
Annual Report **2018**

Annual Report 2018

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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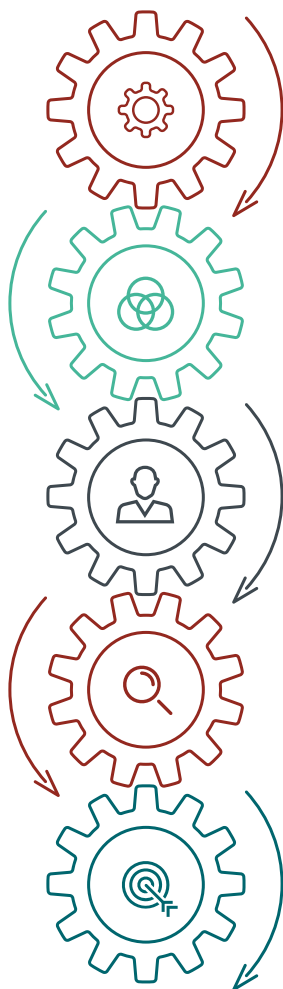
Our mission

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
www.scoaf.org.uk

Contents

| | |
|--|------------|
| Message from the Ombudsman | vii |
| Executive summary | ix |
| Efficient, effective and fair | ix |
| The work of SCOAF | x |
| The work of the Service complaints system | x |
| Recommendations | xi |
| Chapter 1 – Efficient, effective and fair | 1 |
| Efficient | 1 |
| Effective | 5 |
| Fair | 10 |
| Chapter 2 – The work of SCOAF | 13 |
| About the Ombudsman | 13 |
| Enquiries and Referrals | 13 |
| Enquiries | 13 |
| Referrals | 14 |
| Timeliness | 16 |
| Investigations | 17 |
| Review of admissibility decisions | 18 |
| Undue delay | 21 |
| Substance (merits) and Maladministration | 24 |
| Scope of the Ombudsman's powers | 28 |
| Challenges to decisions | 31 |
| Other work by SCOAF in 2018 | 31 |
| Mental health | 31 |
| Digital improvements | 32 |
| Outreach and education | 33 |
| Customer feedback and lessons learned | 33 |
| Praise for SCOAF | 34 |
| Chapter 3 – The work of the Service complaints system | 37 |
| Breakdown of Service complaints received | 37 |
| Volume | 37 |
| Subject of complaint | 37 |
| Diversity | 38 |
| Timeliness of complaint handling | 40 |
| Single Service updates | 41 |
| Naval Service | 42 |
| Army | 43 |
| RAF | 44 |

| | |
|--|-----------|
| Chapter 4 – Progress made on previous Ombudsman recommendations | 45 |
| Progress report | 46 |

| | |
|--|-----------|
| Appendices | 53 |
| Appendix A – Glossary | 53 |
| Appendix B – Eligibility criteria for referrals and investigations | 57 |
| Appendix C – SCOAF strategic objectives | 58 |
| Appendix D – Ombudsman Association Service Standards Framework | 60 |
| Appendix E – Financial statement | 65 |
| Appendix F – Events and visits | 66 |
| Appendix G – Statistics | 69 |
| Appendix H – Single Service annual updates | 77 |
| Appendix I – Sources of further information | 88 |

Message from the Ombudsman



Dear Secretary of State,

I am pleased to present my annual report for 2018; my third as Ombudsman.

At the conclusion of the third year of operation of the reformed system, I am still unable to report that the system is efficient, effective and fair. While there has continued to be improvement and an ongoing commitment to ensuring its success, there are still a number of improvements required across both the internal Service complaints system and my office.

This year, some of the recommendations I have made not only require action from the Ministry of Defence (MOD) and the single Services, but also from my office. This is because, where appropriate, the recommendations I have made have a collaborative approach. I feel that this is important in order to contribute to the overall effectiveness of the Service complaints process.

Delay remains a substantial issue within the internal system. Only 50% of Service complaints were resolved by the single Services within 24-weeks. This falls significantly short of the 90% target. While reform to the KPI metrics for complaint resolution is still pending, this is the KPI against which performance must be measured until the reforms are introduced. In addition, my office found that there had been undue delay in 61% of investigations of that type in 2019.

Lack of confidence in the system also continues to be a key issue, as I have discussed at length in my report, and one which requires considerable focus and attention if we are to ever achieve an efficient, effective and fair system.

2018 was a challenging year for our organisation. As we have been open about throughout the year, we have a substantial backlog of unallocated cases awaiting investigation. Considerable efforts have been put into addressing this situation, as outlined in my report, and this will continue until all cases are being dealt with according to our published time targets.

Despite these challenges, my staff have continued to display unwavering commitment and dedication to providing a high-quality service to each and every individual who comes to our office.

My term as Ombudsman will expire on 31 December 2020. With just over 18 months left in post, I am turning my mind to what legacy I want to leave. I am committed to leaving this organisation in a robust position, able to provide the best possible service and meet the challenges ahead. To that end, my focus for the remainder of my term will be on:

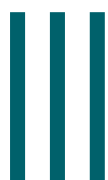
1. **Providing an efficient and high-quality service to complainants**, which includes greater transparency and the reduction of our backlog.
2. **Raising awareness and knowledge of my role across the Armed Forces**, through improved training, education and increased visibility.
3. **Seeking to ensure that the powers of the Ombudsman are enhanced to meet the needs of complainants**. This includes seeking the power to investigate matters of undue delay on behalf of respondents and conduct own initiative investigations.

Overall, I firmly believe that we are moving in the right direction as I continue to see improvement in the system and a strong commitment to making the reformed complaints system work efficiently, effectively and fairly for all Service personnel.

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



Executive summary

The Service Complaints Ombudsman's Annual Report 2018 reports on the work undertaken by her office throughout 2018 and the current state of the Service complaints system.

Efficient, effective and fair

In its third year of operation, the Ombudsman finds that the Service complaints system is still not efficient, effective and fair.

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

| Efficient | A complaints process is efficient when: |
|--|---|
| Complaints are dealt with at the lowest suitable level Complaints are resolved within the allocated timeframes Complaints are handled without undue delay The complaints process is equipped with sufficient resource | |
| Effective | A complaints process is effective when: |
| People know about it People have confidence in it Change is made as a result of the complaints that have been made | |
| Fair | A fair complaints process is one that: |
| Has a clear purpose Is accessible Is flexible Is open and transparent Is proportional | |

The work of SCOAF

In 2018 SCOAF:

- logged 872 contacts from individuals making an application or an enquiry about the Ombudsman's powers
- made 168 referrals to assist current and former Service personnel to access the Service complaints process
- exceeded the target to make 90% of referrals within 7 working days
- received 346 applications for investigation, of which 87% were accepted
- completed 56% of all investigations within the time target.

The work of the Service complaints system

In 2018:

- 1,185 complaints were received by the Services
- 763 of those complaints were deemed admissibility
- the 3 largest areas of complaint concerned
 - career management (33%)
 - bullying, harassment and discrimination (25%)
 - pay, pensions and allowances (15%)
- 50% of complaints were closed within the 24-week target
- Both female and BAME personnel were overrepresented in the Service complaints system (23% and 13%) when compared to their representation in the Armed Forces (11% and 7%)
- 38 pre-2016 complaints were finalised, leaving only 9 complaints made before 2016 open at the end of 2018.

Recommendations

Based on the work undertaken by her office and the performance of the Service complaints system in 2018, the Ombudsman has made the following recommendations in this report:

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 allocation backlog
- prevent a new backlog developing
- execute in-depth research and analysis as required by the Ombudsman's reporting function.

Recommendation 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 types 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.

Recommendation 3.3

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.

Recommendation 3.4

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.

Recommendation 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.

Recommendation 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. Performance against this target will be measured and reported to the Ombudsman annually.

Recommendation 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.

Recommendation 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.

Recommendation 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.

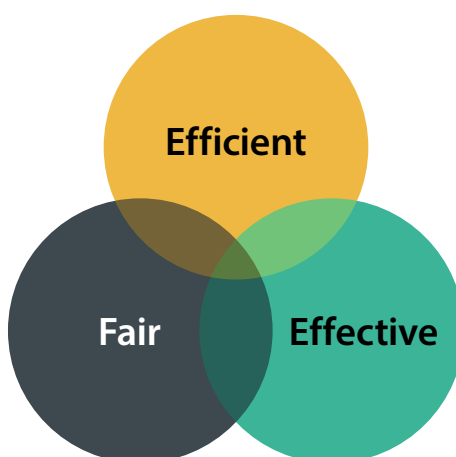
Consideration should be given to including this agreement in future revisions to legislation.



Chapter 1 – Efficient, effective and fair

The Ombudsman is required to make an annual assessment as to whether the Service complaints system is efficient, effective and fair¹. These are basic 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 met in order for a positive assessment to be made. A complaints system that is not efficient cannot be effective; a system that is not effective cannot be fair etc.



Despite ongoing improvements that have been made, the Ombudsman does not find the Service complaints system to yet be efficient, effective and fair.

Efficient

An efficient complaints system is one that:

- deals with complaints at the lowest suitable level
- resolves complaints within the allocated timeframes
- handles complaints without undue delay
- is equipped with sufficient resource

Deals with complaints at the lowest suitable level

Dealing with complaints at the lowest suitable level does not mean that all complaints should be dealt with informally. Instead, it means that steps must be taken to resolve a complaint at the lowest level possible for that particular complaint. For some complaints, the lowest suitable level will be outside

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

the formal complaints system, with resolution through informal means or structured alternative dispute resolution. For other complaints, the lowest suitable level will be the initial stage of the formal complaints process.

Formal complaints process

This concept is enshrined in the Service complaints system by ensuring that in the first instance a complaint is allocated to a person who has the power to uphold the complaint, if it is proven, and grant the appropriate redress.

