taking the matter to the courts for a judicial review, but this would be at their own expense.

4 Information for Specified Persons

4.1 Introduction

4.1.1 A Central Admissibility Team (CAT) exists within each of the single Service Secretariats (sSS) to whom a Complainant submits their statement of complaint. Your role as a Specified Person in a sS Secretariat CAT is to decide whether a statement of complaint, or parts thereof are admissible as a valid Service Complaint (SC).

4.1.2 While your role as a Specified Person is to ultimately decide whether a statement of complaint is admissible, in practice many of the functions associated with this part of the SC process will be carried out by individuals in your single Service Secretariat CAT. Therefore, references made in this chapter to the Specified Person, apart from the admissibility decision itself, may be carried out by individuals from, or as appointed/delegated by, the sSS CAT.

4.1.3 This chapter sets out what you need to do to give effect to the legislation that underpins the SC process when a statement of complaint is received. You should read the corresponding section of the Policy document before you start to deal with the complaint you have received (Chapter 2).

4.1.4 You should not be appointed as a Specified Person if a Complainant has alleged you to be implicated or somehow involved in the matter or matters being complained about. If that happens, or it becomes apparent at any stage in the process, you must inform the sSS, setting out why you believe it to be the case.

4.2 Your role

4.2.1 Working within a sSS CAT, your role as a Specified Person is to decide whether a statement of complaint made (either in writing, via the My Complaint application, or a SC Form) by a serving or former Service person is admissible within ten working days of receipt by the sSS CAT.

4.2.2 It is MOD policy that 90% of SC should be completed within 24 weeks. This time does not start until you have decided that all or part of that statement of complaint you have received is admissible as a SC. A Complainant might consider that MOD policy has not been followed if there is some misunderstanding about when the SC process actually began. You must therefore make sure in your dealings with the Service person that they are clear about this start date. If the Armed Forces Commissioner (AFC) finds in the Complainant's favour following a review of your admissibility decision, the 24 weeks will start from when you receive notification of the AFC's decision.

4.2.3 At this stage your role is to decide only whether the complaint is admissible as a SC, you should not decide the substantive merits of it.

4.3 Your responsibilities

4.3.1 All complaints are to be taken seriously – they reflect the fact a Complainant considers something is not right and needs addressing. All complaints are to be

handled professionally and with consideration.

4.3.2 Where there appears to be a reluctance to progress to a SC or engage with the process, because of the stress or anxiety this may entail, you are to ensure the Complainant is made aware of the welfare/pastoral support and/or medical help that is available.

4.3.3 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation but are MOD's articulation of principles deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles and apply them throughout your part in the process.

4.3.4 Your role as a Specified Person plays an important part in delivering the first principle of laying solid foundations. You should:

a. communicate clearly with the relevant parties involved. A lack of contact or information can breed distrust or uncertainty that can escalate unnecessarily and make even the simplest matter more difficult to deal with and to resolve.

b. consider whether there are alternative routes to resolve matters other than through the SC process, for example informal resolution such as mediation or through a Special-to-Type (STT) procedure.

c. understand timeliness and good communication are particularly important.

d. be aware timeliness does not, however, mean that decisions or activities should be made or undertaken with undue speed, as that can lead to them being ill-informed or poorly conducted. Time taken at this first stage in the process can be beneficial when clarifying the nature of the complaint or redress sought, which could be quite different from what is set out in the initial statement of complaint. It can also be an opportunity to try to resolve the matter by informal means, where appropriate.

e. where a Complainant decides to withdraw their complaint and a reason for withdrawal is not initially provided, seek reasons from the Complainant as to why they have decided to do this. This must be logged accordingly. Where you suspect a Complainant may have been pressured into withdrawing their complaint you are to seek advice.

4.4 Recording information about individual Service Complaints

4.4.1 All complaints (including those submitted by former Service personnel) dealt with under this JSP are to be entered onto the SC Case Management System (CMS). Recording on the SC CMS ensures that progress with an individual SC can be monitored, and the current state of play can be quickly understood. The information will also be used by the AFC as part of the annual assessment of the effectiveness of the system overall.

4.4.2 If you have a referral from the AFC, you must carry out the tasks set out in Chapter 2, paragraph 2.5.2 of the Policy document, which involve for example

notifying the Service person that an allegation has been referred and making sure that they know how to make a SC. You must then inform the AFC of the actions taken. In all other respects you are to deal with the referral in the same way as you would a complaint that comes to you direct from the Complainant.

4.5 What you must do on receipt of a statement of complaint

4.5.1 Within two working days of receiving a statement of complaint your sSS CAT should contact the Complainant in writing, acknowledging receipt of it (see the template letter at Annex A). You are then to make a decision, within ten working days, as to whether the complaint is admissible as a SC.

4.5.2 It is important that a Complainant has someone to assist and support them throughout the process to help them understand how it works and to provide them with independent advice. This is done by them having an Assisting Officer (AO), whose role and responsibilities are set out at Chapter 8. You are to make sure that the Complainant is aware of the value of having an AO, the ability for AOs to access documentation via the My Complaint application to help them through the procedural aspects of the process, and if they do not have anyone that they wish to nominate, you should discuss with them the benefits of you assigning someone to take on the role.

4.5.3 You should also ensure that the Respondent(s) is aware of the sources of support and guidance available to them including the offer of an AO and that any welfare/pastoral needs which they may have are being catered for. This is particularly important when a Respondent is no longer serving in the same unit as the Complainant as lack of communication or feelings of isolation due to perceived lack of support can have a debilitating effect, especially if investigations become protracted.

4.6 Checking you have the information you need

4.6.1 You have to consider the information you have been given by the Complainant in their statement of complaint and decide whether the complaint is admissible as a SC. You should stay alert for opportunities to resolve the matter complained of fairly and effectively by alternative resolution.

4.6.2 The statement of complaint must either have been submitted electronically through the My Complaint application or by completing a Service Complaint Form.

4.6.3 You should first check that you have the following information from the Complainant in their statement of complaint so that you can identify the Heads of Complaint (HoC):

a. how the Complainant thinks they have been wronged and by whom - what has happened?

b. where the complaint concerns a STT matter that the relevant STT process has been exhausted;

c. whether the Complainant considers that their complaint includes allegations of bullying, harassment or discrimination (including any facts in support) or any other Unacceptable Behaviours as per the definitions laid out

in JSP 763 -The MOD Behaviours and Informal Complaint Resolution Policy;

d. if the complaint is not made within the three-month time limit (a longer time limit will apply if the complaint is about a matter that can be the subject of claim to an employment tribunal), see Chapter 1, paragraph 1.3 of the Policy document for the reasons why;

e. the redress sought;

f. the date on which, to the best of the Complainant's recollection, the matter(s) complained about occurred or probably occurred; or

g. whether the matter(s) complained about occurred over a period, and if so, the date on which, to the best of the Complainant's recollection, that period probably ended; or

h. whether the matter(s) complained about is/are continuing to occur;

i. whether they are unable to recollect the date of either g) or h).

4.6.4 You should then arrange to speak to the Complainant or arrange for an appointed/delegated individual to do that on your behalf, to understand fully the nature of the complaint and the redress being sought. This is the opportunity to fill in any gaps in the information listed above and to see if there is any additional information that may be relevant either to your decision on admissibility of the complaint or generally such as names of Respondents and potential witnesses. If not already done so it is also the time to offer the services of an AO.

4.6.5 If that discussion changes any of the information already provided, including the nature of the complaint or the redress being sought, the Complainant should confirm this in writing to you.

4.6.6 At this stage there should be a discussion with the Complainant to consider the possibility, if appropriate, of resolving the complaint by alternative resolution. This is a voluntary process, so neither a Complainant nor Respondent(s) can be made to agree to it if they do not wish to pursue it. Full information on the informal complaints process can be found in JSP 763 – The MOD Behaviours and Informal Complaint Resolution Policy.

4.7 How to deal with an allegation of criminal conduct

4.7.1 Throughout this process you must consider whether a criminal or Service disciplinary offence may have been committed and, therefore, whether it is necessary for the matter to be referred to the MOD Police (MDP) or Service Police if this is the case it is your responsibility to inform the Respondent's Commanding Officer/Senior Line Manager.

4.7.2 Where a case is returned by Service Police or MDP to you, you do not have the option of simply doing nothing further - the complaint should be progressed accordingly. No presumption should be made about the merits or otherwise of the

complaint, simply because the Police have decided not to take criminal/disciplinary action or if it did not result in a conviction.

4.8 Separating the parties

4.8.1 You may decide, at any time after receiving a statement of complaint, that it is a sensible precaution to recommend to the Chain of Command (CoC) that they separate the Complainant and Respondent(s) pending the outcome of any investigation[3]. Such a decision is a neutral act taken in the interest of all parties and may depend, for example, on the seriousness of the allegation(s), or incident(s); the risk of the alleged bullying or harassment being repeated; the risk of interference with, or compromise of, the investigation or witnesses, or of anyone else being victimised (including peers of the Complainant).

4.8.2 Every effort must be made to ensure that any separation is implemented fairly taking into account individual and environmental circumstances and operational/ business considerations and following both joint and single Service policies and procedures. In particular, you should have regard to the Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015 ('the AF Code') is set down in legislation, it closely mirrors the civilian equivalent Code of Practice for Victims of Crime. The AF Code is embedded in JSP 839, which provides guidance on how Service Providers should discharge their obligations as required by the AF Code and consequently deliver the appropriate entitlements and support to victims. Before taking any such action you should always consult with the sSS in the first instance for further advice.

4.9 How to make a decision about admissibility

4.9.1 The complaint is not admissible as a SC if one or more of the following applies:

a. the complaint is about an excluded matter as listed at Annex B of the Policy document.

b. the statement of complaint has been submitted more than three months after the date on which the matter complained about occurred, and you do not consider that it is just and equitable to allow it to proceed out of time (see Annex P for further guidance). A longer time limit will apply if the complaint is about a matter that can be the subject of claim to an Employment Tribunal (ET) - see Chapter 1, paragraph 1.3 of the Policy document.

c. the Complainant is not a serving or former Service person, or they have not set out an alleged wrong relating to a matter arising from Service in the Armed Forces when they were subject to Service law.

d. the complaint is substantially the same as a SC that has already been submitted and which has either been decided previously under the SC process or is currently being considered under the SC process.

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[3] At training establishments, this might include Respondents being temporarily removed from contact with trainees (or other specific groups) who might otherwise be put at risk.

4.9.2 The time limit for making a SC is three months beginning on the date that the matter complained of occurred. If there are a number of related incidents over a period of time, a complaint must be submitted within three months of when the latest incident is alleged to have occurred. There are separate time limits for matters that could be the subject of a claim to the ET. More information is in Chapter 1, paragraph 1.3 of the Policy document. Paragraph 4.10 Below sets out how to proceed where a STT process applies to the matter being complained about.

4.9.3 In most circumstances, you would rule out of time a complaint that is made more than three months (or longer if it could be a claim to the Employment Tribunal) after the matter complained of occurred. However, there may be circumstances where you consider it just and equitable to allow it to proceed out of time. For example, the Complainant may have been unable to access the people, information or IT necessary to make a complaint. The Complainant will need to give you the reasons for the delay for you to be able to make an informed decision about whether to rule the complaint in time (see Annex P for further guidance).

4.10 What to do if the complaint is about a Special-to-Type (STT) matter

4.10.1 There are separate STT complaint processes for resolving certain matters that are to be followed before a SC will be considered. Details of what type of complaints are to first be raised as an STT complaint can be found at Chapter 2, paragraph 2.6. Advice can also be sought from the relevant sSS. If you receive a statement of complaint about one of these matters your sSS CAT will need to confirm with the Complainant that the other relevant process has been exhausted and when[4] . If it has not been exhausted, and the SC has been submitted within the relevant time period then your sSS CAT should:

a. notify the Complainant of the need to take the STT route first.

b. confirm in writing to the Complainant that the statement of complaint they have submitted will not be pursued at present, but they have the right to reactivate it or to amend the original statement of complaint within three months of the STT process being completed if they are dissatisfied with the STT outcome. Different time limits may apply if the matter being complained of has or could be the subject of a claim to the Employment Tribunal. There is more information on this in the Policy document, Chapter 1, paragraph 1.3.

c. ensure they record the complaint on the SC CMS as with a status of ‘Stayed’. This will ensure the complaint is not lost, should the Service person wish to reactivate it, but it will also be recorded that this is not being currently pursued as a SC.

4.10.2 If the STT process has been completed when the statement of complaint comes to you, the Complainant has three months from the date which they received notification of the final decision in the STT process in which to make a SC. You must then consider whether the complaint is admissible as set out at paragraph 4.9 above.

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[4] There may be some circumstances where the Specified Person considers that there are good reasons to allow the Service Complaint to proceed before the STT has been exhausted; however legal advice should be sought where this course of action may be deemed necessary.

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

4.10.3 If any aspects of a statement of complaint do not cover matters that should be pursued first under a STT process and are not linked to other HoCs, they can be taken forward separately under the SC procedures. If this is the case, you should do so and make this clear in writing when you contact the Complainant with your admissibility decision.

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

4.11.1 If you decide all of the complaint is admissible as a SC, you must inform the Complainant in writing within ten working days of receiving the complaint (a template letter is provided at Annex B) in order to provide the reasons why you consider their SC to be admissible and identifying any admissible HoCs, and then refer the SC to the sSS. You must also notify in writing anyone who is named as a Respondent in the case that a SC is to proceed and offer them the chance to nominate an AO or for you to assign one if you have not already done so.

4.11.2 If you decide that none of the complaint is admissible as a SC, you must inform the Complainant in writing (using the template letter at Annex C, setting out the reasons for the decision and informing them of their right to apply for a review of the decision by the AFC and of the time limits for doing so.

4.11.3 If you decide that some but not all of the matters complained about are not admissible as a SC, you must:

a. inform the Complainant and the Respondent in writing (using the template letter at Annex D) making clear which matters are not considered as admissible, setting out the reasons for the decision and informing the Complainant of their right to apply for a review of your decision by the AFC; and

b. treat the remaining matters as an admissible SC.

4.11.4 In your role as the Specified Person, it is important to remember the emotional impact that SCs can have on all those involved. Therefore, when delivering a decision on admissibility you should consider sign-posting individuals to the support available to them.

4.12 What to do if the AFC does not support your admissibility decision

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

4.12.2 Within a week of receiving the AFC's decision, you should follow the process set out at paragraph 4.11 above as appropriate and any additional direction given by the AFC in their findings.

5 Information for the Decision Body

5.1 Introduction

5.1.1 The Defence Council is constitutionally responsible for the decisions and appointments made in the Service Complaints (SC) system, but in practice will delegate the majority of its functions to individuals. References made in this chapter to the 'single Service Secretariats' (sSS) relate to the Service acting on behalf of the Defence Council, based on delegations from the Defence Council that have been put in place to specified posts.

5.1.2 Where a Specified Person decides all or part of a statement of complaint is admissible as a SC, or where that decision has been made following a review by the Armed Forces Commissioner (AFC), the sSS will appoint a Decision Body (DB) with the necessary authority to decide the complaint and grant any appropriate redress. The relevant sSS may decide to appoint one or more Independent Members (IM) to the DB - more information about IM is at Chapter 10.

5.2 How will you be notified of your appointment?

5.2.1 You will be notified in writing of the terms of your appointment and authority to decide a SC. You should also inform the Complainant and any Respondent(s) in writing, notifying them you have been appointed.

5.3 What is the role of a Decision Body?

5.3.1 Your role as a DB is to:

a. consider the complaint.

b. investigate it in a way you consider necessary and appropriate given the concerns it raises (refer to Chapter 9 for more information regarding investigation of SCs).

c. decide if the complaint is well founded; and, if it is,

d. grant any redress you consider appropriate and within your authority to do so. Noting that some redress may be outside of your delegated authority and require additional approval, such as His Majesty's Treasury (HMT).

e. identify appropriate lessons learnt as the result of the investigation.

5.4 What are your responsibilities?

5.4.1 All SCs are to be taken seriously. They reflect that a Complainant considers something is not right and needs addressing and should be handled in a professional and considerate way and in as reasonable a timeframe as possible.

