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# Annual Report 2019

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Presented to Parliament pursuant to Section 340O of the *Armed Forces Act 2006*, as amended by the *Armed Forces (Service Complaints and Financial Assistance) Act 2015*, c.19.

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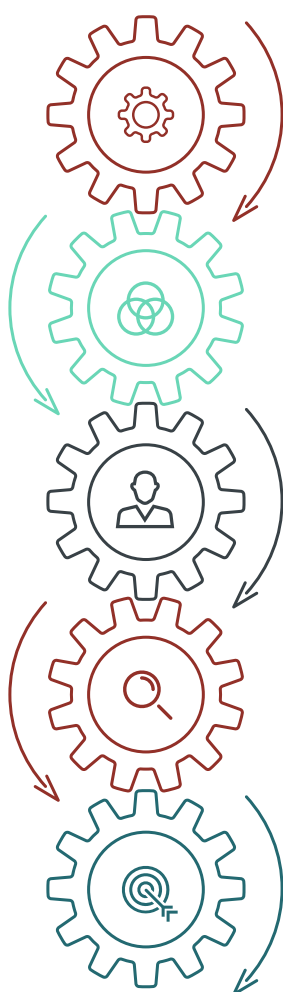
# Our mission

To provide independent oversight and investigations in support of an effective Service Complaints process for members of the UK Armed Forces.

# Our vision

That all Service personnel have access to, and confidence in, a Service Complaints system that is efficient, effective and fair.

# Our customer charter



## RESPECT

We will treat you with courtesy and respect at every stage of the process and we expect you to treat our staff in the same way.

## COMMUNICATION

We will always ensure that the information we provide is clear and easy to understand. This includes information about our role and what we can and cannot do.

We expect you to provide the information we ask for and to be honest in your communications with us.

## IMPARTIALITY

We will undertake all aspects of our work fairly and impartially as an independent body.

## TRANSPARENCY

We will always act openly and transparently and will publish information about our work and the Service complaints system. In doing this we will never compromise confidentiality.

## IMPROVEMENT

We will continually look to improve the service we offer and listen to the feedback you provide. We hope that you will help us achieve this by responding to our requests for feedback at the end of the process.

The full version of the SCOAF customer charter can be found on our website <https://www.scoaf.org.uk/about-us/customer-charter>



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## Message from the Ombudsman



Dear Secretary of State,

I am pleased to present my Annual Report for 2019, my fourth, and final, as Ombudsman.

The legislation requires that I make an annual assessment as to whether the Service Complaints system is efficient, effective and fair. Although there has been progress year on year in this regard since my first report in 2016, I have been unable to find that it is and regrettably this year is no exception.

While it is true that the current system is a significant improvement on the previous ones, the changes have not yet gone far enough. The system requires more fundamental structural changes to bring about the type of improvements that are required to have an efficient, effective and fair process.

There are some recurring issues, which I discuss in greater detail in my report, which have also been highlighted by recent reviews, including the *Report on Inappropriate Behaviours* which echoed and endorsed some of the recommendations made in earlier SCOAF Annual Reports. The Ministry of Defence is already considering a raft of related recommendations made by that report, some of which concern structural changes, which I fully support. Therefore, I have decided to limit the recommendations I make this year pending the outcome of that work.

SCOAF should always be a critical friend of the Armed Forces and this is what I have sought to be throughout my time in post. Where we disagree – as we should – it has always been in a spirit of mutual respect. Sometimes, there are uncomfortable issues to be faced, and the Services should tackle these with far greater speed than has often been the case. But I have always been struck by the dedication of those working in the area of Service Complaints, often with resource constraints, whose commitment to resolving these issues is second to none. This is also mirrored within the wider UK Armed Forces. In my role as Ombudsman I have met many hundreds of Service personnel, both in the UK and abroad, and I have been constantly impressed by their dedication and commitment to Service life.

I am now entering the final eight months of my term as Ombudsman, which will expire on 31 December 2020. I always thought this role would be both interesting and challenging in equal measure – and that it has certainly proved to be! But above all, it has been richly rewarding. I know that I, and the whole SCOAF team whom I have been proud to work alongside, have added value to the Service Complaints system, and that they will continue to do so after I demit office in support of the new Ombudsman.

I have been proud to have been the first Service Complaints Ombudsman for the Armed Forces. Here's to the next 5 years which I am sure will see both the Service Complaints system, and SCOAF as an organisation, go from strength to strength.

A handwritten signature in dark ink, appearing to read 'Nicola Williams', with a stylized, flowing script.

**Nicola Williams**

Service Complaints Ombudsman for the Armed Forces

# Message to my team

2019 has been a challenging year for the whole organisation, but in particular the operational arm, headed by the Chief of Operations. The role of SCOAF is, among others, to highlight the impact of delay in the internal Service Complaints process, and we have often commented on lengthy delays in each of the single Services. However we ourselves have also had a backlog of cases leading to delay - which, understandably, has been the subject of comment. As Ombudsman I cannot criticise the Services for delay and not be prepared for scrutiny over the same issue.

This is why SCOAF has always been open and candid about this issue and will continue to be so. While there is delay in allocating cases, the Investigations Team has worked extremely hard in significantly reducing this backlog despite not being at full capacity. As of 31 December 2019, the Investigations Team has never been at its full complement of 10 Senior Investigators and Investigators – and in previous years has fallen way below that. However, the quality of the investigation reports produced is second to none, ensuring they continue to produce detailed and professional investigation reports to a very high standard.

The Enquiries and Referrals Team, a small team of two, has, every year since the establishment of this office, consistently met their targets and in 2019 hit 100% referral rate for the first time since SCOAF was established in 2016. As our frontline staff, they maintain a high level of professionalism throughout, despite working in what is often a challenging and upsetting environment. It is only right that I commend them for their efforts in ensuring the core work of this office is maintained.

No organisation can run without an efficient outer office. In SCOAF, this is headed by the Chief of Staff and is comprised, among other things, of Policy, Communications, Statistics, Business, Executive Assistant and Administrative Support. Often they are so effective that they are overlooked. Not so here. SCOAF simply could not manage without them and, along with the operational arm, I would like to publicly recognise the contributions and achievements of both teams here and thank everyone for their hard work.







# Executive summary

The Service Complaints Ombudsman for the Armed Forces' Annual Report 2019 reports on the work undertaken by her office throughout 2019, and the current state of the Service Complaints system.

## Efficient, effective and fair

In making this assessment, the Ombudsman takes into consideration a number of factors, including:

### Efficient

- Deals with complaints at the lowest suitable level
- Resolves complaints within the allocated timeframes
- Handles complaints without undue delay
- Is equipped with sufficient resource

### Effective

- People have knowledge of the complaints process
- People have confidence in the complaints process
- Brings about change as a result of complaints that have been made

### Fair

- Clarity of purpose
- Accessibility
- Flexibility
- Openness and transparency
- Proportionality

A more detailed analysis of this can be found in **Chapter 1** of this report.

## The work of SCOAF

In 2019 SCOAF:

- logged 754 contacts from individuals making an application or an enquiry about the Ombudsman's powers
- made 144 referrals to help current or former Service personnel access the Service Complaints system
- made 100% of referrals within 7 working days, exceeding the 90% target
- received 322 applications for investigation, of which 82% were eligible for investigation
- completed 80% of all investigations within the time target
- completed 90% of admissibility reviews and 99% of undue delay investigations within 17 working days, meeting/exceeding the 90% target
- reduced the backlog from 143 unallocated substance and maladministration cases to 49 as of 31 December 2019

## The work of the Service Complaints system

In 2019:

- 1,184 formal statements of complaint and 149 informal complaints were received by the Services
- 766 were deemed admissible in-year, with a further 178 pending a decision
- The 3 largest areas of complaint concerned
  - career management (37%)
  - bullying, harassment or discrimination (25%)
  - pay, pensions and allowances (15%)
- 46% of complaints were closed within 24 weeks (tri-Service target)
- Both female and BAME personnel were overrepresented in the Service Complaints system (23% and 12%) compared to their representation in the Armed Forces (11% and 8%)
- 5 pre-2016 complaints were finalised, leaving 4 complaints made before 2016 open at the end of 2019

## Observations

This year, the Ombudsman has chosen to make observations in addition to recommendations. These observations relate to issues or points the Ombudsman wishes to highlight, but that fall short of the level required to support a recommendation.

Key observations made by the Ombudsman in this report are:

### Observation 1

It is important that effective informal and alternative dispute resolution processes run alongside any formal complaints process. The Ombudsman believes that:

- a. data needs to be collated to support an objective assessment for how those processes are working, and
- b. discussions of all suitable options should be a mandatory part of the complaint handling process. However, individuals should not be required to pursue them. Ultimately, it is for a complainant to determine the process they wish to follow.

### Observation 2

Having a system that is efficient, effective and fair means that the overarching objective of the Service Complaints system should be that grievances raised by members of the Armed Forces are resolved justly, fairly, proportionately and without undue delay. The Ombudsman believes that changes to the Service Complaints system should be capable of being measured to evidence the impact these changes have on the efficiency, effectiveness and fairness of the system.

### Observation 3

In 2019, SCOAF dealt with the same issues and mistakes arising in admissibility decisions that it has seen since 2016. This raises concerns that lessons are not being learnt following SCOAF investigations. It is important that recommendations and wider learning points made in SCOAF reports are captured, shared and used to improve process where appropriate to do so.

## Recommendations

Based on the work undertaken by her office and the performance of the Service Complaints system in 2019, the Ombudsman has made the following recommendations in this report:

### Recommendation 4.1

#### Analysis and research

That the questions measuring knowledge of the Service Complaints Ombudsman (SCOAF) for the Armed Forces in the Armed Forces Continuous Attitudes Survey (AFCAS) and the Reserve Forces Continuous Attitudes Survey (ResCAS) are reviewed by December 2020. This review should consider whether the questions are the most effective in capturing the data that needs to be measured. The Ministry of Defence should consult SCOAF personnel as part of this review.

That any review of the AFCAS and the ResCAS also considers if the surveys could be an effective tool to collect any further information about the attitudes and experiences that Service personnel have of the Service Complaints process.

### Recommendation 4.2

#### Analysis and research

That a comprehensive review of data collection is conducted as part of any reorganisation of the Service Complaints system in order to ensure that the correct data is being collected and reported against. This review must consider the following key issues:

- a. What is the overarching objective of the Service Complaints system and what data is required to report against this?
- b. What do stakeholders want to know about the Service Complaints system and can this data be collected and reported on?
- c. How is qualitative analysis conducted in order to ensure comprehensive reporting and understanding of the issues?

### Recommendation 4.3

#### Policy and guidance

That by December 2020, a leaflet is developed to provide individuals involved in the Service Complaints system a comprehensive overview of where they can get wellbeing support. This leaflet must be provided to all complainants and respondents.

## Recommendation 4.4

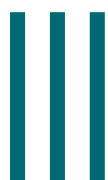
### Process

That a review of process is undertaken to identify where the gaps in post-decision aftercare exist and that procedures to address these are drafted and put in place by December 2020. These procedures should include at a minimum:

- timeframes for the implementation of redress being included in decision letters
- notification of a point of contact post-decision for any queries relating to redress
- responsibility for updating complainants on the implementation of recommendations made as part of SCOAF investigations.

As the Ministry of Defence is already considering a raft of recommendations arising from three key reviews of the Service Complaints system in 2019, some of which concern structural changes, the Ombudsman has limited her recommendations in light of that work.





# Chapter 1 – Efficient, effective and fair

The Ombudsman is required to make an annual assessment of whether the Service Complaints system is efficient, effective and fair<sup>1</sup>. These are fundamental principles of complaint handling and are the essential elements in any successful complaints system.

As the elements are connected, the assessment requires each principle to be considered individually and also together. Each must be achieved to make a positive assessment. For example, a complaints system that is not efficient can be neither fair nor effective.



No system will ever be perfect and continuous improvement must always be a driving force. However, any system needs to be more than 'good enough'. It needs to be of a consistently high standard, both procedurally and in practice. Minor imperfections will not affect the assessment of how the system is operating, but significant flaws that go to the heart of how the system works will.

In 2019, the Ombudsman identified four significant problems in the system:

1. low levels of confidence
2. delay
3. incomplete data
4. negative impact on wellbeing

These are discussed in detail across **Chapters 1** and **2**.

<sup>1</sup> S340O(2)(a) of the *Armed Forces Act 2006* as amended by the *Armed Forces (Service Complaints and Financial Assistance) Act 2015*, c.19

## Key problems in the Service Complaints system in 2019

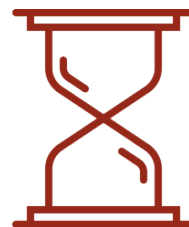
### 1 Low levels of confidence

According to the AFCAS 2019<sup>2</sup>, 93% of Service personnel responding to the survey who said they had experienced bullying, harassment or discrimination in the previous 12 months chose not to make a Service Complaint. 57% said it was because they didn't believe anything would be done if they did.



### 2 Delay

Of the delay cases SCOAF investigated in 2019, undue delay was found in 53% of them. None of the Services has met the Key Performance Indicator (KPI) to resolve 90% of Service Complaints within 24 weeks. Work to determine a more suitable timescale remains outstanding. The failure to have an agreed, achievable and sustainable timeframe for resolving complaints is a significant issue.



### 3 Incomplete data

While there is a wide range of data available, gaps exist in both the statistical data and the in-depth qualitative analysis that is needed to understand the key issues in the Service Complaints process.

Continued efforts should be made to improve data capture in order to support long-term systemic change.



### 4 Negative impact on wellbeing

The process of making a complaint, or being named in a complaint, can be stressful. However, those stressors can normally be managed with adequate communication and support. Within the Service Complaints system, the Ombudsman has noted many instances where the process has had a negative impact on an individual's wellbeing.<sup>3</sup>



<sup>2</sup> Armed Forces Continuous Attitudes Survey 2019

<sup>3</sup> This refers to applications from complainants who approach SCOAF



## Is ‘efficient, effective, fair’ the right test?

The Service Complaints system has never been efficient, effective or fair, despite annual reviews since 2008. As a result, a common question is: ‘If the system is still not efficient, effective or fair, are we using the right test in the first place?’

Given the radical changes to the Service Complaints system, which were designed to address this issue, it is a legitimate question to ask. However, the Ombudsman firmly believes that the process needs to be efficient, effective and fair.

While there are many different methods used worldwide for assessing complaints systems, they all cover the same broad elements. Therefore, a system that is not found to be efficient, effective or fair would not be assessed any differently using another method.

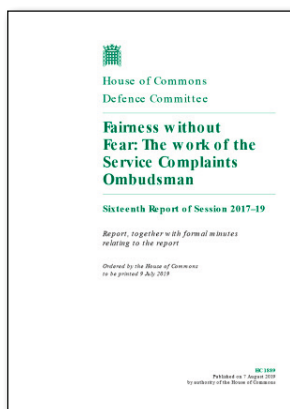
The benefits of using the efficient, effective and fair test are that it is:

- endorsed by the Ombudsman Association, of which SCOAF is a member; and
- adaptable to a developing complaints system.

The Ombudsman recognises using this test can be disheartening, especially given the work undertaken to improve the Service Complaints process. However, the Ombudsman’s view of the efficient, effective and fair test indicates the system is improving, but is not functioning optimally at this point.

## Other significant reviews carried out in 2019

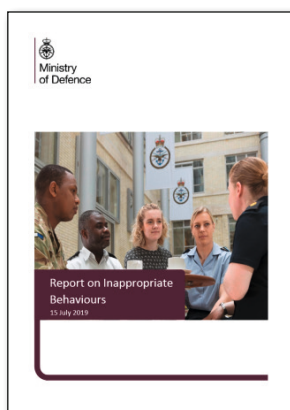
In 2019, there were three significant reports published that looked at the operation of SCOAF and/or the Service Complaints system. These were:



### ***Fairness without Fear: The work of the Service Complaints Ombudsman***

A report by the House of Commons Defence Committee, *Fairness without Fear* examines the work of the Service Complaints Ombudsman for the Armed Forces since 2016.

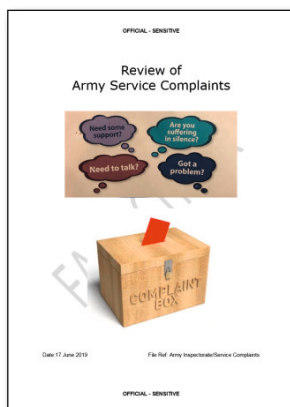
In addition to the 12 recommendations made in the report, the Committee stated: “We seriously doubt that the current Service Complaints system is fit for purpose.”<sup>4</sup>



### ***Report on Inappropriate Behaviours***

Ordered by the Secretary of State for Defence, the *Report on Inappropriate Behaviours* by Air Marshal Wigston looks at the issue of inappropriate behaviours in the Armed Forces.

The report makes 4 key observations and 36 recommendations for improvement. Some of the key recommendations concern significant reforms to the Service Complaints system.<sup>5</sup>



### ***Review of the Army Service Complaints Process***

This report by the Army Inspectorate looks at the operation of the Service Complaints system within the Army.

It makes 10 key observations and 37 recommendations for improvement.

The report is not a public document. However, the Ombudsman was granted permission to reference it within this report.

<sup>4</sup> House of Commons Defence Committee, '*Fairness without Fear: The work of the Service Complaints Ombudsman*'. Sixteenth Report of Session 2017-19 p3

<sup>5</sup> Ministry of Defence, '*Report on Inappropriate Behaviours*' 2019 p34-35

## The Ombudsman's assessment

In reviewing the operation of the Service Complaints system in 2019, the Ombudsman finds that it is not efficient, effective, or fair. In addition, the Ombudsman does not believe that the current system is fit for the future.

<b>Efficient</b>		
Deals with complaints at the lowest suitable level		
Resolves complaints within the allocated timeframes		
Handles complaints without undue delay		
Is equipped with sufficient resource		
<b>Effective</b>		
People have knowledge of the complaints process		
People have confidence in the complaints process		
Brings about change as a result of complaints that have been made		
<b>Fair</b>		
Clarity of purpose		
Accessibility		
Flexibility		
Openness and transparency		
Proportionality		
<b>Good performance</b> The Service Complaints system is performing well in this area.	<b>Moderate performance</b> The complaints system has made improvements in this area, but further work is required. Issues preventing a higher assessment may be outside of the immediate Service Complaints process.	<b>Poor performance</b> The complaints system is performing poorly in this area.

**Table 1 – Ombudsman's assessment of the Service Complaints system in 2019**

## Efficient

An efficient complaints system is one that:



### Deals with complaints at the lowest suitable level

The Service Complaints system has processes in place to resolve grievances at the lowest suitable level. However, there is currently no data being collected or analysed to measure the success of these processes.

The system is designed to ensure that the person responsible for deciding a complaint in the first instance has the power to grant the necessary redress. In 2019, 71% of complainants who received a final decision on their complaint did not appeal the decision. This is despite only 56% of all complaints closed in 2019 being upheld in favour of the complainant.

Informal and alternative dispute resolution processes, which have been embraced by each of the single Services, run alongside the formal Service Complaints system.

As discussed in previous annual reports, both the Naval Service and the RAF have “quick fix” or “fast-track” units which aim to identify complaints submitted to the formal system that could be resolved quickly with little or no investigation required.

The Ombudsman is supportive of these processes, but notes that there is currently no method for assessing complainant satisfaction following informal resolution, including the “quick fix” processes. In the narrative it provided to the Ombudsman, discussed within its **Service update** in Chapter 3, the RAF demonstrated that it is possible to extract data to evaluate these processes. Introducing methods to do this would provide an understanding of how well these processes worked.

The Ombudsman is impressed with the range of options available to help resolve complaints at the lowest suitable level and the increasing focus on using informal and alternative methods of complaint resolution. However, this positive assessment sits alongside the Ombudsman’s ongoing caution that not all types of complaints are suitable for resolution using these processes. Furthermore, while the Ombudsman believes that discussion of all suitable options should be a mandatory part of the complaint handling process, ultimately it is for a complainant to decide how they wish to pursue their complaint.

## Observation 1

It is important that effective informal and alternative dispute resolution processes run alongside any formal complaints process. The Ombudsman believes that:

- a. data needs to be collated to support an objective assessment for how those processes are working, and
- b. discussions of all suitable options should be a mandatory part of the complaint handling process. However, individuals should not be required to pursue them. Ultimately, it is for a complainant to determine the process they wish to follow.

### Resolves complaints within the allocated timeframes

The failure to have an agreed, achievable and sustainable timeframe for resolving complaints is one of the most significant issues impacting the Service Complaints system.

Clear timeframes are required not only to assess performance but to manage expectations amongst those involved in the complaints process.

The current KPI is to resolve 90% of Service Complaints within 24 weeks. Since this KPI has been in place, no Service has ever achieved it.

	Tri-Service	Naval Service	Army	RAF
2016	39%	57%	25%	50%
2017	52%	56%	37%	75%
2018	50%	68%	40%	65%
2019	46%	74%	32%	52%

**Table 2 – Closure rate against 24-week target**

In her 2016 report, the Ombudsman recommended that the Ministry of Defence identify a working group to review this KPI. The aim behind this recommendation was to set the right standard.

24 weeks equates to six months. This is a considerable amount of time in which to resolve a complaint. As outlined in the *Report on Inappropriate Behaviours*, the average timeframe to resolve a complaint about inappropriate sexual behaviour in the private sector is around two months.<sup>6</sup>

<sup>6</sup> Observation 3.1 notes that the average target for such complaints in the private sector is 40 to 45 days. This figure does not include the time limit for Employment Tribunal complaints where the time limit is extended.

The Army Inspectorate's report noted that:

"If you reduce the length of time taken to resolve a [Service Complaint] this could degrade the quality of performance and disproportionately increase the cost (resources) to achieve a timely outcome. Conversely, improving performance (quality and fairness) could adversely affect the length of time taken or reduce the quantity of [Service Complaints] dealt with in the same timeframe [...] The [Commanding Officers] were clear with 80% agreeing quality was more important than speed."<sup>7</sup>

The Ombudsman has seen no evidence that more time spent on Service Complaints significantly improves the quality of the investigation or final decision. Further work is needed to assess this.

In addition, the Ombudsman remains exceptionally concerned about a key element that is often overlooked – the wellbeing of those involved in the complaints process.

As part of the wider discussion in the Army Inspectorate's report, the Chief of Defence Personnel is quoted as saying: "every day of a [Service Complaint] is a day too long for the complainant."<sup>8</sup> The Ombudsman agrees with this and believes that every day of a Service Complaint is another day that the wellbeing of those involved in the process can suffer. While good communication and support can go a long way to manage this, it will not stop the impact.

SCOAF often deals with individuals who are experiencing high levels of stress and mental ill-health as a result of their involvement in the Service Complaints process. This is unacceptable. One complainant commented to SCOAF:

"My second SC is still ongoing which is about 6 weeks away from being a full year since I first submitted it, and so much has happened that I wish to just forget about it, especially as I am finally "getting back a sound mental health". [...] I [don't] want to be victimised anymore [...] I [am] actually scared to ask for the progress of my own SC because of the treatment I have received during the course of this SC."

The time taken to resolve complaints cannot simply be increased because there is a failure to meet the timeframe. Service Complaints must take no longer than needed to ensure a fair, reasonable and proportionate investigation and decision, including any appeals process.

<sup>7</sup> Army Inspectorate, 'Review of the Service Complaints Process', 28 June 2019 p 23

<sup>8</sup> Army Inspectorate, 'Review of the Service Complaints Process', 28 June 2019 p 15

The House of Commons Defence Committee noted in its report:

“There is a lack of information about where delays enter the system and why: the MoD and SCOAF need to work together to ensure that much better data is recorded about the time taken during the various stages in complaints procedures.”<sup>9</sup>

The data reviewed for 2019 indicates that certain types of complaints take longer to resolve, although the reasons for this are not known.

Subject of complaint	% of Service Complaints received in 2019 closed within 24 weeks
Career management	59%
Bullying, harassment or discrimination	20%
Pay, pensions and allowances	48%
Other	48%

**Table 3 – Percentage of Service Complaints received in 2019 closed within 24 weeks by subject of complaint**

The issues that need to be better understood when reviewing and agreeing a new realistic timeframe are:

- a. what types of complaints take longer than 24 weeks to resolve and the reasons for this
- b. the average time between the stages throughout the process
- c. the blockages in the existing process that lead to delay
- d. whether more proportional processes would improve the system without having a negative impact on quality
- e. the adverse impact on complainants and respondents where complaints exceed a reasonable timeframe

The *Report on Inappropriate Behaviours* recommended a comprehensive review of the Service Complaints system, including understanding the lived experience of those involved in the process. The Ombudsman lends her support to this recommendation. An independent review of SCOAF process has been a significant factor in the improvement of SCOAF operations in 2019, as outlined in **Chapter 2**. The Ombudsman believes a similar review could benefit the wider Service Complaints process.

## Handles complaints without undue delay

There is no legal definition of undue delay. However, it is agreed that in general terms it means the time taken to do something has taken longer than is reasonable. In many instances, this results in an outcome that is unfair or unjust because the time taken prevents the appropriate redress being awarded, or has other adverse impacts on those involved. For these reasons,

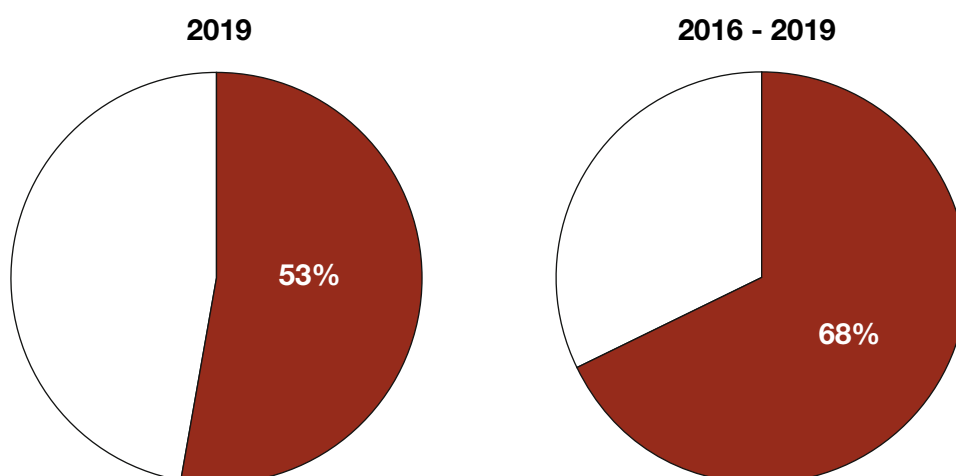
<sup>9</sup> House of Commons Defence Committee, *'Fairness without Fear: The work of the Service Complaints Ombudsman'*, Sixteenth Report of Session 2017-19 p3

a complaint does not need to exceed the 24-week timeframe for undue delay to exist. Also, simply because a complaint has exceeded 24 weeks, it does not mean that there has been undue delay. What constitutes undue delay is determined on a case by case basis.