Unfortunately, there is a gap in the data collected regarding the outcome of Service complaints. This means that it is difficult to evaluate how well complaints are being resolved at the first stage of the formal complaints process. Further data is needed to determine:

1. How many Service complaints go on to the appeal stage, and
2. The reasons Service complaints are not either appealed or, if finally determined, taken to the Ombudsman for an investigation into substance

Complainants are not asked why they have not pursued their complaint any further. As such, it is not known if it is because they are satisfied with the outcome of the complaint or there are other reasons. It would be erroneous to simply assume that choosing not to pursue the complaint means that it has been resolved in the mind of the complainant.

This is an area in which the Ombudsman would like further work to be undertaken. While not making a formal recommendation at this stage, the Ombudsman would like to ask the Service Complaints Statistics Working Group to pick this up as a point of action to determine what steps could be taken to try and gather more data in this area.

Alternative dispute resolution

Outside of undue delay in a Service matter, the Ombudsman does not have formal oversight of alternative dispute resolution. However, as complaints resolved successfully through these methods serve to strengthen the formal complaints system, the Ombudsman takes a keen interest in the work the Services do in this area.

In 2018, 137 formal Service complaints were withdrawn or resolved prior to an admissibility decision being made. While this could be a positive indication of complaints being resolved at the lowest suitable level, 130 of those complaints were withdrawn and only 7 were resolved prior to an admissibility decision being made.

No data is provided on the reasons for withdrawal, therefore no inferences can be drawn.

As the Ombudsman outlined in Annual Report 2017, there was strong anecdotal evidence that individuals were withdrawing complaints after being told that pursuing a complaint would adversely impact their careers. For this reason, the Ombudsman believes there is merit in analysing and reporting the data the single Services currently collect concerning the reasons for withdrawal and would ask the Service Complaints Statistics Working Group to pick this issue up also.

In 2018, 261 complaints were being dealt with on an informal basis across the single Services.

In addition, the Ombudsman notes the increased commitment to resolving suitable complaints through mediation.

All three Services offer mediation and have demonstrated commitment to increasing the use of this form of alternative dispute resolution.

The Naval Service has had their own Mediation Service for a number of years and encourages units to use this service in order to resolve grievances at the lowest suitable level. While the Naval Service has found this to be successful, they are working to build on this. In 2018, the numbers of trained mediators have significantly increased and there are plans to run a campaign in 2019 to raise awareness of the service.

The RAF has a cadre of active mediators across the Service who undertake mediation at the unit level. This is coordinated by the RAF Service Complaints Secretariat rather than a separate body. Work is ongoing to enhance mediation capacity and increase awareness of mediation throughout the RAF.

The Army's mediation service is the most established across the single Services and clearly demonstrates the capacity for suitable complaints to be resolved through this method.

The Army Mediation Service 2017 Annual Report reports on their performance in-year, and general trends in mediation from 2014-2017. Of particular note:

- **100% of mediations in 2017 were either a full or partial success.** This is even more impressive when the breakdown of mediations that were scoped but not taken forward² are considered. This additional data demonstrates that the work put into scoping does not seek to exclude complaints with a higher risk of failure at mediation, but rather gives consideration to any presenting medical and welfare issues and the needs and wishes of the parties, underscoring the integrity of the process.
- **Most mediations conducted concerned two parties who were 'other ranks' i.e. not Officers (33%).** While Officers were more likely to be a party to a mediation, this statistic demonstrates that mediation is a useful tool at all levels.
- **Mediation is being embedded as business-as-usual.** All Standard Operating Procedures concerning complaints handling require signposting to mediation services where suitable. This allows all complainants the opportunity to consider engaging in alternative dispute resolution before pursuing a Service complaint.

The Ombudsman welcomes further engagement from the Army Mediation Service and looks forward to seeing how they build on this current performance and how best practice from this successful model can be replicated on a tri-Service level.

Resolves complaints within the allocated timeframes

Allocated timeframes are necessary to provide complainants and respondents with a clear guide as to when they can expect a matter to be resolved. They also provide an important tool for measuring how efficiently a complaints system is operating.

The Service complaints system currently works to the target to resolve 90% of Service complaints within 24-weeks. This target was proposed by Dr Susan Atkins, Service Complaints Commissioner, in her 2010 Annual Report³ and accepted by the MOD. The basis for this recommendation being that the vast majority of workplace complaints should be able to be resolved within a six-month period and allowance made for those that are too complex to be resolved in that time – estimated to be around 10%⁴.

To date, no Service has resolved 90% of Service complaints within 24-weeks. In 2018, the tri-Service rate for closure against this target was 50%.

This is currently the only agreed KPI for measuring the efficiency of the Service complaints system. In Annual Report 2016, the Ombudsman recommended that an appropriate working group be identified to evaluate this target in order to determine if it was correct. Two years later, the Ombudsman is still awaiting review of the paper outlining alternative KPIs that has been prepared as a result of this recommendation.

It is important that complaints are resolved within the allocated timeframes in the internal system, and by SCOAF in the discharge of their oversight function. Timeframes are put in place to give parties to a complaint a reasonable guide for when a complaint is likely to be resolved and should be reflective of how long the average complaint takes to be determined. There will always be complaints that are resolved a lot faster than the total time 'allowed', and complaints that will take significantly longer due to their complexity. However, timeframes and associated KPIs must be realistically achievable and evidence based in order to ensure an efficient system.

² This refers to potential mediations that had preparatory work conducted to determine if mediation could take place.

³ Service Complaints Commissioner for the Armed Forces Annual Report 2010 p79

⁴ Service Complaints Commissioner for the Armed Forces Annual Report 2011 p43

Unlike many other ombudsman institutions, SCOAF has published timeframes for resolving complaints. As discussed in more detail in **Chapter 2**, the Ombudsman's office has a substantial backlog of unallocated substance (merits) and maladministration cases. The timeframe for completion only starts once a case has been allocated to an investigator⁵. However, the backlog means that in 2018 these types of cases were taking an average of 42 weeks⁶ to be allocated⁷. Work is being undertaken to review and refine SCOAF's internal processes and increase staffing levels in order to ensure that cases can be allocated swiftly and investigations completed within the published timeframes.

It is imperative that both the Service complaints system and SCOAF reach a state of operation where they are able to resolve the vast majority of complaints within the published timeframes.

Handles complaints without undue delay

Undue delay is a separate issue to not resolving complaints within the allocated timeframes. Although there is no exact legal definition of undue delay, it is generally taken to mean that something has taken longer than is reasonable – often resulting in an outcome that is unjust or unfair.

Complainants have the right to ask the Ombudsman to investigate alleged undue delay in the handling of their Service complaint or Service matter as discussed in **Chapter 2**.

Complaints do not have to exceed an allocated timeframe in order for undue delay to be found. Likewise, just because a complaint has exceeded the allocated timeframe does not mean there has been undue delay. Undue delay will be found to have occurred where it has taken longer than it should have to resolve a complaint and there are no acceptable reasons for the delay.

In 2018, SCOAF found undue delay in 61% of investigations of this kind completed in-year. The Ombudsman does not consider this to be an acceptable figure. Since 2016, undue delay has been found in a total of 73% of investigations into alleged undue delay.

These figures only relate to investigations of this kind conducted by the Ombudsman. As not every complainant experiencing delay in the handling of their Service complaint or Service matter asks the Ombudsman to conduct this type of investigation, it is difficult to state with certainty what the overall level of undue delay is in the system.

Is equipped with sufficient resource

A complaints system cannot be efficient if it is not properly resourced. This includes the resources required to handle individual complaints, the infrastructure of the complaints system as a whole and the oversight system.

| Resource required for individual complaints | Infrastructure | Resource required for SCOAF |
|---|---|--|
| <ul style="list-style-type: none"> Sufficiently staffed secretariats Fee Earning Harassment Investigation Officers (FEHIOs) Independent Members (IMs) Sufficiently trained Commanding Officers (COs) and Assisting Officers (AOs) | <ul style="list-style-type: none"> Adequate and up-to-date policies Training System for recording and analysing complaint data | <ul style="list-style-type: none"> Sufficiently staffed and trained investigations team Flexible resource to support investigations to manage/ prevent backlogs Personnel and resources to raise awareness of the role of the Ombudsman |

⁵ Applications for investigation are allocated to an investigator to conduct an eligibility check within 10 working days of being received. Eligible applications are then transferred into the queue for allocation.

⁶ Due to the changes made in 2018 to how substance (merits) and maladministration cases are allocated and investigated, data from 2018 around the time taken to allocate cases and conclude investigations is not comparable to data from 2017.

⁷ The time taken to allocate cases has increased in the first quarter of 2019.

The infrastructure for the Service complaints system is provided not only by the Service complaints secretariats for the single Services but also by the Defence Personnel Secretariat. This is a very small team within the MOD that has responsibility for overall Service complaints policy. The Ombudsman is aware of the demands placed on the team in the last 12 months which have further stretched their limited resource, particularly their involvement in the recruitment of ten new IMs. However, the Ombudsman welcomes the announcement that an additional staff member has been recruited to rewrite the MOD bullying harassment and complaint procedures (JSP 763), which is an exceptionally important piece of work.

As noted throughout the report, SCOAF currently has a substantial backlog. Part of the reason for this backlog is that the investigations team has not been fully staffed since the office opened in 2016. Further discussion on this point and recommendation for improvement is included in **Chapter 2**.

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 allocation backlog
- prevent a new backlog developing
- execute in-depth research and analysis as required by the Ombudsman's reporting function.

Effective

An effective complaints system is one that:

- people have knowledge of
- people have confidence in
- brings about change as a result of complaints that have been made

People have knowledge of

A complaints system cannot be effective if those who may need to use it do not know about it or understand how it works. This applies to both the internal system and external oversight.