5.4.2 The Principles of Fairness are at Annex F. They set out the ways in which all involved in handling a SC should conduct themselves. They are not laid out in legislation but are principles deemed by the Ombudsman Association to be good

practice in dealing with complaints. You should apply them throughout your part in the process.

5.4.3 As the DB, think about how you would want to be treated if you had been party to a SC, and in particular aim to:

a. act promptly and respond within any timeline given to you in dealing with the SC. When you cannot do that, be as open as possible about the reasons why and notify whoever is awaiting your response as soon as you know it will be late.

b. set clear deadlines for responses and contact individuals promptly once they have passed. It is entirely proper to decide a complaint based on the information you have if others are not responding to your requests for information within reasonable deadlines. If you are in any doubt whether to move on and reach a decision, speak to your contact in the sSS that is assisting you.

c. be flexible and always consider whether a complaint can be resolved through alternative resolution. Resolving a Complainant's concerns through other means can sometimes be quicker at getting them to a situation they are content with and deals with the issue in hand. Mediation can be particularly effective when a complaint rests on a breakdown in relationships.

d. be open and maintain contact with the Complainant and any other directly involved parties, such as Respondents. Keeping all parties up to date on matters can help to alleviate anxiety and maintain their confidence that the complaint is being taken seriously.

5.4.4 If at any stage in the complaints process it appears the SC might constitute a criminal or Service disciplinary offence, you should immediately notify the Commanding Officer (CO)/Senior Line Manager of the relevant parties so that they may report the matter to the Ministry of Defence Police (MDP) or Service Police[5] in accordance with the relevant procedures. If in any doubt whatsoever, the DB should always seek advice from the relevant sSS.

5.4.5 Where a case is returned by Service Police or MDP to the DB, the DB does not have the option of simply doing nothing further. The handling of the complaint should proceed in the normal manner unless the Complainant decides to withdraw the complaint. No presumption should be made about the merits or otherwise of the complaint, simply because the Police decided not to take criminal/disciplinary action or if it did not result in a conviction.

5.4.6 If at any stage, you are not sure how to proceed you should seek advice. The sSS will be your primary point of contact and is a good source of helpful information.

5.4.7 It is important a Complainant has someone to assist and support them throughout the process to help them understand how it works and to provide them with

[5] At training establishments, this might include Respondents being temporarily removed from contact with trainees (or other specific groups) who might otherwise be put at risk.

independent advice. This is done by them having an Assisting Officer (AO), whose role and responsibilities are set out at Chapter 8. You are to make sure that the Complainant is aware of the value of having an AO, the ability for AOs to access documentation via the My Complaint application to help them through the procedural aspects of the process, and if they do not have anyone that they wish to nominate, you should discuss with them the benefits of you assigning someone to take on the role.

5.4.8 You should also ensure the Respondent(s) is aware of the sources of support and guidance available to them including the offer of an AO and that any welfare/pastoral needs which they may have are being catered for. A range of independent support available to them can be found at Annex O. This is particularly important for example when a Respondent is no longer serving in the same unit as the Complainant as lack of communication or feelings of isolation due to perceived lack of support can have a debilitating effect, especially if investigations become protracted.

5.4.9 Where a Complainant decides to withdraw their complaint and a reason for withdrawal is not initially provided, you will be expected to seek reasons from them and record on the Case Management System accordingly. Where you suspect that a Complainant may have been pressured into withdrawing their complaint, you are to seek advice from the relevant sSS.

5.5 Separating the parties

5.5.1 You may decide, at any time after receiving the SC, it is a sensible precaution to recommend to the Chain of Command (CoC) that they separate the Complainant and Respondent(s) pending the outcome of any investigation[6]. Such a decision is a neutral act taken in the interest of all parties and may depend, for example, on the seriousness of the allegation(s), or incident(s); the risk of the alleged bullying or harassment being repeated; the risk of interference with, or compromise of, the investigation or witnesses, or of anyone else being victimised (including peers of the Complainant).

5.5.2 Every effort must be made to ensure any separation is implemented fairly. The relevant CoC should take into account individual and environmental circumstances, operational/business consideration and following both joint and single Service policies and procedures. In particular, the Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015 (‘the AF Code’) is set down in legislation, it closely mirrors the civilian equivalent Code of Practice for Victims of Crime. The AF Code is embedded in JSP 839, which provides guidance on how Service Providers should discharge their obligations as required by the AF Code and consequently deliver the appropriate entitlements and support to victims. Before seeking to take any such action, you should always consult with the sSS in the first instance for further advice.

5.6 The need for timely processing of a Service Complaint

5.6.1 It is MOD policy that 90% of SC should be completed within 24 weeks. This timeline starts from the date that the Complainant receives notification from the Specified Person, or by the AFC following a review, that a complaint is admissible. It is

[6] At training establishments, this might include Respondents being temporarily removed from contact with trainees (or other specific groups) who might otherwise be put at risk.

important for all concerned that SC are progressed in a timely manner, though it is also right that time taken can enable alternative and informal solutions to be tried and more information to be gathered that can result in better informed decisions and actions. A balance needs to be struck.

5.6.2 If a Complainant believes there has been undue delay in the handling of a SC which is still active within the SC system, they have the right to make an application to the AFC requesting an investigation into the delay. See Chapter 3 of the Policy document for more details on the role of the AFC or visit www.afcommissioner.org.uk.

5.6.3 If you are notified by the sSS that an application has been made to the AFC, you should continue to progress the SC. You should co-ordinate with the sSS as to next steps to ensure the matter is progressed to avoid any further delay while being mindful of your obligations as a DB.

5.7 How should you investigate the Service Complaint?

5.7.1 Before a SC can be considered and a decision made, you are responsible for ensuring an investigation is conducted to establish the facts of the complaint. You may decide to authorise another person to carry out the investigation, but they must not be implicated in the matters complained about or have any interest in the outcome. However, you retain ownership, and it is for you to decide the complaint.

5.7.2 As part of the investigation you, or the person carrying out the investigation on your behalf, may request the Complainant or any other person(s) you consider appropriate, to supply information or produce documents. Posting or discharge is not to be considered as a valid basis for excluding an individual from any inquiries. Should information or documents not be provided or produced within a reasonable period of time that you have set out, you may proceed to reach a decision based on the information or documents available to you.

5.7.3 If the SC details allegations of bullying, harassment or discrimination or any other Unacceptable Behaviour, you should contact the relevant sSS who should arrange for a suitably trained Investigator to investigate the complaint on your behalf, Chapter 9 has more information about Investigators. In addition, if a SC includes allegations of a sexual nature, any investigation should be carried out by an investigator from the Outsourced Investigation Service (OIS).

5.7.4 If the SC relates to any matter concerning Tri-Service policy, you or the person carrying out the investigation, should seek to identify and engage with the relevant Policy owner in order to understand the interpretation and intent of the Policy.

5.7.5 Where an Investigator is appointed to conduct an investigation on your behalf, you should contact them as soon as possible. A template of the appointment letter for an Investigator, including example terms of reference can be found at Annex H.

5.7.6 Close contact with the Investigator can help ensure their work is completed in a timely and accurate manner (an initial investigation report should be with you within 30 working days of the Investigator receiving your draft Terms of Reference and agreeing them), so that you can decide the complaint as quickly as possible. If there are any

problems, and contacting the Investigator does not resolve them, contact your sSS for advice.

5.7.7 The Investigator will provide you with weekly updates on their progress. You are responsible for ensuring the investigation remains on track, engaging with the investigator when required to provide direction on the investigation, within the required timeline and providing the Complainant and Respondent(s) with a meaningful monthly update.

5.7.8 Where there is a risk or it is clear the investigation may overrun 30 working days, you should inform the Complainant, Respondent and the sSS of this after 20 working days, or sooner if you become aware, advising them of the expected revised completion date, and with a further update at 30 working days.

5.7.9 The admissibility decision taken by the Specified Person does not look at the substantive merits of the complaint, it is a procedural decision that a complaint should be allowed to proceed. As the DB, you cannot change the admissibility decision, however it is up to you to decide whether the substantive merit of the complaint is well-founded and, if so, decide the appropriate redress to grant to the Complainant.

5.7.10 You must ensure any person who is the subject of the Service Complaint (a Respondent), or any other person who is likely to be criticised in a decision you might make, is given an opportunity to comment on allegations about them in the SC. Where a Respondent is no longer serving as a member of the Armed Forces, is a Civil Servant or Civilian, bear in mind that they cannot be compelled to participate in the process. If they decide not to participate, it is good practice to remind the Respondent the complaints process will continue without their input, but they will be informed of the outcome regardless. Any comments received must be given due weight in making your decision on the complaint.

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

5.8.1 You cannot decide a SC if you find you are implicated or somehow involved in the matter that is being complained about. If that happens you must inform the sSS in writing within five working days of becoming aware of this conflict of interest, setting out:

a. why you believe it to be the case; and

b. including the names of anyone else you believe may also be implicated.

5.8.2 It may also not be possible for you to continue as a DB if, for example you are deployed on Operations or leave the Service before a decision has been reached.

5.8.3 If you believe you are unable to continue as a DB, you should seek advice from the sSS within five working days of becoming aware of this.

5.9 Disclosing information on completion of the investigation

5.9.1 Before making a decision on a SC, it is important to disclose all relevant evidence to the Complainant, Respondent and any other person who might be

personally affected by the outcome. The sSS can advise on what would be relevant evidence.

5.9.2 This allows for those parties to comment in writing on the evidence, and for you to consider them when making your decision. To avoid unnecessary delay, you should encourage parties to provide their comments as soon as possible and within ten working days. In some circumstances however, you may (in consultation with the sSS) offer an extension to the deadline where it would be appropriate to do so – see Annex P to have longer access to the relevant documents in the My Complaint application.

5.9.3 In all complaints, the disclosure period must be noted on the Case Management System, including an explanation of the basis of an agreement to a disclosure period in excess of ten working days.

5.9.4 There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the GDPR[7] and sections 8(c) and 8(d) of the DPA 18[8] and the Freedom of Information Act 2000 provide the lawful basis for the DB to process personal data necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority. Privileged and protected information and advice is not to be disclosed or paraphrased, without discussing with the relevant expert advisers e.g. legal, security or information. If doubt exists on any aspect of disclosure, you should seek advice from the single Service secretariat that is supporting you.

5.10 How should you decide the Service Complaint?

5.10.1 In deciding a SC, you must establish if the complaint is well founded. The standard of proof to be applied when deciding a SC is set out in paragraph 1.5 of the Policy document. The SC should be decided on the basis of a simple majority decision if more than one person has been appointed as the DB.

5.10.2 A SC is presumed to have been made in good faith even if you have not upheld it. If you decide that a complaint is malicious or vexatious, you should seek legal advice – see Chapter 1, Paragraph 1.3 for further guidance.

5.10.3 As the DB, you have the authority needed to decide what appropriate redress should be granted when any part of a SC is upheld. Where a SC relates to any matter concerning Tri-Service policy, you should consult with the appropriate Policy owner before deciding the appropriate redress that is within your authority to award. The Policy owner will be able to advise you on whether MOD has the power to implement the redress under consideration and whether there are any legislative constraints that apply. MOD does not however have delegated authority from HMT to decide on the value of a financial award to be paid in cases where the decision in the SC process is a financial award should be paid as redress for delay, injury to feelings, stress, inconvenience caused, damage to reputation or any other such consequence of a wrong. This is because the amount to be awarded is not measurable i.e. it is

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[7] General data Protection Regulation (EU) 2016/679

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

‘unquantifiable’ and is therefore difficult to determine (it would for example be measurable if it were found that an allowance should have been paid). As the value is subjective, and HMT considers such payments to be ‘novel and contentious’ in terms of spending public money, their approval is required as to the sum to be awarded.

5.10.4 Where unquantifiable financial awards of this nature are considered to be, or form part of, appropriate redress in the view of the DB, you will have to pause in finalising your decision and seek Treasury approval via a Business case submitted through the sSS and the TLB and MoD Finance for an appropriate sum, before the final decision on the complaint can be communicated. Advice, including legal advice from the sSS must always be sought in these circumstances. Please be aware that authority to award financial redress may ultimately be declined.

5.11 How should the Complainant be informed of the decision?

5.11.1 Having considered a SC, you must notify the Complainant, Respondent(s) and any other person(s) affected, of your decision in writing. You must give reasons for the decision and inform the Complainant of their right to appeal the decision, how and to whom to submit it, and the time limit for doing so. Generally, your decision letter should contain the following information:

a. a summary of the elements of the SC.

b. an explanation of the investigation undertaken (how and by whom).

c. an explanation of whether each element of the SC was upheld, rejected, or could not be determined and why.

d. if the SC is wholly or partially upheld, where necessary a clear indication of your intention with regard to recommending any follow-on action against the Respondent(s) but not the nature of the action.

e. an explanation on each element of redress requested, as to whether it is granted or not and why.

f. identify appropriate lessons learnt as the result of the investigation.

g. the right of the Complainant to appeal the decision on permitted grounds within two weeks of the Complainant being deemed to have received notification of the decision, and to whom in the sSS the appeal should be sent via the My Complaint application. Alternatively in circumstances where the app cannot be used, an appeal can be made in writing or by using the Service Complaint Appeal Form to the relevant sSS that was referred to in the decision letter (see also Annex O).

h. in your role as the DB, it is important to remember the emotional impact that the SC process and decisions can have on all those involved. When delivering a decision on a SC, you should endeavour to articulate your decision appropriately and consider sign-posting individuals to the support available to them.

5.12 Recording information about individual Service Complaints

5.12.1 You are to make sure that a SC (including those submitted by former Service personnel) dealt with under this JSP are entered onto the Case Management System. Recording on the Case Management System ensures progress with a complaint can be monitored and the current state of play can be quickly understood. The information will also be used by the AFC as part of the annual assessment of the effectiveness of the system overall.

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

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

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

6 Information for the Appeal Body

6.1 Introduction

6.1.1 Where the single Service Secretariat (sSS) or, following a review, the Armed Forces Commissioner (AFC) decides an appeal by the Complainant can proceed, the sSS must appoint an Appeal Body (AB), with the authority to determine the appeal and to grant any appropriate redress. In certain circumstances, Independent Members (IM) must be included as part of the AB. Further guidance on the role of the IM and when they must be appointed can be found at Chapter 10.

6.1.2 The Defence Council is constitutionally responsible for the decisions and appointments made in the Service Complaints (SC) system, but in practice will delegate the majority of its functions to individuals. References made in this chapter to the 'single Service Secretariats' relate to the Service acting on behalf of the Defence Council, based on delegations from the Defence Council that have been put in place to specified posts.

6.2 How will you be notified of your appointment?

6.2.1 You will be notified in writing of the terms of your appointment and authority to determine the appeal and the redress you are able to give. The sSS will also inform the Complainant and any Respondent(s) in writing, notifying them you have been appointed.

6.3 What is the role of an Appeal Body?

6.3.1 Your role as an AB is to:

a. consider the appeal;

b. determine whether the complaint is well founded; and, if it is,

c. grant any redress you consider appropriate and within your authority to do so. Noting that some redress may be outside of your delegated authority and require additional approval, such as His Majesty's Treasury (HMT).

6.4 What are your responsibilities?

6.4.1 All SCs are to be taken seriously. They reflect that a Complainant considers that something is not right, and needs addressing and should be handled in a professional and considerate way and in as reasonable a time as possible.

6.4.2 The Principles of Fairness are at Annex F. They set out the ways in which all involved in handling a SC should conduct themselves. They are not laid out in legislation but are principles deemed by the Ombudsman Association to be good practice in dealing with complaints. You should apply them throughout your part in the process.