The Ombudsman has the power to investigate alleged undue delay in ongoing Service Complaints and Service Matters<sup>10</sup>.

In 2019, SCOAF conducted 73 investigations into alleged undue delay. 53% of those investigations found that there was undue delay in the handling of the complaint.

Since 2016, SCOAF has conducted 275 investigations of this type, 68% of which have found undue delay.



**Chart: Percentage of undue delay investigations which were upheld in favour of the complainant**

In 2019, the number of applications made to SCOAF requesting an investigation into alleged undue delay was only 6% of all open Service Complaints.

Currently, this type of investigation can only be requested by the person who made the complaint. The Ombudsman is aware there are many respondents who believe there has been undue delay in the handling of a complaint they are named in. However, there is no mechanism in the legislation for them to make an application for undue delay, unless they raise a Service Complaint. Therefore, the rate of undue delay is likely to be significantly higher than what has been seen by the Ombudsman.

### Is equipped with sufficient resource

Despite the increase of resource allocated to the Service Complaints system in recent years, it is widely accepted that it remains inadequate. The House of Commons Defence Committee remarked:

<sup>10</sup> A Service Matter is an issue that has been raised, which could be a Service Complaint, but a complaint has not been made. It refers to informal complaints and instances where a formal statement of complaint has been submitted, but an admissibility decision has not been made.



*“It is evident to us that complaint handling within SCOAF and across the Services is understaffed and inadequately resourced. The decision taken in 2015 to task a relatively small office with the duty of re-examining the substance of complaints – rather than just ruling on the adequacy of procedures followed and time taken by the Services in handling them – has led to large backlogs and unacceptable delays.”<sup>11</sup>*

In her 2018 Annual Report, the Ombudsman made the following recommendation:

### Recommendation 3.1

That following the independent internal process review and any expert peer review, a comprehensive proposal for additional resource is prepared by the Service Complaints Ombudsman for the Armed Forces and submitted to the Ministry of Defence by the end of September 2019, for early consideration. This should address the resources required to:

- reduce the existing backlog
- prevent a new backlog developing
- execute in-depth research and analysis as required by the Ombudsman’s reporting function

While there was significant improvement in SCOAF staffing levels in 2019, additional resource is still required to ensure that demand for SCOAF investigations is met.

SCOAF submitted a bid for five additional investigators and one part-time B2/Grade 7 post. This bid is currently under consideration; however, the Ombudsman is not confident that it will be approved given the current manpower review taking place across Defence.

In addition to personnel, SCOAF is also in the process of acquiring new case management software. The primary reason for this is that the current software is not fit for purpose, as discussed in **Chapter 2**. The new software will greatly improve SCOAF’s ability to execute the in-depth research and analysis required by the Ombudsman’s reporting function.

In respect of the resources within the internal Service Complaints system, any potential review of the system must consider the level of resource required for the system to work at the optimum level. When looking at the issue of resource, consideration should not only be given to the number of people required to do the job but how to streamline processes and maximise efficiency without impeding on quality.

<sup>11</sup> House of Commons Defence Committee, *‘Fairness without Fear: The work of the Service Complaints Ombudsman’*. Sixteenth Report of Session 2017-19 p4

## Effective

An effective complaints system is one that:



### People have knowledge of

The level of knowledge of the Service Complaints system across the Armed Forces is not known as the only consistent measurement of this is through the Armed Forces Continuous Attitudes Survey (AFCAS), which is limited in terms of the questions it asks on this topic.

When gauging why people have chosen not to make a Service Complaint, one of the responses available in the AFCAS is that the individual did not know about the Service Complaints process. In 2019, only 8% of individuals who said they did not make a Service Complaint about an issue of bullying, harassment or discrimination said it was because they did not know about the Service Complaints process. 90% of those were junior personnel/ not officers<sup>12</sup>.

In its current format, questions on the Service Complaints process only appear in the AFCAS in relation to bullying, harassment or discrimination. Therefore, while there is a high level of knowledge amongst those who have experienced this type of behaviour, it is not known if that is true for all personnel.

The only other related question posed to all individuals responding to the AFCAS is: “Do you know how the Service Complaints Ombudsman for the Armed Forces can help you with a bullying, harassment or discrimination complaint?” In 2019, 76% of individuals answering the question said that they were aware of how the Ombudsman could assist them, either fully or to some extent.<sup>13</sup>

While the Ombudsman is very happy that the positive response rate is so high, she does have concerns about how that data should be interpreted. This particular question is carried over from the questions that were asked about the functions of the previous Service Complaints Commissioner (SCC). The statutory role of the SCC, in this context, was limited to helping Service personnel access the complaints system (i.e. referrals). The Ombudsman, on the other hand, has a range of statutory powers. Many complainants have informed SCOAF that they misunderstood the role of the Ombudsman:

“I think having a better understanding of the process would help. For example, MY opinion of an Ombudsman was to look at the bigger picture and actions behind a complaint, as opposed to looking at exactly the same thing as the originating officer.”

<sup>12</sup> Armed Forces Continuous Attitudes Survey 2019

<sup>13</sup> Armed Forces Continuous Attitudes Survey 2019

"The reason I approached the Ombudsman was that I had no faith in my [chain of command] CoC, but now it's in the hands of the CoC."

"[We need] more clarity on what the [Ombudsman] can do."

"[Can you provide] more information on [...] how the process works and when each one [of the Ombudsman's investigation functions] is applicable."

Therefore, many people responding to the question may have a fundamental misunderstanding about the Ombudsman's role.

SCOAF puts a great deal of effort into making information available about its role and functions. In addition to an active presence on social media, SCOAF's website contains a significant amount of information about what the Ombudsman does, including a range of factsheets. A print campaign has also been developed and circulated to the single Services. However, there is no consistent way to track the level of understanding across the Armed Forces outside of the AFCAS. The Ombudsman believes that consideration should be given to reviewing the questions in the AFCAS so that data can be captured, which better measures the level of understanding Service personnel have of the Ombudsman's functions.

### Recommendation 4.1

That the questions measuring knowledge of the Service Complaints Ombudsman for the Armed Forces (SCOAF) in the Armed Forces Continuous Attitudes Survey (AFCAS) and the Reserve Forces Continuous Attitudes Survey (ResCAS) are reviewed by December 2020. This review should consider whether the questions are the most effective in capturing the data that needs to be measured. The Ministry of Defence should consult SCOAF personnel as part of this review.

That any review of the AFCAS and the ResCAS also considers if the surveys could be an effective tool to collect any further information about the attitudes and experiences that Service personnel have of the Service Complaints process.



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## Confidence in the Service Complaints system

One of the most significant issues facing the Service Complaints system is that people do not have confidence in it. This is something that the Ombudsman has reported in all of her previous annual reports, and the situation has not sufficiently improved.

Looking at the data captured by the Armed Forces Continuous Attitudes Survey from 2016-2019, a clear picture emerges of the concerns people have about the Service Complaints system.

	2016 <sup>14</sup>	2017 <sup>15</sup>	2018 <sup>16</sup>	2019 <sup>17</sup>
How many experienced bullying, harassment or discrimination in the previous 12 months?	11%	13%	12%	11%
How many do not make a formal complaint as a result?	91%	90%	94%	93%
<b>Reasons for not making a formal complaint<sup>18</sup></b>				
Nothing would be done if a complaint was made	43%	59%	63%	57%
A belief that it would adversely affect their career	38%	52%	50%	50%
Not wanting to go through the complaints system	22%	30%	30%	30%
Worry about recriminations by perpetrators	18%	32%	28%	30%
<b>When a complaint is made, complainants are dissatisfied with</b>				
Outcome	54%	59%	56%	64%
Time taken to resolve the complaint	60%	64%	65%	55%
Updates on progress	47%	51%	57%	40%

In 2019, the Reserves Continuous Attitudes Survey also asked these questions. Of those answering the survey:

- 9% reported experiencing bullying, harassment or discrimination in the previous 12 months
- 87% did not make a formal complaint as a result
- 55% of those making a formal complaint were unhappy with the outcome.<sup>19</sup>

This is even more concerning as Reservists may simply leave the Service, which could potentially negatively impact the “Whole Force” concept and overall Service numbers.

<sup>14</sup> Armed Forces Continuous Attitudes Survey 2016

<sup>15</sup> Armed Forces Continuous Attitudes Survey 2017

<sup>16</sup> Armed Forces Continuous Attitudes Survey 2018

<sup>17</sup> Armed Forces Continuous Attitudes Survey 2019

<sup>18</sup> Survey respondents can select more than one answer

<sup>19</sup> Reserves Continuous Attitudes Survey Results 2019, Section 11

The *Report on Inappropriate Behaviours* also looked at the lack of confidence in the Service Complaints system, as well as a lack of confidence in informal or other processes:

"In many cases it was reported to us that victims are afraid to report an issue as they do not believe they will be understood or taken seriously. Cultural differentials play strongly into this space; the chain of command is not normally culturally representative of those under their command, and so people fear – or experience – unconscious bias through issues being considered in a manner which lacks empathy or understanding of the significance of a situation to the person. [...] We heard repeated suggestions of Service people not reporting inappropriate or unacceptable behaviour because of a fear of the consequences of doing so. [...] Many simply consider that reporting inappropriate behaviour to their chain of command would get them nowhere [...] External stakeholders told us our people have lost faith in the Service Complaints system. It is perceived to lack independence from the chain of command at every level, and many of our stakeholders question its ability to be impartial or for people to use it without attracting negative consequences."<sup>20</sup>

The Ombudsman notes that the report by the Army Inspectorate found a fairly high level of confidence amongst those participating in focus groups, with 70% agreeing that they trusted the chain of command to take a Service Complaint seriously. This was reinforced by the Unit Climate Assessment Level 1 findings report that found 54% of personnel had the same level of confidence.<sup>21</sup>

Since 2016, the Ombudsman has been aware that one of the reasons for lack of confidence in the system is the negative impact it can have on an individual's wellbeing. One comment SCOAF received in 2019 from a complainant neatly summed this up:

"The SC procedure does not work, it is flawed and with everything that has happened I fully believe that the SC hurt me more than help or solve anything [...] Sorry to say but this is the most pointless and unnecessary thing I've done and the worse thing about it all, is you were the only one who actually cared [...] to chase up the progress of my SC."

The issue of negative impact on wellbeing is discussed further in **Chapter 2**.

<sup>20</sup> Ministry of Defence, '*Report on Inappropriate Behaviours*'. 7 June 2019 pp12-13

<sup>21</sup> Army Inspectorate, '*Review of the Service Complaints Process*', 28 June 2019 p 19

## Brings about change as a result of complaints that have been made

SCOAF continues to deal with many of the same issues in 2019 that it was dealing with in 2016. This suggests that while recommendations and wider learning points are being acted upon for specific cases, greater systemic change is lagging. Some examples are:

- Where a Service Complaint is submitted outside of the three month time limit, the Specified Officer (SO) must ensure that reasons for late submission are obtained. The SO must also ensure that their decision letter clearly demonstrates that these reasons have been carefully considered.
- Quality updates need to be provided to all parties on a regular basis in line with JSP 831.
- All actions and decisions taken during the course of an investigation must be adequately recorded.

This is an issue that was also noted by the Army Inspectorate:

*"[...] the Army and MOD [sic] approach to identifying and learning lessons from the [Service Complaints] process is not as effective or coherent as it could be."<sup>22</sup> [...]*

*The Army's ability to learn lessons from [...] content rather than process, is constrained by a lack of dedicated resources in the Army SC Sec to identify and extract lessons from only a small sample of [...] casefiles. [...]*

*There is also an absence of meaningful analysis at a Defence level which more than likely inhibits lesson identification and exploitation across all three Services."<sup>23</sup>*

Following this report, the Army implemented a range of mechanism to address the issues it raised, especially in relation to bringing about change. This is further set out in the **Service update** for the Army in Chapter 3 and in the case study provided below.

### Lessons process

On return to duty, an Army Reserve officer submitted a SC regarding the late payment of maternity pay from the previous year. The Decision Body found that the officer had been wronged as a result of maternity pay being paid unnecessarily late and apologised but awarded no financial redress. The complainant appealed the decision.

The Appeal Body agreed that the complainant had been wronged as she had been poorly advised on aspects of the detail of the policy. The Appeal Body recommended that clarity and training on the aspects of Reservists' maternity entitlements should be delivered to all units with Reserves, and clear advice should be issued to Reserve units about Reservist entitlements.

To ensure Army Reservists are better served, a Personnel Administration Instruction was issued the same month of the determination. To address the training deficit/education piece, Army Briefing Note 58/19 Statutory Maternity Pay – Reserve personnel was also published signposting the relevant policy

<sup>22</sup> Army Inspectorate, 'Review of the Service Complaints Process', 28 June 2019 p20

<sup>23</sup> Army Inspectorate, 'Review of the Service Complaints Process', 28 June 2019 p53

The issue of insufficient analysis and data was also highlighted in the *Report on Inappropriate Behaviours* which identified “a need for central oversight of cultures and inappropriate behaviours across Defence.”<sup>24</sup>

When considering evidence to be acted upon, the Ombudsman is often concerned that the Ministry of Defence has a stronger focus on numbers rather than impact. This is because the number of Service Complaints is relatively small. In 2019, only 766 Service Complaints were ruled admissible. Considering there are 192,000 Service personnel, this equates to only 1 Service Complaint for every 252 serving members.

However, the impact that these issues have on Service personnel can provide significantly more information and lead to a better understanding of how to improve the system. It is important never to forget the human element, as discussed further in **Chapter 2**.

The Ombudsman also has concerns about the lack of ability to produce such high-level analysis within SCOAF. The current case management software has limited capability to capture and produce the statistical information required for in-depth analysis and reporting. An improved system will enable SCOAF to better identify trends and issues and make targeted recommendations for change. Work is underway to replace the software in 2020.

## Recommendation 4.2

That a comprehensive review of data collection is conducted as part of any reorganisation of the Service Complaints system in order to ensure that the correct data is being collected and reported against. This review must consider the following key issues:

- a. What is the overarching objective of the Service Complaints system and what data is required to report against this?
- b. What do stakeholders want to know about the Service Complaints system and can this data be collected and reported on?
- c. How is qualitative analysis conducted in order to ensure comprehensive reporting and understanding of the issues?

<sup>24</sup> Ministry of Defence, ‘*Report on Inappropriate Behaviours*’, 7 June 2019 p31





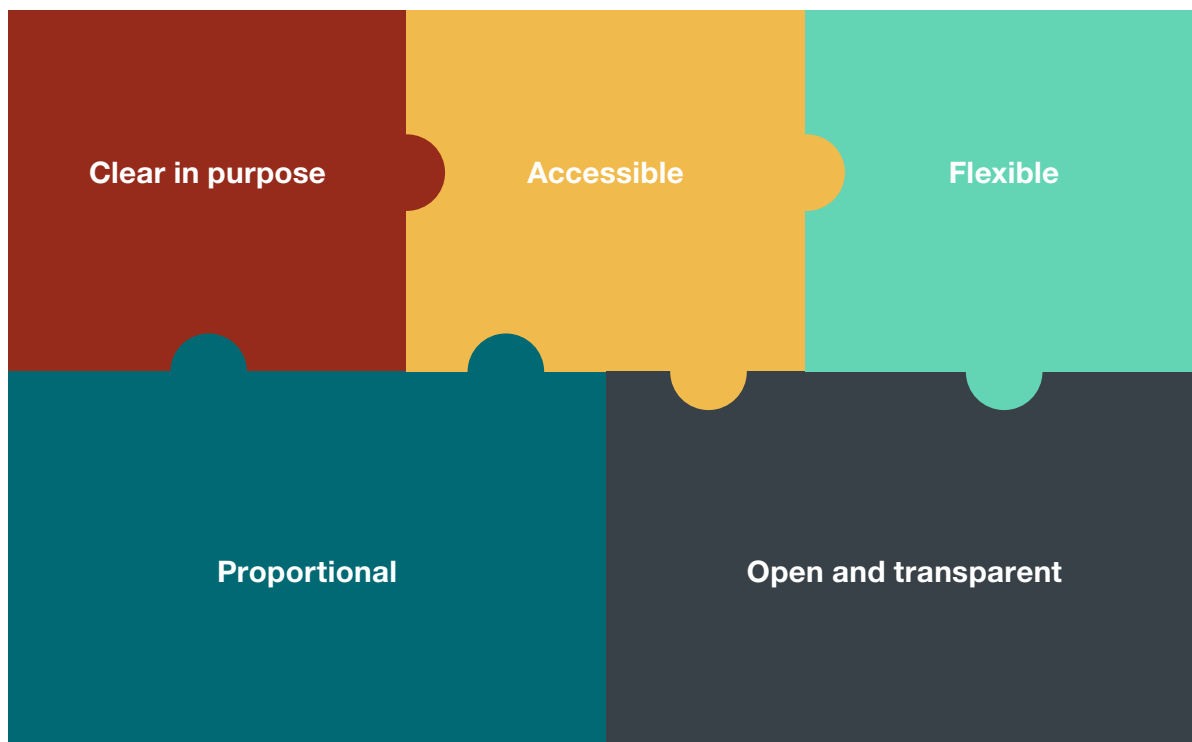
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## Fair

A fair complaints system is:



### Clarity of purpose

The purpose of the Service Complaints system and how it operates is set out clearly in JSP 831.

While the Ombudsman has previously raised concerns that JSP 763<sup>25</sup> has yet to be updated, this work is currently underway. The Ministry of Defence has confirmed that all information concerning complaints from Service personnel about bullying, harassment and discrimination will be moved into JSP 831. This decision was reached following a recommendation made in the report on *Inappropriate Behaviour Report*<sup>26</sup>. The Ombudsman welcomes this decision and believes that it will lead to greater clarity for those wishing to raise Service Complaints about these matters.

SCOAF has also done a considerable amount of work to clarify purpose and processes throughout 2019, as discussed in **Chapter 2**. This work will be built on throughout 2020.

### Accessibility

The Service Complaints system is free and open to all Service personnel. The process is made available to everyone through JSP 831 and JSP 763, as well as being covered in various training at all levels.

Every complainant and respondent is offered an Assisting Officer (AO) to help them navigate the process.

<sup>25</sup> MOD bullying and harassment complaints procedures (JSP 763)

<sup>26</sup> Ministry of Defence, 'Report on Inappropriate Behaviours' 2019

In 2019, all individuals who had submitted an admissible Service Complaint were offered an AO. As at 31 December 2019, 66% of all complainants had accepted the offer and 13% were yet to decide. Only 21% of complainants had declined the offer. The RAF had the highest rates of individuals declining the use of an AO (35%).

There is no data currently collected to record the rate of uptake of AOs for respondents. This is an issue that needs to be considered when looking at the wider issue of what data needs to be collected and reported on.

While these are all important elements of accessibility, the lack of confidence in the system is a significant barrier to access.

## Flexibility

While the Ombudsman believes that greater flexibility could be built into the Service Complaints system, as outlined **below**, the system is still significantly more flexible than it was before 2016.

## Openness and transparency

Service personnel are entitled to not only have a theoretical understanding of how the process works but a practical one. This has been provided through the recent publication of casebooks for each of the Services. These anonymised examples of outcomes of complaints can help Service personnel better understand what types of issues are dealt with and how the process works.

Openness and transparency is also evident in the publication of:

- the Service Complaints process within JSP 831;
- statistics relating to the performance of the Service Complaints system and SCOAF operations.

## Proportionality

A proportional complaints system is one that:

- uses appropriate resources for individual complaints
- grants appropriate redress
- is responsive
- is not so process heavy that it leads to delays or unjust decisions

Since 2016, the Ombudsman has highlighted the positive aspects of the new system and also made several recommendations to improve discrete issues in this area. However, more substantial change is required.

The Ombudsman agrees with the recommendation made in the *Report on Inappropriate Behaviours* that a two-tier complaints system should be considered.



As noted in the report:

*"Not all complaints involve the same degree of complexity and, when it comes to handling complaints, one size does not fit all. [...] it is apparent that not all complaints demand the full weight of resources required for bullying, harassment and discrimination complaints."<sup>27</sup>*

Both the Naval Service and the RAF have introduced "quick fix" or "fast-track" complaints procedures. The aim is to identify complaints that can be successfully resolved, to the satisfaction of all involved, quickly and without using the full formal complaints process. These initiatives have been reported to be very successful by the Services and could form the basis of a more streamlined process for less resource-intensive complaints. While the Ombudsman is very supportive of these processes, she would like to see procedures in place for objectively measuring success.

The Ombudsman makes this observation with the caution noted earlier, that informal or dispute resolution processes should not be a mandatory part of the Service Complaints process.

## Observation 2

Having a system that is efficient, effective and fair means that the overarching objective of the Service Complaints system should be that grievances raised by members of the Armed Forces are resolved justly, fairly, proportionately and without undue delay. The Ombudsman believes that changes to the Service Complaints system should be capable of being measured to evidence the impact these changes have on the efficiency, effectiveness and fairness of the system.



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<sup>27</sup> Ministry of Defence, 'Report on Inappropriate Behaviours'. 2019 p28





## Chapter 2 – The work of SCOAF in 2019


This chapter outlines the work undertaken by SCOAF on each of the legislative functions in 2019. It also covers the outreach work undertaken by the Ombudsman and her staff and analysis of customer feedback. All statistics referred to can be found in more detail in **Appendix G**, which starts on page 92. Further statistics concerning the work of our office in 2019 are on the SCOAF website [www.scoaf.org.uk](http://www.scoaf.org.uk).


### About SCOAF

The role of SCOAF is to provide independent and impartial oversight of the Service Complaints system. This is primarily achieved through the execution of the Ombudsman's four key powers.

- 

Help Service personnel access the complaints system by **referring** potential complaints.
- 

Review **admissibility decisions** made by the Services to determine whether a decision to not accept a complaint or appeal, either in whole or in part, was correct.
- 

Investigate **undue delay** in the handling of a Service Complaint or Service Matter.
- 

Investigate the **substance** (merits) and/or handling of a complaint (**maladministration**) once the internal Service Complaints process has been exhausted.

## Enquiries and Referrals

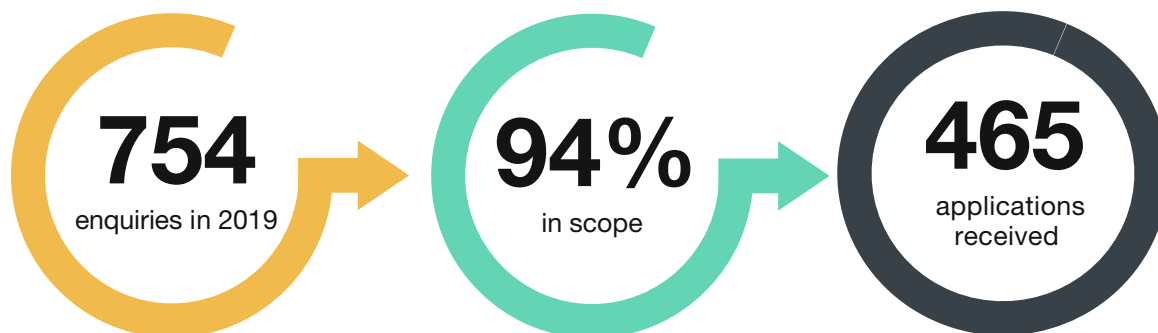


The Enquiries and Referrals Team is the first point of contact for anyone coming to SCOAF.

In 2019, SCOAF logged 754 new enquiries. This is 117 fewer enquiries than in 2018.

712 (94%) of new enquiries were “in scope”. This means that they concerned an issue that fell within the Ombudsman’s jurisdiction.

From these enquiries, 465 applications asking the Ombudsman to use her powers of referral or investigation were received in-year.



Since SCOAF opened in 2016, the Enquiries and Referrals team has handled over 3,000 enquiries.

## Referrals



The Ombudsman has the power to help current and former Service personnel access the Service Complaints system.

If a Service person believes they were wronged in their Service life, they have the right to make a formal Service Complaint. If an individual is unable or unwilling to approach their chain of command directly to make their complaint, they can ask the Ombudsman to refer their intention to make a Service Complaint.

In 2019, SCOAF received 143 applications for referral. 144 referrals were made in-year to the Services, which included one application received at the end of 2018. 100% of referrals were made within 7 working days. This exceeds the target to make 90% of referrals within that timeframe.

Since the organisation opened in 2016, the Enquiries and Referrals team has made 737 referrals. The team has exceeded the KPI for making referrals each year.

### Changes to referrals policy in 2019

In 2019, SCOAF stopped making referrals for issues that occurred before 2008. This change in policy was required following legal advice which determined that if an issue occurred before 2008, it could not be the basis of a Service Complaint under the new system.

The reason for this is that a Service person not only has to be wronged in their Service life, but that wrong has to happen while the person is subject to Service law.

Service law only came into being in 2008. Before this, personnel were subject to the laws of the individual Services. These were: the Army Act 1955, the Air Force Act 1955 and the Navy Discipline Act 1957.