Since Annual Report 2016, the Ombudsman has reported concerns with the level of knowledge Service personnel have about the complaints system. This remains an issue of concern and is often raised with the Ombudsman and her staff during outreach visits and in the feedback we receive: 34% of personnel using the Ombudsman's services in 2018 reported having only limited knowledge of SCOAF prior to their contact.

"The wider army could do better in advertising and educating its men [and women] as to the role of the Ombudsman."

"I think that despite the [Ombudsman's] role being well publicised, it is not understood as well as it could be and this is likely because the message gets filtered by the chain of command as it is disseminated downwards and it is nearly always someone in the chain of command about which a subordinate complains."

"More visibility from [the] training phase will give confidence to recruits and cadets that there is an effective complaints system and may also go a long way in reducing incidents that could lead to a complaint."

"Apart from those involved in discipline and dealing with [Service complaints] I don't really think there is training out there for those individual[s] that's been wronged."

"Training on Service complaints is pretty limited – it seems to extend to little further than mentioning such things exist and that there is [an Ombudsman]."

"More needs to be done in basic training and during the course of your career to reinforce who, why and what the [Ombudsman] is and how they can help."

This issue has also been highlighted in the **UK Regular Armed Forces Continuous Attitude Survey (AFCAS) 2018** and the **Army Sexual Harassment Report 2018**⁸.

7% of those responding to AFCAS in 2018 who experienced bullying, harassment and discrimination said they did not make a formal complaint about the experience because they were not aware of the Service complaints process.

In addition, when asked if they understood how the Ombudsman could help them with a complaint about bullying, harassment or discrimination: 88% of Officers were aware at least to some extent compared to 66% of other ranks. This difference reflects the feedback received by the Ombudsman regarding the perceived lack of training and education around this topic at lower levels.

The Army Sexual Harassment Report 2018 found that only 34% of survey respondents who made a formal complaint were satisfied with the availability of information on how to make a complaint: an increase of only 4% since 2015.

The Ombudsman made a number of recommendations in her 2016 and 2017 Annual Reports which aimed to improve the level and reach of education and training in this area. As a result, the MOD established the Service Complaints Working Group training committee. The purpose of this committee is to review the training provided on Service complaints from a tri-Service perspective to ensure what is being provided is appropriate and that best practice is shared. The committee will also consider how training is delivered; identify any gaps and how training may be further developed in the future. This committee will keep the previous recommendations made by the Ombudsman on training and education under review. The Ombudsman looks forward to seeing the outcome of this work in 2019.

⁸ While the total number of respondents to these surveys is small when compared to total strength of the Armed Forces and Army respectively, they are still considered to be statistically reliable in terms of analysis. While the Ombudsman acknowledges the limitations of surveys with such a small sampling, as these are currently the only surveys of their type available to her which measure these issues, she believes that they are of inherent value.

People have confidence in

Confidence in the Service complaints system has consistently been low: an issue that has been discussed in consecutive Annual Reports by the Ombudsman and the former Service Complaints Commissioner.

Confidence in the system means that individuals feel confident that:

- they can make a complaint
- the complaint will be taken seriously, handled properly and investigated thoroughly
- a fair decision will be reached – regardless of whether that decision is in their favour
- there will be no adverse impact from making a complaint, whether it is the treatment they receive from others or a negative impact on their career.

This confidence should be held by those who have made, or may in the future need to make, a complaint.

AFCAS looks at this issue annually⁹. While the survey consistently finds that the majority of personnel believe they are treated fairly at work, it also consistently finds that for those who have experienced unfair treatment, confidence in the complaints system is low.

In 2018, the report found that:

- 12% of survey respondents reported being subject to bullying, harassment or discrimination in the preceding 12 months
- only 6% of those experiencing this behaviour made a formal complaint.

The top three reasons for not making a formal complaint when experiencing this behaviour were:

1. Not believing anything would be done if a complaint was made (63%)
2. Belief that it might adversely affect their career (50%)
3. Not wanting to go through the complaint procedure (30%)

In addition, the majority who did make a formal complaint were dissatisfied with the process, particularly in relation to:

- the time taken to resolve complaint (65%)
- how they were kept informed of progress (57%, an increase from 51% in 2017)
- the outcome of their complaint (56%)

A similar picture emerged from the Army Sexual Harassment Report 2018. Key findings from the report in respect of personnel who had made a formal complaint after experiencing upsetting behaviour of a sexual nature included:

- 70% were dissatisfied with the outcome of the investigation, how the outcome of the investigation was communicated and the follow-up action taken against those responsible
- 75% said they had experienced negative consequences as a result of making a complaint
 - 98% felt uncomfortable at work
 - 93% thought about leaving the Army
 - 91% felt humiliated.

The report also found that amongst those personnel who did not make a formal complaint after experiencing this behaviour, 42% said it was because they did not believe anything would be done if a complaint was made.

This lack of confidence in the system is a view that is reiterated to the Ombudsman and her staff in feedback and when they are conducting education and outreach visits.

⁹ In Annual Report 2017, Recommendation 2.9 was “that by December 2018, in time for the 2019 survey, a section is added to the Reserves Continuous Attitude Survey that mirrors that in the [Regular] Armed Forces Continuous Attitudes Survey looking at fairness at work, the Service complaints process and knowledge of the Service Complaints Ombudsman.”

"The odds are most definitely stacked against personnel who submit a Service complaint, especially against senior chain of command. The system protects itself, ranks are firmly closed, complainants are ostracised and their lives are made intolerable all in order to protect the chain of command."

"My personal belief is that the secretariat of my Service merely pay lip service to the [Ombudsman] and will do everything they can to discourage Service personnel from approaching the [Ombudsman] for assistance and advice, preferring to keep things 'in house'."

"The Service closes ranks against those who assert their rights. Those who raise SCs are seen as troublemakers and as an administrative burden by their CoC."

Unfortunately, confidence in SCOAF is also falling short of the desired levels. Overall, only 57% of complainants were satisfied with the service they received from the Ombudsman in 2018, down from 75% in 2016. From the feedback received, this drop is attributable, in part, to two specific issues:

1. **The allocation backlog.** Discussed in greater detail in **Chapter 2**, as of 31 December 2018 there were 143 eligible applications for substance (merits) and maladministration investigations waiting to be allocated to an investigator. 8 of those applications were made in 2017. 24 individual complaints about these delays were lodged with SCOAF.
2. **The perception that SCOAF is not independent.** The Ombudsman is an independent appointee and her office is independent of the MOD. However, as the annual budget comes from defence funds and all of the Ombudsman's staff are MOD civil servants this has contributed to a perception among some complainants that the office is not independent.

"It would seem that the [Ombudsman] is just another arm of the MOD and certainly not independent."

"I did not gain a sense of the Ombudsman as separate to the chain of command.....I think we need an independent complaints system..... not paid for directly by a military salary."

Furthermore, 45% of individuals who completed SCOAF's investigation feedback survey were dissatisfied with the objectivity of the office. 42% were satisfied and the remaining returned neutral responses.

While appreciating that only 22% of individuals who were sent the survey responded and that those who are dissatisfied are more likely to respond, the Ombudsman does not wish to simply dismiss these findings out of hand. Further work will be done throughout 2019 to strengthen SCOAF internal processes and messaging to ensure that the office is actively demonstrating the cornerstone values of independence and impartiality.

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

An effective complaints system brings about change by looking at the wider issues each complaint raises and acting on lessons learned.

Within the Service complaints system, there are a number of mechanisms that allow for this.

a. Lessons learned can be identified and acted upon following a Service complaint being investigated as part of the internal system.

The Ombudsman has limited oversight of the way lessons learned are identified and acted upon where a Service complaint is investigated in the internal system and does not then come to her office. In 2019, further work will be undertaken to better understand these processes and how the Ombudsman can be made aware of key learning and analysis arising from these complaints.

b. Recommendations and wider learning points are made as a result of investigations carried out by SCOAF.

In 2018, it was noted that the majority of the recommendations and wider learning points were the same, or similar to, those made following investigations in 2016 and 2017. Many of these issues are fundamental to the complaint handling process.

Examples of these include:

- Admissibility decision letters must be limited to the issue of whether a complaint or appeal is admissible. No judgement should be passed on the substance of a Service complaint at this initial stage.
- Accurate records need to be maintained throughout the course of a complaint.
- The correct timeframe for making a Service complaint needs to be applied in each case. If a complaint has the potential to be taken to an Employment Tribunal, the timeframe for making a Service complaint is extended from three months.
- Complainants and others involved in the process should be provided with regular updates.

This raises concerns regarding how learning is implemented in order to prevent the same issues recurring. It also highlights the importance of sharing recommendations and wider learning points at a tri-Service level to ensure that improvements can be made system-wide.

c. Recommendations are made by the Ombudsman in her annual report as a result of the totality of cases and issues seen in-year.

These recommendations seek to address systemic issues which are apparent following analysis of in-year data and the trends and issues arising in the cases handled by SCOAF.

The Ombudsman is disappointed in the time the MOD has taken to respond to the recommendations made in Annual Report 2017. Although the report was published in April 2018, a full formal response was only received at the end of November. As a result, there was limited time for any follow-up action prior to work commencing on the 2018 Annual Report. The Ombudsman further notes that there are inconsistencies year-on-year regarding when and how this response is provided. Inconsistencies are also present in the updates provided on the progress of outstanding recommendations made across all previous annual reports. This is discussed further in **Chapter 4**.

Fair

A fair complaints system is:

- clear in purpose
- accessible
- flexible
- open and transparent
- proportional

As reported in Annual Report 2017, and below, the reformed Service complaints system has made excellent progress in this regard.

Clarity of purpose

The purpose of a complaints system and how it operates needs to be clear to those who may need to use it.

As detailed in previous reports, the Ombudsman is concerned that two years after the new system was introduced, JSP 763, which specifically covers complaints concerning bullying and harassment, is yet to be rewritten. However, as previously noted, the Ombudsman welcomes the appointment of a new staff member to the Defence Personnel Secretariat to undertake this project in 2019. The Ombudsman has also recommended that efforts are made to rewrite JSP 831 in plain language when it is next revised, which the MOD has accepted.