6.4.3 As the AB, think about how you would want to be treated if you were party to a SC, and in particular aim to:

a. act promptly and respond within any timeline given to you in dealing with a SC. When you cannot do that, be as open as possible about the reasons why and notify whoever is awaiting your response as soon as you know it will be late, setting out a new, reasonable date.

b. set clear deadlines for responses and contact individuals in advance and once they have passed. It is entirely proper to determine an appeal based on the information you have if others are not responding to your reasonable requests and within reasonable deadlines. If you are in any doubt whether to move on and reach a determination, speak to your contact in the sSS that is assisting you.

c. be flexible and always consider whether a complaint can be resolved informally (full information on the informal complaints process can be found in JSP 763 - The MOD Behaviours and Informal Complaint Resolution Policy; without having to follow the complaints process set out in this chapter. This is a perfectly legitimate route for resolving a Complainant's concerns and can be quicker at getting them to a situation they are content with and deals with the issue in hand. Mediation can be particularly effective when a complaint rests on a breakdown in relationships. Informal resolution can only however be used with the consent of those involved in the matter under dispute.

d. be open and maintain contact with the Complainant and any other directly involved parties, such as Respondents. Keeping all parties up to date on matters can help to alleviate anxiety and maintain their confidence that their complaint is being taken seriously.

6.4.4 If at any stage in the complaints process it appears the SC might constitute a criminal or Service disciplinary offence the AB should immediately notify the Respondent's Commanding Officer/Senior Line Manager so that they may report the matter to the Ministry of Defence Police (MDP) or Service Police[9] in accordance with the relevant procedures. If in any doubt whatsoever, the AB should always seek advice from the relevant sSS.

6.4.5 Where a case is returned by Service Police or MDP to the AB, the AB does not have the option of simply doing nothing further. The handling of the complaint should proceed in the normal manner unless the Complainant decides to withdraw the complaint. No presumption should be made about the merits or otherwise of the complaint, simply because the Police decided not to take criminal/disciplinary action or if it did not result in a conviction.

6.4.6 If at any stage, you are not sure how to proceed you should seek advice. The sSS will be your primary point of contact and is a good source of helpful information.

6.4.7 It is important that a Complainant has someone to assist and support them throughout the process to help them understand how it works and to provide them with

[9] A Service Police investigation usually only needs to be instigated if the AB considers that the Respondent may have committed an offence under the Armed Forces Act 2006 and the AB's decision is likely to result in disciplinary action.

independent advice. This is done by way of an Assisting Officer (AO), whose role and responsibilities are set out in Chapter 8. You are to make sure that the Complainant is aware of the value of having an AO, the ability for AOs to access documentation via the My Complaint application to help them through the procedural aspects of the process, and if they do not have anyone that they wish to nominate, you should discuss with them the benefits of you assigning someone to take on the role.

6.4.8 You should also ensure the Respondent(s) is aware of the sources of support and guidance available to them including the offer of an AO and that any welfare/pastoral needs which they may have being catered for. A range of independent support available to them can be found at Annex O. This is particularly important when a Respondent is no longer serving in the same unit as the Complainant as lack of communication or feelings of isolation due to perceived lack of support can have a debilitating effect, especially if investigations become protracted.

6.4.9 Where a Complainant decides to withdraw their appeal and a reason for withdrawal is not initially provided, you will be expected to seek reasons from them and record on the Case Management System application accordingly. Where you suspect that a Complainant may have been pressured into withdrawing their appeal, you are to seek advice from the relevant sSS.

6.4.10 You must ensure that any person who is the subject of the SC (a Respondent), or any other person who is likely to be criticised in a decision you might make, is given an opportunity to comment on allegations about them in the SC. Where a Respondent is no longer serving as a member of the Armed Forces, is a Civil Servant or Civilian, bear in mind that they cannot be compelled to participate in the process. If they decide not to participate, it is good practice to remind the Respondent that the complaints process will continue without their input, but they will be informed of the outcome regardless. Any comments received must be given due weight in making your decision on the complaint.

6.5 The need for timely processing of a Service Complaint

6.5.1 It is MOD policy that 90% of SC should be completed within 24 weeks. This timeline starts from the date the Complainant receives notification from the Specified Person, or from the AFC following a review, that a complaint is admissible. It is important for all concerned that SC are progressed in a timely manner, though it is also right that time can be taken to enable alternative and informal solutions to be tried and more information to be gathered that can result in better informed decisions and actions. A balance needs to be struck.

6.5.2 If a Complainant believes that there has been undue delay in the handling of a SC which is still active within the SC system, they have the right to make an application to the AFC requesting an investigation into the delay See Chapter 3 of the Policy document for more details on the role of the AFC or visit www.afcommissioner.org.uk

6.5.3 If you are notified by the sSS that an application has been made to the AFC, you should continue to progress the SC. You should co-ordinate with the sSS as to next steps to ensure the matter is progressed to avoid any further delay while being mindful of your obligations as an AB.

6.6 What if you are unable to continue considering the appeal?

6.6.1 You cannot decide a SC if you find that you are implicated or somehow involved in the matter that is being complained about. If that happens you must inform the sSS within five working days of becoming aware of this, setting out:

a. why you believe it to be the case; and

b. including the names of anyone else you believe may also be implicated.

6.6.2 It may also not be possible for you to continue as an AB, for example if you are deployed on Operations or leave the Service before a decision has been reached.

6.6.3 If you believe you are unable to continue as an AB, you should seek advice from the sSS within five working days of becoming aware of this.

6.7 Is any further investigation of the Service Complaint required by the Appeal Body?

6.7.1 In exceptional circumstances, and before making your determination, you may decide that further investigation of a SC, or aspects of it is required. You may decide to authorise another person to carry out the investigation (see Chapter 9 for more details), but they must not be implicated in the matters being complained about or have any interest in the outcome. However, it is for you to determine the appeal.

6.7.2 If a SC details allegations of bullying, harassment or discrimination or any other unacceptable behaviour, and you have decided that further investigation is required, you should contact the relevant sSS who should arrange for a suitably trained Investigator to investigate the SC on your behalf. If a SC includes allegations of a sexual nature, the investigation should be carried out by an investigator from the Outsourced Investigation Service (OIS).

6.7.3 If it's decided that further investigation is required and the SC relates to any matters concerning Tri-Service policy, you or the person carrying out the investigation, should seek to identify and engage with the relevant Policy owner in order to understand the interpretation and intent of the Policy.

6.7.4 Posting or discharge is not to be considered as a valid basis for excluding an individual from any inquiries. Should information or documents not be provided or produced within a reasonable period of time that you have set out, you may proceed to reach a decision based on the information or documents available to you.

6.8 Disclosing information prior to making a Determination

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

6.8.2 Pre-decision disclosure provides the opportunity for those parties to comment in writing on the papers, and for you to consider those comments when making your determination. You should encourage parties to respond to such requests to disclosure normally within ten working days to avoid any unnecessary delay and to ensure access to the relevant documentation via the My Complaint application. In some circumstances however, you may offer (following consultation with the sSS) an extension to the deadline where it would be in the interests of fairness and completeness to do so.

6.8.3 The disclosure period must be noted on the Case Management System, including an explanation if the agreed disclosure period is in excess of ten working days.

6.8.4 There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the GDPR[10] and sections 8(c) and 8(d) of the DPA 18[11] and the Freedom of Information Act 2000 provide the lawful basis for the AB to process personal data necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority. Privileged and protected information and advice is not to be disclosed or paraphrased, without discussing with the relevant expert advisers e.g. legal, security or information. If doubt exists on any aspect of disclosure, you should seek legal and MOD policy advice from the appropriate sSS.

6.9 How should you determine the appeal?

6.9.1 You must establish whether the SC is well founded. The standard of proof to be applied when determining the appeal is known as 'on the balance of probabilities', for further guidance on this see Chapter 1, paragraph 1.5 of the Policy document.

6.9.2 A SC is presumed to have been made in good faith, even if you have not upheld it. If you decide a complaint is malicious or vexatious, you should seek legal advice – see Chapter 1, Paragraph 1.3 for further guidance.

6.9.3 In their appeal application (submitted via the My Complaint application or a Service Complaint Appeal Form), the Complainant must state the grounds on which they would like to appeal and why. Whilst this would identify those matters about the decision stage that the Complainant is concerned about, you may decide, if appropriate, to consider the entirety of the complaint afresh. This may result in your findings and determination, and any redress, being different from those of the Decision Body (DB).

6.9.4 It is up to you to decide whether any parts of the SC ruled admissible in the Specified Person's admissibility decision is well-founded and if so, to decide the appropriate redress within your authority to grant. However, where a SC relates to any matters concerning Tri-Service policy, you should consult with the appropriate Policy owner before deciding the appropriate redress that is within your authority to award. The Policy owner will be able to advise you on whether MOD has the power to

[10] General Data Protection Regulation (EU) 2016/679

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

implement the redress under consideration and whether there are any legislative constraints that apply.

6.9.5 Your determination on the SC should be decided on the basis of a simple majority if more than one person has been appointed as the AB.

6.9.6 You must ensure that any person who is the subject of the SC (a Respondent), or any other person who is likely to be criticised in a decision you might make, is given an opportunity to comment on allegations about them in the SC. Any comments received must then be given due weight in making your decision on the SC.

6.9.7 As the AB, you have the authority to decide what appropriate redress should be granted when any part of a SC is upheld. MOD does not however have delegated authority from HMT to decide on the value of a financial award to be paid in cases where the decision in the SC process is that a financial award should be paid as redress for delay, injury to feelings, stress, inconvenience caused, damage to reputation or any other such finding. This is because the amount to be awarded is not measurable i.e. it is 'unquantifiable' and is therefore difficult to determine (it would for example be measurable if it were found that an allowance should have been paid). As the value is subjective, and HMT considers such payments to be 'novel and contentious' in terms of spending public money, their approval is required as to the sum to be awarded.

6.9.8 Where unquantifiable awards of this nature are considered to be, or form part of, appropriate redress in the view of the AB, you will have to pause in finalising your decision and seek HMT approval via a Business Case submitted through the sSS, and TLB and MoD Finance for an appropriate sum, before the final decision on the SC can be communicated. Advice, including legal advice from the sSS must always be sought in these circumstances. Please be aware that authority to award financial redress may be declined.

6.10 Deciding whether an Oral Hearing is required

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

6.10.2 The complexity of the SC and its potential wider implications may be considerations to be included in coming to a decision on whether to hold an OH. Similarly, an OH may involve no more than asking the Complainant to state the SC in person but might involve others concerned. Straightforward SC involving no substantial conflicts of evidence on any material issue or difficult points of law may be less likely to require an OH.

6.10.3 If an OH is held, the Complainant should always attend and may be accompanied by an AO and at the discretion of the AB, by a legal or other representative. A member of the sSS, other administrative staff and a verbatim recorder may also be present.

6.10.4 Before proceeding with an OH, all relevant documents to be used by the AB in making its decision should have been disclosed to the Complainant and any others who might be affected by the outcome of the complaint. The same people should also

have had sufficient preparation time prior to the hearing and, in particular, the opportunity to produce evidence and propose witnesses.

6.10.5 Any relevant documents will be considered as well as oral evidence. Evidence is not taken on oath and witnesses may be questioned by the AB considering the SC and by the Complainant or a representative. The hearing should be investigative rather than adversarial. The Complainant, Respondent or a representative may address the AB and may submit documentary evidence. Witnesses may also be called to give oral evidence based on their witness statement.

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

6.11 How should the Complainant be informed of the determination?

6.11.1 Having considered the appeal, you must notify the Complainant and any Respondent(s) of your determination in writing. You must give full reasons for the determination and inform the Complainant of their right to apply to the AFC if they are dissatisfied and the time limit for doing so.

6.11.2 Your determination letter should contain the following information:

a. a summary of the elements of the SC;

b. an explanation of the investigation undertaken (how and by whom);

c. an explanation of whether each element of the SC was upheld, rejected or could not be determined and why;

d. if the SC is wholly or partially upheld, where necessary, a clear indication of your intention with regard to recommending any follow-on action against the Respondent(s);

e. an explanation on each element of redress requested, whether it is granted or not and why and what form of redress (if any) you have decided is appropriate for any wrongs found to have occurred; and

f. the right of the Complainant to apply to the AFC if they are dissatisfied and the time limit for doing so.

6.11.3 In your role as the AB, it is important to remember the emotional impact that the SC process can have on all those involved. Therefore, when delivering a decision on the appeal you should endeavour to articulate your decision appropriately and consider sign-posting individuals to the support available to them.

6.11.4 Complainants have a right to make an application for their complaint to be investigated by the AFC at the end of the SC process and should in no way be discouraged from or be victimised for doing so.

6.12 Recording information about individual Service Complaints

6.12.1 You are to make sure that a SC (including those submitted by former Service personnel) dealt with under this JSP are entered onto the Case Management System, this ensures that progress with a complaint can be monitored, and the current state of play can be quickly understood. The information will also be used by the AFC as part of the annual assessment of the effectiveness of the system overall.

7 Information for the Single Service Secretariat

7.1 What is the role of the single Service Secretariat?

7.1.1 The Defence Council is constitutionally responsible for the decisions and appointments made in the Service Complaints (SC) system, but in practice will delegate the majority of its functions to individuals. References made in this JSP to the 'single Service Secretariats' ((sSS) relate to the Service acting on behalf of the Defence Council, based on delegations having been put in place to named posts from the Defence Council.

7.1.2 The sSS administers the SC process within its Service. As part of that role it:

a. appoints a Specified Person from within the sSS Central Admissibility Team (CAT) to decide whether a statement of complaint raised by a serving or former Service person is admissible as a SC.

b. appoints a Decision Body (DB) with the necessary authority to decide a SC and to grant appropriate redress.

c. decides whether an appeal application from a Complainant following a DB can proceed (on the basis that is in time and/or has been brought on a valid ground)[12].

d. appoints an Appeal Body (AB) with the necessary authority to determine an appeal and to grant appropriate redress.

e. where the Armed Forces Commissioner (AFC) undertakes investigations, handles requests for information.

f. comments on draft investigation reports from the AFC.

g. considers and responds to final reports from the AFC.

h. forwards to the sSS CAT allegations referred by the AFC.

7.2 What are your responsibilities?

7.2.1 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in handling a SC should aim to conduct themselves. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. Anyone with a secretariat role should be familiar with the principles and apply them throughout their part in the process.

7.2.2 As a member of a Secretariat, think about how you would want to be treated if you were party to a SC, and in particular aim to:

[12] See Policy Doc, Chapter 1, sub-paragraphs 2.13.1 – 2.13.6 (inc) in respect of Grounds and Timelines for bringing an appeal.

a. act promptly and respond within any timeline given to you in dealing with a SC. When you cannot do that, be as open as possible about the reasons why and notify whoever is awaiting your response as soon as you know it will be late.

b. set clear deadlines for responses and contact individuals in advance and once they have passed.

c. be flexible, including considering whether a complaint can be resolved through local grievance resolution, even though this will primarily be a consideration for the Specified Person in the first instance or for the unit before a SC is raised. This is a perfectly legitimate route for resolving a Complainant's concerns and can be quicker at getting them to a situation that they are content with and that deals with the issue in hand. Mediation can be particularly effective when a complaint rests on a breakdown in relationships. Informal resolution can only however be used with the consent of those involved in the matter under dispute.

d. be open and maintain contact with the Complainant and any other directly involved parties, such as Respondents. Keeping the Complainant up to date on matters can help alleviate anxiety and maintain their confidence that their complaint is being taken seriously. The same applies to any other parties who are involved.

7.2.3 If at any stage you are not sure how to proceed you should seek advice, from your legal or policy teams or, if it is an issue which could affect the guidance in this document and for example how the legislation is being interpreted, the MOD Service Complaints Policy team.

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

7.3 The need for timely processing of a Service Complaint

7.3.1 It is important for all concerned that SCs are progressed in a timely manner. If a Complainant believes there has been undue delay in the handling of a complaint that has not yet been finally determined and is still active within the SC system, they have the right to make an application to the AFC. The AFC has provided guidance on how to make an application; see www.afcommissioner.org.uk

7.3.2 If the sSS is notified that an application has been made to the AFC, work on and progression of the SC is to continue. The Service should not await a response from the AFC as this might delay matters further.