The amended legislation gave personnel until the 31 December 2015 to make a Service Complaint about an issue that happened before 2008. Current or former Service personnel can still potentially raise an old complaint, but if and how will depend on the subject matter and when the issue occurred. SCOAF can provide information on the general **MOD complaints processes**, but cannot deal with these complaints

Below are some quotes from feedback received by SCOAF about the Enquiries and Referrals Team in 2019:

*"The [Enquiries and Referrals Officer] was very good when I spoke to her. She was kind and very considerate. She also helped improve my understanding of these kind of processes. [...] Thank you."*

*"I was very impressed with the service I received, thank you."*

*"Thank you for such a prompt and thorough response [...] the information you have provided us is very helpful, so thank you for taking the time to send it across."*

*"I would just like to thank you [...] for being hugely informative and professional."*

## Investigations

In 2019, SCOAF received 322 applications requesting the Ombudsman use her powers of investigation.

Investigation type	Number of applications received				Percentage of all applications received in 2019
	2016	2017	2018	2019	
Review of admissibility decision	112	106	98	<b>119</b>	37%
Undue delay	107	104	91	<b>83</b>	26%
Substance (merits)	69	108	86	<b>66</b>	20%
Maladministration	56	88	74	<b>54</b>	17%

All SCOAF investigations are carried out by the Investigations Team under delegated authority from the Ombudsman.

Since 2016, the Investigations Team has never been fully staffed. This was a direct result of staff turnover and the time taken to recruit staff with the necessary skills and experience to fill the vacant roles. Combined with the fact that the team requires a higher staffing level overall in order to meet the demand for investigations, a backlog of eligible applications for substance (merits) and maladministration cases has developed.

At the end of 2018, there were 143 applications pending allocation to an investigator. With the introduction of new **streamlined processes**, and substantial improvement in operational staffing levels, this was reduced to 49 cases as at 31 December 2019.

The improved staffing and new processes also resulted in a significant improvement in the number of investigations completed within the relevant time target. Overall, 80% of investigations in 2019 were completed inside the time target.

Investigation type	Percentage of investigations completed within time target in 2019
Review of admissibility decision	90%
Undue delay	99%
Substance (merits)	49%
Maladministration	45%

### Review of admissibility decisions



An admissibility decision is a decision made by the relevant Service that determines whether a Service Complaint or appeal can proceed for investigation, either in whole or in part.

If a decision is made that a complaint or appeal is not admissible, the complainant can ask the Ombudsman to review that decision. The Ombudsman's decision following a review is binding. If the review is upheld in favour of the complainant, the complaint or appeal is automatically accepted into the internal Service Complaints system.

Applications to SCOAF requesting a review need to be made within 4 weeks and 2 days of the date the admissibility decision was posted or emailed to the complainant. This time limit is the only eligibility criterion. Late applications may be accepted if the Ombudsman considers it is just and equitable to do so.



### ***The numbers***

In 2019, SCOAF received 119 applications requesting a review of an admissibility decision. This represents 66% of all Service Complaints and appeals ruled as inadmissible by the Services in 2019.

81% of applications received were eligible for a review.

42% of completed reviews found in favour of the complainant and overturned the original admissibility decision, either in whole or in part.

**119 applications received**

**81% of applications eligible for review**

**97 reviews completed**

**41 reviews (42%) upheld in favour of the complainant**

90% of reviews of admissibility decisions were completed within 17 working days. This meets the performance time target set by SCOAF and is an improvement on 2018 when 72% of reviews were completed within 17 working days.

Since 2016, SCOAF has received 435 applications requesting a review of an admissibility decision. 89% of applications received were eligible for investigation and a total of 371 admissibility reviews have been completed.



### ***Issues arising from admissibility reviews in 2019***

The issues arising in these cases in 2019 are the same as those that SCOAF has seen since 2016, many of which have been the subject of recommendations in previous annual reports.

Continuing issues include:

<p><b>Admissibility decisions must not contain comments or opinions about the substance of the Service Complaint.</b></p>	<p>The purpose of an admissibility decision is to determine whether or not the complaint or appeal is eligible for investigation, whether in whole or in part.</p> <p>When making these decisions, Specified Officers (SOs) should not be considering any issue that is not related to eligibility. The substance of a complaint has no bearing on the issue of eligibility.</p>
<p><b>If a Service Complaint has been submitted outside of the statutory timeframe, the individual must be asked to provide reasons for the delay. Furthermore, those reasons must be considered to determine if it is just and equitable to accept the complaint or appeal even though it is out of time.</b></p>	<p>The legislation allows for Service Complaints and appeals to be accepted outside of the statutory timeframes if it is just and equitable to do so.</p> <p>In order to make such a determination, individuals who submit their Service Complaint or request for appeal outside of the timeframes must be asked to provide reasons for the delay.</p> <p>The SO is required to give adequate consideration to these reasons to determine whether it is just and equitable to accept the complaint or appeal. Failure to do so is a fundamental failure of process, even if the decision to rule the complaint ineligible is ultimately correct.</p>
<p><b>A complainant must always be given the opportunity to have an admissibility interview with the SO so that the SO can fully understand the issues raised and any reasons for delay.</b></p>	<p>In many instances where SCOAF has overturned an admissibility decision, the issue has boiled down to a fundamental misunderstanding of what the complaint was about or the reasons the complaint was submitted out of time.</p> <p>In Annual Report 2017, the Ombudsman made a recommendation that JSP 831 be amended to explicitly set down that a SO must interview a complainant upon receipt of an Annex F or referral from the Ombudsman.</p> <p>In response, the MOD stated that it felt there was limited scope for improvement. The Ombudsman appreciates that the existing JSP provides guidance on this topic, but has clarified her original recommendation, explaining that she would like the language to be strengthened so that it is a requirement that this step <i>must</i> occur rather than <i>should</i> occur, unless there is a legitimate reason for omitting this step.</p>

The admissibility process is the most fundamental element of the Service Complaints system. How the complaint is handled at the initial stage ultimately sets the trajectory of the complaint and the complainant's experience of, and confidence in, the system.

It is concerning that SCOAF is still dealing with the same mistakes and issues in admissibility decisions in 2019 that it was in 2016. Furthermore, the percentage of reviews that found in favour of the complainant increased.

The Ombudsman urges that the previous recommendations she has made concerning these issues are reviewed and that the Ministry of Defence reconsiders their previous rejection. As part of this, consideration of suitable and appropriate ways to achieve the aims must be discussed with SCOAF and implemented as soon as possible.

### Observation 3

In 2019, SCOAF dealt with the same issues and mistakes arising in admissibility decisions that it has seen since 2016. This raises concerns that lessons are not being learnt following SCOAF investigations. It is important that recommendations and wider learning points made in SCOAF reports are captured, shared and used to improve process where appropriate to do so.

#### Undue delay



The Ombudsman has the power to investigate undue delay in a Service Complaint or Service Matter.

There is no legal definition of undue delay, but as discussed in **Chapter 1**, it generally means that the time taken to resolve a complaint has been unreasonable or unjust.

Applications to SCOAF requesting an investigation into undue delay can be made at any time, as long as the Service Complaint or Service Matter remains open. Also, multiple applications can be made throughout the life of a complaint if the alleged delay persists.

#### *The numbers*

In 2019, SCOAF received 83 applications requesting an investigation into alleged undue delay. 87% of applications received were eligible for investigation.

A total of 73 investigations into alleged undue delay were completed in 2019, this included applications received before 2019. 53% of completed investigations found that there was undue delay in the Service Complaint or Service Matter.

**83 applications received**

**71 applications accepted for investigation**

**73 investigations completed**

**39 investigations (53%) upheld in favour of the complainant**

99% of undue delay investigations were completed within 17 working days. This exceeds the target to complete 90% of investigations within that time target and is an improvement on performance in 2018 where 78% of undue delay investigations were completed within 17 working days.

Since 2016, SCOAF has received 385 applications requesting an investigation into alleged undue delay. 83% of applications received were eligible for investigation and a total of 275 undue delay investigations have been completed.

### ***Issues arising from undue delay investigations in 2019***

The most significant issue relating to delay in 2019 has been the impact that delay has on individuals' wellbeing. This applies to both complainants and **respondents**.

As discussed in **Chapter 1**, complaints must be resolved within a reasonable time and without undue delay to avoid a negative impact on wellbeing.

How individuals are impacted by delay in the handling of their complaints will depend on the individual circumstances of the case, including the subject matter of the complaint and the length of the delay.

In 2019, SCOAF made 17 recommendations for consolatory payments for stress or other emotional trauma connected to delays in the handling of a complaint. Although these were recommendations made in the course of maladministration investigations, it is demonstrative of the impact that undue delay can have on a complainant.

#### **Multiple investigations into undue delay**

**A** submitted a Service Complaint in March 2016 alleging that they had been bullied by two individuals in their chain of command. In February 2017, **A** made the first of three applications to SCOAF requesting an investigation into undue delay. **A** made a second application in July 2018 and a third in March 2019. The first two investigations found that there was undue delay in the handling of the complaint, specifically in the time taken to:

- acknowledge the complaint when it was made (2 months)
- reach a decision on admissibility (4 months from when the complaint was made and just under 1 month from the date of acknowledgement)
- appoint a decision body (1 month from when the complaint was deemed admissible)
- investigate the matter. These delays were related to the prioritisation of complaints made before 1 January 2016, which created a backlog of new complaints
- appoint a caseworker following the appeal being accepted (over 3 months)

In the applications to SCOAF, **A** outlined the impact these delays were having on their wellbeing. In the third application, **A** stated that they had “*immense anxiety* [and were unable to] *plan any further ahead as [they were] just always waiting on the outcome of the appeal.*” At the point of the third application to SCOAF, it had been 3 years since **A** had initially submitted their Service Complaint. As a result, **A** “*believe[d] the delay [was], at best, in the hope that I [would] lose interest in the complaint and give up; at worst [that it was] a deliberate attempt to prevent me from taking civil legal action against MOD due to being time barred.*”

### Undue stress caused by undue delay

**B** made a Service Complaint in July 2016 concerning unfair treatment following injury. In January 2019, **B** made an application to SCOAF requesting an investigation into undue delay and following investigation, a finding of undue delay was made. The delay was predominately related to the failure to appoint an Appeal Body for almost 12 months from the date that **B**'s request to appeal had been accepted.

The investigation also found that the delay, in addition to other events including incorrectly labelling the complaint vexatious and sending correspondence to an address at which **B** was not habitually resident, had caused undue stress for the complainant.

In the application, **B** stated they had to work with the respondent and those closely connected to the respondent while the complaint was ongoing "adding more stress and making the workplace a very uncomfortable place to be."

**B** further stated that: *"In regards to the investigation [...] it has been one of the most stressful and unfair affairs I have ever had to deal with, all without the support of an Assisting Officer who I have had no contact from in two years."*

The Ombudsman recognises that there are legitimate reasons why a complaint may not be resolved within the specified timeframes. However, the impact of delay on those involved in the complaint must not be underestimated and action to identify and eradicate blockages in the system must be taken.

As discussed in **Chapter 1**, good communication and support can do a great deal to alleviate the negative impact that delay has on individuals; however, it will not always eradicate it. It is imperative that the impact Service Complaints can have on wellbeing is taken seriously and addressed as a matter of urgency.

The Ombudsman is hopeful that the work being done by the Ministry of Defence, Service Complaints and Justice Transformation Team to understand the lived experience of those involved in the complaints system will generate recommendations for structural change that will significantly cut down delay. However, some smaller changes are also required alongside this to ensure early and adequate signposting to support services.

### Recommendation 4.3

That by December 2020, a leaflet is developed to provide individuals involved in the Service Complaints system a comprehensive overview of where they can get wellbeing support. This leaflet must be provided to all complainants and respondents.



Throughout 2019, SCOAF continued to see examples of fundamental areas where communication and support need to be improved.

<b>Failure to provide regular updates.</b>	<p>SCOAF is still seeing cases where complainants are not receiving regular updates. In many instances this is linked to the Joint Personnel Administration (JPA) system not being updated with the action taken on individual complaints.</p> <p>Providing regular meaningful updates to complainants is an essential part of the complaint handling process. Keeping JPA updated will assist with preparing these updates.</p>
<b>Providing timeframes to implement redress and keeping the complainant informed.</b>	<p>In 2019, a number of enquiries were received from individuals who had previously had their Service Complaint upheld, but were yet to have their redress implemented.</p> <p>The Enquiries and Referrals team noted that these enquiries would not have been made if, in each of the cases, the decision letters had provided information on:</p> <ol style="list-style-type: none"> <li>the timeframe for redress to be implemented</li> <li>who to contact if redress was outstanding after that time</li> <li>who would be providing updates relating to the implementation of the redress and how often.</li> </ol>
<b>Providing updates on the progress of recommendations made by SCOAF following an investigation.</b>	<p>Many of the enquiries received by SCOAF are from individuals who are seeking updates on the progress of recommendations made by SCOAF following an investigation.</p> <p>These enquiries could be avoided if regular updates are provided by the responsible Service.</p> <p>While SCOAF has made the recommendations, the onus is on the Service to implement them. It therefore follows that the onus is on the Service to provide updates on how they are progressing.</p>

#### Recommendation 4.4

That a review of process is undertaken to identify where the gaps in post-decision aftercare exist and that procedures to address these are drafted and put in place by December 2020. These procedures should include at a minimum:

- timeframes for the implementation of redress being included in decision letters
- notification of a point of contact post-decision for any queries relating to redress
- responsibility for updating complainants on the implementation of recommendations made as part of SCOAF investigations

## Substance (merits) and maladministration

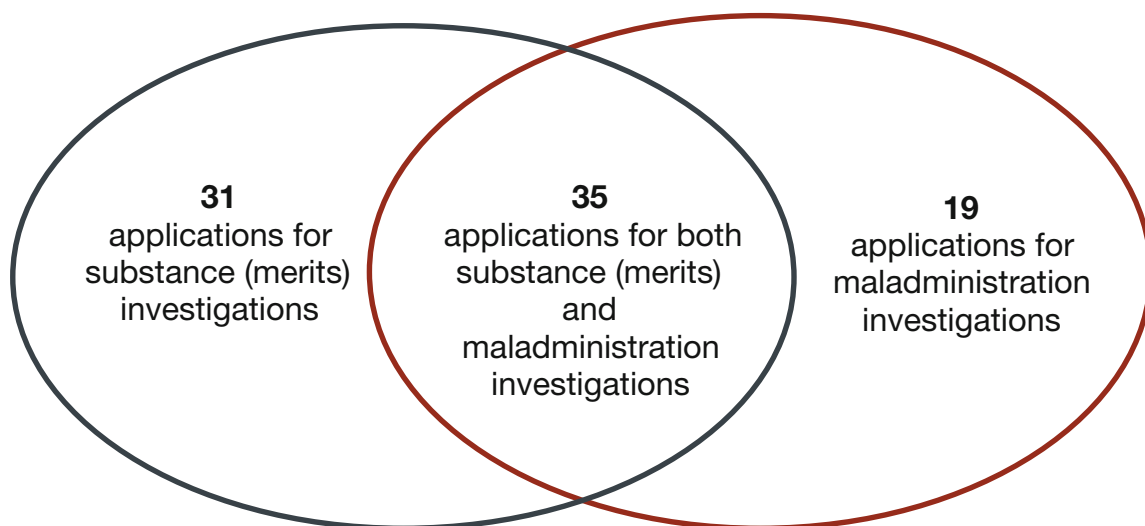
Once the internal Service Complaints system has been exhausted, an individual can ask the Ombudsman to investigate:

- the substance (merits) of their Service Complaint, if they believe the final decision was incorrect; and/or
- maladministration, if they feel there were errors in how the complaint was handled.

This is not a third level of appeal, and not all applications are accepted as **discussed further** in this chapter.

Although the substance (merits) and maladministration functions are separate, individuals can apply for both investigations simultaneously. In addition, the Ombudsman has the power to investigate suspected maladministration if it is identified during the course of a substance investigation.

In 2019, 35 of the applications received by SCOAF requested both a substance (merits) and maladministration investigation.



### Substance (merits)

A substance (merits) investigation looks at the original Service Complaint to determine whether the allegation that the individual was wronged is well-founded. It is effectively a new investigation into the complaint.

Applications requesting a substance investigation need to be made within 6 weeks and 2 days of the date the final decision was emailed or posted to the complainant. Late applications can be accepted if the Ombudsman considers it is just and equitable to do so.

### ***The numbers***

In 2019, SCOAF received 66 applications requesting a substance (merits) investigation. 52 (79%) applications met initial eligibility criteria and 27 (52%) of those were accepted for investigation.

**66 applications received in 2019**

**52 (79%) met initial eligibility criteria**

**27 (52%) eligible applications were accepted for investigation**

A total of 39 substance investigations were completed in 2019, 4 of which related to applications received in-year. 20 completed investigations (51%) found in favour of the complainant. 49% of substance (merits) investigations were completed within 100 working days. The target is to resolve 90% of investigations within the time target.

Since 2016, SCOAF has received 329 applications requesting a substance (merits) investigation. 83% of those applications were eligible to be considered for investigation. 222 substance (merits) cases have been completed – including those closed following an initial case review.

### **Maladministration**

A maladministration investigation looks at how the Service Complaint was handled to determine if the correct process was followed. Applications requesting a maladministration investigation need to be made within 6 weeks and 2 days of the date the final decision was emailed or posted to the complainant. Late applications can be accepted if the Ombudsman considers it is just and equitable to do so.

### ***The numbers***

In 2019, SCOAF received 54 applications requesting a maladministration investigation. 42 (78%) of applications met the initial eligibility criteria and 26 (70%) of those were accepted for investigation.

**54 applications received in 2019**

**42 (78%) met initial eligibility criteria**

**26 (70%) eligible applications were accepted for investigation**



A total of 31 maladministration investigations were completed in 2019, 4 of which related to applications received in-year. 21 completed investigations (68%) found in favour of the complainant.

45% of maladministration investigations were completed within 100 working days. This falls short of the target to resolve 90% of investigations within the time target. Since 2016, SCOAF has received 272 applications requesting a maladministration investigation. 85% of applications were eligible to be considered for investigation. 182 maladministration cases have been completed – including those closed following an initial case review.

## Issues arising from substance (merits) and maladministration investigations in 2019

The issues arising from substance (merits) and maladministration investigations can be quite diverse given the range of issues a Service Complaint can be made about.

It should be noted that only those issues which will not identify a particular individual are included in the commentary below.

- **Because of data protection law, recommendations made by SCOAF cannot always be implemented in the way a complainant expects.** Following substance (merits) and maladministration investigations, recommendations may be made for an individual to undertake further training or development to prevent particular behaviour recurring, or for the Service to consider whether disciplinary action is appropriate. However, due to data protection law, the Services are unable to provide SCOAF with specific information about any action taken as a result of these recommendations, only that they have been complied with. Furthermore, no information about how the recommendation has been complied with can be provided to the complainant.

While SCOAF will not stop making such recommendations where it is appropriate to do so, our processes have been adapted to ensure that we communicate to complainants that they may not receive the level of information about the implementation of recommendations made that they potentially expected.

- **Failure to identify lessons learnt and drive through wider policy changes.** As discussed in Chapter 1, one of the significant barriers to having an efficient, effective and fair system is the failure to ensure that all lessons learnt are captured and changes made as the result of investigations. This has been seen within the casework handled by SCOAF in 2019.
- **Processes are required for Service Complaints to be made on behalf of Service personnel who do not have capacity to do so themselves.** The set-up of the Service Complaints system assumes that a complainant is able to make a complaint themselves and engage in the process to the fullest extent. This is a significant failure of the system in terms of the flexibility required of a good complaints system. Furthermore, it fails to take into consideration the significant injuries that could potentially be sustained by Armed Forces personnel in the course of their duties.

### Changes still not implemented 3 years after investigation

**D** submitted a Service Complaint in 2016 alleging a number of wrongs connected to an apparent administrative error that impacted on their ability to qualify for certain allowances and benefits as part of an overseas posting, in addition to placing themselves (and others in the same position) in breach of EU law.

After receiving a final decision on the Service Complaint, the central legal issue and subsequent amendments to policy, which was for the MOD to resolve, remained outstanding.

When **D** came to SCOAF, it was to request an investigation into both the substance (merits) and maladministration of the Service Complaint. **D** believed that a failure to come to a conclusion on the central issue made the decision unsound and meant that there was no resolution. **D** further believed that considering there was no dispute as to the facts in the case, it had taken an excessive amount of time to come to a final decision.

Although the Ombudsman found that the decision reached on the Service Complaint was fair and reasonable, she was critical of the time it had taken for the decision to be made and that 15 months after that decision, the recommendations made had not been implemented.

The Ombudsman was particularly concerned about this because while **D** made a Service Complaint about a specific issue that was impacting them, other personnel posted overseas were potentially impacted by the same issue.

As part of the final decision issued by SCOAF, a wider learning point was made that the MOD needed to devise a system where it worked alongside the Service secretariats to identify systemic policy issues and implement lesson learnt Defence wide.



## Change in process

In 2019, SCOAF engaged a consultant to conduct a process review. The purpose of this was to evaluate existing processes and determine how the organisation could operate more efficiently.

One of the areas identified for improvement was the process for accepting applications for substance and maladministration investigations. The process<sup>28</sup> in place at the time of the review, introduced in 2018, was to accept all eligible applications (those made in time and at the right stage of the process) in order to remove unnecessary duplication of work. However, it inadvertently created unrealistic expectations for many Service personnel making applications to SCOAF.

When considering the outcome of investigations undertaken in 2016-2018, particularly substance investigations, it was evident that despite further investigation by SCOAF a new outcome was not reached in the majority of cases. This is because if there had been a reasonable investigation into the complaint in the internal system and the decisions that had been made were reasonable, fair, proportionate and justified based on an appropriate consideration of the evidence, the Ombudsman had no basis to overturn the decision. This was not necessarily understood by many complainants asking for a new investigation.

In order to provide greater clarity for Service personnel around the remit of the Ombudsman, the threshold for accepting applications for substance and maladministration investigations was more clearly defined and a new process introduced whereby all eligible applications for substance and maladministration investigations are 'triaged'.

The purpose of the triage is to conduct an early assessment of the application to determine whether the matter warrants further investigation by SCOAF. The reviews are undertaken by our most senior and experienced investigators and decisions not to investigate are signed off by the Ombudsman.

In reaching a decision, the submitted application and all key documents are carefully considered to determine whether:

- there is a reasonable prospect that a new investigation would result in a different outcome
- an investigation would be a proportionate use of the Ombudsman's powers
- the redress requested can be achieved
- there is a public interest in conducting an investigation

If the actions and decisions reached in the internal complaints system are considered to be reasonable, SCOAF will not investigate further as it is unlikely that a different outcome would be achieved.

A decision not to accept an application for investigation is never made based on resource; only whether it is appropriate for SCOAF to investigate when the above criteria is considered.

This process was also applied retrospectively to all but the oldest ten cases in the 'awaiting allocation' queue. The decision to apply the process was taken because it was unfair to leave individuals waiting for an investigation for a long period, only to be told that the original decision reached in their complaint had been reasonable or that there was nothing improper in how their complaint had been handled.

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<sup>28</sup> Refer to pp26-27 of *Annual Report 2018* for further information.

While some individuals may be disappointed, it is important that SCOAF clearly sets out the purpose of an investigation and the remit of the Ombudsman's powers in order to better manage complainants' expectations. In addition, while some applications are not accepted following triage, the matter has still been given independent consideration and this should provide a level of reassurance to complainants.

#### Potential to reach a different outcome

**E** made an application to SCOAF for an investigation into the substance (merits) of their Service Complaint and alleged maladministration in how it was handled.

The complaint had been upheld in its entirety in the internal system and financial redress was awarded. However, there was one head of complaint that was not considered in the final decision. The Appeal Body stated that **E** had withdrawn this part of the complaint at the oral hearing. **E** disputed this and told SCOAF that had that part of the complaint also been decided on they could have been awarded a greater sum of financial redress.

Following a case review, a decision was made to investigate as there was the potential that SCOAF would reach a different outcome and that failure to consider the head of complaint amounted to maladministration.

#### Unlikely to reach a different outcome

**F** made an application to SCOAF for an investigation into the substance (merits) of their Service Complaints and alleged maladministration in how they were handled.

Several elements of the complaints had been upheld in the internal system and redress was awarded. However, **F** felt that the complaints had not been properly investigated and, therefore, that the final decisions were incorrect.

Following a case review, a decision was made not to investigate either substance (merits) or alleged maladministration. A review of the key material demonstrated that a thorough investigation had taken place and that the decisions made were reasonable based on the evidence before the Appeal Body. In addition, reasonable redress had been granted. For these reasons, it was unlikely that an investigation by SCOAF would result in a different outcome.

This change in process has had no impact on SCOAF timeliness statistics. This is because the time taken to resolve a complaint is only calculated from the point a case is allocated to an investigator. Furthermore, only completed investigations are counted when determining how many complaints were closed within the relevant time target.

### Challenges to decisions



The decisions made by the Ombudsman, including those made under delegated authority, are final. If an individual believes the decision was not made according to correct process, the only way to challenge it is by judicial review. Information about this is provided on our website and in all decision letters.

In 2019, three complainants began the judicial review process to challenge a decision issued by SCOAF. Two cases were discontinued after the initial pre-action protocol stage. The third case was refused permission to proceed by the High Court.

## The Ombudsman's powers

The commentary below relates to ongoing discussions about the scope of the Ombudsman's powers.

### Substance investigations

When the Bill to establish the Service Complaints Ombudsman for the Armed Forces was first drafted, it did not include the power to investigate the substance (merits) of a Service Complaint. This is a power that was added at a much later stage.

In their review of the work of the office, and in considering the current backlog in allocating substance (merits) and maladministration cases, the House of Commons Defence Committee (HCDC) looked at the workload that was created by giving this additional power to the Ombudsman.

In its report, the HCDC noted that even if SCOAF's resources were reassessed and increased, that:

*"[...] it remains to be seen whether [...] SCOAF will be in any position to fulfil its workload, as long as its terms of reference continue to include the reinvestigation of the substance of complaints, in addition to questions of procedure and maladministration."<sup>29</sup>*

The Ombudsman is firm in her position that, while resource-intensive, this is an imperative function for her office.

