



SERVICE COMPLAINTS TEAM

**A GUIDE FOR INDIVIDUALS
NAMED AS A RESPONDENT IN
A SERVICE COMPLAINT**

EFFICIENT



FAIR



EFFECTIVE



This leaflet provides a brief guide for Respondents in a Service Complaint. This guide should be read in conjunction with JSP 831, JSP 763 and BR 3 Ch 23.



The aim of the Service Complaints (SC) system is to provide Service personnel with a process through which grievances on matters relating to their Service can be addressed.

Although not every complaint will have a Respondent, such as those that deal with MOD policy, the Service Complaints team understands and appreciates that being named as a Respondent can be a daunting and challenging time. This leaflet will provide a brief overview of what to expect, what key documents you should receive and the timescales that should be adhered to. The SC process should be efficient, effective and fair to both Complainants and Respondents.

What can you expect?

You will be informed once an Annex F is received that you have been named as a Respondent in a SC and the Annex F will be disclosed to you at this point. Please be aware that it may have redacted sections which relate to other individuals or information of a personal or sensitive nature. You will not be permitted to view these sections. In some rare cases you may find that you are named as a Respondent in a SC which has already been underway for some time. Please remember that being named as a Respondent gives you the right to see what has been alleged, an opportunity to respond to the evidence, and make any observations on the case file. Your response will be seen by the Decision Body (DB)/Appeal Body (AB).

Assisting Officer (AO)

An AO can be an excellent source of support and assistance through what can feel like a stressful and isolating process. Your AO can accompany you to any interviews and help you to prepare any responses to evidence being provided which will be seen by the DB/AB. Your AO can also accompany you to an Oral Hearing if one is held. You can nominate your own AO, or your unit can assist in sourcing one for you. An AO would usually be of at least SNCO rank or equivalent.

Admissibility

The Specified Officer (SO) (usually the Complainant's Commanding Officer) will meet with the Complainant to discuss the allegations within the Annex F. The SO may also meet with you, and your AO can accompany you to this meeting if you wish. The SO will then take legal advice before deciding if the matter complained about is admissible as a SC.

They will then write to you to let you know their decision.

In some cases this will only be the relevant parts of the admissibility decision that concern you.

Decision Body (DB)

The RN SC Secretariat will then appoint a DB to make a determination on the SC. The DB will direct that an investigation is carried out, either by a Unit Investigating Officer or a Harassment Investigation Officer.

You will be interviewed as part of the investigation and will have an opportunity to provide additional relevant information, or suggest further witnesses. However, the scope of the investigation is directed by the DB, and any further evidence or witnesses can only be incorporated into the investigation if the DB deems this to be appropriate. Once complete, you will be sent a copy of the full case file less legal advice, and be given the opportunity to make observations on it. This is called the Disclosure stage. The DB will then make their determination in the form of a Decision Letter to the Complainant. You will receive a copy of this letter.

30 Working Day Updates

You will receive written updates every 30 working days from your parent unit.

Appeal Body (AB)

If the Complainant disagrees with the DB's decision they can submit an appeal application. If this happens, the RN SC Secretariat will determine whether the appeal application is admissible, and if it is will appoint an appropriate AB, usually a panel of senior officers, sometimes with an Independent Member. The AB may direct further investigation.

Once this is complete you will be sent a copy of the full case file less any legal advice, and given the opportunity to make any comments you have for the AB before they decide on the SC. The AB will then meet and make their determination which will be sent to you in the form of a Decision Letter. In some cases an appeal route is not available, for example, when a SC is decided by a Service Board at DB level.

Oral Hearing

An AB may direct that an Oral Hearing be held so that they can speak directly to the Complainant, Respondents and any relevant witnesses. You will be expected to attend to answer any questions the AB members may have. This is not an adversarial process and you will not be cross examined.

Role of the Service Complaints Ombudsman (SCO)

The Ombudsman is unable to assist an individual who is a Respondent to a Service Complaint. However, the Ombudsman will provide clear information on her role, and, where appropriate, will provide information on how individuals may raise a Service Complaint in their own right. The Ombudsman is independent of the MOD, an appointment made by The Queen on the recommendation of the Secretary of State for Defence.