7.4 Acting on receipt of a Service Complaint

7.4.1 After an admissibility decision has been made by a Specified Person (whether that decision has been made by the Specified Person or received by the sSS CAT following a review by the AFC), a decision has to be made about whom to appoint as

the body to decide the SC. That decision will be taken by the person in the sSS who has delegated authority from the Defence Council for that purpose. The DB can consist of one or more persons, or the Defence Council itself, but has to have the necessary authority to consider and decide the SC and to grant any appropriate redress.

7.5 Appointing a Decision Body

7.5.1 The sSS must confirm to a DB in writing that they have been appointed to decide the SC. The Complainant and any Respondents will be notified of who has been appointed.

7.5.2 The sSS can only appoint a person or panel of people to consider the SC where:

a. the person, or all the persons in the body, are authorized to decide the matters and to grant appropriate redress; or

b. authorisation is given to that person or to all persons to be appointed.

7.5.3 The sSS may decide that a Service Board or the Defence Council itself should be appointed to decide a SC. In that case there will be no opportunity for an appeal - Chapter 2, paragraph 2.9.1 of the Policy document sets out more detail on this and the implications for the Complainant that need to be set out when notifying them of who has been appointed as a DB.

7.5.4 The sSS can decide to appoint an Independent Member (IM) to a DB if it judges that it would be helpful in achieving a decision on the SC, although it is not required under the legislation. If an IM is to be appointed, the sSS should contact the MOD Service Complaints Policy team who will allocate an IM. Similarly, it is possible to appoint an IM to a Service Board or to act with the Defence Council itself, although this too is not required under the legislation.

7.5.5 If a SC includes allegations of a sexual nature, a DB should not include anyone from the Complainant's immediate Chain of Command (CoC) and an IM should be appointed.

7.5.6 In exceptional circumstances, it may become apparent once a DB has begun its work that a new body needs to be appointed. For example, it may become known that a member of a DB was implicated or conflicted in some way with the SC, or it may be that a member of the DB leaves the Service or dies. This list is not exhaustive. In such instances a DB appointment can be voided, and the secretariat can appoint a new DB. The Complainant and any Respondent(s) are to be notified in writing, and then of who has been appointed.

7.6 Who cannot be appointed to decide a Service Complaint?

7.6.1 The following cannot be appointed to decide a SC:

a. a person who is the subject of the complaint, or is alleged to be implicated in any way in the matter, or matters, complained about; or

b. an officer of the Naval Chaplaincy Service, the Royal Army Chaplains Department or the Royal Air Force Chaplains Branch.

7.7 Commissioning an investigation into Bullying, Harassment and Discrimination and Other Unacceptable Behaviours

7.7.1 If a SC details allegations of bullying, harassment or discrimination or any other Unacceptable Behaviour, the DB should arrange for the appointment of a suitably trained Investigator to conduct the investigation - if considered appropriate an AB may also decide that further investigation of a SC, or aspects of it, is required. This will be either an independently commissioned Investigator who has been trained to industry standard, or an Investigator from a specialist SC Investigation Team who is suitably trained or experienced to conduct such investigations. If a SC includes allegations of a sexual nature, any investigation should be carried out by an investigator from the Outsourced Investigation Service (OIS). It is the responsibility of the sSS to facilitate this appointment.

7.7.2 There is a whole force corporate cadre of trained Investigating Officers (IOs) to investigate Service personnel's bullying, harassment, discrimination and other Unacceptable Behaviours complaints. To secure an Investigator, financial approval and funding must be obtained in advance from the local Finance Manager. Details of the financial approval must be included in the commissioning paperwork when the request is sent to the team responsible for the cadre of investigators. If it is not included the request will be rejected.

7.7.3 Once an Investigator has completed an Initial Investigation Report (IIR) and it has been signed off by the DB/AB, the Finance Manager who approved the Funding will be required to process and pay the issued invoice within the terms set, citing the Purchase Order number on the Contracting Purchasing & Finance system.

7.7.4 The role of independently commissioned investigators will be completed once the IIR has been submitted and the DB/AB has signed it off. This will activate the invoicing process, for which the Finance Manager will be liable and must pay within 30 working days of receipt of the invoice.

7.8 Action to be taken if a Complainant submits an appeal

7.8.1 Having reached a decision on a SC, a DB must confirm it in writing and notify a Complainant of their right to appeal the decision and who to send it to. Chapter 2, paragraph 2.9.1 of the Policy document has guidance on the circumstances in which an appeal will not be available, and on the remaining rights of a Complainant. A Complainant can appeal a decision on a SC using the My Complaint application (accessed via Defence Gateway). Alternatively in circumstances where the app cannot be used, an appeal can be made in writing or by using the Service Complaint Appeal Form to the relevant sSS that was referred to in the decision letter (see also Annex O).

7.8.2 On receipt of a SC Appeal from a Complainant, the sSS will acknowledge receipt of the appeal in writing within 2 working days and decide whether the appeal can proceed. If an appeal is made outside the time limit (of two weeks from the Complainant having received notification of the DB's decision), the sSS will decide, based on the information provided by a Complainant, whether it would be just and

equitable for the appeal to proceed (see Annex P for further guidance).

7.8.3 If the sSS decide an appeal cannot proceed, they must inform the Complainant and any Respondent(s) in writing, giving reasons for that decision, informing the Complainant of the right to apply to the AFC for a review of that decision and the time limit for doing so.

7.9 Appointing an Appeal Body to determine an appeal

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

7.9.2 The sSS must confirm to an AB in writing that they have been appointed to determine an appeal, and separately to the Complainant and any Respondent(s) notifying them of who has been appointed.

7.9.3 A sSS can only appoint a person to determine an appeal where:

a. the person, or all the persons in the body are authorised to determine the appeal and to grant appropriate redress; or

b. authorisation is given to that person or all persons to be appointed.

7.9.4 It may be necessary to appoint one or more IMs to determine the appeal. Chapter 1, paragraph 1.6.2 of the Policy document has guidance on how to reach a decision on this. Chapter 10 of this Procedure document provides more details about IMs.

7.9.5 Where the sSS decides that there is a requirement for an IM, they must contact the MOD Service Complaints Policy Team. The appointment of IMs to determine SC is delegated by the Defence Council to posts within each sSS. The MOD Service Complaints Policy team is responsible for allocating an IM to a Service, and for recruiting and paying the expenses of IMs.

7.9.6 If a SC includes allegations of a sexual nature, an AB should not include anyone from the Complainants immediate CoC and an IM should be appointed.

7.9.7 It is possible to appoint an AB of all IMs. If the sSS considers it has such a situation, it should contact the MOD Service Complaints Policy team for further advice.

7.9.8 In exceptional circumstances, it may become apparent once an AB has begun its work that a new body needs to be appointed. For example, it may become known that a member of an AB was implicated in some way with the SC, or it may be that a member of an AB leaves the Service or dies. This list is not exhaustive. In such instances the AB appointment can be voided and the sSS can appoint a new AB. The Complainant and any Respondent(s) are to be notified in writing, and then of who has been appointed.

7.10 Who cannot be appointed to determine an appeal?

7.10.1 The following cannot be appointed to determine an appeal:

a. a person who is the subject of the complaint, or is alleged to be implicated in any way in the matter, or matters, complained about;

b. a person who was appointed to decide the complaint, or who was otherwise involved in the investigation or consideration of the complaint for the purposes of deciding the complaint; or

c. an officer of the Naval Chaplaincy Service, the Royal Army Chaplains Department or the Royal Air Force Chaplains Branch.

7.11 Initial action if a Complainant makes an application to the AFC

7.11.1 A Complainant has the right to apply to the AFC for an investigation to be carried out in relation to their SC once that complaint has been finally determined. The grounds for an application are set out in Chapter 3 of the Policy document. More information about the role of the AFC following an application is also set out in that chapter.

7.11.2 Having received an application, the AFC must decide whether to carry out an investigation and notify the Complainant and the sSS of their decision with reasons. If the decision is to investigate, you will be sent a copy of the application.

7.11.3 If the AFC is investigating the substance of a SC or its handling and decides to investigate maladministration that has been discovered that was not alleged by a Complainant, the AFC must write to you confirming this and giving reasons.

7.11.4 It is important that all sSS dealings with the AFC are in writing and that correspondence is retained as it may be required if there is any future action taken by any party following the completion of the AFC's investigation. It will also help to address any suggestion that the AFC's independence has been compromised by inappropriate or undocumented correspondence with the MOD.

7.11.5 If for whatever reason a Complainant withdraws their application at any time before an investigation has been completed by the AFC, the sSS will be notified. The AFC will also inform the sSS of any decision to begin, continue or discontinue an investigation following withdrawal of a Complainant's application.

7.12 Chain of Command support to an applicant to AFC

7.12.1 An applicant who approaches the AFC should be supported, as they were by an Assisting Officer (AO) when making their SC. It is for the AFC to give detailed support and guidance regarding their application.

7.12.2 It is appropriate for an individual to be supported from a pastoral or welfare perspective by their COC during their dealings with the AFC.

7.13 How a single Service Secretariat should respond to requests from the AFC for information

7.13.1 It is important that in carrying out an investigation the AFC has access to the people and information needed to conduct that work and to the extent that the AFC considers necessary. The AFC must be able to get all relevant information to carry out an investigation fairly and give confidence to everyone that their decisions are fully informed.

7.13.2 The AFC can carry on with an investigation and prepare a report even if information or other material that has been requested is not forthcoming within the period the AF has specified as being reasonable in the circumstances. If any such request is not met it could affect confidence that others have in MOD's or a Service's willingness to assist the AFC or could result in the AFC going on to deliver findings and recommendations that are incomplete or flawed in some way.

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

7.13.4 Information or material requested by the AFC is not to be withheld from the AFC unless there is a justifiable, lawful reason to do so. Those reasons are that:

a. the material is covered by legal professional privilege or public interest immunity (which are common law protections); or

b. the material is captured by specific legislation which prevents it from being provided in court proceedings, such as phone tap intelligence.

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

7.13.6 The AFC is subject to the provisions of Articles 6(1)(c) and 6(1)(e) of the GDPR[13] and sections 8(c) and 8(d) of the DPA 18[14] in respect of the protection of personal data. Therefore, neither the personal nature of information nor its security classification alone is a valid reason for withholding it from the AFC. The AFC is however able to impose confidentiality obligations on these grounds on anyone who is sent a copy of an investigation report.

7.13.7 If the AFC judges that material is being withheld unlawfully, it is expected that the AFC will raise the matter with the Service involved, up to and including the highest level, for an explanation. Ultimately the AFC has the power to ask the High Court to investigate whether there has been a contempt of court by withholding material, and for the court to consider whether action should be taken against anyone for that. Information can only be withheld from the AFC where it is lawful to do so.

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[13] General Data Protection Regulation (EU) 2016/679

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

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7.13.8 It is imperative therefore that any resistance to comply with a request from the AFC is scrutinised thoroughly and is subject to legal advice, with the ultimate decision as to whether to withhold being taken by Ministers on advice. Ministerial submissions are a matter for the Service that is dealing with the case, with the MOD Service Complaints Policy team and MOD Legal Advisers Hd being consulted on the drafting.

7.13.9 The AFC will set out the information required. It is possible that the AFC will ask for supporting policy or guidance material that would have been in force at the time that the complaint was dealt with. To ensure that a consistent and accurate response is given to these wider questions, they are to be forwarded to the MOD Service Complaints Policy team, who will coordinate a response as necessary with the relevant Service and any other tri-Service policy owners.

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

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

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

7.14 Action in responding to a draft investigation report

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

7.14.2 The AFC will send a draft report to the nominated recipient in the Service which administered the complaint that has been investigated by the AFC. A copy will also be sent to the MOD Service Complaints Policy team, who will coordinate any comments on matters relating to personnel or other corporate policy. The sSS staff delegated to respond to the draft report and the Head Office if Service Complaints Policy team are to produce a single, coherent and consistent response.

7.14.3 The response must be returned within any deadline set by the AFC, and if this is not going to be possible, the reasons must be given to the AFC as soon as that is known and with a date by which a response could be given. Every effort is to be taken to meet the original deadline, or any that is subsequently agreed, to ensure that the matter does not stagnate or attract unnecessary criticism.

7.14.4 In commenting on a draft report, comments are not to be made on the draft findings or recommendations generally but should focus on any incorrect facts or misinterpretation of policy or procedure on which they are based.

7.14.5 It would also be appropriate to bring to the AFC's attention any consequences that are likely to follow from a draft recommendation which would make it likely that it could not be implemented, particularly if that meant the recommendation could not be followed at all. This might be the case, for example if:

a. a recommendation had wider policy implications beyond the Service Complaint under investigation;

b. it is not legally sustainable and/or would be contrary to extant legislation applicable to the Armed Forces and/or attract significant legal risk or liability for the single Services or MOD; or

c. if implementing it would have considerable and/or unsustainable financial implications; or

d. if it Involves a policy or other matter that is the responsibility of another government department and MOD alone would not be able to guarantee accepting it.

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

7.14.7 Whilst it is generally expected that the AFC's recommendations will be accepted, it is possible to reject them though this would be exceptional. There will need to be very good reasons to do so, and it could therefore be important and useful to be able to point to earlier stages in the drafting process where difficulties with implementing recommendations had been explained.

7.14.8 The sSS should ensure that any communication with the AFC's office about a draft report is in writing to ensure that there is a clear record which may need to be referred to subsequently when responding to a final report. It is important that the AFC's dealings with MOD are independent and are seen to be so by all parties. There can therefore be no suggestion that there have been inappropriate and undocumented discussions between MOD and the AFC.

7.15 Determining a response to the AFC final report

7.15.1 The AFC's final report will be sent to the nominated recipient in the Service that administered the original SC, with a copy being sent to MOD Service Complaints Policy team.

7.15.2 The sSS will carry out the detailed consideration of a final report, with advice being given to the nominated recipient on the action to be taken in response to the AFC's recommendations.

7.15.3 There are a number of options open to the sSS in considering how to respond to a report's findings and recommendations, including:

a. to agree with the findings; and

i. with the recommendations fully; or

ii. with only some of the recommendations; or

iii. with the thrust of all or some of the recommendations but to implement them in another way; or

iv. with none of the recommendations; or

b. to disagree with the findings and so with the recommendations that follow.

7.15.4 The AFC's findings are binding. The only mechanism for challenging the findings would be by Judicial Review, and such action would be exceptional. It is unlikely that a sSS would seek to disagree formally with the findings. If it were considering doing so, legal advice must be sought before any action is taken or any correspondence entered in to with the AFC. MOD Legal Advisers are to be involved in providing that legal advice to ensure a consistent approach is taken. It is expected that anything that might lead to a decision to reject findings would have been raised as part of commenting on the draft report.

7.15.5 The AFC's recommendations must not simply be ignored, but there is some leeway in deciding what action to take in response to them. Recommendations are not binding but do have considerable weight. The expectation is that they will be followed, and if that is not the action recommended by the sSS, there must be good, cogent, and defensible reasons for saying so. If anyone takes legal action against a decision not to follow a recommendation, those reasons will ultimately have to be defended in court on public law grounds.

7.15.6 It may be that the decision is to not follow a recommendation, because:

a. to do so would undermine a policy or procedure that is essential for good discipline or required by commanders to deliver an effective force to meet defence requirements – a recommendation that challenged a commander's decision to deny a Service person leave for sound operational reasons might be such an example;

b. on further investigation as to how to implement it, it would have excessive financial implications which could not be justified or would not be affordable, or otherwise comply with the rules of Managing Public Money as set out by His Majesty's Treasury (HMT);

c. it is not legally sustainable and/ or would be contrary to extant legislation applicable to the Armed Forces and/ or attract significant legal risk or liability for the single Services or MOD; or

d. it involves matters that fall to another government department to deliver such as on pension matters; or

e. the AFC has recommended redress which for example for Service career management reasons cannot be achieved.