### Own-initiative powers

In Annual Report 2018, the Ombudsman outlined her intention to seek powers of own-initiative investigation and stated that SCOAF would collect evidence throughout 2019 to support this request.

The issue of own-initiative investigations was discussed by the Ombudsman when she gave evidence before the HCDC. In respect to this issue, the HCDC stated in its report:

*"The Committee notes the wish of the Ombudsman to take on more responsibility through proposing an extension of her powers to conduct "own-initiative" investigations. However, we do not believe that extending the scope of the Ombudsman's powers at this time would be helpful, given the existing delays and backlogs linked to staffing challenges, which have led to low satisfaction with the work of SCOAF. The workload borne by the Ombudsman and her team is already excessive in relation to their resources. This imbalance must be rectified before adding to it further. Otherwise those Service personnel who look to the Ombudsman for resolution of their complaints within a reasonable timeframe will only be further disappointed."<sup>30</sup>*

<sup>29</sup> House of Commons Defence Committee, *'Fairness without Fear: The work of the Service Complaints Ombudsman'*. Sixteenth Report of Session 2017-19 p13

<sup>30</sup> House of Commons Defence Committee, *'Fairness without Fear: The work of the Service Complaints Ombudsman'*. Sixteenth Report of Session 2017-19 p29

The Ombudsman agrees with the HCDC that the issue of own-initiative powers should be put on the backburner at this point. The focus will continue to remain on ensuring the office has all of the resources required to carry out its legislative functions promptly and to a high standard. However, parallel to that, the office will continue to record evidence that supports the need for own-initiative powers as and when it arises.

## Respondents

In Annual Report 2017, the Ombudsman made a recommendation that her powers be extended to allow respondents to a Service Complaint to ask for an investigation in specific circumstances.

### Recommendation 2.8

That a review of process is undertaken to identify where the gaps in post-decision aftercare exist and that procedures to address these are drafted and put in place by December 2020. These procedures should include at a minimum:

- timeframes for the implementation of redress being included in decision letters
- notification of a point of contact post-decision for any queries relating to redress
- responsibility for updating complainants on the implementation of recommendations made as part of SCOAF investigations

In 2019, SCOAF put out a 'call for evidence' to determine if this recommendation still needed to be pursued. While only a small number of individuals responded, the submissions received were compelling and illustrated the negative impact the Service Complaints process can have on those involved.

Not only does this illustrate the Ombudsman's view that impact over numbers should be considered, but the low numbers involved means that this additional power is unlikely to put any undue burden on SCOAF. This conclusion is further supported by the lower number of undue delay applications received in 2019, and SCOAF's ability to complete 99% of these investigations within the target of 17 working days.

With permission from those who made submissions, the following anonymised case studies have been selected for inclusion in this report in order to highlight the impact on respondents.



### A potential respondent with no support

**G** was named as a respondent in a Service Complaint that was subsequently stayed pending a potential police investigation into an incident involving the complainant. In the evidence provided to the Ombudsman, **G** stated that they had received limited, to no, support throughout the process.

The issues began when **G** had been made aware, via email, that they had been named as a respondent in a complaint. The email stated that **G** should read the complaint that was attached to the email; however the complaint was not attached. Instead, **G** was simply informed of the broad subject matter of the complaint.

Following this, **G** was told that the complaint was being handled by a different Service to the one they served in and that their standard operating procedures (SOP) for handling complaints, including the process for initial disclosure of the complaint itself, was different. Despite this, **G** was not provided with a copy of the relevant SOP.

**G** said that they were excluded from their usual place of work and informed that this was standard practice when an individual was named as a respondent in a complaint. However, the alternative workplace **G** was assigned to put them in close proximity to the complainant. This exclusion continued even once the Service Complaint was stayed. When **G** asked for guidance on the length of time it would take to reach conclusion, they were informed that it could be difficult to forecast, so no timeframe would be provided. **G** was told that this was to prevent them from being either falsely reassured or further upset. No further information could be provided about the specific allegations made within the complaint or what was happening with the complaint.

When **G** tried to seek advice from the Equality and Diversity Adviser (EDA), they were informed that this was not appropriate as there was no ongoing complaint (as it was stayed). **G** had no contact with welfare, the padre and the exclusion from their normal place of work led to isolation from friends. Support and information that was promised on several occasions did not materialise.

Suffering from anxiety, **G** was signed off for an extended period of time, which caused someone in the chain of command to comment “*being off sick will make you look guilty.*”

**G** told the Ombudsman that they “*do not feel supported. I feel that [the complainant] is being supported and I am not. I feel victimised [...] I feel that I have already been judged. [...] I do not feel that [I was] listened to [...] the level of stress of all this is having a huge impact on my mental health.*”

### From witness to respondent

**H** was named as a witness in three Service Complaints submitted about bullying by the same individual. After submitting their written witness statement, **H** was then named as a respondent in all Service Complaints by the same individual. **H** was not made aware of this as the complaint was ruled inadmissible. However, this decision was partly overturned by SCOAF, with some elements of the complaint deemed admissible and therefore accepted into the system.

Having been informed of the complaint against them and notified that a Decision Body had been appointed, **H** had not received any further correspondence or updates regarding the complaint when they contacted SCOAF to respond to the 'call for evidence', some five months later. **H** also said that their planned deployment had been postponed following the complaint against them.

When they contacted SCOAF, **H** outlined the stress and anxiety they had been experiencing since being named as a respondent. They were worried about the impact it would have on their career and how it would change what people thought of them. **H**'s anxiety was exacerbated as they believed the complaint against them was only made in retaliation for their truthful account of how the complainant had bullied other people and to introduce further delays into the process.

**H** wanted to make a complaint about the decision reached by SCOAF, but there was no mechanism to allow this. In their evidence, **H** stated: "There are many routes for a complainant to go down but it seems as a respondent you are left hanging and waiting for an outcome decision that takes [an] age and is all at your own expense. [...] what sort of message is this sending to people seeing this take place? Almost 3 years have passed since the first complaint and no resolution has happened for any of us."

### A respondent for almost a decade

**J** was named as a respondent in a complaint in 2011. At the time they contacted SCOAF in 2019, the complaint was still open and they had no timeframe for resolution.

In the nine years that the complaint had been ongoing, **J** had experienced such significant stress and anxiety that at one point they had to be medically downgraded. While successive chains of command have been supportive, they have had no power to intervene in the process in order to bring it to a conclusion.

If the Service Complaint is resolved in 2020, **J** will have been a respondent in a complaint for almost a decade.



### Application to the Ombudsman

**K** felt so frustrated by their experience as a respondent in a Service Complaint that they raised their own Service Complaint concerning the inadequacies in the process. When this Service Complaint was deemed inadmissible, **K** made an application to SCOAF to challenge the decision and ensure that the Ombudsman had sight of their concerns about the process.

Within the application, **K** noted the need for:

- Respondents to be able to ask the Ombudsman to investigate undue delay, as the right to make a Service Complaint of their own did nothing to resolve the issue of delay.
- The JSP to state the specific support to be provided to respondents instead of a general statement.

The impact a complaint has on a respondent to be recognised and equal support to be provided to both the complainant and the respondent.

Each of the respondents who submitted evidence to SCOAF was clear that they did not want to exacerbate the stress they were experiencing by submitting Service Complaints of their own. However, that would be their only option in order to have the issues addressed formally. One submission was supported by evidence from the individual's Commanding Officer who admitted they had advised the individual against submitting a Service Complaint of their own due to the impact it would have on their wellbeing.

At least two of the respondents who contacted SCOAF had sought legal advice during the process. One individual had legal fees exceeding £20,000 that the Service determined would not be reimbursed.<sup>31</sup>

As a result of this call for evidence, the Ombudsman strongly believes that the legislation still needs to be amended as stated in **Recommendation 2.8**.

<sup>31</sup> *MOD bullying and harassment complaints procedures (JSP 763)* states that '[...] the appointment of an [Assisting Officer] does not at any stage prevent the Complainant from seeking legal advice from a civilian solicitor, but in all cases this would be at his/her own expense'. p52

## Other work by SCOAF in 2019

### Outreach and education

In 2019, SCOAF continued to engage in outreach and education across the Services, through visits to personnel in the UK and abroad, delivery of education and familiarisation visits for SCOAF personnel.

SCOAF also held the second annual stakeholder symposium in 2019. This event brought together key stakeholders for a presentation on the work of the office and a panel discussion of key issues concerning the Service Complaints system.

A full list of the Ombudsman's engagements can be found at **Appendix F**.



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## Customer feedback and lessons learned

Once an application to the Ombudsman has been closed, a request for feedback is sent to the complainant. This is done via an electronic survey that is emailed out by a member of staff not involved in the handling of the application.

In 2019, the response rate for these surveys was only 21%. The limited number of returns has not allowed for the full range of analysis that has been conducted in previous years.

Overall, 49% of users are satisfied with the service provided by SCOAF. This is a drop from 2018 and 2017 when the level was 58%. The reduced number of completed surveys and the introduction of the case review process have been highlighted as contributing factors to this drop.

Although the overall satisfaction level has dropped, in 2019 there were improvements in satisfaction rates regarding a number of elements in the investigation process:

Frequency of updates (55% satisfied, up from 51% in 2018)

Time taken to complete an investigation (53% satisfied, up from 50% in 2018)

Conduct of investigations (53% satisfied, up from 45% in 2018)

Time to comment on preliminary reports (49% up from 42% in 2018)

In a bid to increase responses to the feedback surveys, so that SCOAF can gain a better understanding of performance, a new survey was designed for use in 2020.

You said...	We did...
More information on SCOAF processes is required.	Reviewed the information on the website and continued to update with each policy or process change. Began developing leaflets outlining the process for each type of investigation. These will be available from early 2020.
Decision letters can be difficult to understand.	Trained all staff in Plain English and introduced a house style guide emphasising plain language.
The quality of updates provided to individual complainants waiting in the allocation queue was not sufficient.	Reviewed the content of these updates to ensure they met complainant expectation.

## Praise for SCOAF

"I would like to thank you for all your time and support in my case, it's the first time through this process that I have actually felt as though I was being listened to."

"I would like to thank you most sincerely for the work you have carried out on my behalf. For 7 years I have been battling against the [...] failures [...] that what I was subjected to and the knock-on implications of their actions. [...] You have been the only one person throughout that time that has been able to see through the rhetoric, false allegations and vexatious claims levied against me. [...] I appreciate deeply what you have done and you have restored my faith in the system which has been so sadly severely dented and damaged over these last 7 years. The conclusions and recommendations in your report regarding substance and maladministration, have lifted from me, a very heavy cloud that has been hanging over me since this whole debacle began back in 2012. I am deeply indebted to you. Thank you."

"May I take this moment [...] to express my sincere thanks, from the bottom of my heart, for the sheer dedication of your busy staff for looking at the evidence in my case objectively and robustly. I will always be grateful to [SCOAF] for helping the truth to come out in this case. I would be very thankful if you could thank [the assigned investigator] personally for me, she dealt with every email or request with the upmost humility and professionalism and I am so very grateful to her."

"I feel the report is fair and I am happy with how you have investigated the points given to you. The points you feel well-founded are important to me in this case and it really stems down to unfairness [...] and am glad this is in the report. I am happy for you to proceed with the draft report and make it final."

"Many thanks for your draft report [...] I find [it] to be very balanced and I welcome the majority of your findings."

"I have read and digested the report; you have clearly put an extreme amount of work in. I'd like to take this opportunity to thank you and the Ombudsman for your hard work. I think you have been impartial and very forthright in your determination. I agree with your findings and I'd like to put this sad episode behind me."

"Thank you for producing your report in such a professional and respectful manner. I'm relieved that this process is almost at a close. Many thanks for your time and patience."

"I would like to take this opportunity to thank you for your dedication and speed in getting this to me - it is very much appreciated."

"Thank you for looking into this, it is heartening to feel that somebody is taking an interest as I have heard nothing from [the Service] since my last case worker moved on in mid-November, four and a half weeks ago."

"I have just read the report, and I believe it's a fair reflection of the events that transpired during that sad phase of my time in the [Service]. [...] I accept the entirety of this report. I believe it is fair, balanced and is a true representation of the events that transpired at the time. The conclusion reached also encompasses the redress I seek to some extent. I look forward to a financial compensation proposal by [the Service] that truly reflects the insult I suffered at the time."



"Thank you very much for concluding your very comprehensive report and investigation into my service complaint. Whilst I am slightly disappointed with the outcome I fully accept your result and concluding evidence. I still feel that the time lines in handling my complaint are ridiculous, however I understand the complexity of the matter. I still feel that if my complaint was with the right individual with the right powers of authority the solution is simple.

I have no doubt that just having you investigating in the background has worked wonders in moving the time line forward. I only wish that you didn't have [sic] submit your response within a given timeframe and could just sit in the background supervising the SC from a distance.

Thank you very much for your work and effort, I am very satisfied with your actions, responses and efficiency. I...I (You have restored some of my faith in the system)."





## Chapter 3 – The work of the Service Complaints system

This chapter provides an overview of Service Complaints in 2019 and reports on the work of the Service Complaints system in the Naval Service, the Army and the RAF.

All statistics referred to can be found in more detail in **Appendix G**, which starts on page 92. Guidance on the Service Complaints statistics process and key terms used can be found in the '*Background Report – SCOAF Annual Report 2019*' which can be found on the SCOAF website [www.scoaf.org.uk](http://www.scoaf.org.uk)

### Breakdown of Service Complaints received

#### Volume

In 2019, a total of 1,184 written statements of complaints were processed through the formal Service Complaints system. This comprised of:

- 766 written statements of complaint that were ruled admissible (and became Service Complaints)
- 141 written statements of complaint that were ruled inadmissible
- 178 written statements of complaint that were pending an admissibility decision as at 31 December 2019
- 99 written statements of complaint that were withdrawn or resolved prior to an admissibility decision being made.

The Army dealt with the largest number of admissible Service Complaints (457), followed by the Naval Service (162) and the RAF (147).

However, when looking at the number of Service Complaints made against total Service strength it was the Naval Service with the highest number of Service Complaints (21% of all Service Complaints against 20% of Service strength); followed by the RAF (19% of all Service Complaints against 19% of Service strength); and then the Army (60% of all Service Complaints against 61% of Service strength).

A total of 2,087 complaints were worked on by the Services in-year. This includes Service Complaints received prior to 2019, and 193 informal complaints.



## Subject of complaint

As in previous years, the three biggest areas of complaint in 2019 concerned career management (37%); bullying, harassment or discrimination (25%); and pay, pensions and allowances (15%).



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## Diversity

For the fourth consecutive year, female and BAME personnel are overrepresented in the Service Complaints system when compared to their representation in the Armed Forces. This is an issue that was also highlighted by the *Report on Inappropriate Behaviours* and the Army Inspectorate.



The Ombudsman previously made a recommendation about the need for an independent review into this issue and was informed in 2019 that this will be pursued in 2020.

## Recommendation 1.10

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

In 2019, the Ombudsman was also provided with the internal reviews each of the Services had undertaken on this issue in 2018. While the Ombudsman was thankful for sight of this work, nothing contained in the reports has changed her view that an independent external review is required.

### ***Female personnel and Service Complaints***

As in previous years, more than 20% of all Service Complaints were made by female personnel, despite them only comprising 12% of total Service strength.

39% of all Service Complaints made by female personnel concerned bullying, harassment or discrimination (BHD); a slight decrease from previous years. This is compared to only 21% of all Service Complaints made by male personnel concerning the same issue.

	<b>Female personnel % of Service strength</b>	<b>% of Service Complaints made by female personnel</b>	<b>% of Service Complaints made by female personnel that concerned BHD</b>	<b>% of Service Complaints made by male personnel that concerned BHD</b>
2016	11%	21%	43%	21%
2017	11%	20%	44%	19%
2018	11%	23%	43%	20%
2019	12%	23%	39%	21%

Despite the decrease in 2019, the rate of complaint about bullying, harassment or discrimination is still nearly five times higher for female Service personnel than for male personnel.

### ***BAME personnel and Service Complaints***

As in previous years, more than 10% of all Service Complaints were made by BAME personnel, despite them only comprising 8% of total Service strength.

33% of all Service Complaints made by BAME personnel concerned bullying, harassment or discrimination (BHD), a slight increase on 2018. This is compared to only 23% of all Service Complaints made by white personnel concerning the same issue.

	<b>BAME personnel % of Service strength</b>	<b>% of Service Complaints made by BAME personnel</b>	<b>% of Service Complaints made by BAME personnel that concerned BHD</b>	<b>% of Service Complaints made by white personnel that concerned BHD</b>
2016	7%	10%	61%	22%
2017	7%	10%	57%	21%
2018	7%	13%	30%	24%
2019	8%	12%	33%	23%

The rate of complaint about bullying, harassment or discrimination for BAME Service personnel is more than twice the rate for white Service personnel.

In 2019, 5% of all bullying, harassment or discrimination Service Complaints concerned racial discrimination.



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## Timeliness of complaint handling

The current time target to resolve a Service Complaint is 24 weeks. The existing KPI is to resolve 90% of Service Complaints within that time.

In 2019, only 46% of Service Complaints were closed within 24 weeks, down from 50% in 2018. The Naval Service was the highest performer, closing 74% of complaints within the time target.

As discussed in **Chapter 1**, because no Service has ever achieved the current KPI, work is being done to determine if the time target and KPI have been correctly set. As part of this, alternative proposals for an appropriate, realistic and achievable time target are currently being formulated. The Ombudsman has set out in the earlier discussion some of the issues that need to be considered as part of this work.

The Ombudsman has noted that although the overall resolution rate fell in 2019, this is likely to be related to a higher number of decisions appealed. This is because there has been a steady year-on-year improvement on the time taken to resolve complaints at each level, which is a very positive step.

Average number of weeks taken to finalise a Service Complaint			
	Initial decision not appealed	Initial decision appealed	All Service Complaints
2017	31	107	38
2018	23	89	31
2019	24	78	36

**Table 4 – Average duration (weeks) to finalise a Service Complaint 2017-2019**

The Ombudsman hopes that considerable progress can be made in 2020 to address this issue, including developing a new set of targets that can be used as part of the annual assessment of the Service Complaints system.





## Single Service updates

While the Ombudsman's annual assessment of the Service Complaints system is based on performance tri-Service, she appreciates that each Service has individual challenges and achievement. For this reason, the Ombudsman also provides a brief update on how she believes each of the single Services have performed in-year.

These updates are based on the totality of information available to SCOAF, including SCOAF casework, the formal statistical returns from the Services and the accompanying narrative provided by the Principal Personnel Officer (PPO) for each Service. With the consent of the PPOs, each of these narratives has been reproduced in full in **Appendix H**. Also, this year, each of the Services has provided case studies to accompany their narrative. These have been used throughout the report.

In addition to the work on Service Complaints, the Ombudsman would like to thank all three Services for their ongoing assistance to her office and the wider work that they do in supporting of her operations each year. This includes:

- Ongoing familiarisation visits for SCOAF personnel to enable them to learn more about how the individual Services and Service Complaints secretariats operate.
- Work to support the Ombudsman's visits across the UK and abroad. The Ombudsman acknowledges that considerable effort is put into organising and executing these visits.
- Continued support of the Ombudsman and her staff in delivering briefs to Commanding Officers across each of the Services as part of their mandatory training.



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## Naval Service

The Naval Service showed a significant improvement in their performance in handling Service Complaints in 2019, resolving 74% of Service Complaints within 24 weeks, a sharp rise from 68% in 2018.

The Naval Service feels that this improved performance can be attributed to the bedding in of the new processes since the changes in 2016, and a number of additional factors, including:

- **Steady staffing levels throughout 2019.** The Service Complaints secretariat had lower turnover than in previous years. The importance of this cannot be underestimated and the Ombudsman notes the historical pattern of high turnover leading to lower performance, the impact of which can be seen throughout subsequent years.
- **Part-time cadre of Decision and Appeal Bodies.** The Naval Service was increasingly reliant on a small cadre of part-time (OF5/1-star/2-star) Reserve officers to act as Decision and Appeal Bodies in 2019. The Ombudsman welcomes this move and, as she noted in her annual report last year, the move towards more semi-permanent and permanent Decision and Appeal Bodies will not only promote greater consistency in decisions, but allow for a more timely resolution of Service Complaints.

The Ombudsman notes that the Naval Service has dedicated further resource to resolving some of their older Service Complaints in 2019. From the casework SCOAF dealt with in-year it also appears that the Naval Service may have been able to come even closer to meeting the 90% KPI, but for considerable resource that needed to be dedicated to one Service Complaint in particular, leading to delays with other complaints at that same level.

This reinforces the need to ensure that there is adequate resource at all levels of the Service Complaint system, including sufficient resilience. However, the Ombudsman does acknowledge that this can be difficult to achieve, especially with the current manpower review taking place across Defence.

In 2019...	Referrals	Review of admissibility decision	Undue delay	Substance (merits)	Maladministration
<i>Applications received</i>	25	35	36	11	9
<i>Applications accepted for investigation in 2019</i>		29	30	8	6
<i>Investigations completed in 2019 (regardless of year received)</i>		29	31	4	3
<i>Investigations completed in 2019 that found in favour of the complainant (regardless of year received)</i>		16	16	Numbers are too small to report in this format – individual cases could be identified	Numbers are too small to report in this format – individual cases could be identified

**Table 5 – Summary of SCOAF casework relating to the Naval Service in 2019**

The Ombudsman praises the Naval Service for their high performance in 2019 and continued commitment to building a better Service Complaints system.



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## Army

The Army's performance in handling Service Complaints dipped in 2019, resolving 32% of Service Complaints within 24 weeks. This is consistent with the average (median) time taken for the Army to resolve a complaint rising from 39 weeks in 2018 to 45 weeks in 2019.

Some potential reasons for this dip have been identified, including:

- **Difficulty appointing Decision Bodies due to capacity issues.** As outlined in the full narrative from the Army, this is due to a variety of reasons. However, the Ombudsman notes that the Army has been proactive in exploring solutions to this and are recruiting for a pool of ex-Reservist Decision Bodies who can provide a permanent capacity.
- **Wider resource issues.** At the end of 2019, there was an average waiting period of 4 -6 weeks <sup>32</sup> for the appointment of a Fee Earning Harassment Investigating Officer (FEHIO) and there had been a reduction in the Service Complaints Investigation Team (SCIT), but a consistent number of cases needed these resources. However, the Ombudsman recognises that additional resource has been approved to tackle both of these issues and recruitment is currently underway.

While the Ombudsman expects to see an improvement in performance regarding the time taken to resolve complaints, she appreciates the sustained effort that has been put into identifying potential blockages and improvements for the system. Wholesale long-term, sustainable changes are required in order to truly build a better Service Complaints system. This does not mean patching issues to provide temporary relief, but finding new and better ways of working.

To that end, the Ombudsman is not only supportive of the initiatives outlined in the Army's narrative for 2019, including the new systems put in place to ensure learning is captured, but she was also particularly impressed with the report conducted by the Army Inspectorate on

<sup>32</sup> This figure is based on the average number of working days to allocate cases compared to demand volumes, which can vary month to month over the year.



the Service Complaints process in the Army. This in-depth review, which was independent of the chain of command, was able to use a range of material, to look at a number of issues and many of the observations and recommendations were the same as comments and recommendations the Ombudsman has previously made.

In 2019...	Referrals	Review of admissibility decision	Undue delay	Substance (merits)	Maladministration
<i>Applications received</i>	107	64	27	44	36
<i>Applications accepted for investigation in 2019</i>		52	23	37	30
<i>Investigations completed in 2019 (regardless of year received)</i>		53	24	24	21
<i>Investigations completed in 2019 that found in favour of complainant (regardless of year received)</i>		17	11	13	13

**Table 6 – Summary of SCOAF casework relating to the Army in 2019**

The Ombudsman praises the Army for their continued efforts in driving through improvements for the Service Complaints process and looks forward to seeing the impact that the most recent changes has on overall performance and confidence in 2020.





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## RAF

The RAF's performance against the target to close 90% of Service Complaints within 24 weeks fell in 2019, with only 52% of complaints being closed within the time target.

While the Ombudsman is disappointed with this dip in performance, she notes that there have been some broader successes with complaint handling within the RAF and ongoing continuing improvement.

In analysing their casework, the RAF has demonstrated a success with their fast-track system. Under this system, the closure rate increases to 66% in 24 weeks. Furthermore, there is a high closure rate at the 9 and 18 week points under this system.

However, fast-track complaints only concern specific subjects: pay and allowances, and terms of services. Complaints that concern more sensitive subject matters, such as bullying, harassment or discrimination, have a closure rate within 24 weeks of 33%. This is a good illustration of the issues discussed in **Chapter 1** around the need to better understand the lifecycle of Service Complaints in the different subject areas, in order to be able to determine appropriate time targets for resolution.

The RAF has highlighted their intention to build on this work, assessing all complaints to identify those that can be resolved swiftly under these processes in order to dedicate the bulk of resource to the more sensitive complaints that cannot be resolved outside of the full process.

In 2019...	Referrals	Review of admissibility decision	Undue delay	Substance (merits)	Maladministration
<i>Applications received</i>	12	20	20	11	9
<i>Applications accepted for investigation in 2019</i>		15	18	7	6
<i>Investigations completed in 2019 (regardless of year received)</i>		15	18	11	7
<i>Investigations completed in 2019 that found in favour of complainant (regardless of year received)</i>		8	12	Numbers are too small to report in this format – individual cases could be identified	Numbers are too small report in this format – individual cases could be identified

**Table 7 – Summary of SCOAF casework relating to the RAF in 2019**

Further to the work that needs to be done on structural reform of the complaints system, the RAF also champions a belief held by the Ombudsman – that ultimately it is cultural reform that will have the biggest impact. The RAF has outlined a raft of work it intends to undertake to increase awareness and better understand the issues within the complaints system. Of particular interest to the Ombudsman is the qualitative and educational work that will be done around bullying, harassment and discrimination complaints, given that such a high proportion of these complaints are not upheld.

Despite the dip in performance against the 24 week KPI, the Ombudsman praises the RAF for its ongoing commitment to drive through truly reforming systemic changes that aim to improve the overall system.