The Ombudsman also recognises that there continues to be confusion regarding her powers and the role of her office. A number of steps were taken in 2018 to resolve this, including:

- a new website that included an interactive tool for complainants
- new factsheets
- an expansion of the Ombudsman's blog to provide a more in-depth look at a range of issues
- increased use of social media

Further work will be carried out in 2019 in order to ensure that the purpose and processes of the Ombudsman's office are clear to all who may need to use it.

Accessibility

Complaints systems should be free and easy to access.

The Service complaints system is free and available to all current and former Service personnel who believe they have been wronged in their Service life. However, there will remain barriers to access as long as:

- there are individuals who have limited knowledge about the complaint process, including the role of the Ombudsman
- people lack confidence in the system

SCOAF is also a free service and available to all current and former Service personnel. In 2018, feedback was received that the application process was not as easy as it should be. Steps will be taken to improve this in 2019, including:

- increased guidance on how to make an application, with examples of completed application forms
- undertaking work to introduce an online application portal by 2021

There continues to be anecdotal evidence that some personnel accessing the Service complaints system and the Ombudsman's office believe they *need* legal representation. This can create a perceived barrier to the system if an individual is unable to afford representation but believes they require it. This was an issue first discussed in the Ombudsman's last annual report. Neither system requires legal representation,

nor should any individual feel that they are at a disadvantage by not having such representation. Further work needs to be undertaken to determine why individuals hold this view in order to understand what steps can be taken to address this barrier.

Flexibility

The processes and procedures underpinning a complaints system need to allow for sufficient flexibility to ensure that complaints are dealt with quickly and appropriately in the first instance.

The Ombudsman continues to believe that the reformed system provides far greater flexibility to deal with complaints than its predecessor. This is evident in:

- admissible complaints being assigned directly to those with the correct delegation to grant the appropriate redress should the complaint be upheld
- the increased use of alternative dispute resolution, including mediation as previously discussed
- the “quick fix” and “fast track” schemes used by the Naval Service and RAF to resolve complaints where it is evident, without investigation, that an individual has been wronged
- the allowances made to put a complaint on hold where the health of the complainant prevents them from engaging in the process and it cannot proceed without their involvement

However, as seen in 2018 and discussed in **Chapter 2**, flexibility in one area can have a corresponding adverse impact in another. Care must be taken to achieve a balance in these instances.

Openness and transparency

Openness and transparency within the Service complaints system were greatly expanded by the establishment of the Ombudsman and her office. However, the concept stretched further than this. Openness and transparency are required between the:

- single Services and the Ombudsman
- single Services and Service personnel
- MOD and the Ombudsman
- Ombudsman and Service personnel
- Ombudsman and Parliament

While the Ombudsman is pleased that great strides have been made in the way that data is collected and analysed by both the single Services and her office, thus enabling wider reporting, there is still work to do.

The Ombudsman believes that the best way in which to increase openness and transparency, and improve confidence in the system, is to actively demonstrate how the system works.

Recommendation 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 types of complaints made, why complaints are/are not upheld and the types of outcomes people can expect. This should seek to increase openness and transparency and increase confidence in the system.

Proportionality

A complaints system is proportional when it uses appropriate processes to handle a complaint and grants appropriate redress when a complaint has been upheld. A proportional system must also be responsive and not so process heavy that it leads to delays or unjust decisions.

In 2018, the Ombudsman has noted the following issues that raise concern about the proportionality of the process.

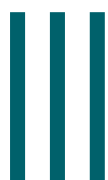
- **Overreliance on posting decision letters.** Where it is open to an individual to ask the Ombudsman for a review or investigation, they are given a time limit to do so. This time limit starts two days after the decision letter is sent to them by post or email. Decisions sent by post take longer to reach the individual than those sent by email. This is due not only to delays in the postal system but that, unlike email, an individual has to be at a fixed address to receive a physical document sent by post. As a result, those receiving a decision by post may lose up to a week or more of that time limit if the post is delayed or they are away when it is delivered. While the Ombudsman accepts that there may be reasons for specific decisions to be sent by post, modern email is secure enough that the majority of decisions could, and should, be sent by this method if it is preferred by the complainant.
- **Lack of flexibility in assigning SOs.** This is an issue that is discussed in greater detail in **Chapter 2**.
- **Calculation of proportionate redress.** In Annual Report 2017, the Ombudsman called for there to be a tri-Service approach to how consolatory payments of £500 or less are made. In 2018, the concern has been in the lack of proportionality in calculating consolatory payments for complainants who have been subject to delays, stress or hurt feelings. Irrespective of the delays or level of distress faced, the Services have consistently calculated such payments to fall under the £500 threshold. While the Ombudsman does not direct a specific amount of money to be paid, where such a payment is recommended it is expected that all relevant factors will be taken into account to reach a proportionate figure. The Ombudsman does not believe that the guidance used by the Services to calculate these payments, published by the Financial Ombudsman Service, is the most appropriate for the issues faced within the Service complaints system.

Recommendation 3.3

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.

Recommendation 3.4

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.



Chapter 2 – The work of SCOAF

This chapter outlines the work undertaken by SCOAF under each of the key legislative functions in 2018. It also covers the key 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**. Further statistics concerning the work of our office in 2018 can be found on the SCOAF website www.scoaf.org.uk

About the Ombudsman

The role of the Ombudsman is to help build a better Service complaints system for all Service personnel. This is primarily achieved using the Ombudsman's powers of referral and investigation. Using these powers, the Ombudsman can:

- help current and former Service personnel access the Service complaints system
- review decisions that a Service complaint or appeal is not admissible
- investigate allegations of undue delay in the handling of a Service complaint or Service matter
- investigate the substance (merits) of a Service complaint at the end of the internal process
- investigate alleged maladministration in the handling of a Service complaint at the end of the internal process

In order to use these powers, an eligible application (as set out in **Appendix B**) needs to be received. Currently, the Ombudsman has no powers of own initiative investigation as discussed later in this **chapter**.

Enquiries and Referrals

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

Enquiries

Although there are limits to who can make an application asking the Ombudsman to use her powers, anyone can contact the office to ask for information.

New contacts¹⁰ are logged on the e-case management system and assigned a unique case number.

In 2018, we received 872 contacts. This is just over 180 fewer contacts than we received in 2017.

¹⁰ New contacts are either enquiries or applications from an individual who has not previously contacted the office or from an individual who is contacting the office about a new issue.



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93% of these enquiries were “in scope”. This means they concerned an issue that fell within the Ombudsman’s powers. However, only 512 applications were made requesting the Ombudsman use her powers of referral or investigation.



Referrals

If a Service person believes they have been wronged in their Service life, they have the right to make a complaint. If they make a formal complaint, it is known as a Service complaint.

Although individuals generally raise their complaint directly with their chain of command, sometimes they are unable or unwilling to do so. In these cases, the individual can ask the Ombudsman to notify their chain of command that they want to make a Service complaint. This is known as a referral.

Referrals are sent to the Service complaints secretariat for the Service the complainant is/was in. They then determine who the Specified Officer (SO) is that the referral should be sent to.

A referral:



- can be made for current or former Service personnel
- places a legal obligation on the SO to find out if the individual wants to make a formal complaint and get the process started



- is not a formal Service complaint
- is not the start of an investigation by the Ombudsman
- does not mean the Ombudsman thinks the complaint should be upheld



© SCOAF 2018

In 2018, 168 referrals were made¹¹. Requests for referrals made up 19% of all contacts to the office. This continues the downward trend in referrals that has been reported since 2016.

While fewer referrals are being made, this function remains a cornerstone of SCOAF. In 2018, reasons for asking the Ombudsman to make a referral instead of approaching the chain of command included:

- lack of confidence in the chain of command (54%)
- they are no longer serving (19%)
- concerned about ill-treatment if they complain directly (12%)
- other (15%)



¹¹ 166 referrals made in 2018 were from in-year applications. 2 additional referrals were from applications made at the end of 2017.

The Ombudsman does not have the power to actively monitor what happens to any complaint that is made following a referral. However, where a referral has been made, the Ombudsman must be notified of specific key complaint handling events within three weeks of them occurring¹². These are:

- that the SO has informed the individual that the referral has been received
- that the SO has informed the individual of the process for making a Service complaint, including the time limits for doing so
- if a decision is made that the Service complaint is inadmissible
- the decision to uphold or not uphold the complaint following an investigation and any redress awarded
- if a decision is made that a request to appeal the decision is inadmissible
- the determination of a complaint following an appeal
- any decision to withdraw the Service complaint

During the transitional planning stage, it was agreed that resources needed to be geared towards resolving pre-2016 complaints and adapting to the new system. As the Ombudsman does not have the power to take positive action on an issue following a notification, as outlined above, it was agreed that this requirement would not be implemented prescriptively.

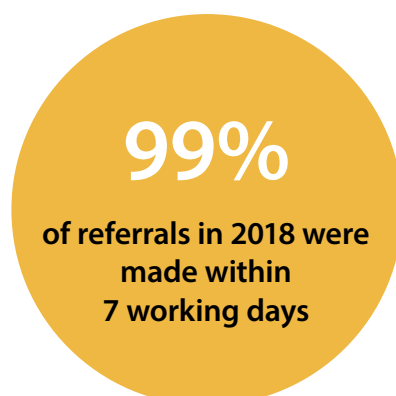
However, this has created a gap in both quantitative and qualitative data which is beginning to have an impact on the Ombudsman's oversight role. Therefore, this original agreement needs to be revisited and a way forward established.

Recommendation 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.

Timeliness

In 2018, 99% of all referrals were made within 7 working days. This exceeds the internal target to make 90% of referrals within that timeframe.