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

7.16 Responding to the AFC and implementing recommendations

7.16.1 The decision on how to respond to the findings and recommendations will determine the timing and nature of the reply to the AFC and to the Complainant setting out the action, if any, which is planned:

a. where the decision is to implement a recommendation but to do so all or part of the SC process needs to be re-run or another MOD process needs to be carried out (e.g. a promotion board needs to take place), an interim response is to be sent. It must set out the action that is being taken, indicate when it is expected to be complete, and confirm that a further, final response will follow when the outcome is known. Having made a recommendation that action be taken, the AFC in particular will wish to know the final result, and likely want to include it in the annual report.

b. the same approach as above on responding to the AFC is to be followed where the process to be completed or the final decision to be taken rests with another government department.

c. where the decision is to implement a recommendation in full and to do so does not involve any other process, or where the decision is to reject a recommendation, a single, final response is to be sent.

7.16.2 It is possible to decide to re-run the whole or any individual part of the complaint process, whether or not explicitly part of the AFC's recommendation. The action required in each case will depend on what the AFC has found and recommended, which will also determine, in part, whether any reconsideration of all or part of the complaint should be by the same DB or AB that was involved in the original running of the process.

7.16.3 Where the decision is to re-run all or part of the process again, the secretariat must apply the same procedural rules as with the original SC on appointing a DB or AB and to the inclusion of IM's. In appointing a SC to a DB or AB, the sSS may give directions to the body regarding the recommendation, for example to only focus on particular aspects of the complaint.

7.16.4 The AFC's final report must be considered fully and carefully before any response is given. There is no time limit set out in legislation for responding to a final report, but it should be done promptly and within any reasonable time frame set out by the AFC. If that cannot be met the AFC and Complainant are to be notified in writing, with the reasons.

7.16.5 If any part of the SC is to be reconsidered, the Complainant, AFC and anyone else to whom the AFC sent a copy of their investigation report is to be told the outcome.

7.17 Correcting errors in a final report

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

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

7.18 How to handle the AFC referral of allegations

7.18.1 Anyone can contact the AFC with an allegation of wrongs done to a person who is subject to Service law. The AFC can decide to refer an allegation to the relevant sSS CAT who would have received the complaint had the Complainant raised the matter directly with them. The AFC will normally seek the Service person's consent before forwarding an allegation.

7.18.2 The relevant sSS CAT will notify the AFC that they have received the referral, using a standard acknowledgement (see Annex G), and the name of the Specified Person appointed to undertake the role.

7.18.3 Having referred an allegation, the AFC is to be notified within three weeks of the day of the occurrence of each of any of the following matters:

a. that the Specified Person has informed the person that the allegation has been referred.

b. that the person has been made aware of:

i. how to make a SC; and

ii. the time limits for making a SC.

c. of whether the person wishes to make a SC about the allegation.

d. of a decision taken by the Specified Person that the subsequent SC is inadmissible.

e. of a decision taken by a DB as to whether the SC is well founded and if it is what if any redress is appropriate.

f. of a decision that an appeal has been made out of time.

g. of a determination reached by an AB as to whether the complaint is well founded and if it is what if any redress is appropriate.

h. of the withdrawal (or the informal resolution) of the SC.

7.18.4 If the AFC is contacted at any stage by the person who made the original allegation, that person may be asked to contact the sSS for information on its progress.

7.18.5 The sSS is to put procedures in place that ensure that the information above can be passed to the AFC in line with the time limit.

7.18.6 A referral by the AFC to a sSS CAT does not mean that a SC has been made. That process is not deemed to have started until a Specified Person has decided that a statement of complaint by a Service person is admissible - see Chapter 2, paragraph 2.6.1 of the Policy document.

7.19 Dealing with welfare concerns from the AFC

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

7.20 Recording information about individual Service Complaints

7.20.1 All complaints (including those submitted by former Service personnel) dealt with under this JSP are to be entered onto the SC Case Management System. Recording on the SC Case Management System ensures that progress with an individual SC can be monitored, and the current state of play can be quickly understood. The information will also be used by the AFC as part of the annual assessment of the effectiveness of the system overall.

8 Information for the Assisting Officer

8.1 Appointment

8.1.1 You will be appointed by a Specified Person or somebody acting on their behalf, or you may be approached directly by a Complainant or a Respondent to be their Assisting Officer (AO) before a Service Complaint (SC) is submitted or at the earliest opportunity. More information about the Specified Person's role is in Chapter 4. You can be asked to assist the Complainant or the Respondent but not both.

8.1.2 You will:

a. be an Officer, Warrant Officer, Senior Non-Commissioned Officer or Civil Servant;

b. not be involved in the processing or deciding of the SC; and

c. not have had either any involvement in the SC or have a personal interest in the outcome, nor should there be any likelihood that you will be involved in any subsequent or related investigation, included as a witness.

8.2 Your role

8.2.1 In any complaint, it is essential that a Complainant or Respondent has someone to support them and to help them through the process. Complainants may be upset but may also be reluctant to take action because they are afraid of reprisals or other adverse consequences. Respondent(s) may be shocked at being accused, as well as fearful about the impact of the allegations on their career or angry and emotional. Your role as an AO, whether to a Complainant or a Respondent, will be to provide that support and to assist in a SC being investigated and resolved as quickly as possible. You may also advise the Complainant/Respondent to consider whether there are alternative routes to resolving matters open to them, for example informal resolution or through a Special-To-Type (STT) procedure

8.2.2 You should be ready to help the Complainant or Respondent prepare their case and to ensure that the complaint or response to a complaint, is clear, concise, and unambiguous. For a Complainant, this should help clarify the issues at the root of the complaint; the precise nature of the redress sought and, ultimately, lead to the speedy resolution of the complaint. Where there appears to be a reluctance to progress to a SC, because of the stress or anxiety this may entail you are to ensure that the Complainant/Respondent is made aware of the welfare/pastoral support and/or medical help that is available.

8.2.3 Your role helps to achieve a fair resolution of the complaint with the minimum of delay. You will therefore be required to have the appropriate knowledge and experience to gain the trust and respect of the person who you are assisting. This will be particularly important if the person you are assisting is vulnerable or there are any allegations of sexual offences - in such cases you are to seek advice and see the guidance at Annex B of JSP 839 - Victims' Services and seek advice from the single Service Secretariat (sSS) and Unit welfare support services.

8.3 Your responsibilities

8.3.1 All complaints are to be taken seriously and should be handled professionally and confidentially, with consideration and in as reasonable a time as possible.

8.3.2 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice when dealing with complaints. You should familiarise yourself with the principles and apply them throughout your part in the process.

8.3.3 The Policy document of JSP 831 sets out the legislative background to the SC process and you should familiarise yourself with this when you are appointed or asked to be an AO.

8.3.4 You are expected to be open and honest when carrying out your duties. Similarly, you should respond to a request for help or information, whether by the person you are assisting, or others involved in progressing a complaint, within any deadline that has been set.

8.3.5 You should also encourage the Complainant to be open and honest when submitting their complaint.

8.3.6 You should remind the person who you are assisting of the need to respond promptly to requests for further information from other parties involved in the SC process.

8.3.7 You are to ensure that the person you are assisting understands what the SC process requires of them and of you. You must therefore be familiar with the process as set out in this document and JSP 763 - The MOD Behaviours and Informal Complaint Resolution Policy. On the latter you should also contact the unit Diversity and Inclusion Adviser (D&I (A)) for further advice if needed.

8.3.8 You are to ensure that the person you are assisting is aware of the welfare support available and to assist them in accessing it if required. Further information concerning the welfare support available can be found at: https://modgovuk.sharepoint.com/sites/intranetHealthandWellbeing

8.3.9 You should encourage the person you are assisting to consider any opportunity to resolve the complaint early and through alternative resolution if possible and appropriate. You can also encourage the person to suggest informal resolution if it is not offered by the Decision Body (DB) or Appeal Body (AB). Informal resolution, which can include for example Mediation, can be extremely effective in bringing a difficult situation to a successful conclusion for all involved, and more quickly than relying solely on the SC process. However, if they believe that informal resolution is not appropriate, you must respect their decision.

8.3.10 You are not to make decisions on behalf of the person you are assisting.

8.3.11 You are to be aware, and to ensure that the person you are assisting also understands, that whilst you may treat anything that they tell you as being in

confidence, you must report the following matters to the Specified Person/DB/AB if they arise:

a. any criminal or disciplinary offence.

b. any breach of security.

c. any safeguarding issues.

8.3.12 You are to notify the Specified Person/DB/AB and the person you are assisting immediately if, for any reason, you can no longer act as an AO.

8.3.13 With the exception of the matters summarised in sub-paragraph 8.3.11 above, you should be aware that all correspondence between you and the person you are assisting must be treated as confidential and should only be disclosed to the Chain of Command (CoC) if the individual agrees to it.

8.3.14 If a Complainant or Respondent requests it, you will have the ability to access their case documentation via the My Complaint application to help them through the procedural aspects of the process.

9 Information for Investigators

9.1 Introduction

9.1.1 Before a Service Complaint (SC) can be considered and a decision made, the Decision Body (DB) is responsible for ensuring an investigation is conducted to establish the facts of the complaint.

9.1.2 An Appeal Body (AB) may also decide that further investigation of a SC, or aspects of it is required.

9.1.3 The DB and/or the AB may then decide to authorise another person to carry out the investigation on its behalf.

9.1.4 If you are tasked by a DB/AB to investigate, you may request the information or documents you require from the Complainant, Respondent(s) and any other person(s) you consider appropriate.

9.2 Your responsibilities

9.2.1 All complaints are to be taken seriously and should be handled professionally and considerately.

9.2.2 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles and apply them throughout your part in the process.

9.2.3 The Policy document of this JSP sets out the legislative background to the SC process and you should familiarise yourself with it when you are appointed to investigate a SC.

9.3 Your role

9.3.1 You will be appointed by a DB and/or AB to investigate a SC made by a Service person or former Service person, which may involve allegations against another Service person, MOD Civil Servant or a civilian. You cannot be appointed under the terms of this JSP to investigate a complaint that has been made by a Civil Servant or MOD Civilian Contractor.

9.3.2 Your role is to conduct a fact-finding investigation. It is not your role to decide the SC or to determine the appeal. You must not therefore include in your investigation report or any other communication to the DB or AB, any personal commentary, findings or recommendations, as these are matters for the DB or AB alone.

9.3.3 You will be appointed by the DB/AB and, where appropriate, given copies of the SC, Terms of Reference (TOR) and the record of the Specified Person's initial interviews with any Respondent(s) and the Complainant.

9.3.4 When conducting an investigation, you should:

a. complete the investigation within 30 working days from the date that you received and agree the TORs;

b. have access to all MOD Service and civilian personnel considered to have information relevant to the investigation;

c. have access to all paperwork relevant to the SC;

d. conduct yourself impartially and courteously;

e. maintain confidentiality and objectivity in establishing the facts;

f. keep the DB/AB informed on a weekly basis of the progress of the investigation and of any problems encountered;

g. where there is a risk the investigation may, or does, overrun past 30 working days, inform the DB/AB as soon as you become aware;

h. conduct the investigation under the presumption that the SC was made in good faith; however, a presumption of good faith should not give the impression that the complaint will be upheld;

i. explain any delay in the investigation to the DB/AB;

j. safeguard all data pertinent to the investigation in line with Data Protection Act 2018 guidelines; and

k. produce an appropriate initial investigation report (Annex M) to the DB/AB.

9.4 How the investigation interviews will be conducted

9.4.1 Remote interviews are the default approach, where practical, including for Service personnel or civilian employees based overseas or on enduring operations. Face-to-face investigation interviews may be conducted with the approval of the DB/AB.

9.4.2 If applicable to the circumstances of the complaint, the Complainant should be interviewed first. Thereafter, the Respondent(s) and any witnesses whom they or the Complainant have named, will be interviewed. The Investigator may exercise discretion, based on the circumstances of the case, when deciding on the order of the interviews.

9.5 What considerations need to be taken into account before a remote investigation meeting can take place?

9.5.1 The following considerations should be taken into account by the DB/AB and Investigator when determining whether it is reasonable to conduct interviews remotely, or whether an interview should be held face-to-face:

a. IT availability: does the interviewee have the necessary IT equipment such as a computer/laptop, headset or phone (this includes personal phones and mobiles) to be able to take part in the remote interview, in accordance with the published protocols on communication found here: Defence Digital Cyber Security. To note, Investigators should ensure they have a backup telephone conferencing facility in case of IT failure. If not, then the interview should be postponed until they can gain access to the necessary equipment (this may involve sending the required equipment to them by courier or post).

b. reasonable adjustments: does the interviewee require any particular reasonable adjustments to be able to take part in the remote interview? If so, they must be put in place - if they cannot the interview must either be postponed until such time as the required reasonable adjustments can be made, or the interview must be held face-to-face.

c. suitable environment: does the interviewee have access to a suitable environment either at home or in their place of work to hold the interview such that they can ensure their privacy and freedom from interruptions? If an interviewee cannot be confident of this, the interview should be re-arranged within five working days of the original interview date.

d. accompaniment at interview: the remote interview should be arranged so the interviewee can be accompanied by an Assisting Officer (AO). The interviewee should be able to confer in private with their AO during the interview. If any of the above cannot be arranged, the interview should be re-arranged within five working days of the original interview date.

e. access to information and evidence: the interviewee must have access to all relevant information (including the relevant policy and guidance documents) and evidence to be able to put forward their case during the interview. It may be some information needs to be posted in hard copy to the interviewee (by the Investigator) if they cannot access it electronically. The interview must be postponed until the interviewee has access to all the information they need to be able to put forward their case and have had reasonable time - usually five working days from receiving all the required information, to read it (and discuss it with their AO if required) before the investigation meeting takes place.

9.5.2 If all of the above requirements can be accommodated, then the remote interview may proceed, if not, then the interview should be held face-to-face. However, if, during an interview, any of the above requirements cease to be met (such as IT connectivity is lost or privacy cannot continue to be guaranteed) the interview should be postponed for up to five working days of the original interview date or until such time as this can be rectified - whichever is soonest. If problems cannot be resolved within that timescale, the interview should be held face-to-face.

9.6 How will the investigation interview be recorded and shared?

9.6.1 A written summary record of the investigation interview must be taken and sent to the interviewee. The Investigator should, where practicable and appropriate, use audio recording to assist in producing the summary record of interview. If the interview is to be recorded, they should make the interviewee aware in their invitation and again at the start of the interview, and the purpose of making the recording, and that

following agreeing the record of interview the audio recording will be retained until all appeals or Employment Tribunal processes have been completed, and in accordance with General Data Protection Regulations (GDPR). The interviewee should be afforded reasonable time up to five working days to review and make suggested amendments to the record of interview. Once an agreed record has been produced using Annex L, the interviewee should electronically sign a copy and return it to the Investigator. Where the interviewee suggests amendments to the original version of the Record of Interview which are not supported by the Investigator, both versions should be provided to the DB/AB and this should be noted.

9.6.2 The Investigator will transmit all information securely and electronically. However, hard copies of documents will be sent to any relevant party where they cannot, or do not have access to any electronic device (internal, external or personal).

9.6.3 There must be a lawful basis for processing personal data. Articles 6(1)(c) and 6(1)(e) of the GDPR and sections 8(c) and 8(d) of the Data Protection Act 2018, provides the lawful basis to process personal data necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority. Privileged and protected information and advice is not to be disclosed or paraphrased, without discussing with the relevant expert advisers, e.g. legal, security or information. If doubt exists on any aspect of disclosure, legal and MOD policy advice should be sought from the appropriate single Service Secretariat (sSS).

9.7 If the interviewee cannot attend the remote interview on the date or time invited

9.7.1 If the interviewee (or their AO) cannot reasonably attend the remote interview, they should propose a new date and time to you in order to allow the interview to take place within five working days of the original date. If they do not do this, or fail to attend the rearranged interview, consideration of the complaint will go ahead in their absence based on the available information unless there is reasonable justification such as ill health or some other exceptional reason.

9.7.2 In cases of ill health, an occupational health report (or military equivalent) should be obtained to establish if the individual (Complainant or Respondent) is fit enough to be interviewed, or whether the interview should be postponed. In cases where a witness is unwell, a written statement should be obtained instead.

9.8 If the proposed interviewee does not wish or is reluctant to be interviewed

9.8.1 Individuals cannot be compelled to give evidence and, where there is continued reluctance to be interviewed, they should be advised that the SC will be decided on the evidence available.