More information is available at:

www.servicecomplaintsombudsman.org.uk



RESPONDENT CHECKLIST

DB Level:

- I have received a copy of the Annex F.
- I am aware of the role of an Assisting Officer.
- I have been provided a copy of the admissibility letter by the Specified Officer.
- I have been informed of who has been appointed as Deciding Body.
- I have had the opportunity to be interviewed by the Investigating Officer.
- I have received copies of all disclosure documents.
- I have received a copy of the Decision Body's decision Letter.
- I have received regular 30 working day updates.

AB Level:

- I have been informed that the Complainant wishes to appeal the Decision Body's Decision Letter.
- I have been informed of who has been appointed as Appeal Body.
- I have received copies of all disclosure documents.
- I have received a copy of the Appeal Body's Decision.
- I have received 30 working day updates.

FREQUENTLY ASKED QUESTIONS

I am concerned about the DB/AB who has been appointed, what can I do?

Within 5 working days of receiving the letter you should raise your concerns with the RN SC Secretariat, via navy-legalcomplaintsmailbox@mod.gov.uk. If a conflict of interest is found a new DB or AB may be appointed.

I think the SC is malicious and/or vexatious, what should I do?

You may raise these concerns with the SO and IO when you are interviewed, you may raise them in your evidence to the investigation and you should also raise them as part of your observations on disclosure at DB level and AB level, if disclosure is required.

I am concerned about the behaviour of the Complainant, what can I do?

It is incumbent on all parties in a SC to behave appropriately. If you have any concerns about the behaviour of anyone please raise this issue, in writing, to the DB / AB / investigator / caseworker (as appropriate). Appropriate sanctions may be applied.

I am unhappy with the conduct or scope of the investigation, what should I do?

Please raise your concerns in writing to the DB / AB in your response to disclosure.

Do I have to be involved in the Service Complaint?

Your involvement is crucial, it is important that the DB and AB make their determination based on evidence obtained from all parties. If you are a serving member of the Armed Forces then you are obliged to participate by making yourself available for interview and by timely responses to any communication made to you.

If you are no longer serving then you cannot be compelled to participate. If you do not respond to requests for information within reasonable deadlines the SC may move on without you, and the DB/AB will make their determination based on the information available to them.



Do I have to attend an Oral Hearing?

If an Oral Hearing is directed and you are a serving member of the Armed Forces then your attendance is considered a duty and you must attend. If you are no longer serving then you cannot be compelled to attend, but may wish to do so.

Non-serving attendees may claim back the cost of travel and subsistence for the duration of the Oral Hearing.

Should I seek legal advice?

The Service Complaints Process is non-litigious and you should not need to seek legal advice. If you choose to seek independent legal advice, please note there is no facility for the reimbursement of legal costs regardless of the outcome of the SC.

I am finding the process really stressful, who can help me?

Your Assisting Officer can support you through the process. Your Divisional Officer, unit personnel/welfare staff or medical centre will also be able to signpost you to appropriate agencies for help and support. If you feel unable to do this or your concerns are not addressed please raise any issues, in writing, to the DB / AB.

What will happen if the SC is upheld?

If the SC is upheld the DB or AB will consider what redress is most appropriate.

Can I submit a SC about the process?

As a Respondent you may submit a SC if you feel you have been wronged as a result of a SC. Please be aware that some matters are excluded, including decisions made by the SO, DB or AB in respect of a SC. Please see JSP 831, Part 1, Annex B for further guidance, or you can contact Service Complaints Ombudsman for advice, at

www.servicecomplaintsombudsman.org.uk

THE SERVICE COMPLAINTS PROCESS FROM A RESPONDENT'S PERSPECTIVE

- Specified Officer (SO) (usually CO) receives written complaint and will acknowledge receipt within two working days. Respondent will be given copy of Annex F (or relevant extract) and an interview date with SO.
- SO considers admissibility.
- SO informs Complainant and Respondent via separate letters if complaint is admitted.
- If the complaint is admitted RN SC Secretariat will appoint a Decision Body (DB).
- An investigation should normally take place within 12 to 14 weeks but complex cases can take much longer. The Complainant, Respondent and any relevant witnesses will be interviewed as part of this process.
- After investigation, the report will be disclosed to the Complainant and Respondent as part of the Disclosure stage.
- DB will issue their Decision Letter to the Complainant based on the investigation report and a redacted copy will be provided to the Respondent.
- Complainant has 6 weeks from the date of receiving the decision to appeal the decision.
- Respondent will be notified if Complainant has or has not appealed the decision.