## Chapter 4 – Progress made on previous Ombudsman recommendations


### Progress report

Recommendations from previous annual reports that remained open at the beginning of 2019 have been grouped below according to the subject matter. Recommendations prefaced with the number 1 were made in 2016, number 2 were made in 2017, and number 3 were made in 2018.


The open recommendations made in 2016 and 2017 below have been grouped according to subject. Recommendations prefaced with the number 1 were made in 2016 and those with the number 2 were made in 2017. Only those recommendations that were still open after the publication of the previous annual report are included in this chapter.




Completed – Recommendation will no longer be reported against



In progress – recommendation will be reported against until it is completed



Work has not yet commenced on this recommendation



The recommendation has been rejected by the Ministry of Defence or the single Services

Analysis and research		
Recommendation		Progress
1.10	That the Ministry of Defence commissions a study by the end of April 2018 to determine the root causes of the overrepresentation of female and BAME personnel in the Service Complaints system and that appropriate action is taken to try and redress this by the end of December 2018, including putting the appropriate support mechanisms in place.	<p>On 15 October 2019, the Ministry of Defence provided the Ombudsman with the internal reviews conducted by each of the Services.</p> <p>In addition, the Ministry of Defence is working to identify an independent organisation to lead this study.</p> <p><b>The Ombudsman thanks the Ministry of Defence for sharing the internal reviews. While this information does not wholly execute the recommendation, it is important to understand the work that has been conducted to date. The Ombudsman welcomes the chance to consult on the appointment process.</b></p>
1.11	That the Ministry of Defence identifies an appropriate working group by the end of April 2017 to evaluate the current target for resolving 90% of Service complaints within 24 weeks to ensure that it is appropriate, including the method for calculating when the 24 weeks begins. A representative from the SCOAF should be involved in this review.	<p>Initial work was carried out by the SCSWG. However, the Service Complaints and Justice Transformation Team were established to take forward this work. At present the team is focussed on undertaking stakeholder engagement and establishing focus groups; identifying Management Information (MI) and capturing information; and clearly defining the purpose of the Service Complaints system. The Service Complaints and Justice Transformation Team are currently working to a deadline of April 2020 to develop proposals and agree necessary changes to the Service Complaints system.</p> <p><b>The Ombudsman looks forward to seeing the proposals developed by the Service Complaints and Justice Transformation Team in this area.</b></p>

Analysis and research		
Recommendation		Progress
3.6	That by the end of October 2019, the Ministry of Defence sets a suitable KPI for making admissibility decisions within the existing 2-week target. This KPI should be determined following further work to ascertain why this target is routinely missed. Performances against this target will be measured and reported to the Ombudsman annually.	<p>This recommendation will be taken forward by the Service Complaints and Justice Transformation Team.</p> <p>At present, the team is focused on defining the purpose of the Service Complaints system, identifying management information and capturing information. There is a current timeframe of April 2020 for proposals and changes to be agreed.</p> <p><b>The Ombudsman looks forward to seeing the proposals developed by the Service Complaints and Justice Transformation Team in this area.</b></p>

Communication and training		
Recommendation		Progress
1.8	That the Ministry of Defence develops a general training programme for all Assisting Officers and that a record of their completion of that training is held centrally to ensure that suitably qualified AOs can be identified with greater ease. This should be rolled out by the end of April 2018.	<p>The Ministry of Defence originally rejected this recommendation. However, following a similar recommendation being made by the <i>Report on Inappropriate Behaviours</i>, it has been revived.</p> <p>The recommendation is being taken forward by the Service Complaints and Justice Transformation Team. The team is currently focussing on stakeholder engagement, which includes establishing focus groups to better understand user experiences. The current timeframe to develop proposals and agree changes is April 2020.</p> <p><b>The Ombudsman welcomes the recommendations made in other reports that support Recommendation 1.8 and looks forward to seeing the proposals developed by the Service Complaints and Justice Transformation Team.</b></p>

Communication and training		
Recommendation		Progress
2.4	That by April 2019, training is available to personnel involved in making decisions as part of the Service Complaints process, including Specified Officers, Decision Bodies and Appeal Bodies, on decision writing for complaints handlers. This could be discreet training or part of a wider package on Service Complaints as referred to in Recommendation 2.7.	<p>The Ministry of Defence has rejected these recommendations but stated that it would be kept under the review of the Service Complaints Working Group training committee.</p> <p><b>The Ombudsman is disappointed with the decision of the Ministry of Defence not to accept these recommendations and does not consider this as satisfactorily closed.</b></p>
2.7	That by April 2019, an online training module on the Service Complaints process, including a module on how to handle Service Complaints for personnel charged with that process, i.e. Commanding Officers, Specified Officers, Decision Bodies and Appeal Bodies is developed and implemented tri-Service.	
3.2	That the Service Complaints Ombudsman for the Armed Forces and the single Services publish complaint casebooks by the end of April 2020. These casebooks would provide anonymised case studies to provide a greater understanding of the type of complaints made, why complaints are/are not upheld, and the outcomes people can expect. This should seek to increase openness and transparency and increase confidence in the system.	<p>Each of the Services has provided casebook examples to SCOAF which is published on our website.</p> <p><b>The Ombudsman thanks the Services for their early engagement on this recommendation. The Ombudsman especially notes the volume of work they have undertaken to meet the target timeframe.</b></p>



Ombudsman's office and powers		
Recommendation		Progress
2.8	<p>That by April 2019, the Ministry of Defence reviews the existing primary and secondary legislation and determines how amendments can be made to provide a mechanism for respondents to a Service Complaint to ask the Ombudsman to investigate alleged undue delay in the handling of that complaint. This mechanism should be available to all respondents, regardless of whether they are currently serving.</p>	<p>The next Armed Forces Bill will be introduced to Parliament in 2020. The Ministry of Defence reports that as this will represent a significant change, careful consideration is required. The Ministry of Defence is currently engaged with the Ombudsman's office to understand the scope and intent of the recommendation better.</p> <p>This recommendation is being taken forward by the Service Complaints and Justice Transformation Team.</p> <p><b>The Ombudsman thanks the Ministry of Defence for their engagement on this recommendation and acknowledges that, if accepted, it will not be implemented until at least 2020/2021.</b></p>
3.1	<p>That following the independent internal process review and any expert peer review, a comprehensive proposal for additional resource is prepared by the Service Complaints Ombudsman for the Armed Forces and submitted to the Ministry of Defence by the end of September 2019, for early consideration. This should address the resources required to:</p> <ul style="list-style-type: none"> <li>reduce the existing allocation backlog</li> <li>prevent a new backlog developing</li> <li>execute in-depth research and analysis as required by the Ombudsman's reporting function.</li> </ul>	<p>SCOAF put in a bid for 5.5 additional posts, following discussions with the Ministry of Defence. This bid is currently awaiting approval.</p> <p>Furthermore, as positions across the office become vacant, SCOAF Senior Management is considering how they could be better utilised.</p> <p><b>The Ombudsman is not confident that this bid will be approved given the manpower review currently underway across Defence.</b></p>

Policy and guidance		
Recommendation		Progress
1.5	That the Ministry of Defence instigate a review of JSP 831 and 763 to ensure that the language is accessible to all Service personnel by end December 2017, using “plain language” standards and make the necessary changes by end June 2018.	The Service Complaints and Justice Transformation Team is undertaking the review of JSP 763. It will undergo significant transformation and focus on behaviours and early resolution. All information relating to formal complaints for Service personnel will be removed and added to JSP 831. It is expected that the new JSP 763 will be ready for April 2020.
2.1	That by December 2018, the Ministry of Defence completes its review of JSP 763 and publishes the updated version that corresponds with the reformed Service Complaints process.	The review of JSP 831 is ongoing, but cannot be finalised until work has concluded on JSP 763. <b>The Ombudsman welcomes the news that this important work is being captured by Service Complaints and Justice Transformation Team and looks forward to seeing the new JSP 763 and subsequently JSP 831.</b>
2.2	That by December 2018, JSP 831 is amended to explicitly set down as a required step that upon receipt of: a written statement of complaint (whether or not on an Annex F), or a referral from the Ombudsman the Specified Officer <i>speaks</i> to the individual Service person to establish the nature of their complaint. Given the nature of the work of the Armed Forces, this could be done in a face to face meeting, by phone or video conferencing. The guidance should further acknowledge that in some cases, there will be legitimate reasons for omitting this step, but that it is expected that such instances will be rare. Furthermore, any such decisions must be properly documented.	The Ministry of Defence reports in light on existing provisions, there is limited scope for improvement but that the issue has been added to the list of issues to consider as part of the review of JSP 831. They have further suggested that case-specific advice would be more effective than generic training. <b>The Ombudsman appreciates that the existing JSP provides guidance on this topic, but clarifies her original recommendation: she wants the language to be strengthened so that it is a requirement that this step must occur rather than should occur, unless there is a legitimate reason for omitting this step.</b> <b>The Ombudsman understands that case-specific advice may be required for individual issues that are ‘out of the norm’.</b>

Policy and guidance		
Recommendation		Progress
2.3	<p>That by December 2018, all guidance and training provided to Commanding Officers and Specified Officers is reviewed to ensure that it includes specific reference to the extended timeframes to make a Service Complaint that concerns a matter that could be taken to an Employment Tribunal. This guidance should include examples of the types of complaints which may give rise to the extended timeframe.</p> <p><b>(This recommendation also falls into the training category).</b></p>	<p>The Ministry of Defence has not accepted this recommendation. It believes the information included in JSP 831, in conjunction with the advice provided by the secretariats, to be sufficient and that it is unnecessary to include such detail and depth on this subject in Commanding Officer or Specified Officer training.</p> <p><b>The Ombudsman is disappointed with the decision of the Ministry of Defence to not accept this recommendation and not engage with her office on this point before deciding not to accept it. That this continues to be an issue highlighted in reviews of admissibility decisions in 2019, indicates that the information included in JSP 831 and any case-specific advice provided is not going far enough to address this issue. The Ombudsman would urge the Ministry of Defence to reconsider this recommendation in light of the work being undertaken by the Service Complaints and Justice Transformation Team.</b></p>
2.5	<p>That by December 2018, the Ministry of Defence develops guidelines on the handling of informal complaints that can be included as an Annex to JSP 831. This guidance must provide, as a minimum, information on when it is and is not appropriate to follow informal processes and the steps to be taken in recording the informal process. The guidelines must also state that a complainant cannot be forced or unduly pressured/ encouraged to agree to informal resolution.</p>	<p>Work on this recommendation has been paused pending the ongoing work on JSP 763.</p> <p><b>The Ombudsman agrees that the best way forward on this recommendation is to wait until JSP 763 has been finalised.</b></p>

Policy and guidance		
Recommendation		Progress
<b>2.10</b>	That by December 2018, the Ministry of Defence amends JSP 831 to stipulate that the single Service secretariats are responsible for challenging withdrawals where the complainant, or potential complainant, has indicated they have been discouraged from making a complaint, or had undue pressure placed on them to withdraw their complaint. This must be accompanied by clear processes to be followed in such instances. Such processes can be developed at the local level so long as there is a consistency in approach across the single Services.	<p>All three Services have provisions in place to ensure that the reasons for withdrawing complaints are ascertained and challenged where required.</p> <p>The outstanding element of this recommendation relates to the inclusion of these processes in JSP 831. The Ministry of Defence has confirmed that this will form part of the review.</p> <p><b>The Ombudsman accepts that all Services have processes in place to challenge withdrawals and looks forward to her office being engaged on this issue as part of the review of JSP 831, if clarification is required on the scope of this recommendation.</b></p>
<b>3.3</b>	That Service Complaints policy should be amended by the end of October 2019 to reflect that decision letters should be sent by email if this is the complainant's preferred method of contact, unless there are specific security issues precluding it.	<p>All Services have agreed that where appropriate, and requested, Decision Body and Appeal Body letters will be emailed. Further work is being undertaken to ensure that these processes adhere to the Data Protection Act.</p> <p><b>The Ombudsman welcomes this agreement and way forward.</b></p>
<b>3.4</b>	That the Service Complaints Ombudsman for the Armed Forces develops specific guidance on the calculation of consolatory payments by the end of December 2019, and that this guidance is adopted by the single Services by the end of April 2020.	<p>The Ombudsman developed a guidance document which is currently under review by the Services.</p> <p><b>The Ombudsman is pleased that this recommendation remains on track.</b></p>

Policy and guidance		
Recommendation		Progress
3.7	That legislation and/or Service Complaints policy is amended by the end of April 2020 to allow for the appointment of a Specified Officer with the availability and capacity to take a complaint forward in accordance with the timeframe set out in JSP 831.	<p>This recommendation will be taken forward by the Service Complaints and Justice Transformation Team.</p> <p>At present the team is focused on defining the purpose of the Service Complaints system, identifying management information and capturing information. There is a current timeframe of April 2020 for proposals and changes to be agreed.</p> <p><b>The Ombudsman looks forward to seeing the proposals developed by the Service Complaints and Justice Transformation Team in this area.</b></p>
3.9	That the Ministry of Defence and the Service Complaints Ombudsman for the Armed Forces prepare a written agreement by the end of July 2019 outlining when and how formal responses are to be provided to the recommendations made by the Ombudsman in her annual reports. This agreement should also set out how updates on all open recommendations will be provided to the Ombudsman, the content to be included, and the frequency of these. Consideration should be given to including this agreement in future revisions to legislation.	<p>An agreement has been reached that a provisional formal response to the recommendations made in any annual report will be provided to SCOAF within two months of publication.</p> <p>Progress against the recommendations is monitored monthly and a quarterly update is provided.</p> <p><b>The Ombudsman welcomes this agreed way forward.</b></p>

Process		
Recommendation		Progress
3.5	That the Service Complaints Working Group establishes a process by the end of December 2019 for notifying the Ombudsman of key events under Regulation 6 of The Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015, which adheres to the spirit of the legislation without putting a strain on existing resource.	<p>All Services are now sharing this information with SCOAF.</p> <p><b>The Ombudsman welcomes the swift resolution to this recommendation.</b></p>

Process		
Recommendation		Progress
3.8	That by the end of April 2020, the single Services establish a pool of permanent Specified Officers and Decision Bodies with full-time responsibility for making admissibility decisions and deciding complaints where capacity issues prevent Commanding Officers from dealing with complaints expeditiously.	<p>This recommendation will be taken forward by the Service Complaints and Justice Transformation Team.</p> <p>At present, the team is focused on defining the purpose of the Service Complaints system, identifying management information and capturing information. There is a current timeframe of April 2020 for proposals and changes to be agreed.</p> <p><b>The Ombudsman looks forward to seeing the proposals developed by the Service Complaints and Justice Transformation Team in this area.</b></p>

# Appendices

## Appendix A – Glossary

This glossary provides a brief description of some of the main terms used in the commentary of this report.

<b>Annex F</b>	<p>A Service Complaint form (Annex F to Part 2 of JSP 831) that captures key information on the issues being complained about and the redress the complainant is seeking.</p> <p>It is the primary method for formalising a complaint, although the legislation only requires that the complaint be in writing. <b>See also statement of complaint.</b></p>
<b>Appeal Body</b>	<p>A person, or group of people (which might include <b>independent members</b>), appointed by a single Service Complaints secretariat to consider and to make a determination on an appeal.</p>
<b>Army Service Complaints Secretariat (Army SC Sec)</b>	<p>The Service Complaints secretariat for the Army.</p>
<b>Assisting Officer (AO)</b>	<p>A person who is appointed by the chain of command to provide help and support to a complainant or respondent during the Service Complaints process. A complainant or respondent can also nominate someone to act as their AO.</p>
<b>Commanding Officer (CO)</b>	<p>The CO is the officer who has been appointed by the appropriate authority to be in command of and to exercise discipline over a ship, unit or establishment.</p>
<b>Contact</b>	<p>Recorded instance of an enquiry or application being made to SCOAF.</p>
<b>Diversity and Inclusion Advisors</b>	<p>D&amp;I Advisors are the command/establishment focal point for providing impartial advice to all Service personnel on any Equality and Diversity issue, including allegations of bullying and harassment.</p>
<b>Fee Earning Harassment Investigation Officer (FEHIO)</b>	<p>An individual appointed to investigate formal complaints of bullying and harassment and who receives a fee for undertaking that investigation.</p>



<b>Finally determined</b>	A complaint that has completed the internal process i.e. a decision has been taken on the complaint by the Decision Body and, if an appeal is available, there has been a determination by the Appeal Body. In some cases, there will be a decision stage with no appeal because of the seniority of the Decision Body. A complaint has not been finally determined for the purposes of an Ombudsman investigation if an appeal is available but the complainant chooses not to pursue it.
<b>Harassment Investigation Officer (HIO)</b>	An individual appointed to investigate formal complaints of bullying and harassment.
<b>Independent member</b>	A person who is not a member of the Armed Forces or the Civil Service, who has been recruited by the Ministry of Defence on a fee-earning basis to provide an independent view (when appointed to do so) on complaints of a specific type.
<b>Informal complaint</b>	Any allegation(s) or issue(s) raised with the relevant Service ahead of a written, signed and dated complaint being submitted.  Also a Service Complaint that has not had an admissibility decision made on it.
<b>Informally resolved</b>	Refers to a complaint which is resolved prior to a formal decision being made.
<b>Internal process</b>	The process that is handled by the Services from receiving a Service Complaint through to making a final decision.  The processes of SCOAF sit outside of this internal process.
<b>Investigating Officer (IO)</b>	An individual appointed by a Decision or Appeal Body to investigate a complaint on its behalf and to report back with findings of fact.
<b>Joint Personnel Administration (JPA)</b>	JPA is the intranet-based personnel administration system used by the Services to log all complaints dealt with under JSP 831. All complaints must be entered by the complainant's unit admin staff at the earliest opportunity after submission.










<b>Maladministration</b>	<p>There is no set legal definition of maladministration, although it generally means that there was a failure to follow correct procedure. In relation to what the Ombudsman investigates, it concerns the improper handling of Service Complaints. Maladministration can include, but is not limited to: taking incorrect action; failing to take action; providing misleading information; breaking promises; inadequate record-keeping or inadequate liaison or consultation.</p> <p>Although delay can be a form of maladministration, the Ombudsman has separate powers to investigate undue delay while a Service Complaint is ongoing.</p>
<b>Naval Service Complaints Secretariat</b>	The Service Complaints secretariat for the Naval Service.
<b>Non-Commissioned Officers and Warrant Officers (NCOs and WOs)</b>	Non-Commissioned Officers (including corporals, sergeants and chief technicians) and Warrant Officers. The Royal Navy does not use NCOs, but calls them senior ratings (or senior rates).
<b>Office of the Service Complaints Ombudsman (OSCO)</b>	Refers to the office and personnel that assist to carry out the functions of the Ombudsman as a whole, rather than the specific position of the Service Complaints Ombudsman. <b>This term is no longer used.</b>
<b>Officers</b>	A member of the Armed Forces holding the Queen's Commission to lead and command elements of the Armed Forces. Officers form the middle and senior management of the Armed Forces.
<b>Out of time (OOT)</b>	When a complaint is made more than three months after the alleged incident(s) and it is not considered just and equitable to extend the time limit.
<b>Private (Pte) and equivalent</b>	A private is a soldier of the lowest military rank (equivalent to NATO Rank Grades OR-1 to OR-2 depending on the Service served in).
<b>Red flag complaint</b>	A complaint which has missed the 24-week target and remains unresolved.
<b>Referral</b>	The Ombudsman's statutory power to refer an individual's intention to make a Service Complaint to their chain of command. An individual does not need to give reasons for using the Ombudsman as an alternative point of contact to their chain of command.
<b>Service Complaint</b>	A formal complaint made by a serving or former member of the Armed Forces about a wrong that occurred during, and was related to, their Service life.

<b>Service Complaints Ombudsman for the Armed Forces (SCOAF)</b>	The Ombudsman provides independent and impartial oversight of the Service Complaints system. The full term and acronym are used to describe the office as a whole and action taken under the Ombudsman's delegated powers. 'The Ombudsman' is used to denote the individual post holder.
<b>Service Complaints Statistics Working Group (SCSWG)</b>	Chaired by SCOAF's Statistics Manager and made up of senior practitioners/management information system experts from all three Services and a representative from the Ministry of Defence. This group is responsible for ensuring the integrity of the data that underpins the reporting of Service Complaints.
<b>Service Complaints Working Group (SCWG)</b>	A working group that reviews and monitors how the Service Complaints system is working and delivering against the benefits expected from the reformed process. The group reviews current policy to ensure that it is fit for purpose; shares best practice and lessons learnt.
<b>Service Complaints Working Group training committee (SCWG-TC)</b>	A committee that reviews Service Complaints training from a tri-Service perspective, ensuring the training that is being provided is appropriate and that best practice is shared. The committee considers how it is delivered, identifies if there are any gaps, and how it might be provided in the future.
<b>Service Complaints Team</b>	The Service Complaints secretariat for the RAF.
<b>Service Matter</b>	A Service Matter is an issue that has been raised, which could be a Service Complaint, but a complaint has not been made. It refers to informal complaints and instances where a formal statement of complaint has been submitted, but an admissibility decision has not been made.
<b>Special to type (STT)</b>	A category of complaint where there is "another formal system" that must be exhausted prior to a Service Complaint being acted upon, such as Service medical care, housing, pay and allowances.
<b>Specified Officer (SO)</b>	The person to whom a complainant submits a statement of complaint at the start of the Service Complaints process. The SO is usually the individual's Commanding Officer.
<b>Statement of complaint</b>	The document in which a Service person must set out the particulars of their Service Complaint. The Annex F provides a template for this.
<b>Undue delay</b>	There is no legal definition of undue delay, but it is generally taken to mean an unreasonable or unfair delay. What constitutes undue delay is dependent on the circumstances of each individual case. Undue delay is more than simply a delay in the handling of a complaint or exceeding a time limit or target, which may not be desirable but for which there is justifiable cause.

<b>Victimisation</b>	Poor or unfair treatment of an individual who has made a complaint due to the fact that they made a complaint. This includes instances where an individual has not yet made a complaint, but it is suspected that they will do so, and they are treated poorly or unfairly because of that.
<b>Withdrawn</b>	A complainant can decide to withdraw their Service Complaint at any point in the process. The complaint will then be recorded as withdrawn.

## Appendix B – Eligibility criteria for referrals and investigations

This table sets out a summary of the eligibility criteria for applications to the Ombudsman requesting referral or investigation.

	 Time limit	 Application form	 Additional documents	 Notes
 Referral	N/A – see notes	Application for referral	No additional documents are required	Service Complaints usually need to be made within 3 months of the date of the alleged wrong. A referral is not a Service Complaint. It also does not guarantee that a complaint will be accepted by the Service.
 Review of admissibility decision	<b>4 weeks and 2 days</b> from the date the admissibility decision is posted or emailed	Application for review of admissibility decision	Annex F	
 Undue delay	N/A – see notes	Application for investigation into undue delay	Annex F (if a Service Complaint has been made)	Undue delay investigations can be requested at any stage of the process – even where an admissibility decision has yet to be made. You must try and chase the reason for delay first.
 Substance (merits)	<b>6 weeks and 2 days</b> from the date the final decision is posted or emailed	Application for a substance (merits) and/or maladministration investigation	Annex F	
 Maladministration	<b>6 weeks and 2 days</b> from the date the final decision is posted or emailed	Application for substance (merits) and/or maladministration investigation	Annex F	
	Admissibility decision		Your application form will not be considered to be complete if you haven't provided the mandatory additional documents.	Further information can be found at <a href="http://www.scoaf.org.uk">www.scoaf.org.uk</a> . If you can't find the information you are looking for, email <a href="mailto:contact@scoaf.org.uk">contact@scoaf.org.uk</a> or phone 0207 877 3450.