9.9 The need for timely processing of a Service Complaint

9.9.1 As highlighted above, all SCs should be handled in a professional and considerate way, in as reasonable a timeframe as possible and should be completed within 30 working days from the date of you receiving the agreed TORs.

9.9.2 The Investigator should inform the Complainant, Respondent(s) and any named witnesses separately in writing within two working days of receiving the agreed TORs to introduce themselves, invite them to interview and explain the purpose of the interview.

9.9.3 It is MOD policy that 90% of SC should be completed within 24 weeks. This timeline starts from the date that the Complaint is made admissible by the Specified Person, or from the Armed Forces Commissioner (AFC) following a review, that a complaint is admissible. It is important for all concerned that SC are progressed in a timely manner at each stage of the process, though it is also right that time taken can enable alternative and informal solutions to be tried and more information to be gathered that can result in better informed decisions and actions. A balance needs to be struck.

9.9.4 If a Complainant believes that there has been undue delay in the handling of a complaint that has not yet been finally determined and is still active within the SC system, they have the right to make an application to the AFC requesting an investigation into the delay. The AFC has provided guidance on how to make an application. See Chapter 3 of the Policy document for more details on the role of the AFC.

9.9.5 If you are notified that an application has been made to the AFC, you should continue to progress your part of the SC process as awaiting a response from the AFC may only delay matters further. You should co-ordinate with the sSS as to next steps to ensure the matter is progressed to avoid any further undue delay while being mindful of your obligations to the DB/AB.

9.10 What happens to the Investigation Report?

9.10.1 The Initial Investigation Report (IIR) and all relevant evidence obtained during the investigation will be submitted to the DB/AB.

9.11 Service Complaints Investigation Teams

9.11.1 Complex SC involving only members of a particular Service may occasionally require the use of a specialist SC investigation team to conduct the investigation. Examples of when a Service investigation team may be needed could include (this list is not exhaustive):

a. complaints consisting of complex or multiple allegations;

b. complaints against or implicating the Complainant's Commanding Officer (CO).

10 Information for Independent Members

10.1 Introduction

10.1.1 Independent Members (IM) are required to be involved in determining a Service Complaint (SC) at the Appeal Body (AB) stage when a complaint alleges particular matters. Those matters are set out at Chapter 1, paragraph 1.6.2 of the Policy document. Their involvement in connection with disputed behaviours in particular is aimed at giving reassurance on fairness and independence.

10.1.2 An IM may also be appointed to a Decision Body (DB) for cases fulfilling the criteria referred to in sub-paragraph 10.1.1. This will be left to the discretion of the single Service Secretariat (sSS) and whether it believes the involvement of an IM at this stage would be helpful in achieving a decision on a SC. If a SC includes allegations of a sexual nature an IM should be appointed to a DB. Chapter 5 sets out the policy and guidance to be followed for a Decision Body (DB), from appointment through to making a decision on a SC.

10.1.3 IMs are recruited by the MOD Service Complaints Policy team through fair and open competition. They cannot be:

a. a member of the Regular or Reserve forces; or

b. employed in the Civil Service.

10.1.4 An IM has equal status to others appointed to determine an appeal (or to decide a SC, if appointed to do so).

10.2 Your responsibilities

10.2.1 All complaints are to be taken seriously and should be handled professionally and with consideration and in as reasonable a timeframe as possible.

10.2.2 The Principles of Fairness are at Annex F. They set out the ways in which all those involved in handling a complaint should conduct themselves. They are not laid out in legislation but are MOD's articulation of principles that are deemed by the Ombudsman Association to be good practice in dealing with complaints. You should familiarise yourself with the principles and apply them throughout your part in the process.

10.2.3 The Policy document of JSP 831 sets out the legislative background to the SCs process and you should familiarise yourself with it when you are appointed to consider a complaint.

10.3 Your role

10.3.1 As an IM, you will be called upon by the sSS to be part of an AB and in certain circumstances a DB if a SC includes any of the allegations set out at Chapter 1, paragraph 1.6.2 of the Policy document.

10.3.2 The requirement for an IM will be reached by the sSS who will then liaise with the MOD Service Complaints Policy team to arrange for an IM to be assigned. The sSS will issue you with an appointment letter for the DB/AB to which you have been appointed. This letter will be official confirmation of your allocation to an DB/AB to consider and decide a named SC.

10.3.3 You will then be contacted by a member of the sSS to arrange delivery of the case file and a mutually convenient date and time for the first meeting of the DB or AB.

10.4 Action on considering an appeal

10.4.1 It is incumbent on you to decide, along with anyone else appointed to determine the appeal, whether the SC is well founded, and if so, what redress (if any) is appropriate.

10.4.2 Chapter 6 sets out the policy and guidance to be followed for an AB, from appointment through to making a determination on an appeal.

10.4.3 If you are not sure on how to proceed with any aspect of the appeal, the sSS will be your primary point of contact and is a good source of helpful information.

10.4.4 You will be expected to meet at an agreed location to consider an appeal, or remotely (via a secure, MOD approved online platform).

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

10.4.6 Once your investigation has concluded and a decision has been reached, you and any other AB members will be required to submit a written report detailing any recommendations to the appropriate sSS. The sSS will advise on the form this is to take.

10.4.7 Claims for reasonable expenses that you incur, in line with guidance issued to you, are to be submitted to the MOD Service Complaints Policy team.

10.5 Action when appointed to a Decision Body

10.5.1 The same principles at sub-paragraphs 10.4.1 - 10.4.6 apply if you are appointed to consider a SC as a DB. Details about the DB are at Chapter 5.

11 Information for Joint Units

11.1 Introduction

11.1.1 The following principles apply to the handling of Service Complaints (SC):

a. which arise in joint units and organisations; or

b. where a Service person is assigned or attached to a unit under the command of one of the other two Services; or

c. where Service personnel are serving outside the usual Service Chains of Command (CoC), for example with a contractor, a foreign government, NATO or in a predominantly civilian-staffed agency.

11.2 Advice and support to the Specified Person

11.2.1 Where a Service person who is assigned to a joint unit or organisation, or is assigned or attached to a unit under the command of one of the other two Services, wants to make a SC, the statement of complaint should be submitted to the relevant single Service Secretariat (sSS) Central Admissibility Team (CAT) - this will be the Service of the Complainant's discipline CoC. A Specified Person from within the CAT will decide whether a complaint is admissible as a SC - more details about the role of the Specified Person can be found in Chapter 4 and on how to make a complaint in Chapter 2.

11.2.2 Advice and support will be provided to the Specified Person by the nominated lead Service which has been allocated to provide the disciplinary Higher Authority for the joint unit as set out in 2025DIN01-042-Higher Authorities for Joint Units and Organisations and Service Personnel in Non-Operational Posts Overseas.

11.2.3 Where Service personnel are serving outside the usual Service CoC, for example with a contractor, a foreign government, NATO or in a predominantly civilian staffed agency, they should submit their SC in accordance with the above Defence Instruction Notice (DIN).

11.2.4 Having identified the right Service to provide that advice, its sSS will then handle and provide support on the complaint throughout the remainder of the process. The chapters of this part of the JSP should be referred to where necessary in following that process through.

11.3 Recording Service Complaints

11.3.1 The sSS's advice to joint units will include how to record SC on the Case Management System. Each sSS will also then co-ordinate the collection of SC statistics from those joint units for which it is responsible. They will also monitor the handling of SCs for their joint units and provide training and awareness to them as necessary in SC handling procedures. Where a SC includes allegations of bullying, harassment or discrimination, the Diversity and Inclusion Adviser (D&I (A)) for the joint

unit should consult the sSS in the nominated lead Service if subject matter expert advice is required. Contact details for the relevant sSS can found in Annex O.

12 Information Regarding the Death of a Complainant or Respondent

12.1 Introduction

12.1.1 If the Complainant or a Respondent dies before a Service Complaint (SC) has been concluded, there is no statutory obligation to continue to progress it. However, the automatic assumption should not be that no further work is done to try to resolve the matter that was complained of. Careful consideration must therefore be given as to whether, for both practical reasons and fairness, the matter complained about can be taken to a conclusion without the involvement of the deceased.

12.1.2 Should the situation arise, the Specified Person, Decision Body (DB) or Appeal Body (AB) that is handling the SC at the time is to contact the relevant single Service Secretariat (sSS) to discuss and to reach agreement on whether the matter can continue. It must be kept in mind that the SC process deals with individual grievances and require a Complainant to set out how they believe they have been wronged and the redress they seek – without their continued involvement it may not be possible to determine these issues. In the interests of fairness, it should also be possible for allegations made to be challenged, which may not be possible if any party dies.

12.1.3 Decisions taken are to be fully documented and a record kept, and the bereaved family is to be kept fully informed. The bereaved family is not able to continue the process once a decision has been taken, whether to not proceed or on the SC itself, nor can they apply to the Armed Forces Commissioner (AFC) for a review. It is particularly important therefore that there is regular communication with them, to the extent that they wish to be engaged, so that the factors taken into account and the final decision are understood.

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

12.2.1 A family member of a deceased Service person cannot make a SC. That does not mean however that if they discover an issue after the death that relates to the deceased's service in the Armed Forces no action should be taken to help them. Who they should be advised to approach will depend on the matters raised:

a. housing/accommodation: DIO.

b. pay, pension and compensation: Veterans UK.

c. promotion or appraisal: the deceased's Commanding Officer (CO).

d. alleged mistreatment: the deceased's CO, or if the matter complained of related to the CO, the appropriate sSS.

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

13 Information on Mass Service Complaints

The following provides guidance regarding the definition of a mass Service Complaint (SC) and how they should be managed.

13.1 Information for Complainants and Respondents

13.1.1 There may be instances where SCs are identified as being part of a mass SC, which the Ministry of Defence (MOD) defines, for policy purposes, as:

> *'A collection of individual Service Complaints brought, either directly by a Service Person or through a third party, over a period of time, that allege Service Personnel have been wronged in the same way on a specific issue which relates to their service in the Armed Forces and is likely to have wider implications'.*

13.1.2 The MOD will make arrangements to facilitate the management and handling of all individual SCs considered part of a mass SC. Complainants and Respondents and other relevant parties will be informed that a mass SC has been identified, how it will be handled, and how they will be communicated with throughout the process.

13.1.3 As set out in Chapter 1, Paragraph 1.2.7, whilst a Complainant may seek legal advice from a legal representative, this will be at their own expense.

13.2 Identifying and managing mass Service Complaints

13.2.1 When a mass SC is identified by a single Service Secretariat(s), they should engage with the MOD Service Complaints & Behaviours (SCB) team at the earliest opportunity. The MOD SCB team will determine if such complaints constitute a mass SC as per the definition set out in paragraph 13.1.1.

13.2.2 Where it is determined that a mass SC exists, the MOD SCB team will make arrangements to facilitate the management and handling of individual SCs considered part of a mass SC.

13.2.3 Mass SCs may be submitted in parallel with an Employment Tribunal (ET) claim. Where this is the case, legal advice must be sought on whether it is appropriate to consider the SC first or to progress to an ET hearing. Further guidance on ETs can be found in the Policy document, Chapter 1, paragraph 1.3.

14 Military HR Policy and Procedure Queries

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 for matters relating to Service Complaints, please see the relevant single Service points of contact at Annex O.

The following also provides information on other routes of support and advice available:

1. **Unit HR First POC** for Service personnel for any aspect of personnel administration.

2. **JPAC Enquiries Centre Queries** regarding pay and allowances and the use of JPA. Tel: 94560 3600

3. **DBS Pay & Allowances Casework & Complaints Cell**
Tri-Service pay and allowances casework and complaints via Unit HR admin staffs. Email: DBSMilPers-MilOps-PACCC-Group@mod.gov.uk

Further information on statutory (i.e. legal) entitlements can be found on the .GOV.UK and Advisory, Conciliation and Arbitration Service (ACAS) websites.

15 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	• Familiarising yourself with the Policy and Procedure documents as they apply to you.
Line Manager and/or Chain of Command	• Familiarising yourself with the Policy and Procedure documents as they apply to you. • Ensure Complainants and Respondents are aware of the appropriate advice and support available to them to help them through the Service Complaints process. • Ensure all complaints are taken seriously and investigated impartially, thoroughly, sensitively and confidentially.
Defence Business Services (DBS)	• Publishing announcements in support of the Policy SME • Managing Policy documents in the Policy and Guidance Portal (sharepoint.com) • Uploading documents and employee-centric material into the Policy and Guidance Portal (sharepoint.com)
Mil HR Advisor SME (From Wtr, TG17 and AGC Specs)	• Working closely with Senior Leaders supporting development of business strategies through HR Consultancy and Interventions on people issues • Delivering change programmes and initiatives through comprehensive people change approaches • Directing employees to DBS if they have any queries
DG People and Standards	• The sign off, and fair and consistent application of this procedure. • Overseeing Military HR compliance audit requirements and compliance action plans that arise as a result.

16 Document Information

16.1 Document Coverage

This procedure supersedes all previous MOD procedures on Redress of Individual Grievances: Service 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.

16.2 Document Information

Filename:	Redress of Individual Grievances: Service Complaints Procedure
Document ID:	To be confirmed
Owning Function / Team:	**Service Complaints and Behaviours Team** People-CEJ-SCB-PolLead2 People-CEJ-SCB-ProgSpt **Conduct, Justice and Legislation Directorate**
Service Owner (1*):	Head of Programme Delivery, Conduct, Justice & Legislation
Approving Authority:	Director General, People and Standards

16.3 Document Versions

Version	Pub. Date	Revision History	Revised Pages
3	15 Jun 22	Fully revised in line with new Service Complaints Process effective from 15 Jun 22.	Multiple
3.1	3 Oct 23	Amended to reflect changes in process relating to submission of a Service Complaint and an appeal.	Multiple
4	8 April 24	Policy simplification revamp and other amendments to reflect further changes in process relating to submission of a Service Complaint and appeal.	Multiple
4.1	5 Sept 25	Removal of references to the making of Service Complaints regarding Service Police from the body of the policy document, and adding those types of complaint to the Excluded Matters at Annex B. The approach to applying just & equitable consideration when making admissibility decisions. Updated guidance concerning	Multiple

		Malicious & Vexatious complaints. New guidance on local resolution processes.	
4.2	April 2026	Replacing reference to Service Complaints Ombudsman for the Armed Forces to The Armed Forces Commissioner. Replacing the term 'Head Office Service Complaints and Behaviours Team' with MOD Service Complaints Policy Team. Updated 'Higher Authorities for Joint Units and Organisations' DIN.	Multiple pages throughout Policy and Procedure documents Procedure document Chapter 11, para 11.2.2
4.3	14 Oct 2026	Removal of single Service contact details annex. Removal of Transitional Arrangement (Saving Provision) annex. Removal of Service Complaint Form. Removal of Service Complaint Appeal Form. Reclassification of Annexes. Addition of a Mass Service Complaints policy. Removal of requirement to contact individuals named in a statement of complaint prior to an Admissibility Decision being made.	Formerly Annex C of Policy document Formerly Annex D in Policy document. Formerly Annex F in Procedure document. Formerly Annex G in Procedure document. Both Policy and Procedure documents. Chapter 13, Procedure document. Throughout parts of the Policy document and Annex A in the Procedure document.

4.4	3 Nov 2026	Replaced Specified Officer with Specified Person. Added an additional excluded matter (ca).	Throughout both parts of the Policy and Procedure document where appropriate. Annex B

MOD will review this Procedure in two years, or when changes to legislation or best practice dictates.

16.4 Linked JSPs

JSP Number	JSP Name
JSP 763	The MoD Behaviours and Informal Complaints Resolution Policy

Annex A: Template - Notification to Complainant of Receipt of Statement of Complaint

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

To: [Insert name of Complainant]

I am writing to acknowledge receipt of your [letter/Service Complaint Form] which was received on [Insert date of receipt].

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

Following that discussion, I will then decide whether this matter is admissible as a Service Complaint. This should not take more than ten working days, and I will notify you of my decision at that time.