This is the third consecutive year the Enquiries and Referrals Team has exceeded this target. The Ombudsman commends them for the excellent job they have done, not only in exceeding this target but in the consistent provision of outstanding service to every individual who contacts the office.

¹² Regulation 6, *The Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015* (S.I 2015/2064)

"Thank you very much. Your rapid response has overwhelmed us as never has anyone taken time out to respond to us as quickly as yourself."

"This is the most helpful response I've had since I started this process almost two years ago!"

"The timely response, detailed information and overall service...were quite simply outstanding."

"I am very satisfied with the service I have received."

Investigations

The Ombudsman has the power to conduct investigations in four specific instances.

**Review of admissibility
decisions**

Undue delay

Substance (merits)

Maladministration

In order to be accepted for investigation, an application must meet the eligibility criteria set out in **Appendix B**.

87% of the 346 applications for investigation received in 2018 were eligible for investigation¹³.

346

applications for investigation
were made to the
Ombudsman in 2018

87%

of applications were
eligible for investigation

¹³ The numbers referred to in the sub-sections of the report dealing with specific investigation types do not include ineligible applications.



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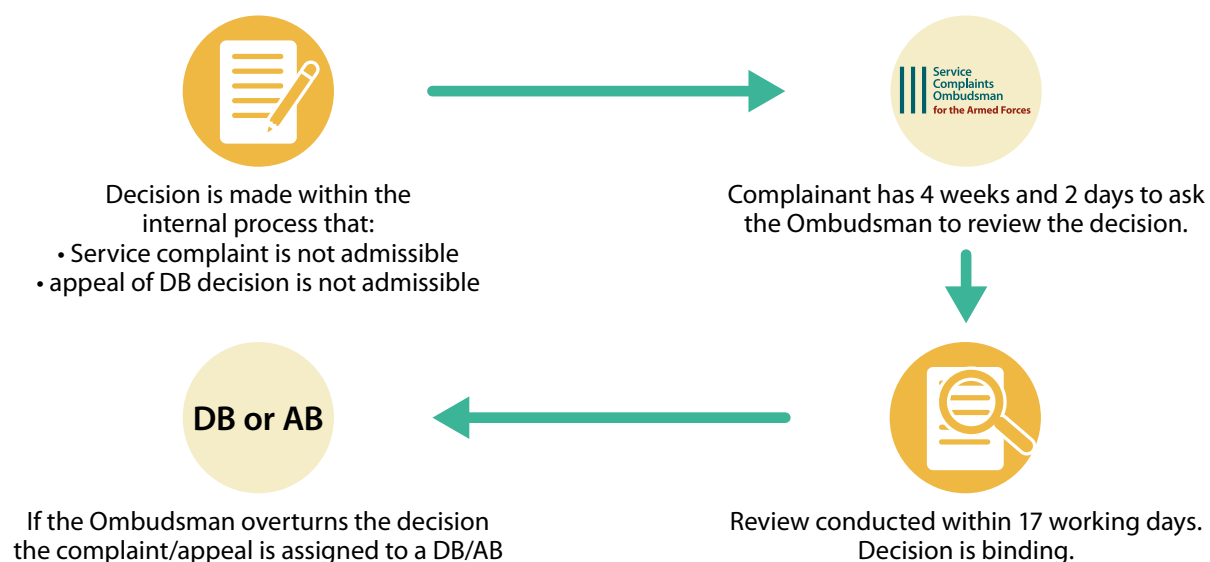
| Investigation type | Total number of applications in 2018 | % of all applications in 2018 |
|----------------------------------|--------------------------------------|-------------------------------|
| Review of admissibility decision | 97 | 28 |
| Undue delay | 89 | 26 |
| Substance (merits) | 74 | 21 |
| Maladministration | 86 | 25 |

All investigations are conducted by a member of the Investigations Team under delegated authority from the Ombudsman.

Review of admissibility decisions

An admissibility decision is a decision made within the internal process about whether a Service complaint can be accepted for investigation or an initial decision on a complaint can proceed to appeal.

Individuals have four weeks and two days from the date the admissibility decision is emailed or posted to make an application to the Ombudsman asking for a review.



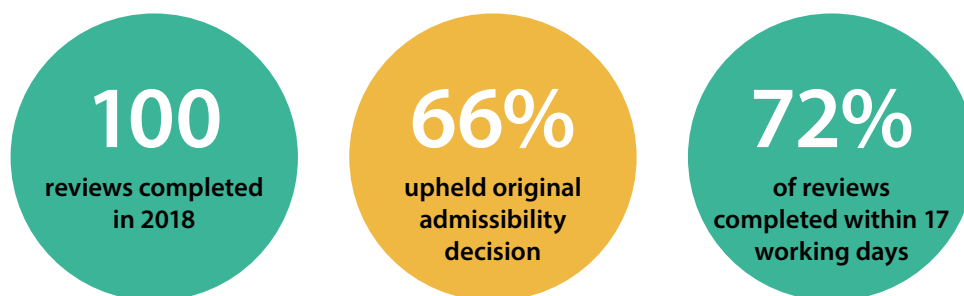


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In 2018:

- 100 admissibility reviews were completed
- 34% were upheld in favour of the complainant
- 66% were upheld in favour of the Service
- 72% were completed within 17 working days.

Although the timeliness fell short of the target to complete 90% of reviews within 17 working days, 72% was a significant improvement on 2017 where only 42% of admissibility reviews were completed within the time target.



Delay in making initial admissibility decisions

A significant issue across admissibility reviews in 2018 has been that of delay in the SO reaching a decision about whether a complaint is admissible in the first instance.

Under the internal Service complaints process, SOs are expected to reach an admissibility decision within 2 weeks of receiving the written complaint. From the cases the Ombudsman has reviewed in-year, the time taken to reach an admissibility decision has ranged from 2 weeks to 86 weeks.

When an investigator conducts a review of an admissibility decision, the time the SO has taken to make the decision is not a factor in determining whether that decision was correct or not. It is nonetheless an issue that is noted by investigators and something that is often considered when investigating undue delay.

JSP 831 states that *“The SO will make a decision as to whether [a] complaint is admissible normally within 2 weeks”*. This explicit reference rightly gives rise to a reasonable expectation that the majority of admissibility decisions will be made within that timeframe and that there will be acceptable reasons to explain those that are not.

The reasons for delays in making admissibility decisions are not always apparent in the cases reviewed by the Ombudsman. Where they are, they are varied and have included difficulties in identifying an SO, delays in scheduling the initial interview, delays in receiving legal advice and requests to have a complainant rewrite their complaint on multiple occasions.

Difficulty identifying SO

A submitted a written statement of complaint and the appropriate SO was identified and appointed 13 days later. The SO conducted an initial interview with the complainant 6 days after they were appointed. They then sought legal advice, which was provided 20 days later. The admissibility decision letter was sent 2 days after the legal advice was provided, almost 6 weeks after the written complaint was received. The specific issue of delay in making the admissibility decision was not considered by the Ombudsman so no finding was made as to whether this was reasonable delay.

No apparent cause for delay

B submitted a written statement of complaint and received an admissibility decision 9.5 weeks later. When investigating delay in the handling of the complaint, the Ombudsman looked at the time taken to make the admissibility decision. It was found that in the 9.5 weeks that elapsed between the submission of the complaint and the admissibility decision, no action appeared to have been taken. As a result, the delay was determined to be excessive.

Rewriting complaints

C submitted a written statement of complaint to their chain of command. Following an initial interview with the SO, C was asked to make changes to the written submission. Two further requests to amend the written submission were made. The final written submission was provided 13.5 weeks after the initial complaint was made. Rewrites included requests to add timelines and other information that did not need to be added in writing. The admissibility decision was made 5.5 weeks later, 19 weeks after the initial complaint. The specific issue of delay in making the admissibility decision was not considered by the Ombudsman so no formal finding was made as to whether this was a reasonable delay. However, based on all the facts the Ombudsman believes it was excessive.

Legal advice

D submitted a written statement of complaint and had an initial interview with the SO 3 weeks later. Legal advice was sought and the admissibility decision was issued 8 weeks after the initial interview. The total time taken from submission to admissibility decision was 11 weeks. Although it was clear that action was taken to progress the matter, the delay was found to be excessive against the 2-week target. One of the causes of delay was making arrangements to have the initial interview. A face-to-face meeting is the gold standard for initial interviews and is the preferred mode of interview. However, once it became apparent that such an interview could not be organised in a reasonable period of time, arrangements should have been made for an initial interview to take place by other means. This would have prevented the initial delay, which was then compounded by the 8 weeks for legal advice which was excessive.

Delay is unacceptable at any stage of the complaints process, including the initial stages where admissibility is determined. While recognising that there will be times where the timeframe cannot be met, the majority of decisions should be made in time. Those that are delayed should not be excessively delayed.