## Appendix C – SCOAF strategic objectives

### Strategic Objectives 2016 – 2020

Strategic objective	In 2019, we have...
<p><b>1. Provide an independent, transparent and accountable Service Complaints Ombudsman for the Armed Forces</b></p> <p>1.1 Monitor, scrutinise and report on the operation of the Service Complaints system to Parliament.</p> <p>1.2 Collect, process, analyse and disseminate statistics in line with professional best practice.</p> <p>1.3 Be transparent in our operation and ensure we deliver value for money.</p> <p>1.4 Improve our service by making it easier for Service personnel to access the Service Complaints Ombudsman for the Armed Forces.</p> <p>1.5 Deal with enquiries and referrals efficiently, minimising delay and meeting timeliness targets.</p>	<ul style="list-style-type: none"> <li>Published Annual Report 2018. This was the third annual report for our organisation. The annual report is the primary way in which the office is transparent and accountable to Parliament and the public.</li> <li>Presented evidence to the House of Commons Defence Committee (HCDC). The Ombudsman appeared before the HCDC to give evidence on the work of her office.</li> <li>Improved our statistics published. Following consultation with stakeholders, improvements were made to the statistical tables for the Annual Report, the design of our quarterly statistical reports and the information covered in the factsheets.</li> <li>Developed new application forms and guidance. Following revisions to our application forms in 2017 and 2018, new forms were designed and published at the end of 2019. We also developed examples of completed application forms to enable complainants to better understand what information they need to provide.</li> <li>Exceeded our timeliness KPIs for referrals. Our Enquiries and Referrals Team are the first point of contact for anyone coming to our office. In 2019, they handled 754 enquiries and made 100% of referrals within 7 working days. This exceeds the 90% target for processing referrals and it is the fourth consecutive year the team has exceeded the KPI.</li> </ul>

Strategic objective	In 2019, we have...
<p><b>2. Deliver timely, comprehensive investigations for applicants, exercising our legislative powers in a transparent, efficient manner to ensure guardianship of the Service Complaints process by the Ombudsman.</b></p> <p>2.1 Undertake thorough investigations in line with our commitment to independence, impartiality and integrity.</p> <p>2.2 Establish, develop and adhere to policies and processes, in line with legislation.</p> <p>2.3 Deliver specific, clear and consistent recommendations.</p> <p>2.4 Deliver on our commitment to complete investigations within timeliness targets.</p> <p>2.5 Engage with legal challenges to our findings and report on outcomes.</p>	<ul style="list-style-type: none"> <li>Improved internal processes. Building on the changes made to our investigations process in 2018, further work was done in 2019. This included implementing a triage process for applications for substance (merits) and maladministration investigations. This is outlined further in <b>Chapter 2</b>.</li> <li>Changed processes to ensure they were in line with legislation. Our policy relating to making referrals and conducting admissibility decision reviews for pre-2008 matters changed in 2019. This is outlined further in <b>Chapter 2</b>.</li> <li>Streamlined the recommendations we make. Standard wording was developed for recommendations made regularly in admissibility review and undue delay cases.</li> <li>Significantly improved our timeliness. In 2019:             <ul style="list-style-type: none"> <li>100% of referrals were made within 7 working days, exceeding the target of 90%.</li> <li>90% of reviews of admissibility decisions were completed within 17 working days, meeting the target.</li> <li>99% of undue delay investigations were completed within 17 working days. This exceeds the target of 90%.</li> <li>49% of substance (merits) investigations were completed within 100 working days. While this falls short of the 90% target, it is a significant improvement on performance in 2018 where less than 5% of investigations met the time target.</li> <li>45% of maladministration investigations were completed within 100 working days. While this falls short of the 90% target, it is a significant improvement on performance in 2018 where less than 5% of investigations met the time target.</li> </ul> </li> <li>Engaged with legal challenges. Three complainants began legal proceedings to bring a judicial review against a decision made by SCOAF in 2019. While none of these challenges proceeded past the initial stage, SCOAF engaged with the process on each occasion.</li> </ul>



Strategic objective	In 2019, we have...
<p><b>3. Provide information, education and outreach with the Armed Forces and wider stakeholders to promote the Service Complaints system.</b></p> <p>3.1 Actively seek to develop effective and enduring working relationships with stakeholders.</p> <p>3.2 Take a proactive role in the international Ombudsman community.</p> <p>3.3 Develop tools to educate users on how the Ombudsman can help them.</p> <p>3.4 Proactively promote the Ombudsman role and wider Service Complaints process.</p> <p>3.5 Adopt innovative approaches to implement and develop a digital presence for the office of the Service Complaints Ombudsman for the Armed Forces.</p>	<ul style="list-style-type: none"> <li>• Held our second stakeholder symposium. In 2019, this was opened up to some select Service stakeholders in addition to non-Service stakeholders.</li> <li>• Continued to engage with ombuds organisations. SCOAF continues to be a full member of the Ombudsman Association (OA) and the International Ombudsman Institute (IOI). SCOAF is also an active member of the International Conference of Ombuds Associations for the Armed Forces (ICOAF). SCOAF personnel engage with these organisations regularly for education and development.</li> <li>• Expanded our print campaign. It now includes tri-fold cards that provide an overview of what SCOAF can do.</li> <li>• Continued delivering briefs and holding focus groups. SCOAF briefs all new Commanding Officers as part of their mandatory training. The Ombudsman also holds focus groups with personnel from all ranks when she is on visits.</li> <li>• Developed VODCASTS for use in training and on our website. In 2019 a series of VODCASTS were produced that can be used on our website and inserted into existing training packages. These will be launched in 2020.</li> </ul>

Strategic objective	In 2019, we have...
<p><b>4. Be a learning organisation and develop the capabilities (knowledge, skills and behaviours) required to achieve our priorities now and in the future.</b></p> <p>4.1 Monitor recommendations, trends and themes to shape improvements to the complaints process.</p> <p>4.2 Work with the Services and the Ministry of Defence to see that lessons are implemented swiftly and efficiently.</p> <p>4.3 Review and develop our processes, making required changes to ensure that the new system succeeds.</p> <p>4.4 Proactively build our capability to ensure that the Service Complaints Ombudsman for the Armed Forces is able to deliver its objectives.</p> <p>4.5 Continue to invest in our people and provide opportunities to meet appropriate professional standards.</p>	<ul style="list-style-type: none"> <li>• Held regular meetings with key stakeholders. Regular meetings of the Service Complaints Working Group and biannual meetings with the Service Complaints Secretariats and MOD Policy Secretariat allows for recommendations, trends and themes to be routinely monitored and the swift implementation of lessons learnt.</li> <li>• Undertook an internal process review. External auditors came in to review our processes and advise where improvements can be made. This is outlined further in <b>Chapter 2</b>.</li> <li>• Increased our resource. Flexible and innovative solutions have been implemented to build our capability. This includes bringing in two agency investigators and submitting a request for additional permanent investigators. This work has continued alongside our use of fee-earners and our continued efforts to fill existing permanent vacancies.</li> <li>• Supported training needs of all SCOAF personnel. SCOAF ensures that all personnel are able to access training and development opportunities appropriate for their role. In 2019, a number of office-wide training opportunities were provided including plain English training.</li> </ul>

## Appendix D – Ombudsman Association Service Standards Framework

The Ombudsman Association (OA) is the professional association for ombuds institutions and complaint handlers in the United Kingdom, Ireland and the overseas dependencies/territories. The purpose of the OA is to:

- Support and promote effective systems of complaint handling and redress
- Encourage, develop and protect the role of an ombudsman as the ‘best practice’ model for resolving complaints, in both the public and private sectors
- Provide an authoritative voice and promote best practice and policy for those involved in complaint handling and redress to ensure an effective service for the public
- Support open and transparent accountability and endorse principles of good complaint handling.<sup>33</sup>

As part of this role, the OA developed the Ombudsman Association Service Standards Framework which came into effect in 2017. The framework sets out what is considered to be good practice in the provision of fair and efficient complaint handling services. The Service Complaints Ombudsman for the Armed Forces has adopted this framework as a full member of the OA and will report against it annually.

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<sup>33</sup> Objectives of the Ombudsman Association - <http://www.ombudsmanassociation.org/association-objects.php>

OA Service Standard	Our performance...
<p><b>Accessibility</b></p> <ul style="list-style-type: none"> <li>– Members' service should be free to complainants.</li> <li>– Members should ensure that their procedures are customer focused.</li> <li>– Members should work with complainants to understand their needs, in order for complainants to access their service easily.</li> <li>– Members should make reasonable efforts to support access to their services for any user, including working with representatives and others to support complainants through their service, and publish their procedures for doing this.</li> <li>– Members should listen to what complainants want from them and ensure they understand their complaint. If a complainant is complaining about an organisation or issue that the member cannot consider complaints about, where possible they should direct the complainant to the relevant Association member, or another organisation who may be able to help.</li> </ul>	<p>SCOAF is a free and impartial service open to current and former members of the UK Armed Forces.</p> <p><b>Customer focused procedures and understanding complainants' needs</b></p> <p>Individuals can make enquiries by phone, email or post. Every person making an application to our office is asked about restrictions in contacting them and can specify when and how they would like to be contacted.</p> <p>Our application forms provide clear explanations about what reasonable adjustment means and asks complainants to specify if they need any adjustments. These forms were improved at the end of 2019, to ensure that adequate guidance was provided around reasonable adjustment.</p> <p>Examples of adjustments made in 2019 include:</p> <ul style="list-style-type: none"> <li>• Scheduling contact with complainants at times that were suitable for them due to health issues.</li> <li>• Notifying a complainant by phone that written correspondence was going to be sent to allow them time to arrange a support person to help them read and process the documents.</li> </ul> <p>While our application process is digital, we acknowledge that not all individuals will have access to or a willingness to use technology. As such, we make our application forms available by post.</p> <p><b>Issues outside of our jurisdiction</b></p> <p>If an enquiry relates to an issue outside of our jurisdiction, we signpost to the most appropriate organisation. We also include a link to the OA's Ombudsman Finder on our website and regularly include this in our social media content and blogs.</p>

OA Service Standard	Our performance...
<p><b>Communication</b></p> <ul style="list-style-type: none"> <li>– Members should treat service users courteously, respectfully and with dignity.</li> <li>– Members should communicate with complainants through complainants' own chosen method where possible.</li> <li>– Members should explain their role to service users.</li> <li>– Members should let complainants know what they can and cannot do, and, if they are unable to help them explain why.</li> <li>– Members should clearly explain to service users their process for handling complaints about organisations and likely timescales.</li> <li>– Members should keep service users regularly informed of the progression of their case, and how long things are likely to take.</li> <li>– Members should tell service users who they can contact if they have any questions at different stages in the handling of the case, and how they can do so.</li> <li>– Members should be accurate in their communications with service users using plain and clear language.</li> </ul>	<p>SCOAF has a published <b>customer charter</b>, which sets out what individuals can expect from us when accessing our services. This incorporates the values of respect and open communication.</p> <p>The principles set out in the customer charter are incorporated in all of our internal processes and procedures.</p> <p><b>How we communicate with individuals</b></p> <p>Every person making an application to our office is asked about restrictions in contacting them and can specify when and how they would like to be contacted.</p> <p><b>Explaining our processes</b></p> <p>Our website is designed to be the primary source of information for people seeking information about our office. It includes:</p> <ul style="list-style-type: none"> <li>• Clear information on what the Ombudsman can and cannot do</li> <li>• A self-help tool so that people can understand what the Ombudsman can do for them in respect of their specific circumstances</li> <li>• Factsheets on our processes and key issues</li> <li>• Links to support services</li> <li>• Update bulletins about any backlogs or delays in our office</li> <li>• The Ombudsman's blog which looks at topical issues in greater detail than the factsheets can provide</li> </ul> <p>Individuals are allocated a named investigator and provided with their direct contact details. The investigator is responsible for providing information on the process, in addition to regular updates, throughout the life of the complaint. Prior to allocation, our Investigation Support Officer provides regular updates on the estimated wait time.</p> <p>The office is continuing to move towards plain language to ensure that our communication is as clear and accurate as possible. In 2019, all personnel undertook plain English training and a style guide was introduced in order to promote greater consistency in writing across the office.</p>

OA Service Standard	Our performance...
<p><b>Professionalism</b></p> <ul style="list-style-type: none"> <li>– Members should ensure that the staff who consider complaints have the relevant knowledge, training and skills to make decisions, or have access to suitable professional advice.</li> <li>– Members should deal with complaints in a timely manner, taking into account the complexity of the case.</li> <li>– Members should ensure that remedies are appropriate and take account of the impact any identified faults have had on the complainant.</li> <li>– Members should use the outcomes of complaints to promote wider learning and improvement of the service and the sector complained about.</li> <li>– Members should ensure their record keeping is accurate and that they hold data securely.</li> <li>– Members should ensure that if and when sharing of information is necessary, it is done appropriately.</li> <li>– Members should follow their published processes when dealing with complaints about their own service, and they should acknowledge and apologise for any mistakes they make.</li> <li>– Members should actively seek feedback about their service and use it to improve.</li> </ul>	<p><b>Staff knowledge and skills profile</b></p> <p>All operational staff are trained to the same standard when joining our office, regardless of previous experience or education. All investigators must attend and pass the Queen Margaret University Professional Award in Ombudsman and Complaint Handling Practice. Operational staff are also required to undertake Mental Health First Aid for the Armed Forces.</p> <p>Mandatory knowledge and skills profiles for all other positions at SCOAF are currently under development.</p> <p><b>Timeliness of handling complaints</b></p> <p>We publish timelines for all aspects of our work:</p> <ul style="list-style-type: none"> <li>• 2 working days to respond to an enquiry</li> <li>• 7 working days to make a referral</li> <li>• 10 working days to allocate an application to an investigator for an eligibility assessment</li> <li>• 17 working days to complete an admissibility review</li> <li>• 17 working days to complete an investigation into undue delay</li> <li>• 100 working days to complete substance (merits) and maladministration investigations</li> </ul> <p>Where we are likely to exceed the published timeframe, the individual will be informed of the reasons why and the expected date of completion.</p> <p>In 2019:</p> <ul style="list-style-type: none"> <li>• 100% of referrals were made within 7 days</li> <li>• 90% of admissibility reviews were completed within 17 working days</li> <li>• 99% of undue delay investigations were completed within 17 working days</li> <li>• 49% of substance (merits) investigations were completed within 100 working days</li> <li>• 45% of maladministration investigations were completed within 100 working days</li> </ul> <p><b>Granting remedies</b></p> <p>The Ombudsman does not have the power to grant redress, only to make recommendations for redress and wider learning points that seek to bring about systemic change. In making these recommendations a number of factors are taken into consideration, including the circumstances of the complainant and the impact the wrong has had on them.</p> <p><b>Secure case management</b></p> <p>Our records are maintained on a secure e-case management system and strict information management protocols are in place.</p> <p>Freedom of Information and subject access requests</p> <p>We have clear policies on FOI and SAR on our website. In 2019, we processed 19 applications for information under these policies.</p>

OA Service Standard	Our performance...			
	<p><b>Feedback</b></p> <p><i>User satisfaction surveys</i></p> <p>Feedback on satisfaction with the service we provide is routinely sought from everyone who makes an application to our office.</p> <p>Response rates are low. In 2019, only 21% of our customers completed a feedback survey. The same survey is sent to all complainants who submit an application, regardless of the point at which their application is closed. Those whose complaint is not accepted for investigation or who are otherwise unhappy with their experience with SCOAF are more likely to respond than those who are happy with the Service they have received.</p> <p>The results are reviewed quarterly and used to make improvements in a range of business areas. In 2019, feedback was used to improve:</p> <ul style="list-style-type: none"><li>• our internal processes</li><li>• information on the website</li><li>• the format of our application forms and supporting guidance</li></ul> <p>In 2019, our feedback survey showed that:</p> <table><tr><td>49% of users were satisfied with the overall service provided by SCOAF</td><td>11% of users were neutral about the overall service provided by SCOAF</td><td>40% of users were dissatisfied with the overall service provided by SCOAF</td></tr></table> <p><i>Complaints about our services</i></p> <p>Information on how to make a complaint about the service received from the Ombudsman’s office or a member of staff is published on our website.</p> <p>In 2019, we received 53 complaints. These include complaints about:</p> <ul style="list-style-type: none"><li>• delays in our office (13)</li><li>• decision not to investigate or findings (32)</li><li>• other (8)</li></ul> <p>All complaints were acknowledged by the Chief of Operations or the Head of Investigations with a clear outline of what had been done as a result of the complaint and/or the next steps.</p>	49% of users were satisfied with the overall service provided by SCOAF	11% of users were neutral about the overall service provided by SCOAF	40% of users were dissatisfied with the overall service provided by SCOAF
49% of users were satisfied with the overall service provided by SCOAF	11% of users were neutral about the overall service provided by SCOAF	40% of users were dissatisfied with the overall service provided by SCOAF		



OA Service Standard	Our performance...
<p><b>Fairness</b></p> <ul style="list-style-type: none"> <li>– Members should work with service users without discrimination or prejudice.</li> <li>– Members should make decisions on cases based on their independent and impartial evaluation of the relevant evidence.</li> <li>– The reasons for decisions should be documented and explained to relevant parties.</li> <li>– Members should publish information concerning any opportunities that may exist for service users to challenge their decisions.</li> <li>– Members should make clear to service users their approach to unacceptable behaviour.</li> </ul>	<p>SCOAF is independent and impartial. All service users are treated equally and with respect in accordance with our <b>customer charter</b>.</p> <p><b>Our decisions</b></p> <p>Thorough and independent investigations are undertaken and findings are supported by decision reports.</p> <p><b>Appealing our decisions</b></p> <p>There is no mechanism to appeal a decision made by SCOAF. However, if an individual believes the correct process was not followed, they can seek a judicial review. Information on judicial review is made available on our website and included in all decision letters.</p> <p><b>Unacceptable behaviour</b></p> <p>Our <b>customer charter</b> includes information on our right to place restrictions on access to our service should an individual consistently fail to meet their responsibilities under the charter.</p>

OA Service Standard	Our performance...
<p><b>Transparency</b></p> <ul style="list-style-type: none"> <li>– Members should publish information about the most senior staff in charge of decisions on complaints within their organisation, including the rules under which members operate.</li> <li>– Members should have procedures in place to deal with any conflicts of interest around the handling of complaints.</li> <li>– Members should be transparent about their investigation with the relevant service users.</li> <li>– Members should publish the learning that can be drawn from the complaints they handle in order to drive service improvement across the sector.</li> <li>– Members should provide service users with information explaining the approach they take to handling complaints about their own service.</li> <li>– Members should explain to complainants the procedures in place about what action can be taken if remedies are not implemented by the organisation complained about.</li> </ul>	<p><b>Our senior staff</b></p> <p>Information about the Ombudsman is published on our website alongside information about the legislative framework the organisation operates within. Because the Senior Management Team is not made up of Civil Servants at SCS Grades, no personal information about them is made available on the website.</p> <p><b>Conflict of interest</b></p> <p>We have a clear conflict of interest policy that is revised on an annual basis.</p> <p><b>Transparency</b></p> <p>Investigators are transparent about their work as far as is allowed within the boundaries of privacy and national security. Preliminary reports are made available to complainants and other affected parties for substance (merits) and maladministration investigations. This allows for any errors or inaccuracies to be addressed.</p> <p>Information on how to make a complaint about members of the Ombudsman's team or our service is made available on our website and upon request.</p> <p>The Ombudsman publishes an annual report in which learning about the complaints that are handled is analysed and discussed, and where recommendations are made to improve the complaints system.</p> <p>The Ombudsman does not have the power to compel the Armed Forces to provide redress; only to make non-binding recommendations.</p>

## Appendix E – Financial statement

SCOAF is a fully independent organisation. However, as a government-funded organisation, its budget is derived from the Defence Budget. While wholly independent of the Ministry of Defence in its role, SCOAF is still required to abide by the financial rules, regulations and procedures laid down by both Her Majesty's Treasury and the Ministry of Defence in the commitment of its financial resources.

### Financial expenditure by SCOAF 2019

Category	Spend (£)
Staff costs <sup>34</sup>	1,302,920
Accommodation and office running costs (including IT and office machinery)	428,391
Training and professional membership fees	15,606
Independent legal advice	17,711
Travel and subsistence	12,260
Fee Earning Investigation Officers	96,325
<b>Total</b>	<b>1,873,213</b>

**Table 8 – Financial expenditure by SCOAF in 2019**

<sup>34</sup> Costs reflect the capitation rate for all posts within SCOAF, i.e. the total cost of each position including pay, pension and National Insurance contributions. This includes the total cost for the post of Service Complaints Ombudsman for the Armed Forces

## Appendix F – Events, visits and external appointments

### Official events attended by the Ombudsman in 2019

The table below lists all of the official events attended by the Ombudsman in 2019. It does not include regular meetings held with the Service chiefs and Principal Personnel Officers (PPOs). Those marked with a \* represent events at which the Ombudsman was represented by a member of her office.

Date	Event type		Location
<b>January</b>			
29	Visit	Attendance at No 2 Board	APC Glasgow
<b>February</b>			
4	Presentation	RAF Future Commanders Study Period*	JSCSC, Defence Academy, Shrivenham
11	Meeting	Sir Jon Murphy and His Honour Shaun Lyons CBE - Head of Service Justice System Review	Ombudsman's office
12	Meeting	Nia Griffiths MP, Shadow Secretary of State for Defence	Portcullis House
27	Presentation	Naval Service Commanding Officers Designate Course	HMS Collingwood
<b>March</b>			
7	Presentation	Army Commanding Officers Designate Course	RMA Sandhurst
13	Event	The Whitehall & Industry Group (WIG) Roundtable: Heads of L&D Roundtable: Inclusive Leadership	London
18	Event	Speaker at Day of Empowerment: Take control of your career and your mental wellbeing	HMRC, Croydon
<b>April</b>			
30	Meeting	RAF Service Complaints Team	Air Command, High Wycombe
<b>May</b>			
8	Meeting	Tom Tugendhat MBE, MP Tonbridge and Malling	Palace of Westminster
16	Presentation	Commodore Naval Legal Services (CNLS) Spring Update	HMS Excellent
21 – 22	Conference	Ombudsman Association Conference	Belfast
23	Meeting	Anne-Marie Trevelyan MP	Portcullis House
<b>June</b>			
5	Meeting	Madeleine Moon MP, Member of the House of Commons Defence Committee (HCDC)	Portcullis House
11 – 13	Visit	Infantry Battle School*	Brecon, Powys
19	Presentation	Naval Service Commanding Officer Designate Course	HMS Collingwood
20	Presentation	Army Commanding Officer Designate Course	RMA Sandhurst
21	Event	Wellness in Law Forum	UCL
24	Presentation	RAF Future Commanders Study period	JSCSC, Defence Academy, Shrivenham
25	Event	Inspire and Achieve Speaker	DWP, Caxton House

Date	Event type		Location
<b>July</b>			
3	Visit	Visiting Flag Officer Sea Training (FOST) South	HMNB Dockyard Devonport
9	Presentation	SCOAF Stakeholder Symposium	Royal College of Defence Studies
<b>August</b>			
27 – 30	Visit	Visit to Estonia*	Estonia
<b>September</b>			
16	Talk	Speaker at GLD Race Network	Churchill Room, House of Commons
16	Presentation	RAF Future Commanders Study Period*	JSCSC, Defence Academy, Shrivenham
19	Presentation	Army Commanding Officers Designate Course*	RMA Sandhurst
23	Seminar	International Ombudsman Institute (IOI) and Parliamentary and Health Service Ombudsman (PHSO) Peer Review Event	Portcullis House
24	Visit	RAF Odiham	Hook, Hampshire
<b>October</b>			
1	Exhibition	Royal Air Force Club - My Two Homes Exhibition	Mayfair, London
3	Presentation	Keynote Speaker at the MOD Black History Event	RAF High Wycombe
10	Conference	Service Prosecuting Authority	RAF Northolt
22	Meeting	Julian Lewis MP, Chair of the House of Commons Defence Committee (HCDC)	Portcullis House
23	Presentation	Black History Month Empowerment Discussion	MOD Main Building
23	Presentation	Naval Service Commanding Officers Designate Course*	HMS Collingwood
27 – 29	Conference	11 <sup>th</sup> International Conference of Ombudsman Institutions for the Armed Forces (ICOAF)*	Sarajevo, Bosnia and Herzegovina
<b>November</b>			
7	Visit	Service of Prayer & Remembrance	Guards Chapel, Wellington Barracks
14	Event	Guest Speaker for Gatenby Sanderson Project	Pimlico Academy, Pimlico, London
25	Conference	Leading Defence Conference	De Vere Grand Connaught Rooms
25	Presentation	RAF Future Commanders Study Period*	JSCSC, Defence Academy, Shrivenham
<b>December</b>			
5	Meeting	Ombudsman Association Board Meeting	Office of the Independent Adjudicator, Reading

## The Ombudsman's external appointments

The Ombudsman has declared the following external interests and appointments:

- Crown Court Recorder (since 2009). Up to 6 weeks per year. Unpaid.
- Executive Board Member, Association of Chief Executives (ACE) (since 2018). Unpaid.
- Speakers for Schools (since 2017). Unpaid.
- Executive Board Member, Ombudsman Association (since 2018). Unpaid.

Date	External appointment
2 – 14 January 2019	Judicial sitting
15 January 2019	ACE board meeting
28 February 2019	Ombudsman Association Executive Meeting
9 May 2019	ACE board appraisal workshop
9 May 2019	Ombudsman Association Executive Meeting
13 May 2019	ACE board meeting
29 July – 2 August 2019	Judicial sitting
17 September 2019	ACE board meeting
7 – 8 October 2019	Judicial sitting
2 December 2019	ACE conference
5 December 2019	Ombudsman Association Executive Meeting

## Appendix G – Statistics

### Statistics for Chapter 2: The work of SCOAF in 2019

This section summarises key trends regarding contacts made to SCOAF, the referrals function and investigative powers of the Ombudsman.

Guidance on the Service Complaints statistics process and key terms used can found in ‘**Background Report – SCOAF Annual Report 2019**’.

#### Key findings:

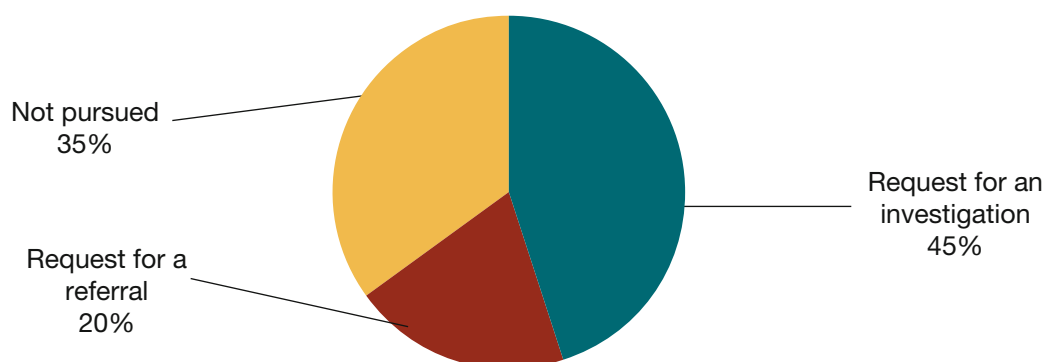
<b>Decrease in contacts to SCOAF</b>	SCOAF received 754 contacts, a decrease of 13% on the previous year (871 contacts). Investigation applications decreased by 8% and requests for referrals fell by 14%.
<b>Over 80% of investigation applications judged eligible</b>	Only 18% of applications for investigation were ruled ineligible.
<b>80% of investigations<sup>35</sup> and 100% of referrals completed on time</b>	Investigators reached their timeliness targets <sup>35</sup> more often in 2019 (80% of completed investigations were closed within the target time) than in 2018 (56% within target time). 100% of referrals were completed within the target time.
<b>Substance and maladministration case backlog has fallen by 66%</b>	The backlog of unallocated substance and maladministration investigation cases has fallen by 66% from 143 on 31 December 2018, to 48 on 31 December 2019.

#### Contacts and referrals

During 2019, SCOAF received 754 contacts. This is the second year in a row where the number of contacts has fallen by more than 10% (see statistical table 1.1<sup>36</sup>).

Of the total contacts received, 94% (712 contacts) were within the remit of the Ombudsman’s powers (or in-scope) (see statistical table 1.2<sup>36</sup>).