In the meantime, you can find more information on the Service Complaints process in JSP 831, which you can find on the internal Defence Intranet and on the internet by searching for ‘JSP 831’.

You have a right to the services of an Assisting Officer (AO) to assist you with this process. I would encourage you to exercise this right and to use the services of the AO as we take matters forward. They can be a good source of guidance and support that is personal to you. If you would like an AO, please let me/us know and we will arrange for one to be appointed.

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

Annex B: Template - Notification to Complainant/Respondent that Service Complaint is Admissible

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

To: [Insert name of Complainant/Respondent]

[A. Use for Complainant]

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

[insert reasons why you consider the Service Complaint to be admissible and identify Heads of Complaint]

Your Service Complaint has now been passed to the [RN SC Secretary / Army Board Casework Secretary / RAF Service Complaints Team] and they will be in touch with you shortly once a Decision Body (DB) has been appointed to consider your complaint further.

Or:

[B. Use for Respondent]

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

This Service Complaint has now been passed to the [RN SC Secretary / Army Board Casework Secretary / RAF Service Complaints Team] to appoint a Decision Body (DB) to consider the complaint further.

[Use for both Complainant and Respondent]

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

In the meantime, I would like to remind you that you can find more information on the Service Complaints process in JSP 831, which you can find on the defence intranet and also on the internet by searching for ‘JSP 831’.

You are entitled to the services of an Assisting Officer (AO); if you do not currently have an AO, please let me/us know and we will arrange for one to be appointed.

I encourage you to use the services of an AO as they can be a good source of guidance and support.

Annex C: Template - Notification to Complainant that Service Complaint is not Admissible

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

To: [Insert name of Complainant]

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

[Insert HoCs and enter full details of decision including determinisations and rationale as to why it is not just and equitable to make the Service Complaint admissible]

If you do not agree with my decision, you have the right to contact the Armed Forces Commissioner (AFC) to seek an independent review of my decision. You must do this within four weeks from the date that you receive this letter.

The AFC has produced guidance on what an application must include and how to make one, which can be found at www.afcommissioner.org.uk. You can also find more information in JSP 831.

You should already have been offered the services of an Assisting Officer (AO); however, if you do not currently have an AO please let me/us know and we will arrange for one to be appointed.

I encourage you to use the services of an AO as they can be a good source of guidance and support.

Annex D: Template - Notification to Complainant/Respondent on Mix of Admissible/Inadmissible Complaint

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

To: [Insert name of Complainant/Respondent]

[A. Use for Complainant]

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

After carefully considering all the information available to me, my decision is that sections [insert parts/Heads of Complaint (HoC) that are admissible] can be considered as an admissible Service Complaint. My reasons for this are as follows:

[Enter full details of decision including determinisations and rationale as to why it is just and equitable to make those elements admissible]

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

[Enter full details of decision including determinisations and rationale as to why it is not just and equitable to make those elements admissible]

[insert we/relevant single Service Secretariat will be in touch with you shortly once a Decision Body (DB) has been appointed to consider the part/s of your complaint that are admissible as a Service Complaint.

If you do not agree with my decision not to accept the other component/s as an admissible Service Complaint then you have the right to contact the Armed Forces Commissioner (AFC) to seek an independent review of my decision. You must do this within 4 weeks from the date that you receive this letter.

The AFC has produced guidance on what an application must include and how to make one, which can be found at www.afcommissioner.org.uk You can also find more information about the Service Complaints process in JSP 831.

Or:

[B. Use for Respondent]

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

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

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

This letter has now been passed to the [RN SC Secretary / Army Board Casework Secretary / RAF Service Complaints Team] and they will be in touch with you shortly once a Decision Body (DB) has been appointed to consider the part/s of the complaint that have been accepted as an admissible Service Complaint.

Whilst I will not be taking any further action on the sections of the complaint deemed inadmissible, I must inform you that (Complainant's name) has the right to contact the Armed Forces Commissioner (AFC) to seek an independent review of my decision. They must do this within 4 weeks from the date that they receive this letter. You will be notified if they do so and will be kept up to date with any action being considered.

[Use for both Complainant and Respondent]

You are entitled to the services of an Assisting Officer (AO); if you do not currently have an AO, please let me/us know and we will arrange for one to be appointed.

I encourage you to use the services of an AO as they can be a good source of guidance and support**.**

Annex E: Template - Acknowledgement to Complainant/Respondent of Receipt of Appeal

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

To: [Insert name of Complainant/Respondent]

[A: Use for Complainant]

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

Or:

[B: Use for Respondent]

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

[Use for both Complainant and Respondent]

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

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

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

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

Annex F: Principles of Fairness for the Handling of Service Complaints

The Principles of Fairness for Complaints Handling are as follows:

1. **Lay Solid Foundations**.

   a. follow the Service Complaints policy and any single Service guidance.

   b. seek advice early.

   c. attempt to seek resolution of a Service Complaint at the lowest appropriate level; can the complaint be resolved by alternative resolution?

   d. ensure early contact is established with the Complainant.

   e. make an early assessment; is it a Service Complaint and in time? Are you able/the right person to deal with the complaint? Can you resolve the complaint alone or do you require specialist advice? How should you investigate it?

   f. remember: a complaint on your watch is not a failure; not dealing with it is. Prompt, sound handling will reap benefits downstream for all involved.

2. **Act Fairly and Promptly**.

   a. treat the Complainant, Respondent and all others who are involved, impartially and consistently.

   b. ensure that all parties to a Service Complaint are appropriately assisted and supported throughout.

   c. make no assumptions until the facts are established.

   d. ensure that investigations are prompt, thorough and establish the facts.

   e. make prompt, fair and informed decisions within the published timescales.

3. **Be Open and Transparent**.

   a. keep all appropriate parties updated regularly on progress. Disclose all relevant information to the appropriate parties in accordance with existing policy and guidance.

   b. allow the Complainant, Respondent and any other party involved the opportunity to explain their position through appropriate means before a decision is made.

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

4. **Be Flexible and Proactive**.

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

b. consider alternative approaches to resolution such as mediation.

c. should you elevate the Service Complaint?

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

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

5. **Learn Lessons**.

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

b. pass on views about the complaints process to your single Service Complaint lead; could it be improved within your Service or corporately?

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

Annex G: Template - Single Service Secretariat Central Admissibility Team to Armed Forces Commissioner Confirming Acknowledgement of Referral

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

Re: [Insert Armed Forces Commissioner reference/Complainant details]

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

Updates on any further action taken by us will be sent to you in accordance with the policy set out in JSP 831.

Annex H: Template - Investigator Letter of Appointment

To: Investigator

Terms of Reference for an Investigation of a Service Complaint

Complaint

1. You are appointed to investigate the Service Complaint(s) made by (Complainant) against (Respondent(s)). Copies of the Service Complaint Form and the record of the Specified Person's / Decision Body/ initial interviews with the Complainant and Respondent(s) (if applicable) are attached. A copy of the Admissibility decision is also attached.

2. The investigation is to be carried out confidentially and objectively, and you are to treat the parties involved equally, and impartially.

3. You are to interview the following people:

   a. Complainant.
   b. Respondent(s).
   c. Witnesses (name each individual to be interviewed).

4. You are required to investigate (include details of each Head of Complaint (HoC) that you wish to be investigated as in the example below):

   a. HoC 1 (detail).
   b. HoC 2 etc.

5. You may nominate someone as a note taker, with my approval, but your choice should be based on their suitability and ability to maintain the confidentiality of the investigation. Where practicable, you may also record the interview. You are not to discuss the case with anyone outside the confines of your investigation, but you may seek general advice on Equality and Diversity policy from any appropriately qualified source.

6. You are empowered to interview all MOD Service or civilian (including MOD contractor) personnel whom you consider may have information relevant to your enquiries. You are to be granted access to all documentation that may be relevant to the complaint; however, access to personnel records should only be required if considered essential to the investigation.

7. You are to remind the Complainant and Respondent(s) of their individual rights including the right to have a MOD Companion and/or Assisting Officer present whenever you need to interact with them personally.

8. All interviewees and AO's are to be clearly reminded that the investigation is confidential and that they must not discuss their evidence or involvement with anyone, at any stage, unless you have given permission. You must ensure that they are aware of the principles of disclosure at the start of an interview, and explain that all relevant

evidence and both the Initial and Final Investigation Reports (IIR/FIR) will be disclosed to both the Complainant and Respondent(s).

9. You are to make written summaries of interviews, and these are to be agreed and signed by the interviewees. The interview records will form part of the evidence supporting your IIR.

10. If you discover evidence that a criminal or Service disciplinary offence may have been committed, you are to suspend the investigation and refer the matter to me immediately. You are then to await further direction from me on how and when to proceed.

11. You are to keep me informed of your progress weekly. I am to be informed and updated on the results of your investigation.

12. You are to submit the IIR to me in the format shown at Annex M. You are to ensure that the report is restricted to fact and does not contain any opinion, nor makes, or implies recommendations that may potentially influence my decision in any way.

13. You are to submit your IIR to me within thirty working days of the date of receiving this letter and agreeing the TOR's and by no later than [insert the date of the thirtieth working day]. I am to be informed immediately if this deadline cannot be met.

14. Finally, if at any stage you encounter difficulties, particularly in gaining access to personnel or information, you are to refer the matter to me immediately.

Signed:

Case Manager

Date:

Annex I: Template - Investigator Initial Contact Letter to Complainant/Respondent

Service Complaint Investigation

1. I have been appointed as the Investigator to investigate a Service Complaint (which you submitted/which you have been named in). I am writing to explain how the investigation will be conducted.

2. I was appointed by (name of the Decision Body(DB)/ Appeal Body (AB)) to carry out the investigation. I will begin by interviewing the Complainant, then the Respondent(s) (i.e. the person(s) against whom the complaint is made) and any witnesses. The interviews will be arranged within five working days and dates/timings will be confirmed by letter. You are entitled to be accompanied by an Assisting Officer (AO) during the interview, though that person cannot be anyone directly involved in the complaint – for example, someone who is likely to be called upon as a witness. More information about the role of the AO can be found in Chapter 8.

3. Investigations are often complex and take time, but it is my intention to start as soon as possible, as I am required to submit the Final Investigation Report (FIR) to the DB/AB within thirty working days. The Initial Investigation Report will be disclosed to both Complainant and Respondent(s) for comment. Following this, the FIR will be disclosed for information only.

4. It is the responsibility of all involved in the process to ensure complaints are handled confidentially, fairly, promptly and correctly. It is important to note that if you do not engage in the investigation in a timely manner, the decision on a Service Complaint can be made on the basis of the evidence available.

5. If you have any questions about the process to be followed, you should initially consult your AO, unit HR staff or JSP 831. I will be happy to answer any remaining questions you may have about the overall process but will not be able to discuss the complaint itself with you prior to the formal interview.

Annex J: Template - Investigator Letter to Arrange an Interview with the Complainant/ Respondent

Reference:

A. (initial contact letter details)

1. Reference A advised you of my appointment as the Investigator to investigate the Service Complaint (you submitted/you have been named as a Respondent in). Information obtained during the investigation will be treated on a strictly need to know basis and in accordance with the Data Protection Act 2018. The Initial Investigation Report will be disclosed to you and the (Respondent(s)/Complainant) for comment by the Decision Body/Appeal Body. Following this, you will then receive a copy of the Final Investigation Report.

2. The role of the Investigator is to establish the facts of the complaint and to report to the DB or AB (delete whichever is not applicable), who will then decide on the balance of probabilities16 whether the complaint is upheld and what further action is necessary.

either:

(For this purpose, I intend to interview you at (time/date/via technology). If, for any reason, you are unable to attend, you should inform me within three working days of receiving this letter. You should propose an alternative date for the interview to be held that is within five working days of the original interview date. If you require any reasonable adjustments to be able to attend the remote interview, please let me know if advance of the scheduled date).

or:

(I need to interview you as soon as possible. I would be grateful, therefore, if you would contact me to arrange a suitable date and time within five working days of receiving this letter. If you require any reasonable adjustments to be able to attend the remote interview, please let me know at this point).

3. You are entitled to be accompanied by an Assisting Officer (AO) during the interview, though that person cannot be anyone directly involved in the complaint – for example, someone who is likely to be called upon as a witness. More information about the role of the AO can be found in Chapter 8.

4. The purpose of the interview will be to establish, in detail, the events leading to, and circumstances surrounding, the complaint. The content of the interview will be summarised in a record of interview which you will have the opportunity to review and agree (or, if necessary, propose amendments to) before signing. The agreed and signed record will be disclosed to the (Complainant/Respondent(s)).

5. Other personnel who may have witnessed the alleged events, or have other relevant evidence to offer, will also be interviewed, including any witnesses whom you have nominated. It is essential that you do not discuss any aspect of the investigation with any witnesses or the (Complainant/Respondent(s)), as this may be seen as

attempting to influence the outcome. You should also be aware that retaliating against anyone connected with the complaint, and which is found to have resulted from the making of the complaint, would be viewed as victimisation and dealt with accordingly.

6. It is the responsibility of all involved in the process to ensure complaints are handled confidentially, fairly, promptly and correctly. It is important to note that if you do not engage in the investigation in a timely manner, the decision on a Service Complaint can be made on the basis of the evidence available.

Annex K: Template - Investigator Letter to Arrange Interviews with a Witness

1. In accordance with JSP 831 (Redress of Individual Grievances: Service Complaints), I have been assigned by (Decision Body/Appeal Body name) who is the Decision Body (DB) or Appeal Body (AB) (delete whichever is not appropriate), to conduct an independent investigation of a Service Complaint which has been made by (Complainant's name), the Complainant, against (name(s) of Respondent(s)), the Respondent(s). In this connection, your name has been mentioned in confidence as a potential witness to the incident(s) cited in the complaint.

2. My role is to establish the facts of the complaint and to report to the DB or AB (delete as appropriate), who will then decide on the balance of probabilities whether the complaint is upheld and what, if any, further action is necessary. Any information obtained during the investigation will be treated on a strictly need to know basis and in accordance with the Data Protection Act 2018. All relevant evidence arising from the investigation will be disclosed to the Complainant and Respondent(s) for comment.

either:

(For this purpose, I intend to interview you at (time/date/platform). If, for any reason, you are unable to be attend, you should inform me within three working days of receiving this letter. You should propose an alternative date for the interview to be held that is within five working days of the original interview date.

or:

(I need to interview you as soon as possible. I should be grateful, therefore, if you would contact me to arrange a suitable date and time within five working days of receiving this letter).

3. The purpose of the interview will be to establish, in detail, your account of the incident(s) which you are said to have witnessed, and any other information which may be relevant to the complaint. The content of the interview will be summarised in a record of interview, which you will have an opportunity to examine and agree (or, if necessary, propose amendments to) before signing.

4. Other personnel who may have witnessed the alleged incident(s), or who may have other relevant evidence to offer, will be interviewed and it is essential that you do not discuss any aspect of the investigation with anyone, as this may be seen as attempting to influence the outcome. You should also be aware that retaliating against anyone connected with the complaint, and which is found to have resulted from the making of the complaint, would be viewed as victimisation and dealt with accordingly.

5. It is the responsibility of all involved in the process to ensure complaints are handled confidentially, fairly, promptly and correctly. It is important to note that if you do not engage in the investigation in a timely manner, the decision on a Service Complaint can be made on the basis of the evidence available.

Annex L: Template - Record of Interview

Record of an Interview with (name)

Name:

Rank/Grade:

Branch/Unit/Establishment/Contact Number:

Date of Interview:

Means of Interview:

Time Start:

Time Finish:

Persons Present/Role:

Statement:

I understand that the information contained in this statement that directly relates to the complaint under investigation will be disclosed to the Complainant and Respondent(s) in accordance with the principles of the Data Protection Act 2018 and may be used to support any subsequent disciplinary/misconduct or administrative action. I also understand that I must not show this statement to, or discuss it (or any other aspect of this investigation) with, anyone not present at the interview.