Recommendation 3.6

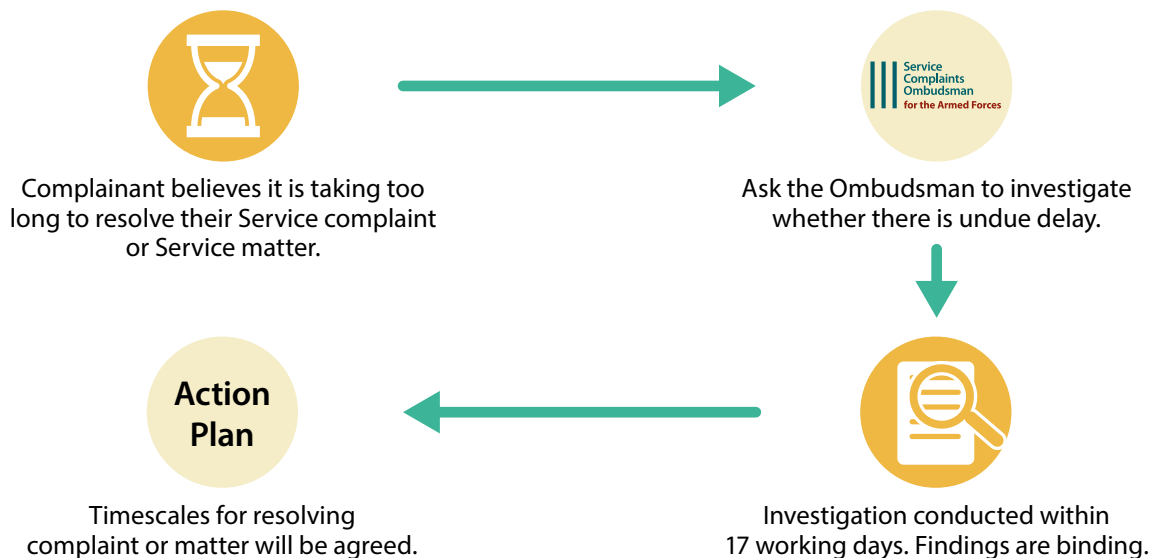
That by the end of October 2019, the Ministry of Defence sets a suitable KPI for making admissibility decisions within the existing 2-week target. This KPI should be determined following further work to ascertain why this target is routinely missed. Performance against this target will be measured and reported to the Ombudsman annually.

Undue delay

The Ombudsman has the power to investigate undue delay in a Service complaint or Service matter¹⁴.

Complaints do not have to exceed an allocated timeframe in order for undue delay to be found. Likewise, just because a complaint has exceeded the allocated timeframe does not mean there has been undue delay. Undue delay will be found to have occurred where it has taken longer than it should have to resolve a complaint and there are no acceptable reasons for the delay.

Applications for undue delay can be made at any time during the course of an investigation. Once an investigation into undue delay has been concluded, further applications can be made and investigated if the issue persists.



In 2018:

- 66 investigations into undue delay were completed
- 61% found undue delay
- 78% were completed within 17 working days.

Although the timeliness fell short of the target to complete 90% of investigations within 17 working days, 78% was a significant improvement on 2017 where only 41% of undue delay investigations were completed within the target time.

¹⁴ A Service matter is defined by the legislation as being a matter about which a Service complaint could be made, including concerning matters that would not be accepted as eligible Service complaints because they are out of time: S340H(3) *Armed Forces Act 2006*, as amended by *The Armed Forces (Service Complaints and Financial Assistance) Act 2015*, c.19.

The rate of investigations finding undue delay has fallen from 79% in 2017 to 61% in 2018. However, the Ombudsman considers that this is still too high.



Delay due to reasonable adjustment

Throughout 2018, the Ombudsman has been asked to look at a number of cases where delay in the handling of a Service complaint or matter has been as the result of reasonable adjustment. As discussed in **Chapter 1**, the ability to put a complaint on hold while a complainant is unwell and unable to engage in the process is an important part of the system's flexibility.

However, that does not mean it is without adverse impact. While putting a complaint on hold in these circumstances meets the needs of the complainant, it has the opposite effect on the respondent.

The respondent is unable to ask the Ombudsman to investigate delay as an application for investigation can only be made by the individual who submitted the complaint. The only option open to them is to make a Service complaint of their own. However, if the respondent has already left the Service and the delay has occurred after this time, they are unable to make a Service complaint as the wrong did not occur during their Service life.

While the Ombudsman is not suggesting that reasonable adjustment should not be made in such cases, she does caution that a balance needs to be struck. The Ombudsman also reminds the Services that in such instances:

- complaints should continue to be progressed as far as is fair and reasonable to do so
- the situation should be reviewed on a regular basis in accordance with any management plan that may be in place to address the complainant's needs
- regular contact should be maintained with the respondent(s)
- the needs of the respondent(s) should be determined and the appropriate support provided

This issue further underscores the Ombudsman's previous recommendation that respondents should be able to make applications for an investigation of undue delay. The **scope of the Ombudsman's powers** is discussed later in this chapter.

Delay in dealing with reservists' complaints

In 2018, the Ombudsman has dealt with a number of cases where delay has been present in the handling of complaints made by reservists. This has generally been due to the complaint being assigned to an SO who is also a reservist. While the Ombudsman appreciates that decisions regarding who to allocate the complaint to are made in accordance with the legislated processes, proper consideration needs to be given to the practical impact of this.

The legislation states that *"the Specified Officer is the complainant's commanding officer unless the complainant has ceased to be subject to Service law."*¹⁵ Further exceptions are made where the CO is implicated in the complaint itself. While there is nothing in the legislation to prohibit assigning another SO, there is also nothing that explicitly states that a more flexible approach can be taken if required – including to account for capacity.

¹⁵ Regulation 3 *The Armed Forces (Service Complaints) Regulations 2015* (S.I 2015/1955)

Asked the Ombudsman to investigate undue delay in the handling of their Service complaint because they were still waiting for an admissibility decision three months after submitting a written statement of complaint. The assigned SO was their Commanding Officer (CO), who was a reservist. While the SO was making reasonable efforts to progress the complaint, their reservist status meant that they had limited time in which to deal with the complaint in addition to their other duties as CO. Even taking this into consideration, the Ombudsman found that undue delay had occurred. The Ombudsman also found that despite the SO being assigned in accordance with the legislation, in this instance it was unreasonable to expect the SO to handle multiple Service complaints given their other duties and commitments outside of the Reserve posting.

This application of the law as written in these instances has the opposite effect of what the reforms to the system are seeking to achieve: they cause delay rather than reducing it.

Recommendation 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.

Flexibility has been introduced in other areas of the Service complaints process in order to avoid delay. Of particular note is the establishment of quasi-permanent Decision Bodies (DBs) to ensure that the progression of complaints is not stalled as a result of capacity issues.

The Army Personnel Centre (APC) in Glasgow has a permanent DB which deals with complaints full-time – specifically one in four of complaints in the Army. The RAF also has two members of their Volunteer Ex-Regular Reserve (VeRR) DB cadre who have no other employment and are therefore able to deal with a greater proportion of Service complaints. In both instances benefits have been reported, including fewer delays in handling complaints and the development of specialist knowledge and skills that can be fed back into the Service complaints system overall through training and policy development.

Recommendation 3.8

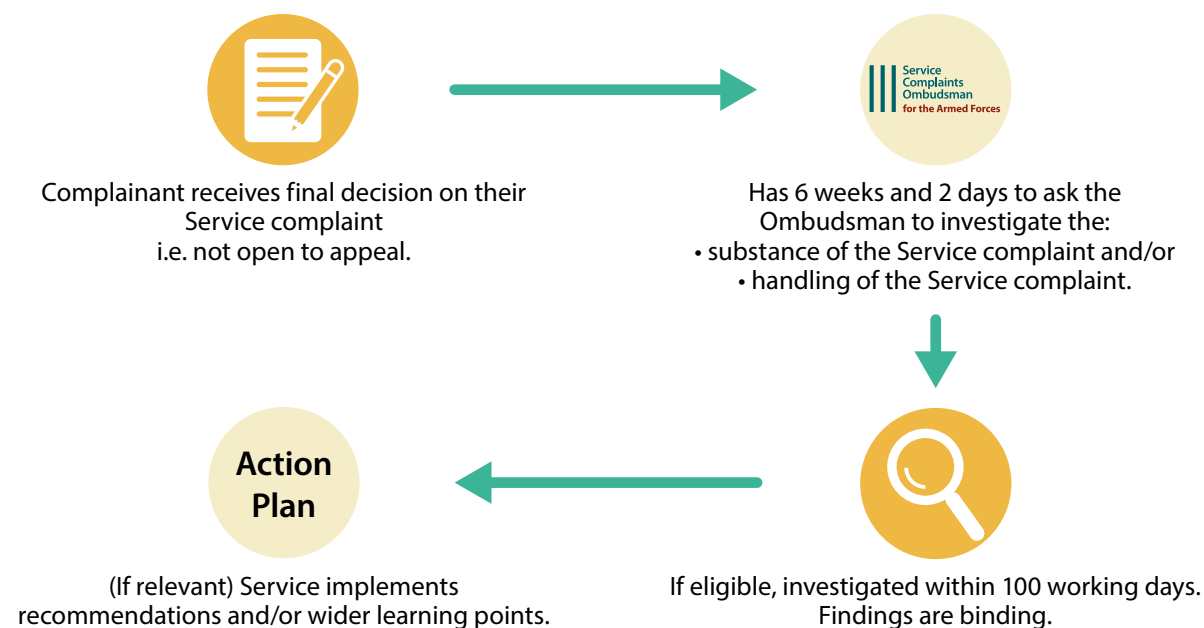
That by the end of April 2020 the single Services establish a pool of permanent Specified Officers and Decisions Bodies with full-time responsibility for making admissibility decisions and deciding complaints where capacity issues prevent Commanding Officers from dealing with complaints expeditiously.

Substance (merits) and Maladministration

Once a final decision on a Service complaint has been made as part of the internal Service complaints process, individuals can ask the Ombudsman to investigate:

- the substance (merits) of the complaint if they think an incorrect decision was reached
- alleged maladministration in the handling of the complaint if they believe it was handled incorrectly

Individuals have six weeks and two days from the date the final decision is emailed or posted to make an application to the Ombudsman.



In 2018:

| Substance (merits) | Maladministration |
|--|--|
| <ul style="list-style-type: none"> • 15 investigations were completed | <ul style="list-style-type: none"> • 17 investigations were completed |
| <ul style="list-style-type: none"> • 73% upheld the decision reached by the Service | <ul style="list-style-type: none"> • 71% found maladministration |
| <ul style="list-style-type: none"> • < 5% of investigations were completed within 100 days | <ul style="list-style-type: none"> • < 5% of investigations were completed within 100 days |

Given the **change in processes** introduced in early 2018, it is not possible to make a direct comparison between the number of cases handled in 2017 and 2018.