**Chart 1: Number of SCOAF in-scope contacts by contact outcome, 2019**



<sup>35</sup> Investigation timeliness targets exclude the time a case remains unallocated to an investigator, as the timeliness statistic is a measure of the performance of SCOAF investigators.

<sup>36</sup> SCOAF annual report statistical tables



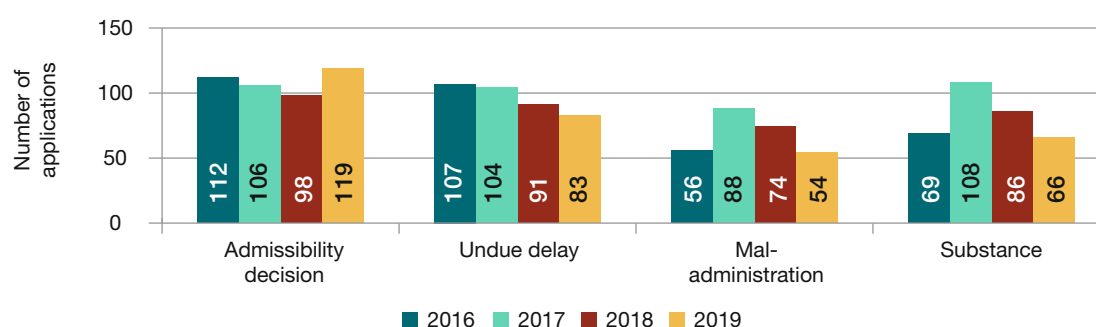
There were 144 referrals made by SCOAF in 2019 of which 100% were completed within SCOAF timeliness targets (see statistical table 1.6<sup>37</sup>).

## Investigations

### Volume:

During 2019, SCOAF saw a 21% rise in the number of admissibility review investigation applications received, a 23% fall in substance investigation applications and a 27% fall in maladministration investigation applications (see statistical table 1.10<sup>37</sup>).

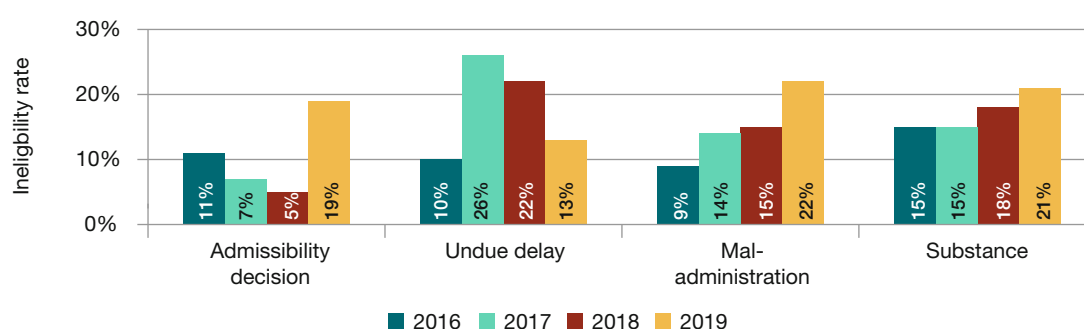
**Chart 2: Number of eligible investigation applications received by SCOAF by case type 2016-2019**



### Eligibility

Maladministration investigation applications were the most likely to be ruled ineligible (22% of applications), while undue delay investigation applications were the least likely to be ruled ineligible (13% of applications were ineligible) (see statistical table 1.19<sup>37</sup>).

**Chart 3: Investigation application ineligibility rate, by case type and year**



## Timeliness

The proportion of closed investigations which met SCOAF investigation timeliness targets ranged from 45% for maladministration investigations to 99% for undue delay investigations in 2019. The timeliness target is 90% for all case types (see statistical table 1.20<sup>37</sup>).

Case type	Admissibility decision	Undue delay	Maladministration	Substance
% of investigations completed within investigator target time	90%	99%	45%	49%

**Table 10: SCOAF investigator timeliness rate of completed investigations by case type 2019**

## Statistics for Chapter 3: Service Complaints in 2019

This section provides an overview of Service Complaints handled by the Armed Forces during 2019. Relevant individual Service breakdowns are reported here, where appropriate. However, separate factsheets can be found on our website.

Guidance on the Service Complaints statistics process and key terms used can found in '**Background Report – SCOAF Annual Report 2019**'.

### Key findings:

<b>Most common categories of complaint</b>	The most common categories of complaint are: career management (37% of all Service Complaints); bullying, harassment or discrimination (25%); pay, pensions and allowances (15%).
<b>The female and BAME rate of Service Complaints were higher than the Armed Forces average</b>	Female and BAME personnel continue to be disproportionately represented in making Service Complaints (23% and 12%) compared to their UK Service strength (12% and 8%), with a continued higher proportion of bullying, discrimination and harassment complaints for these groups.
<b>Most applications requesting an investigation are accepted</b>	84% of statements of complaint were ruled admissible for investigation as a Service Complaint.
<b>Less than half of complaint decisions were appealed</b>	29% of Service Complaint decisions were appealed.
<b>Time to close complaints remains an issue</b>	46% of complaints were closed within the 24-week target in 2019, which is down from 50% in 2018.

### Number of Service Complaints

There were 766 Service Complaints ruled admissible in 2019. This is very similar to the number of Service Complaints in 2018 (763) and in 2017 (775) (see statistical table 2.1<sup>38</sup>).

### Rate of Service Complaints

There were 766 Service Complaints ruled admissible in 2019 from 192,660 Service personnel. This represents one Service Complaint for every 252 Service personnel. Another way of looking at this is that there were 40 Service Complaints for every 10,000 Service personnel.

### Category of Service Complaints

The most common categories of Service Complaints were:

- career management with 284 complaints (37% of all Service Complaints);
- bullying, harassment or discrimination with 194 complaints (25% of all Service Complaints); and
- pay, pensions and allowances with 114 complaints (15% of all Service Complaints) (see table 2.3<sup>39</sup>).

<sup>38</sup> SCOAF annual report statistical tables

<sup>39</sup> SCOAF annual report statistical tables

## Comparison with the previous year

The number of Service Complaints ruled admissible in a year has risen marginally by 3 Service Complaints from 763 in 2018, to 766 in 2019 (see statistical table 2.1<sup>40</sup>).

There has been significant variation within complaint category. The number of career management Service Complaints rose by 13% from 252 in 2018 to 284 in 2019. This is the second year in a row which has seen career management Service Complaints rise by more than 10%. This annual rise was driven by the Army, which saw a 22% increase in career management Service Complaints from 140 in 2018 to 171 in 2019. This level of rise was not seen in the other Services (see statistical table 2.2<sup>41</sup>).

## Complainant characteristics

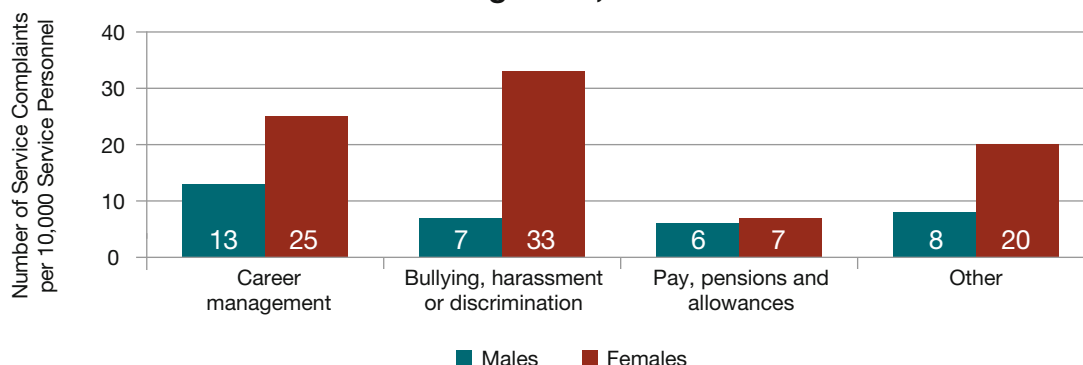
### Gender

Females were disproportionately represented in the Service Complaints process. They accounted for 23% of Service Complaints but only accounted for 12% of the UK Service strength (see statistical table 2.5<sup>40</sup>).

Bullying, discrimination and harassment were the most common causes of complaints received from female personnel. Around 39% of complaints from female personnel relate to this complaint category, compared to 21% for male personnel.

Another way of looking at this is that in 2019, female Service personnel raised 33 bullying, harassment or discrimination Service Complaints for every 10,000 female Service personnel which is nearly five times higher than the rate for male Service personnel. (In 2019, male Service personnel raised 7 bullying, harassment or discrimination Service Complaints for every 10,000 male Service personnel) (see statistical table 2.9<sup>41</sup>).

**Chart 4: Rate of Service Complaints by complaint category and gender, 2019**



The proportion of female Regular Service personnel who suffered at least one incident of bullying, harassment or discrimination in the previous 12 months was 20%. This was higher than the rate of 10% for male Regular Service personnel (Source: AFCAS 2019).

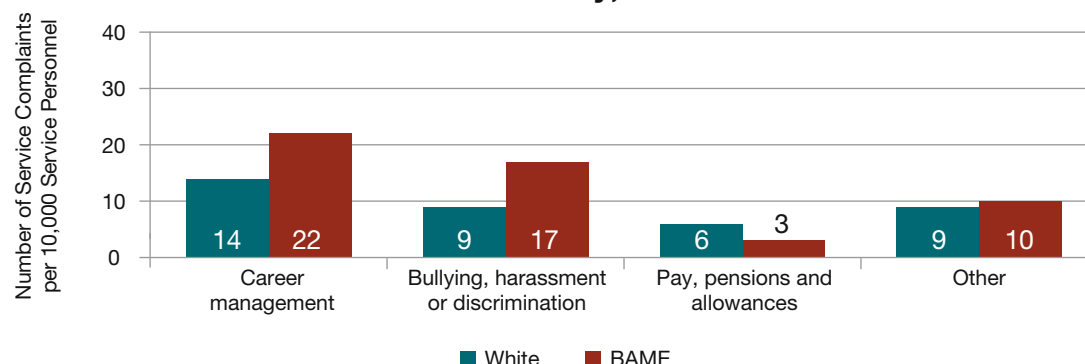
<sup>40</sup> SCOAF annual report statistical tables

<sup>41</sup> SCOAF annual report statistical tables

## Ethnicity

BAME Service personnel were disproportionately represented in the Service Complaints process. They accounted for 12% of Service Complaints but only accounted for 8% of UK Service strength. Around 33% of complaints from BAME personnel relate to bullying, harassment or discrimination compared to 23% for white personnel (see statistical table 2.6<sup>41</sup>).

**Chart 5: Rate of Service Complaints by complaint category and ethnicity, 2019**



The AFCAS survey was unable to identify a statistically significant difference in the proportion of BAME Regular Service personnel who suffered at least one incident of bullying, harassment or discrimination in the previous 12 months from the proportion for white Regular Service personnel (Source: AFCAS 2019).

## Service secretariats

### Workload demand

There is a small difference between the proportion of formal complaints dealt with by each Service and their representation in the UK Armed Forces (Regular and Reserve). Both the Naval Services and the RAF make up 20% of the Service strength but 21% of formal complaints were dealt with by the Naval Services, while 19% of formal complaints were dealt with by the RAF. The Army accounted for 60% of the Service strength and dealt with 60% of formal complaints.

15% of complaints dealt with by the Naval Services related to bullying, discrimination or harassment, compared to only 27% for the RAF and 29% for the Army (see statistical table 2.4<sup>42</sup>).

None of the Services saw a large increase or decrease in the number of Service Complaints ruled admissible. The number of RAF Service Complaints rose slightly by 4% while the number of Naval Service Complaints fell slightly by 5%.

Although the number of Army Service Complaints rose slightly by 2%, there was a 22% increase in Army career management Service Complaints, which was not seen for this category of Service Complaints in the other Services (see statistical table 2.2<sup>43</sup>).

<sup>41</sup> SCOAF annual report statistical tables

<sup>42</sup> SCOAF annual report statistical tables

<sup>43</sup> Armed Forces Continuous Attitude Survey 2019 (AFCAS 2019)

## Managing the workload

The Service Complaints secretariats are the key part of the Services for co-ordinating the processing of Service Complaints. In 2019, they handled 2,087 complaints of which 193 were managed through informal procedures and 1,895 were managed through formal procedures.

The breakdown of the 1,895 complaints managed through formal procedures was:

- 711 Service Complaints ruled admissible before 2019;
- 766 Service Complaints ruled admissible in 2019;
- 178 statements of complaint awaiting an admissibility decision;
- 141 statements of complaint ruled inadmissible;
- 99 statements of complaint withdrawn/resolved before an admissibility decision.
- (see statistical table 2.10<sup>42</sup>)

The number of Service Complaints open at year end increased in 2019 from 711 on 31 December 2018 to 756 Service Complaints on 31 December 2019. This represented an annual rise of 6% (see statistical table 2.12<sup>43</sup>).

The proportion of these open Service Complaints which were red flag Service Complaints (i.e. which had already exceeded the 24-week target time) is 60% (see statistical table 2.13<sup>43</sup>).

## Service Complaints process

This section looks at: confidence in the Service Complaints process; admissibility into the process: the support provided once complainants are in the process: and how well the process has been administered.

### Confidence in the Service Complaints process

Recent armed forces surveys have found that of those who suffered at least one incident of bullying, harassment or discrimination in the last 12 months, 7% of Regular<sup>43</sup> and 13% of Reservist<sup>44</sup> personnel made a complaint in writing.

The reasons Regular Service personnel gave for not raising a complaint were:

- I did not believe anything would be done if I did complain (57% of non-complainants)
- I believed it might adversely affect my career (50%)
- I did not want to go through the complaints procedure (30%)
- I was worried that there would be recriminations from the perpetrators (30%)
- I believed it might adversely affect another work colleague or the working environment (26%)
- I considered the incident(s) to be too minor to report (23%)
- I was discouraged from doing so (15%)
- The incident(s) was/were resolved informally (14%)
- I was not aware of the Service Complaints process (8%)
- The incident(s) was/were resolved through mediation (4%)

<sup>42</sup> SCOAF annual report statistical tables

<sup>43</sup> Armed Forces Continuous Attitude Survey 2019 (AFCAS 2019)

<sup>44</sup> Reserves Continuous Attitude Survey 2019 (RESCAS 2019)

## SCOAF referrals

7% of Service Complaints ruled admissible in 2019 entered the formal complaints system via a SCOAF referral rather than through the standard route of the chain of command (see statistical table 2.15<sup>45</sup>).

## Statements of complaint ruled admissible as formal Service Complaints

In 2019, 84% of all statements of complaint received were ruled to be admissible Service Complaints (see statistical table 2.16<sup>46</sup>).

SCOAF calculates that in 2019, 66% of the statements of complaint ruled inadmissible by the Services resulted in an application for review of the admissibility decision being sent to SCOAF (see statistical table 2.18<sup>46</sup>).

Of the admissibility decision reviews completed by SCOAF in 2019, 42% found in favour of the complainant, either partially or fully (see statistical table 1.33<sup>46</sup>).

## Availability and use of an Assisting Officer

Across the Services, Assisting Officers were offered to complainants for Service Complaints ruled admissible in 2019. Of these, 13% were still considering the offer as at 31 December 2019, 66% had accepted the offer and 21% declined (see statistical table 2.19<sup>47</sup>).

## Applications to SCOAF to investigate maladministration in the handling of a Service Complaint

SCOAF calculates that 25% of finally determined Service Complaints led to eligible maladministration investigation applications received by SCOAF. The Naval Service had the highest proportion of maladministration investigation applications (29%) and the RAF had the lowest (22%) (see statistical table 2.20<sup>46</sup>).

In 2019, SCOAF upheld 68% of maladministration investigations in favour of the complainant<sup>47</sup> (see statistical table 1.27<sup>47</sup>).

## Satisfaction with the Service Complaints process

The Armed Forces Continuous Attitude Survey 2019 (AFCAS 2019) found that complainants had the highest levels of satisfaction for the support provided by Assisting Officers (50% were satisfied) and the lowest levels of satisfaction with the outcome of their complaint (19% were satisfied).

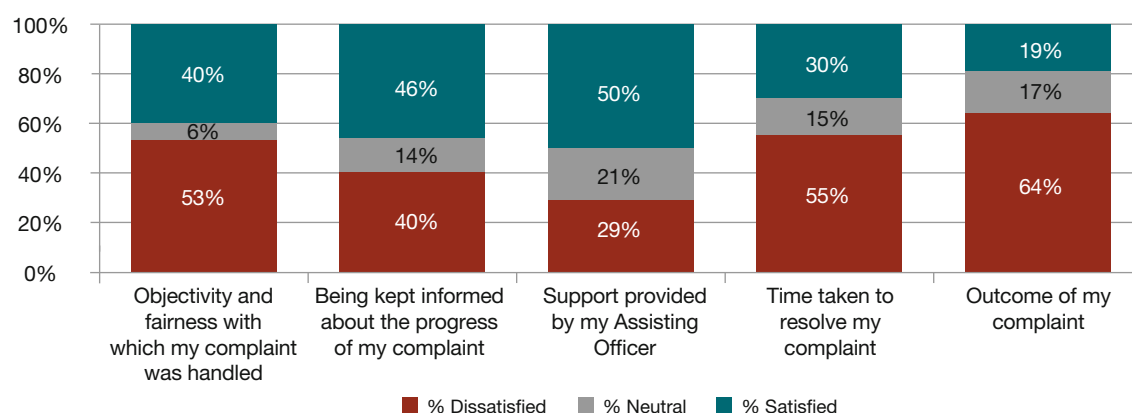
<sup>45</sup> SCOAF annual report statistical tables

<sup>46</sup> SCOAF annual report statistical tables

<sup>47</sup> Finding in favour of the complainant, either partially or fully



**Chart 6: Percentage of satisfaction of Regular Service personnel who submitted a written bullying, harassment or discrimination complaint, AFCAS 2019**



## Timeliness performance

### In-year timeliness rate<sup>48</sup>

In 2019, the Services achieved an in-year timeliness rate of 46% for Service Complaints ruled admissible in 2019 and that were closed both in 2019 and within 24 weeks of being ruled admissible. This is a fall from last year where the timeliness rate was 50% (see statistical table 2.21<sup>49</sup>).

One of the most important characteristics for determining the in-year timeliness is the category of a complaint. The in-year timeliness rate for in-year closed bullying, harassment or discrimination Service Complaints is 20%, compared to between 48% and 59% for other categories of Service Complaints (see statistical table 2.22<sup>50</sup>).

Another important characteristic for determining the in-year timeliness is whether it is appealed or not. The in-year timeliness rate for Service Complaints closed in-year that were not appealed is 47%, while the rate for those appealed is 35% (see statistical table 2.23<sup>50</sup>).

The next important characteristic for determining the in-year timeliness is the Service processing the complaint. The Naval Service has a timeliness rate of 74% compared to the Army with a timeliness rate of 32% and the RAF with a timeliness rate of 52% (see statistical table 2.21<sup>50</sup>).

<sup>48</sup> Service Complaints closed in 2019 but ruled admissible before 2019 were not included in calculations of the in-year timeliness rate. Neither were Service Complaints ruled admissible after 16 July 2019, which were still open on 31 December 2019 (24 weeks later).

<sup>49</sup> SCOAF annual report statistical tables

<sup>50</sup> SCOAF annual report statistical tables

## Key Performance Indicator: 90% timeliness rate

The only Key Performance Indicator (KPI) for Service Complaints is for each Service to close 90% of all in-year Service Complaints within 24 weeks (timeliness target).

Year	Naval Service	Army	RAF
2016	57%	25%	50%
2017	56%	37%	75%
2018	68%	40%	65%
2019	74%	32%	52%

**Table 11: Annual timeliness rate for closing in-year Service Complaints by Service 2016-2019**

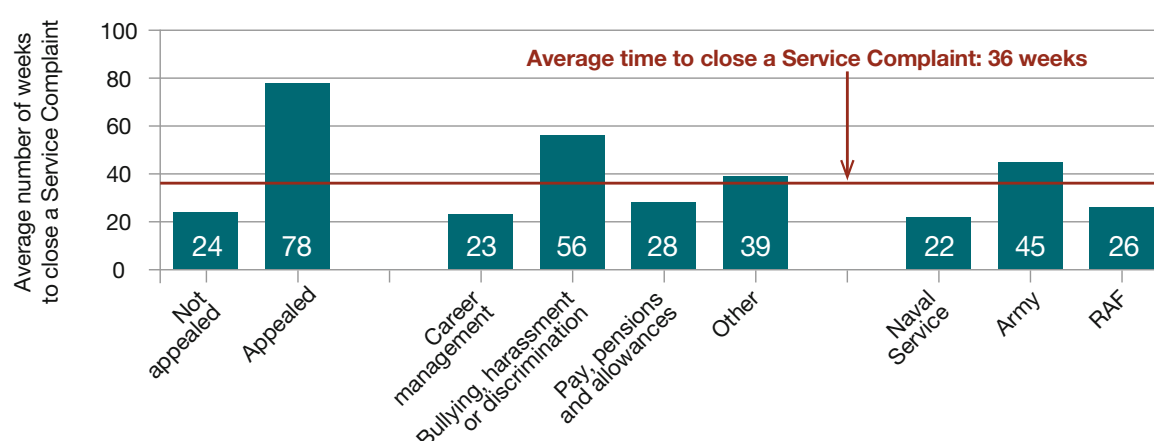
The Naval Service has the highest in-year timeliness rate with 74% and the Army has the lowest with 32%. No Service has ever attained the KPI timeliness target of 90%.

Improvements have been seen in the Naval Service's KPI in-year timeliness rate (from 68% in 2018 to 74% in 2019). The RAF's KPI in-year timeliness rate has fallen from 65% in 2018 to 52% in 2019 and the Army's KPI in-year timeliness rate has fallen from 40% in 2018 to 32% in 2019 (see statistical table 2.21<sup>50</sup>).

## Average time taken to close a Service Complaint

The average time taken to close a Service Complaint in 2019 was 36 weeks. This varied by appeal status, complaint category and Service (see statistical tables 2.24 and 2.25<sup>52</sup>).

**Chart 7: Average time (weeks) to close a Service Complaint by appeal status, category and Service, 2019**



## Applications to SCOAF to investigate undue delay in the handling of a Service Complaint or Service Matter

In 2019, 6% of Service Complaints worked on by the Services led to an eligible undue delay investigation application received by SCOAF (see statistical table 2.26<sup>52</sup>).

Of the undue delay investigations SCOAF decided in 2019, the upheld rate was 53% in favour of the complainant (see statistical table 1.27<sup>52</sup>).

<sup>50</sup> SCOAF annual report statistical tables  
<sup>51</sup> SCOAF annual report statistical tables  
<sup>52</sup> SCOAF annual report statistical tables

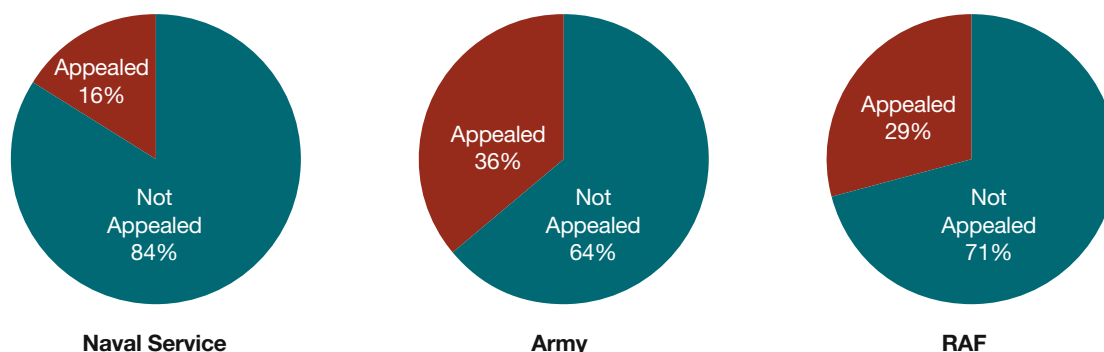
## Service Complaint appeals and upheld rates

### Appeals

In 2019, 71% of the Decision Body/Defence Council's decisions were not appealed by complainants, while 29% of these decisions were appealed (see statistical table 2.31<sup>51</sup>).

The Naval Service had the fewest Decision Body decisions appealed (16%). The Army had the most (36%), followed by the RAF with 29% of Decision Body decisions appealed.

**Chart 8: Service Complaint appeal rate by Service 2019**



### Upheld rates

The rate at which Service Complaints were fully or partially upheld in favour of the complainant was 51% in 2019 (see statistical table 2.27<sup>52</sup>).

Looking at appeals decisions, the Army had the highest upheld rate where the complaint was upheld (fully or partially) in 60% of the closures. The Naval Service had the lowest upheld rate (33%) (see statistical table 2.30<sup>53</sup>).

### Applications to SCOAF to investigate the substance of a Service Complaint

SCOAF calculates that 30% of final determinations of Service Complaints in 2019 led to an eligible substance investigation application received by SCOAF (see statistical table 2.33<sup>53</sup>).

In 2019, SCOAF upheld 51% of substance investigations in favour of the complainant (see table 1.27<sup>53</sup>).

<sup>51</sup> SCOAF annual report statistical tables

<sup>52</sup> SCOAF annual report statistical tables

<sup>53</sup> SCOAF annual report statistical tables

## Appendix H – Single Service annual updates

Vice Admiral Nick Hine CB



**Navy Command**

**Second Sea Lord &  
Deputy Chief of Naval Staff**

Navy Command Headquarters  
MP 2-1, Leach Building  
Whale Island  
Portsmouth  
PO2 8BY

Tel: [REDACTED]

Mil: [REDACTED]

Email: [REDACTED]

Nicola Williams  
The Service Complaints Ombudsman  
for the Armed Forces  
PO Box 72252  
London  
SW1P 9ZZ

28 January 2020

### SERVICE COMPLAINT HANDLING IN THE NAVAL SERVICE: 2019

1. I offer the following narrative covering Service Complaint (SC) handling in the Naval Service in 2019 for inclusion in your Annual Report.