STATEMENT SIGNED BY: (INTERVIEWEE) DATE:

STATEMENT SIGNED BY: (INVESTIGATOR) DATE:

Annex M: Template - Initial/Final Investigation Report Template

Background

The Investigation Report into a Service Complaint of [please insert the type of complaint] by (Complainant) against (Respondent(s)) is forwarded at Enclosure 1.

(it is often appropriate to include an explanation of the key terms used in the report and explained to the interviewee e.g. the definition of bullying, harassment, sexual harassment etc).

Investigation

The Investigation was conducted over the period (date to dates). Following an initial briefing by (Decision Body/ Appeal Body)/Case Manager), I received the papers listed at (Annex A to Enclosure 1) and during the course of the investigation, I collated/generated the papers listed at (Annex B to Enclosure 1).

Personnel interviewed in connection with the complaint are listed at (Annex C to Enclosure 1).

Interviews

The interviews were held remotely and in private via (detail platforms used for remote interviews) or in private at (insert details of location if held face-to-face). Each interviewee was clearly informed of: the purpose of the interview; the Terms of Reference; that a formal record of the interview would be prepared, which they would be asked to agree and sign; and that the record of interview and the Initial Investigation Report would be subject to disclosure to the Complainant and Respondent(s) in due course by the DB/AB.

The signed interview statements, together with working notes are at:

a. (name) - (Annex D).

b. etc.

It is confirmed that all relevant information established during the investigation has been disclosed to the Complainant and Respondent(s) (detail dates of disclosure, refer to any responses, any resulting supplementary interviews and the location of responses and interview records in the report).

Extraordinary Factors

(Include any factors such as variations from the laid down investigation procedures, extensions of timescales etc, together with justification.)

Summary

(Summary of the specific incident(s) set out by the Complainant, and the redress requested)

(Summary of the response by the Respondent(s) to incident(s) cited in the complaint)
Summary or each incident of:

a. corroborative evidence.

b. non-corroborative evidence.

The rest of the report should comprise a balanced judgement of the evidence in relation to the complaint in terms of its considered validity.

It must not include the Investigator's recommendations or opinions (or any kind of concluding statement that could stray into opinion).

Annex N: Template - Initial/Final Investigation Report Disclosure Letter

To:

Complainant

Respondent(s)

Title

1. The interviewing stage of the investigation into the Service Complaint of bullying or harassment made (by/against) you (against/by) has been completed and the Initial Investigation Report (Enclosure 1) prepared. You should now read it extremely carefully in order to satisfy yourself that all elements of the complaint have been satisfactorily covered in the investigation, and all relevant witnesses interviewed. There may be aspects of the evidence established which cause you some concern, but they cannot be examined in more detail unless there is additional evidence to support your view. You are reminded that the report (or any other aspect of this investigation) should not be disclosed to anyone else without first consulting me.

2. You might find reviewing the report stressful, in which case you are reminded that advice and support is available e.g. Assisting Officer.

3. To minimise any delay in the completion of the Final Investigation report, the check form below should be signed (with written comments as necessary by… (a date equivalent to ten working days from the date of disclosure)).

To: [The Decision Body/Appeal Body]

*I have examined the evidence disclosed to me and have no comments to make.

OR:

*I have examined the evidence disclosed to me and have the following comments to make relating to the completeness of the investigation and/or the range of witnesses interviewed:

* delete as appropriate

Signed: …….. Date: …….

Annex O: Points of Contact

Sources of Independent Support

Health Assured: Bullying & Harassment Helpline - 0800 014 2381 (UK) or +44 330 008 5942 (Outside UK) and is free to call 24/7.

Veterans' Gateway: Tel - 0808 802 1212 or Web - www.veteransgateway.org.uk

The Royal British Legion: Tel - 0808 802 8080 or Web - www.britishlegion.org.uk

Combat Stress: Veterans: Tel - 0800 138 1619, Serving personnel - 0800 323 444, or you can text 07537 404719 or email: helpline@combatstress.org.uk

The Employee Assistance Programme: Tel - 0800 345 7047 and is free to call 24/7.

Samaritans: Tel - 116 123

Army Welfare Service: Tel - 01904 882503/504

Forces Helpline: Tel - 0800 731 4880

Single Service Contact Points

Royal Navy

General Enquiries:

Email: navypeople-sclcomplaintsadmin@mod.gov.uk

For Service Complaint Admissibility (Service Complaint Form):

Email: NAVYPEOPLE-SCLSUBMITCOMPLAINT@mod.gov.uk

For Submission of Appeals:

Email: NAVYPEOPLE-SCLAPPEALS@mod.gov.uk

Army

General Enquiries:

Email: apsg-armyscsec-enquiries@mod.gov.uk

For Service Complaint Admissibility (Service Complaint Form):

Email: APSG-ArmySCSec-Group@mod.gov.uk

For Submission of Appeals:

Email: APSG-ArmySCSec-Appeals-0Mailbox@mod.gov.uk

RAF

General Enquiries:

Email: air-people-services-sctgpmlbx@mod.gov.uk

For Service Complaint Admissibility (Service Complaint Form):

Email: air-people-services-sctcat@mod.gov.uk

For Submission of Appeals:

Details of the Case Manager to who a Complainant should submit an Appeal will be provided in the Decision Letter.

Annex P: Guidance for Time Extensions in the Service Complaints Process

1. There are circumstances unique to Service life which may mean that the Complainant, Respondent or other witnesses are unable to progress a Service Complaint within the usual timeframes. These include:

   a. where a Complainant, Respondent or other witnesses are unavailable as a result of an Operational Deployment and due to the nature of the Deployment, or having limited access to Information Technology, Communication is not possible.

2. There are also certain circumstances, that whilst not unique to Service life, may also prevent someone from meeting these timeframes. These include, but are not limited to:

   a. sudden or long-term illness, or other injury to a Complainant, Respondent or other witnesses. Advice from a Healthcare Professional and/or MOD Occupational Health should be sought to determine whether the illness or injury will prevent the individual from responding to a Service Complaint within the required period.

   b. where a Complainant, Respondent or other witnesses are absent as a result of parental leave.

   c. where a Complainant, Respondent or other witnesses are absent as a result of long term or critical illness of a dependent.

   d. where reasonable adjustments are required to enable a Complainant, Respondent or other witnesses with a disability and/or health condition to respond to a Service Complaint.

3. It should be noted that factors such as the complexity of a Service Complaint, employee working patterns and/or short-term absences, including but not limited to, annual leave, illness or disability can impact on the progression of a Service Complaint. Where this is the case, the required steps to progress the Service Complaint should be taken as promptly as reasonably possible.

How to apply for a time extension during the course of a Service Complaint

4. The policy is that 90% of Service Complaints should be resolved within 24 weeks. It is the responsibility of Complainants, Respondents and other witnesses to a Service Complaint to respond within given timeframes to requests for further information. However, there will be cases where it is fair and reasonable to grant an extension from the usual time limits to allow someone more time. Applying for an extension is a separate process to submitting an out of time Service Complaint or application for an appeal / to the Armed Forces Commissioner AFC), and the application should be done during the course of the Service Complaint.

5. It is for the parties involved in the Service Complaint to make the Specified Person, Decision Body (DB), Appeal Body (AB) and anyone else involved in the

handling of a Service Complaint aware of any circumstances that may delay the case. An application for an extension should be raised by a Complainant, Respondent or other witnesses to the single Service Secretariat Central Admissibility Team, DB or AB (depending on the part of the process) who would forward this to the Head of the relevant single Service Secretariat for approval.

6. Any approved extension will be recorded, including its length and nature - extensions will not be granted without a deadline and timeframes should be led by evidence provided.

7. If a response is not provided within the agreed time extension, the Service Complaint will proceed without this evidence.

Considering whether it is just and equitable to allow a Complaint/Appeal out of time.

8. Time Limits in the service complaints process are important as they ensure fairness for all parties and ensure the service complaints process is managed efficiently to reach a resolution promptly.

9. A Specified Person must have regard to the following factors when determining whether it is just and equitable to admit a complaint or appeal that has been made out of time:

a. The length and the reasons for the delay.

b. The extent to which the cogency of the evidence is likely to be affected by the delay.

c. The extent to which the complainant has cooperated with requests for information.

d. The promptness with which the complainant has acted since the subject of the matter being complained of occurred.

e. The steps taken by the complainant to seek advice or to remedy the matter being complained of.

f. The totality of the circumstances relevant to whether to consider the matter out of time.

10. A Specified Person or sSS has discretion to consider the merits of a complaint when deciding whether it is just and equitable to accept an application received out of time on an exceptional basis. Where a Specified Person or sSS uses this discretion to consider merits at large in appropriate cases, they must:

a. Take appropriate care and identify sound and particular features of the complaint that properly support its just and equitable decision to extend time based on the information and material available. The points relied upon must be

reasonably identifiable and apparent from the available material.

b. Not take into account irrelevant factors.

c. Keep in mind that they do not have all the evidence and should not become drawn into conducting an investigation of the complaint, which is not its function to perform.

Annex Q: Glossary

Alternative Resolution - Where possible and appropriate, there may be opportunities to resolve complaints without recourse to the Service Complaints process. This might be informal resolution, including through mediation, through the local grievance resolution pathway, or through a Special-to-Type complaints process.

Appeal Body (AB) - One or more individuals (who might include an Independent Member) who have been appointed by a single Service Complaints Secretariat to consider and to make a determination on an appeal.

Armed Forces Commissioner (AFC) - The AFC is independent of MOD. The appointment is approved by The King on the recommendation of the Secretary of State for Defence. The AFC is required to produce an annual report on the operation of the Service Complaints process and can investigate certain matters on application by a Complainant.

Assisting Officer (AO) - A person appointed by either the Specified Person, Deciding Body or Appeal Body to provide help and support to a Complainant or a Respondent. A Complainant or Respondent can also nominate someone to act as their AO.

Case Management System (CMS) - Is the intranet-based Service Complaints administration system used by the Services to log all complaints dealt with under this JSP.

Central Admissibility Team (CAT) - A team within each of the single Service Secretariats to whom a Complainant submits their statement of complaint. The role of a Specified Person from within the CAT is to decide whether a statement of complaint, or parts thereof, are admissible as a valid Service Complaint.

Chain of Command (CoC) - Chain of Command is the line of authority and responsibility along which orders are passed within a Service unit and between different units.

Commanding Officer (CO) - The CO is the Officer appointed by the appropriate authority to be in command of and to exercise discipline over a ship, unit or establishment.

Complainant - A serving or former Service person who was / is subject to AFA 06 and has made a Service Complaint.

Decision Body (DB) - One or more individuals who have been appointed by a single Service Complaints Secretariat to investigate and make a decision on a Service Complaint.

Defence Council – This is the senior departmental committee. It is chaired by the Secretary of State and comprises other Defence ministers, the Permanent Under Secretary, the Chief of Defence Staff, along with senior Service Officers and officials who head the armed services and the department's major corporate functions. It

provides the formal legal basis for the conduct of defence in the UK through a range of powers vested in it by statute (such as in relation to redress) and Letters Patent.

Diversity and Inclusion Advisor (D&I (A)) - D&I (A)s are MOD civilian and military personnel who are a focal point for impartial advice and support on all D&I related issues. This includes alleged bullying, discrimination, harassment and/or abuse and MOD's formal and informal complaints procedure outlined in JSPs 831 and 763 respectively.

Finally Determined - A Service Complaint that has been completed in the internal process i.e. a decision has been taken on the Service Complaint by the Decision Body and, if an appeal is available, there has been a determination by the Appeal Body. In some Service Complaints, there will be a decision stage with no appeal because the complaint has been heard by the Defence Council, or if the Complainant has no grounds for an appeal. A Service Complaint has not been finally determined for the purpose of the Armed Forces Commissioner investigation if the complainant is aware they have grounds for appeal but does not pursue them.

Head of Complaint (HoC) – Is an alleged wrong raised by a Complainant in a Service Complaint Form. A Service Complaint Form can include one or more HoCs.

In writing - Many of the formal steps in the process such as making an application or a Complainant being notified of decisions need to be 'in writing'. This includes email or correspondence through the My Complaint application.

Independent member (IM) - A person who is not a member of the Armed Forces or the Civil Service, who has been recruited by MOD on a fee earning basis to provide an independent view on appointment to complaints of a specific type. Those types of complaint are set out at Chapter 1, paragraph 1.6.2 of the Policy document.

Internal Process - The process that is handled by the Services from receiving a Service Complaint through to making a final decision.

Investigator - An individual appointed by a Decision Body or Appeal Body to investigate any complaint on its behalf and to report back with findings of fact.

Maladministration – This is a broad term with no set definition in law. However, it generally means there has been a failure to follow procedure and can include, but is not limited to, delay; failure to take action; incorrect action; providing misleading information; broken promises; inadequate record-keeping or inadequate liaison or consultation.

Mediation - A private, informal dispute resolution process, in which a neutral third person (the mediator) helps the disputing parties to reach an agreement to resolve a dispute.

My Complaint Application - An application accessible via the SCIO portal on Defence Gateway which allows Service Complaints to be submitted and monitored, whilst also managing activities such as Complainant/Respondent disclosure.

Outsourced Investigation Service (OIS) – This provides Defence with an independent investigation service for complaints relating to Bullying, Harassment, Discrimination and Victimisation. It is provided by an external delivery partner(s).

Principles of Fairness – These set out the good behaviour that should be followed to help ensure Service Complaints are handled confidently, fairly, promptly and correctly in the best interests of all those involved.

Receive Notification - Any reference to a person having 'received notification' means they are deemed to have received the communication on the second day after the day on which it was posted, sent electronically or delivered in person to the intended recipient.

Redress - The remedy sought by the Complainant, or that determined by the Decision Body (DB) or Appeal Body (AB) to be an appropriate remedy in answer to a Service Complaint which has been upheld or partially upheld. A DB or AB is obliged to consider appropriate redress which may differ from the redress requested by a Complainant.

Respondent - A person who is the subject of a Service Complaint.

Secretariat - The Service Complaints process is supported by a secretariat which has two main components: a central secretariat and the secretariats of the three single Services. The central secretariat reports to the Director General, People & Standards via the Director of Conduct and Justice. The Service Complaints single Service Secretariats are embedded within their single Service Chains of Command in their separate locations.

Service Complaint (SC) - A grievance submitted in writing as a statement of complaint which is deemed admissible as a Service Complaint.

Service Complaint Appeal Form - A Service Complaint Appeal Form enables a Complainant to make an appeal against a decision on their Service Complaint.

Service Complaints Easy Read Guide – This provides a short summary of the Service Complaints process and what individuals can expect from it.

Service Complaint Form - A Service Complaint Form which captures key information about the matters being complained about and the redress that is being sought.

Sexual Nature Complaints – These relate to complaints involving allegations of sexual harassment, and/or those relating to other alleged sexual offences returned by the Service Police or Ministry of Defence Police.

Special-to-Type (STT) - STT complaint procedures exist to resolve certain types of complaint. These include complaints about Service health care for which the services operate distinct informal procedures; housing complaints for which a review panel has been established by the Defence Infrastructure Organisation and housing contractors; pay and allowances complaints for which the Pay and Allowances Casework and Complaints Cell has been established within the Joint Personnel Administration Centres. This list is not exhaustive.

Specified Person – A Specified Person is appointed by the Defence Council to decide whether a statement of complaint, or parts thereof are admissible as a valid Service Complaint.

Statement of Complaint - The document in which a Service person must set out the particulars of their Service Complaint. The Service Complaint Form can be found here. A Specified Person will decide if the matter is admissible as a Service Complaint.

Undue Delay - There is no legal definition of undue delay. What constitutes such delay is dependent on the circumstances of each individual complaint. Undue delay is more than simply a delay in the handling of a complaint or exceeding a time limit or target, which may not be desirable but can be justified.

Victimisation - Under the Equality Act 2010, victimisation means treating an individual badly (subjecting them to a detriment) because they have done a 'protected act'. Victimisation also means subjecting a person to a detriment because it is believed they have done or are going to do a protected act; the person does not actually need to have done the protected act. For these purposes a protected act is anything done for the purposes of or in connection with the Equality Act 2010.

Witness – This is someone who is able to provide information relevant to the subject matter of the Service Complaint.