The timeliness for both substance and maladministration investigations fell short of the target to complete 90% of investigations within 100 working days. This time target starts once a case is allocated to an investigator. Prior to February 2018, cases were allocated to investigators within 10 working days of receipt. This occurred even when, due to staff shortages, investigators did not have the capacity to actively progress the large number of complaints they were allocated.

In order to be more transparent and better manage complainant expectation, this practice was stopped. This has resulted in investigators having more manageable caseloads in which they can actively work on all cases assigned to them. However, it has also created an allocation **backlog** for all eligible applications for substance and maladministration investigations.

While all steps are being taken to address the backlog, this process change should have a positive impact on the ability of investigators to complete investigations within 100 working days. This is because those cases investigated in 2018, were allocated in 2017. As such, the time taken to resolve them will include a substantial amount of “dead time” i.e. time where the case had been allocated to an investigator but could not be progressed due to capacity issues. The positive impact of this change should, therefore, be demonstrable across 2019 and 2020.

Complexity and delay in substance and maladministration investigations

The time taken to investigate substance and maladministration cases is quite substantial given the complexity of the matters dealt with and the volume of material involved.

In 2018, it took an average of 54 weeks¹⁶ to conclude an investigation of this type.

There is no intention at this time to alter the timeframes for these types of investigations. Rather, the intention is to adjust processes, taking into account the factors below, to ensure that they allow for complaints to be resolved within the published time target.

Volume of material

Investigations of this nature are predominately conducted 'on the papers'. This means that the Service complaints case file needs to be reviewed, in addition to any additional documentation supplied.

The volume of material in the case file can run anywhere from 400 to 8,000 pages. Each document within the file needs to be thoroughly checked by the investigator to ensure that it is not a duplicate and each examined as part of the investigation as a whole. Further documentation is often provided by complainants at the beginning of the process and in response to the disclosure of the preliminary report. Each document provided is thoroughly examined and considered.

Pre-2016 complaints are even more complex as they have a greater volume of material arising from the three-stage complaints process.

In addition, investigators may be required to listen to recordings of oral hearings or interviews. This is particularly the case where there is a discrepancy between how something reads in the transcript and the tone of voice in which something was said or asked. Oral hearings can often run more than one day, requiring investigators to listen to the entire proceedings.

These activities take time; often far more than anticipated.

Complexity

Cases can be complex to investigate for a number of reasons.

Firstly, one complaint does not mean that there is one issue to investigate. This is particularly true of substance and maladministration cases. A single substance or maladministration case dealt with by our office could include several different Service complaints made by one individual that were joined together. This is often one or two complaints, but can often be up to a dozen or so. In addition, each complaint can constitute multiple heads of complaint. The more complaints and heads of complaint there are, the more complex the investigation is likely to be.

Secondly, in order to be able to investigate a complaint, SCOAF investigators must be able to ascertain what a complainant wants and what they are alleging has occurred. Given the complexity of some of the cases, this can take time in itself to establish.

Finally, in-depth independent research may be required into a particular subject in order for our investigators to correctly make an impartial assessment of the allegations made or of information provided to them during the course of an investigation.

Delay in handling complaints

Delay in handling complaints can happen for a number of reasons:

- Complainants need additional time to provide further information or to respond to disclosure.
- Services need additional time to locate and provide contact details for the respondent(s).
- Connected cases with significant overlap need to be reviewed before the report for either case can be issued.

¹⁶ Due to the changes made in 2018 to how substance (merits) and maladministration cases are allocated and investigated, data from 2018 around the time taken to allocate cases and conclude investigations is not comparable to data from 2017.

The initial case reviews we previously carried out also added to the significant delay in the handling of these cases. As discussed below, this is a key reason that they have now been abolished.

Change in process for 2018

The process for investigating substance and maladministration cases was changed in the first quarter of 2018.

Prior to the changes, an initial case review was undertaken for all eligible applications. These reviews were designed to:

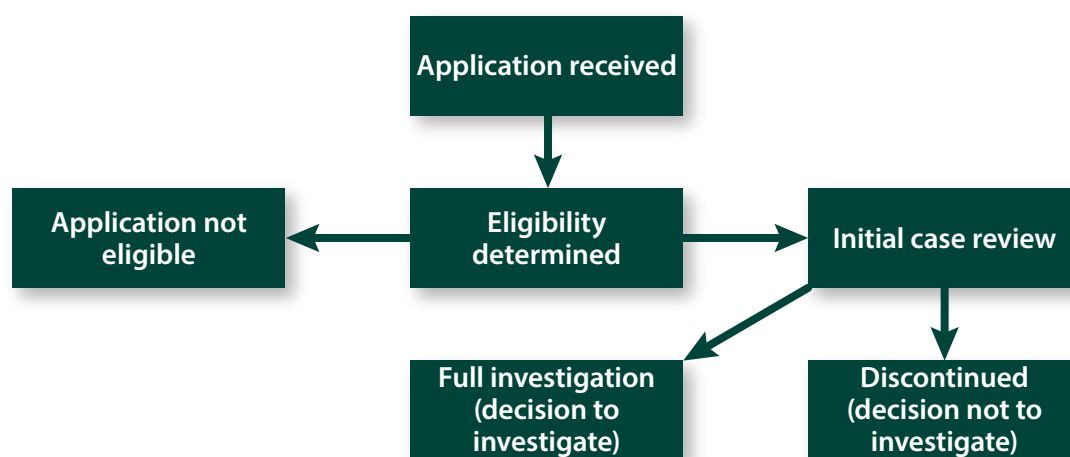
- deliver early resolution for cases where it was apparent that a full investigation by the Ombudsman would not deliver a materially different outcome or find maladministration that had not already been redressed within the internal system.
- define the scope of the investigation for those cases taken forward for a full investigation.

Initial case reviews were, in practice, thorough investigations and took considerable resource. Each review took between 4 and 25 working days to complete¹⁷. At the conclusion of the review, a decision was made as to whether further investigation was required. A decision letter was then prepared that outlined the investigation that had been undertaken, the decision reached and reasons for this, and the scope of any further investigation to be conducted. The decision would also include recommendations and wider learning points as appropriate.

The decision letters were titled 'decision to investigate' or 'decision not to investigate' according to the outcome of the initial case review. This gave the misleading impression to those individuals whose cases were not taken further that no investigation had taken place. In fact, a proportional investigation had taken place.

Furthermore, this stage added duplication to those cases where additional investigation was required as two decision letters needed to be prepared for the same case.

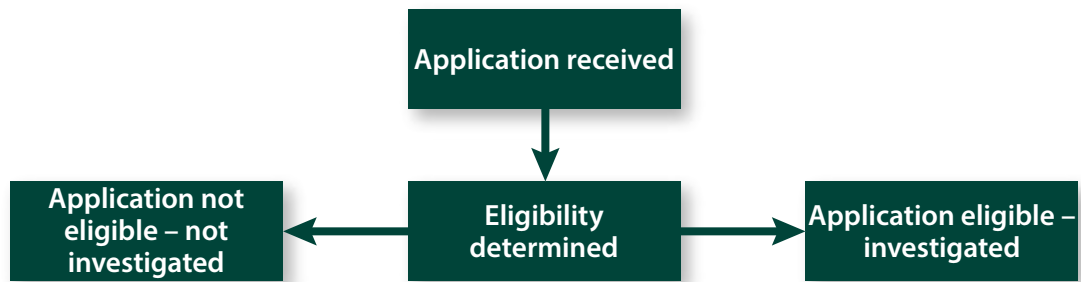
Pre-2018 investigation process



In order to streamline the process, reduce delay and limit duplication, the initial case review was removed. Now, all eligible applications proceed to the same investigation stage. The scope of the investigation is determined based on the issues arising in the individual case.

¹⁷ This assumes it was the only task an investigator was working on for the duration of each working day. Therefore, it took between 30-184 hours to complete an initial case review.

Revised investigation process



Backlog

As of 31 December 2018, there were 143 eligible applications for substance and maladministration investigations waiting to be allocated to an investigator. 8 of those applications were made in 2017.

The full range of factors contributing to this backlog is still being identified. However, staffing is a key factor.

The Ombudsman's Investigations Team has not been fully staffed since the office opened in 2016. Consistent efforts have been made to recruit sufficient staff with the requisite experience and skills. However, as this is done in line with Civil Service recruitment processes there can often be delays.

In addition, the staffing level needed to investigate the applications received far outweighs the levels that were originally identified prior to the office first opening. Not only is the volume of applications higher than originally anticipated, but the resource required to conduct a substance or maladministration investigation is also greater.

Starting at the beginning of 2017 and continuing throughout 2018, steps have been taken to try and address the backlog, including:

- restructuring the office in order to provide greater support and resilience to the operational arm
- continuing recruitment efforts to bring the Investigations Team to full complement
- requesting additional temporary resource for the Investigations Team
- the introduction of a cadre of Fee Earning Investigation Officers to assist with the backlog and act as a flexible resource once the office returns to a steady state
- internal review of processes to remove duplication

Further steps are planned for 2019, including:

- an independent process review to determine whether further efficiencies can be introduced
- a potential expert peer review by another ombudsman institution

It is clear that the current staffing structure and processes are insufficient to manage the volume of applications received and deemed eligible. This is evidenced by the fact that investigators were only able to complete 32 substance and maladministration investigations in 2018 – all of which were cases that came to the office in 2016 or 2017.

This backlog is having a negative impact on complainants' wellbeing and also appears to be discouraging people from seeking the independent oversight of the Ombudsman.

"The delay from when the [application] is lodged can be physiologically straining."

"Due to the extra time taken to conclude the investigation into my complaint, there are individuals in the Army [who] blatantly isolate me and many other victims."