2. I am pleased to report that the RN continues to improve upon its performance of SC handling, with 74% of complaints admitted in 2019 receiving final determination within 24 weeks.<sup>1</sup> I am delighted with this further improvement in performance<sup>2</sup> which reflects the significant dedication of the Navy Service Complaint Secretariat, under the direction of Commodore Naval Legal Services (CNLS), as well as the support of many others in the Fleet and our shore establishments. In addition, a small cadre of part-time<sup>3</sup> OF5/1-star/2-star Reserve officers have been increasingly relied upon to expedite Decision and Appeal Body outcomes in this reporting period.

3. The key factor in this sustained period of improved performance has been the accumulation of a number of complaint management initiatives.<sup>4</sup> More generally, the Naval Service's SC handling in 2019 owes much to:

- a. **Continuity.** We have been fortunate in comparatively less turnover of staff than in previous years, particularly in key SC Secretariat posts.
- b. **Collocation.** The Navy Service Complaints Secretariat Team comprises of a mix of Regular Service, Reserve Service, and Civilian Service personnel. The team includes embedded naval lawyers alongside experienced Band D caseworkers. This collocation facilitates early synthesis and continued availability of end-to-end legal advice in resolving complaints.

<sup>1</sup>In 2018, the RN's Service Complaints handling performance against the Key Performance Indicator (KPI) of resolving 90% of Service Complaints within 24-weeks improved by 12% on the previous year, from 56% to 68%.

<sup>2</sup>In all but one year since the introduction of the KPI in 2012, the RN has been the best performing Service.

<sup>3</sup>Utilised up to a maximum of 90-days p.a.

<sup>4</sup>As reported to you by my predecessors in previous PPO letters.

c. **Consistency in Policy.** Following the fundamental restructuring of the SC system in 2016, we are seeing the benefits of what is by now established and consistent policy and procedure. Our current processes are configured to deliver as optimally as possible within prevailing resource constraints. The corollary is that our performance under current structures and resources would likely be challenged to some extent by further reform of the complaints system, depending upon the nature of the reforms being proposed.

4. In common with our sister Services in the UK Armed Forces, and despite our very best efforts, we have once again found ourselves unable to reach the high bar set by a Key Performance Indicator which expects no fewer than 90% of all SCs admitted within a given year to be finally resolved (i.e., decision and any subsequent appeal) within 24 weeks. Given your preference to aggregate the Services' performance into a headline "overall figure" for the UK Armed Forces, I suspect that even if we had managed to achieve the KPI, it would do little more than alter the tri-Service average slightly.

5. Consequently, I consider that the case for reform of the KPI remains strong, and the Navy position is that the effectiveness of the redress system as a whole could be better measured against a range of outcomes in addition to the sole KPI of "timeliness". Assessments of the transparency and fairness of the system could be given greater emphasis, for example. I would be happy to discuss this with you further.

#### **Red Flag Cases**

6. Moreover, I have some concerns that adherence to this single measure of performance places a higher value on timelines than the quality of investigation or properly considered decision-making. This can tend to obscure the older, Red Flag cases. As such, in the past 6 months, the Navy Service Complaints Secretariat has directed more time and resource to the resolution of older SCs in the system. This focus will continue into 2020. I note however, that this has only become possible because of the streamlining of the handling processes throughout and should there be major changes to the system in the coming months, this remedial work would be adversely affected.

#### **Mediation**

7. As a Service, we continue to see the benefit of pursuing alternative methods of resolution, in particular mediation, in complaints alleging bullying and harassment. In 2019, the Secretariat received 14 referrals regarding mediation. Following liaison with units, formal mediation was conducted in 6 separate cases,<sup>5</sup> as a result of which, in 5 instances the complainants pronounced themselves confident that the matter had been resolved to their satisfaction, thereby negating the need to process and investigate a Service Complaint. Mediation won't always be an appropriate course of action in such cases, but should remain available; and if nothing else, it may assist in narrowing the issues ahead of a full investigation into allegations.

#### **The Work of the Office of the Service Complaints Ombudsman in 2019**

8. Our records show the following data sets and outcomes arising from the work conducted by your office in 2019:

<sup>5</sup> Namely, a mediation conducted by a formally qualified mediator between 2 Service personnel. An "informal" mediation would be conducted between members of individual units, usually the Equality and Diversity Advisors (EDAs).

- a. **SCOAF Admissibility Review.** 15 out of 29 applications (52%) did not alter the RN admissibility decision;
- b. **Undue Delay.** 11 out of 29 applications (38%) undue delay was not found;
- c. **Maladministration and Substance.** 5 out of 6 applications (83%) were not accepted for investigation by the SCOAF;
- d. **Maladministration.** 1 application (100%) was not accepted for investigation by the SCOAF.
- e. **Substance.** 2 applications (100%) were not accepted for investigation by the SCOAF.

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Annex:

A. Naval Service Complaint Handling Statistics 2019.

EA/1SL  
CDP  
DCGS  
AMP



**Lieutenant General CL Tickell CBE**

**Deputy Chief of the General Staff**

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Ms Nicola Williams  
Service Complaints Ombudsman  
PO Box 72252  
LONDON  
SW1P 9ZZ

GS\_29\_01\_20-001

29 January 2020

Dear Nicola,

**SINGLE SERVICE CONTRIBUTION TO THE SERVICE COMPLAINTS OMBUDSMAN'S 2019 ANNUAL REPORT (ARMY)**

1. Thank you for your letter inviting me to set-out how I see the Army's position as you write your Annual Report for 2019<sup>1</sup>. In this, my first submission as DCGS, I intend to capture the key aspects of how we have progressed in dealing with Service Complaints (SC) since the publication of your 2018 report; to draw your attention to the successes and the improvements we have made; and to identify the areas which require further work. With over 90 recommendations<sup>2</sup> arising from four significant SC related reports during 2019, it is clear we collectively have much to do.

2. The Army continues to acknowledge the importance of your role and your contribution to betterment of the internal grievance system for our Service Personnel (SP) - the Army's most important asset. People form the foundation of the Army's fighting power and we sustain them through effective personnel and career management and wider institutional support. This vital ground delivers the human dimension of the moral component. We work hard to develop and maximise talent, promote health, fitness & wellbeing, and protect the fabric of our regimental system. The work we have achieved in change and transformation, in particular in relation to our own people, is nothing if we are not doing so within an inclusive, respectful and supporting living and working environment. Our people must feel they belong; they must be able, without any fear of reprisal, to submit a grievance, and in doing so have confidence that the system is credible. As the Principal Personnel Officer (PPO) I maintain a ruthless focus on personnel matters; both military and civilian.

3. Notwithstanding wider reform to the SC system, my priority for 2020 is to provide continued evidence to you that the Army's SC process is fit for purpose. As you are aware, MOD shortcomings with regards to conduct and Inappropriate Behaviour (IB) were brought into sharp relief when the Secretary of State commissioned Air Marshal Wigston to review IB. His report will help to sustain and improve the SC mechanism. The Army is already making significant progress with regards to addressing issues highlighted by this review. I look forward to exploiting wider lessons from both within and outside Defence.

**Key Successes**

4. The following progress has been made:

<sup>1</sup> SCOAF/AR19/Army dated 29 Oct 19.

<sup>2</sup> SCOAF Annual Report 2018; AM Wigston Inappropriate Behaviours Report; HCDC 2017-19 SC Review; Army Inspector's Review of the Army Service Complaints Process.



- **Eradication of legacy cases.** We are now down to 4 legacy cases dating back pre - 2016 and I expect these to be resolved before you publish your next Annual Report.
- **Work Force Enhancements.** This has included the extension of Full Time Reserve Service (FTRS) appointments within the Army SC Secretariat (Army SC Sec), which are critical from a continuity and Subject Matter Expert (SME) perspective. In addition, further work has been done to secure the resource for legal, military police, investigation and Decision Body manpower, all of which are currently progressing towards successful recruitment.
- **Horizon scanning and Risk Assessment Analysis.** We have enhanced our ability to spot potential policy issues with possible impact on specific cohorts of SP such as recipients of specialist pay or as a result of emerging legislation through work done by SO1 Projects to identify, monitor and inform on potential single issues, multiple complainant cases, monitoring changes in wider Personnel Policy that could lead to grounds for complaint, and through the conduct of Army SC Sec internal risk review.
- **Additional Volunteer ex Regular Reserve (VeRR) Appeal Body Members and Harassment Investigation Officers.** We have recruited a number of additional Appeal Body members and Investigation Officers. Both of these initiatives will help to speed up throughput and reduce delay.
- **Dedicated VeRR Decision Bodies (DB).** Your 2018 recommendation that we employ dedicated DBs for complaints in certain specialised areas has usefully validated the roll out of further DBs in addition to those employed in the career management area. These will focus on Personnel Policy, Defence Infrastructure Organisation (housing) issues, Pay & Allowances, Medical and become available for those SCs that are complex and time consuming.
- **Integrating lessons.** Lessons arising from SCs are now integrated into the wider Army lessons process in order to reduce the chance of a similar issue being reported in the future.
- **Implementation of Report Recommendations.** Dealing with the recommendations that have fallen out of the four reports will require careful co-ordination so as to ensure that we do actually deliver betterment. We are fully engaged and the Army SC Sec, along with representation from your office, are part of the working group taking this work forward.

5. All of the above will help reduce delay, but it will take a minimum of 9 months' time before this filters through to our performance statistics and therefore we are unlikely to see the impact until the 2020 Report.

6. **Case Studies.** We agreed to provide brief case studies to demonstrate successful innovation, key challenges in terms of complexity vs time and the strength of our internal process respectively. These I enclose at **Annex A**.

#### **The Army Inspector's (AI) Report**

7. The AI Report<sup>3</sup> was commissioned by my predecessor and predated the commissioning of the Wigston Report. It is a thorough piece of work with extensive analysis of the data, surveys of our people and performance bench marking against external organisations. You attended the Army Executive Committee (ExCo) earlier this summer when the AI presented his findings. Amidst all the other work ongoing, we must not lose sight of the key findings; Fairness and Effectiveness were given Substantial as an assurance level with Efficiently rated as Limited, chiefly due to delay.

<sup>3</sup> Army Inspector's Review of the Army Service Complaints Process



Army SC Sec is progressing AI recommendations, focussing on lessons, training and manning and is working collaboratively with Director Personnel to align activity where relevant.

#### **Mediation and Informal Resolution**

8. Army Mediation is a real success story and is one of the three key deliverables, together with the Unacceptable Behaviours Team (the other two being Climate Assessments and the 'Speak Out' confidential helpline for Unacceptable Behaviours) nested in the Army Personnel Services Group. The independence of the Unacceptable Behaviours Team from the chain of command and the formal SC process reassures those engaging with the three Services that there is no vested interest in recommending mediation. Hosting all three services within one office provides an excellent shared understanding of the lived experience and allows fusion of data and the different levers to be pulled should issues be identified. The Army Mediation Service works closely with 'Speak Out' and callers who have made or are thinking of making a SC are provided with assistance to work through the process and are encouraged, where appropriate, to consider informal resolution options, including mediation.

9. Army Mediation has continued to grow significantly in 2019 with a positive trend reflected by the fact that as many mediations were completed in the first 8 months as were completed in the whole of 2018. Our 2019 data confirms that mediation continues to be a successful means of resolving complaints with over 98% of mediations being classed as successful. Formal mediation is provided by a pool of some 80 mediators, all externally trained, accredited and required to complete continued professional development each year to ensure they remain competent and current. This cohort is a mix of Civil Service and military personnel from across the rank range from Junior Non-Commissioned Officer to Brigadier (and Civil Service equivalents).

10. There are real successes with informal resolution. I remain hopeful that this success will in due course be reflected in the statistics you are able to publish. Clearly work is needed (and in hand) to define the informal resolution space. This is in scope of the IB review and AI recommendations. We will continue to enhance its use at the lowest suitable level with greater emphasis on the use of the Equality, Diversity and Inclusion Advisers. This should encourage a process that focuses more on resolution as opposed to complaint. The Career Management SC Cell at the Army Personnel Centre (APC) continues to be the Army exemplar of informal resolution; its priority is to attempt informal resolution, where appropriate, in all cases and at every stage of the process. The ability to provide detailed explanation of Career Management policy from the outset can lead to the complainant withdrawing their complaint, or to remedial action, without the requirement for a formal decision by an appointed DB. In 2019 the Career Management SC Cell at APC has removed the need to submit a complaint or secured its informal resolution in 73 cases. 35 cases were informally resolved or withdrawn post-admissibility, 23 pre-admissibility and a further 15 potential cases prevented from becoming formal SCs due to APC engagement.

#### **Bullying, Harassment and Discrimination (BH&D)**

11. The Army continues to be vigilant on instances of BH&D. Statistics for 2018 showed 31.6% of admissible complaints were related to BH&D. For 2019 there has been a marginal reduction to 29.8%. However, for the discrimination element of BH&D the percentage drop has been more marked from 9.6% in 2018 to 6.1% in 2019. Of the 2018 admissible cases, just over two thirds were not upheld, but with many cases still ongoing, it is too early for the 2019 statistics to be available for comparison.

#### **Training**

12. We continue to invest in training and communication to promote confidence in (and awareness of) the SC process<sup>4</sup>. Education of key leaders is essential and continues to be a high

<sup>4</sup> The Army SC Sec contributes to 70 formal instructional opportunities throughout the year and many additional seminars and study days.



priority for the team with presentations provided to all main command courses including Commanding Officers' Designate course, Intermediate Command and Staff Course, the Sub Unit Commanders' course and the Adjutants' course. Furthermore, work is underway to produce a SC toolkit, the initials element of which are due to be completed by 31 Mar 20. This will be accessible to all via the Defence Learning Environment which will enable wider access and provide detailed direction at the lowest level in line with your 2018 recommendations.

#### **The Ombudsman's Annual Report Recommendations**

13. I now turn to the recommendations in your 2018 report. I welcomed your intention to adopt a more collaborative approach in order to contribute to the overall effectiveness of the SCs process. I understand and share your frustrations with the time it can take to address recommendations. We are fully engaged with the MOD in working towards your recommendations – unilaterally where appropriate – and whilst all areas of Defence must compete for precious resources the Army continues to be fully represented at the quarterly SC Working Groups.

14. **Reforming the Key Performance Indicator (KPI).** I agree that central to making the SC process more efficient lies in reform of the sole performance indicator described in policy. Whatever the future mechanism for SC arrived at by the MOD in conjunction with the Services, discounting necessary delay but focussing on avoidable delay is surely key and charts the course to new, more representative performance indicators which will ultimately lead to betterment for SP engaged in SCs - in any capacity or role.

#### **SC Statistics**

15. The proportion of Army personnel who submit complaints remain steady at about 0.5%. Further statistical analysis can be found at **Annex B**.

16. Getting a true understanding of how we can learn from disproportionate cohorts and complaint categories is paramount; therefore, there needs to be a more intelligent analysis of the existing data, if not also the collection of more meaningful data. This is particularly important with regards to the statistics for female and Black Asian and Minority Ethnic (BAME) complainants and I welcome the announcement that Defence will lead a study into the reasons behind the over representation of these two cohorts.

#### **Army Engagement**

17. I have welcomed the positive feedback that I have received from the Army units you have visited during your 2019 outreach campaign. From my perspective it is vital that we furnish you with the appropriate background knowledge of the Army and its constituent parts to allow you to understand the unique military environment. Visits to formations and units are important; fundamentally, they provide a platform for you to meet a wide range of military personnel from all ranks, whereupon you can discuss issues that are important to them. Additionally, it affords an opportunity to assess the impact the process has had on personnel and how interaction (where applicable) with your office was regarded. I will continue to encourage the chain of command to embrace your outreach campaign and will ensure that visits are scoped for 2020. Furthermore, your attendance at ExCo and Executive Committee of the Army Board provided you with a podium to address the Army's Senior Leaders which I am hoping gave you reassurance that as a single Service the Army is both committed and fully engaged in addressing any perceived shortcomings in the SC process.

*Asew*  
*Chun*

Annex:

- A. Service Complaint Case studies.
- B. Service Complaint Statistics.

**Annex A to  
PPO Submission  
Dated 29 Jan 20**

## **SERVICE COMPLAINTS CASE STUDIES**

### **Increasing Confidence in SC Process and Informal Resolution of a Formal Complaint**

In an informal discussion, a Civil Servant made several inappropriate, discriminatory and racist remarks at work. On being challenged on their views, they continued to justify their viewpoint. A senior soldier present asked the individual to stop and apologise to a junior soldier from the BAME community who was present at time, who overheard racist remarks. They refused to do so.

A week later the junior soldier submitted a SC to the unit. The chain of command followed the SC process as well as initiating a separate misconduct investigation into the Civil Servant's behaviour. The complainant withdrew their SC as the situation had been resolved. The respondent was subject to separate Human Resources (HR) disciplinary proceedings and was dismissed from the Civil Service.

This junior soldier knew they could complain and clearly had sufficient confidence in their unit's chain of command as they did so within a week of the event taking place. The Commanding Officer took timely and effective action, and there was no delay incurred in the SC process. The unit clearly supported the individual by initiating parallel HR action for misconduct. The senior soldier upheld the Army's values and standards and acted appropriately.

### **Lessons Process**

On return to duty, an Army Reserve officer submitted a SC regarding the late payment of maternity pay from the previous year. The DB found that the officer had been wronged as a result of maternity pay being paid unnecessarily late and apologised but awarded no financial redress. The complainant appealed the decision.

The Appeal Body agreed that the complainant had been wronged as she had been poorly advised on aspects of the detail of the policy. The Appeal Body recommended that clarity and training on the aspects of Reservists' maternity entitlements should be delivered to all units with Reserves, and clear advice should be issued to Reserve units about Reservist entitlements.

To ensure Army Reservists are better served, a Personnel Administration Instruction was issued the same month of the determination. To address the training deficit / education piece, Army Briefing Note 58/19 Statutory Maternity Pay - Reserve personnel was also published signposting the relevant policy.



**Annex B to  
PPO Submission  
Dated 29 Jan 20**

**SERVICE COMPLAINTS STATISTICS**

1. A critical factor that cannot be represented by these figures is the complexity of individual SC cases. All figures have been calculated using the information that is available on Joint Personnel Administration (JPA), which relies on the accuracy and timeliness of those administering SC in most cases.

- In terms of overall context, the rate of submission of SCs has remained relatively steady with 581 submitted in 2019; a 5.3% decrease on 2018. Of these, 457 have been made admissible; a 1.5% increase from 2018.
- In terms of possible outcomes for new complaints submitted 43 were withdrawn or remedied pre admissibility, and for new complaints deemed admissible, 65 were withdrawn or remedied pre decision; a total of 108. In terms of informal complaints, 141 have been submitted in 2019, (compared against 135 in 2018). 79 of these informal complaints have been withdrawn or resolved.
- When added together, of a total of 581 formal and 141 informal (722) Complaints, 187 have been resolved informally or withdrawn, this is some 25.9% of complaints that cross the threshold of being recorded, having been resolved informally (27.3% in 2018). This does not take in to account all of the informal resolution that is taking place prior to internal grievance issues hitting that threshold of recording on JPA.
- 97 new Appeals have been made in comparison with 106 last year, but the rate of Appeal closures has increased by 10%, thus keeping the overall volume of Appeals open on a downward trend and contributing to the prevention of development of a new legacy.

2. **Performance against the KPI.** Performance against the KPI has decreased from 40% in 2018 to 32.4% in 2019. Figures for 2017 and 2016 are 37% and 24.9% respectively. The Ombudsman's red flag data for the last quarter reflects that the median length of time for completion of a SC for the Army was 58 weeks, and this is relatively stable. The significant reduction of performance in relation to efficiency against the KPI is difficult to pinpoint but there are a number of factors to consider, for which the Army SC Sec is implementing measures to reduce or remove the impact:

- **Appointing Decision Bodies.** Appointing Decision Bodies (DBs) for SC becomes increasingly challenging as individuals' caseloads increase, alongside all the other key elements of their job roles. Added to this, there are complexities of organisational structure that make it very difficult to assign or support a DB. In some cases, individuals in key appointments are routinely responsible for decisions that prevent them from acting as a DB. Access to DBs in top level or quad Service organisations for which the Army is the higher authority can also be challenging. This is due to the limited capacity and authority of small support headquarters, charged with the administration of SC, along with a multitude of other tasks. In order to reduce the impact of this issue, the SC Sec has visited the other single Service teams to look at best practice options and with the Business Case (BC) approved, is now undergoing recruitment for a pool of VeRR (Voluntary employment of the Regular Reserve) DBs who will work with the SC Sec, (also acting as Defence Council Case Officers when required), to allow the rapid allocation of cases to prevent delay at the front end of the process.

- Length of investigations.** Investigations take time, with a median of 9 weeks and in some cases, dependent on complexity and sensitivity, approaching a year<sup>5</sup>. There is still a waiting time, currently 4-6 weeks, for a (Fee Earning) Harassment Investigating Officer to be appointed. In the last year there has been a reduction in the SCs Investigation Team (SCIT- the Royal Military Police investigative element of the Secretariat) of 46%, but no reduction in cases that meet the threshold of requiring SCIT. This adds significant delay to the process. In order to tackle this, new resource (14 more (VeRR) Investigating Officers) has been agreed and recruitment is underway. In addition, an uplift of SCIT has been approved to allow the complex and sensitive cases to be handled appropriately. Over all, these two measures will reduce risk and the burden on the chain of command, and in some cases greater confidence in the investigation may reduce the likelihood of appeal, as well as reducing delay overall.
- Impact of High Profile/multiple cases.** Several high profile and complex SC, as well as several single issue, multiple complainant SC have significantly impacted on the resource of the Army SC Sec. In some cases, these have been transferred from other Services; for others, we have had to enlist other Service support, and go beyond normal appointment processes to resource key SC process roles. Creation of hybrid teams of VeRR/Regular resource has aided in balancing requirements, but all the measures mentioned above will allow a pool of resource that can be accessed when needed but reduce the burden on the chain of command when there is no specialist requirement. Throughout, legal expertise is a vital piece of the machinery, but is particularly critical in these cases; work is ongoing to stabilise the manning of the Legal team with the extension of senior resource until a permanent solution can be found, and a BC submitted to secure the junior element.

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<sup>5</sup> The longest investigation time currently appears to be 245 days.



OFFICIAL

From: Air Marshal Andrew Turner CB CBE MA MSc BA FRAeS CCMI RAF



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27<sup>th</sup> January 2020

Nicola,

**SERVICE COMPLAINTS – RAF PERFORMANCE**

1. Thank you for your letter dated 29 October 2019 seeking the RAF's statistical data on the handling of Service Complaints for 2019 (see Annex) and inviting a covering narrative. The Air Force Board continues to hold, as one of our highest priorities, our commitment to delivering a SC system that is as efficient, effective and fair as possible.
2. The attached data sets out the RAF Service Complaints for 2019. It shows a 52% achievement of closure within 24 weeks, 66% closure against the fast track criteria (pay and allowances, terms of service), and 33% that relate to bullying, harassment or discrimination being fully or partially upheld. There continues to be over-representation in female and BAME complainants against the respective populations, dealing with which remains a high priority. However, it is encouraging to note that in the last 4 years only 5 complaints were cited by your office for maladministration. Our analysis shows a high closure rate around the 9 and 18 week points, which is a consequence of the fast track system, but we must ensure that complaints citing inappropriate behaviours are sensitively handled affording both complainant and respondents the time and opportunity to put their cases; this cannot be rushed.
3. The prime challenge associated with improving these statistics is changing the behaviours and culture within the RAF. Since the Secretary of State's Report, we have redoubled our campaign to raise awareness, understanding and reporting around this area. Re-focussed effort around diversity and inclusion is part of this, as much as senior oversight, additional training, awareness campaigns and better data. When complaints are raised, we intend to address them quicker, triaging those matters of policy faster in order to allow the bulk of our capacity to be targeted at the more challenging complaints. Part of this will address the lack of understanding of what constitutes bullying (there is a very high rate of these cases not being upheld), but also greater encouragement for the complainant and respondent to engage with the investigative officers in a timely manner. Wider reform of the policy and its metrics will address this, which CDP has in hand.
4. Thank you for your service to Service Complaints over this last year, we greatly value your insights and focussed energy and I know your conclusions are eagerly sought by our people. I would be content for this narrative to be published with your report.

Annex:

- A. RAF SCOAF Annual Statistics 2019.

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OFFICIAL



## Appendix I – Sources of further Information

Further information on the Service Complaints process, in the form of publications and/or statistics, can be found at the following sites.

Service Complaints Ombudsman for the Armed Forces	<b><a href="http://www.scoaf.org.uk">www.scoaf.org.uk</a></b> The SCOAF website contains copies of all past annual reports and statistical briefings concerning the Service Complaints system in addition to publications and information concerning SCOAF processes.
Ministry of Defence	<b><a href="https://www.gov.uk/government/organisations/ministry-of-defence/">https://www.gov.uk/government/organisations/ministry-of-defence/</a></b> This site provides information on the organisations within the defence system, reports and data, and guidance.
Ministry of Defence Service Complaints information	<b><a href="https://www.gov.uk/guidance/armed-forces-service-complaints-process">https://www.gov.uk/guidance/armed-forces-service-complaints-process</a></b> The site provides information and guidance on the Service Complaints process.

Details of Ministry of Defence Statistical and Research publications can be found at: **<https://www.gov.uk/government/organisations/ministry-of-defence/about/statistics>**

For historic publications, see the links to 'earlier volumes in the series' on individual publication pages.

Further information on the individual Services covered by the Service Complaints system can be found at:

Royal Navy	<b><a href="http://www.royalnavy.mod.uk">http://www.royalnavy.mod.uk</a></b>
Royal Marines	<b><a href="https://www.royalnavy.mod.uk/royalmarines">https://www.royalnavy.mod.uk/royalmarines</a></b>
British Army	<b><a href="http://www.armymod.uk">http://www.armymod.uk</a></b>
Royal Air Force	<b><a href="http://www.raf.mod.uk">http://www.raf.mod.uk</a></b>

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