"After my complaint had been submitted it was still in a queue to be allocated to an investigator after 6 months. Considering my initial Service complaint had taken over 4 years to be concluded this further delay frustrated and annoyed me to the point I withdrew my complaint....as I had no confidence in the Ombudsman at this point."

The backlog is a situation that the Ombudsman is concerned about and all possible action is being taken to resolve it. The Ombudsman recognises that her office was established to provide independent and impartial oversight of the Service complaints system in an effort to help build a better system and increase confidence. While there is a backlog, this cannot be properly achieved.

The Ombudsman commends her Investigations Team for the ongoing dedication and commitment they have shown throughout 2018. In spite of the backlogs, they have worked tirelessly to continue delivering thorough investigations of the highest standard.

Scope of the Ombudsman's powers

At the end of the third year of operation, it is evident that the Ombudsman's powers are not of sufficient scope to effect the necessary change across parts of the Service complaints system.

Respondents

As discussed in Annual Report 2017, the Ombudsman is concerned about the disparity between complainants and respondents in the complaints process where a complaint is subject to delay. This is especially true where the respondent is no longer serving and therefore unable to make their own Service complaint about the delays.

Recommendation 2.8 in that same report concerned this matter. The Ombudsman recommended:

"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."

Despite previous positive indications that this recommendation would be achievable, the update to the Ombudsman in November 2018 indicated that the MOD are not yet in a position to make a decision on this matter. They have engaged with SCOAF on this recommendation and been advised that the Ombudsman's intention is that any such amendment would only apply to respondents who:

- a. are currently serving, or
- b. were serving at the time they were named as a respondent in the Service complaint

The Ombudsman accepts that any change to her legislative functions will have an impact on the level of resource needed. However, the concerns raised by the disparity are unable to be addressed in any other way under the current system.

Own initiative investigations

Under the current legislation, the Ombudsman can only use her investigative powers when an eligible application is received. The legislation does not provide for own initiative investigations i.e the power to start an investigation without having received a formal application from a specific individual.

While not all ombudsman institutions have own initiative powers, many do and the remit to provide effective oversight operates on a limited basis without it. That is because deeper systemic issues impacting those who are not willing to make a complaint, either due to lack of confidence in the system, or because they are discouraged from doing so, go unchecked. By conducting own initiative investigations, ombudsman institutions help to protect the rights of such vulnerable individuals.

The International Ombudsman Institute (IOI), of which SCOAF is a member, states: “An Ombudsman should be able to undertake investigations on his or her own initiative as they may become aware of possible maladministration where no complaint has been made. Such investigations often consider systemic issues and ensure that the Ombudsman can be effective in tackling poor administration and improving...services”¹⁸.

Given the consistent lack of confidence reported in the Service complaints system year-on-year, in addition to the low level of reporting amongst those who have experienced bullying, harassment and discrimination as discussed in **Chapter 1**, the Ombudsman believes that it is necessary for this function to be given to her role.

Due to the resources such investigations would require, own initiative investigations would only be undertaken where it was in the public interest and linked to an issue that was impacting on vulnerable or disadvantaged Service personnel. The ultimate aim would be to tackle the root cause of a series of similar complaints to prevent a recurrence and help restore confidence in the complaints system.

The Ombudsman would use her own initiative powers to investigate where there is a reasonable suspicion that systemic maladministration is occurring, resulting in injustice, hardship or harm. A reasonable suspicion would be required prior to an investigation being launched. This could be obtained through a number of complaints concerning the same or similar issue being received, a number of enquiries from individuals concerning the same topic being received, or a stakeholder apprising the Ombudsman of a situation concerning a number of their clients.

Following an investigation, the Ombudsman would make a finding and also recommendations. Reports would be published where it was in the public interest to do so.

Own initiative investigations are not only limited to investigating specific complaints. Thematic research and investigations can also fall under this power.

Currently, the Ombudsman can only conduct such research and report on it if she is directed to do so by the Secretary of State for Defence¹⁹. As such, it is not an independent power.

If the Ombudsman did not require this approval, she could undertake thematic research that she would otherwise need to make recommendations about in her annual reports. A clear example of this is Recommendation 1.10 from Annual Report 2016.

Recommendation 1.10 That the Ministry of Defence commissions a study by the end 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.

If the Ombudsman had own initiative powers, this research could have been conducted by her office if she believed that it was suitable to do so. However, the Ombudsman was required to make a recommendation that the MOD commission a study – a recommendation that is yet to be complied with in the spirit in which it was intended.

¹⁸ ‘Developing and Reforming Ombudsman Institutions – An IOI Guide for those undertaking these tasks’, International Ombudsman Institute Best Practice Papers, p6 Issue 1 2017

¹⁹ S340O(2)(c) and S340O(6) *Armed Forces Act 2006*, as amended by the *Armed Forces (Service Complaints and Financial Assistance) Act 2015*, c.19

“Although the Ombudsman is not making a formal recommendation to extend her powers at this stage, SCOAF is in the process of gathering evidence to support the need for this function and to demonstrate how it would work in practice. This is being done with a view to the Ombudsman being given these extended powers under the new legislation.”

A further example of where thematic research could have been undertaken by the Ombudsman is a review of training provided by the single Services on the topic of Service complaints and the role of the Ombudsman.

In Annual Report 2016, the Ombudsman made a recommendation regarding training following an influx of feedback that training was limited or not fit for purpose. It was requested that SCOAF be invited to contribute to the development of the sections of training that applied to her office.

Recommendation 1.9 That training/education on the Service complaints system, including the role of the [Ombudsman], is provided to all Service personnel, including new recruits and reservists. The [Ombudsman] should be invited to contribute to the development of those portions of the training that concern the role of the Ombudsman to ensure that the independent and impartial message of the office is shared with personnel. The Ministry of Defence should report to the Ombudsman on the progress made by the end December 2017.

In Annual Report 2017, the Ombudsman asked the single Services to provide a list of the training provided on this topic at all levels so that it can be determined where SCOAF could add value. There was no central engagement with SCOAF on this topic until the end of 2018 when the Service Complaints Working Group training committee was established.

If the Ombudsman had powers to conduct this type of thematic research, SCOAF could have undertaken this review and independently determined the scope of the issue and potential action to be taken.

A further example of this concerns recommendations/points of action made in the current Annual Report regarding notifications following referrals and reasons for the withdrawal of a formal Service complaint. While being able to ascertain that there is a gap in data, the Ombudsman is unable to take any positive action herself to determine the scope of the issue and the steps to be taken to resolve this. If the Ombudsman was able to conduct thematic investigations, this work could be conducted in-year and a more robust analysis presented.

When undertaking thematic research, the Ombudsman would seek to make recommendations and also publish her findings.

It is anticipated that own initiative investigations would be secondary to the current functions of the Ombudsman i.e. accepting individual complaints.

Although the Ombudsman is not making a formal recommendation to extend her powers at this stage, SCOAF is in the process of gathering evidence to support the need for this function and to demonstrate how it would work in practice. This is being done with a view to the Ombudsman being given these extended powers under the new legislation.



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Challenges to decisions

The decisions made by the Ombudsman, including those made under delegated authority, in any investigation are final. They can only be challenged by judicial review. Recommendations and wider learning points are not binding.

This information is made available on the website, in decision letters and in response to complaints received about the Ombudsman's decisions.

In 2018, one individual sought to bring a judicial review against a decision made by the Ombudsman. This did not progress past the Pre-Action Protocol (PAP) stage.

Other work by SCOAF in 2018

In addition to the core functions of the Ombudsman, a range of other work was undertaken in 2018.

Mental health

In 2018, the Ombudsman had a significant focus on employee wellbeing and mental health.

The issues dealt with by the Ombudsman's staff are often very sensitive and many complainants are affected by high levels of stress, anxiety or other mental health concerns. With stretch targets and high-volume workloads, it is imperative that all staff are aware of the impact this may have on them and that the necessary support is place.

Work undertaken in-year included:

- education on the topics of stress and wellbeing
- introduction of Mental Health First Aiders
- signing **MIND's** Time to Change pledge



© SCOAF 2018

Digital improvements

The new website was launched in 2018. The new site includes:

- an interactive tool for complainants
- new factsheets
- the Ombudsman's blog
- links to our social media feed
- signposting to other ombudsman institutions and support services

The new website was designed in conjunction with a number of stakeholders, including currently serving personnel at different ranks.

The website has met with positive feedback:

"The website is light years ahead of its predecessor."

"I particularly liked the prompt questions that helped me get to the information I required quickly."

"The blogs are excellent in that they do explain matters that the website does not necessarily detail."

The website will continue to evolve, with plans for an online application portal to be introduced by 2021.



© SCOAF 2018

Outreach and education

In 2018, the Ombudsman continued to engage in outreach and education across the Services at home and abroad.

This is an essential part of the Ombudsman's work and gives her the chance to meet a range of personnel from all ranks and discuss the issues that are important to them.

Stakeholder symposium

In 2018, the Ombudsman held the inaugural stakeholder symposium. Set to be an annual event, the symposium aims to bring all key stakeholders together for a half-day session at which the work of the office is presented and key issues are discussed. It is a way for the Ombudsman to proactively engage with a number of stakeholders at once, and to discuss the issues that matter to them. It is also an invaluable networking opportunity for the office as a whole.

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

Customer feedback and lessons learned

Once an application to the Ombudsman has been closed, the individual is asked to provide feedback on the service they received. This is done through an electronic survey that is emailed out by a member of staff not involved in the handling of the application.

In 2018, 57% of complainants were satisfied with the service they receive from SCOAF. This was consistent with user satisfaction in 2017, but a fall from the 75% reported in 2016.

The highest levels of reported dissatisfaction related to:

- objectivity and fairness (45%, a 15% increase from 2017)
- explanation of process (37%)
- time taken (32%)

| You said..... | We did..... |
|---|--|
| "Put on the website a page about what you can and can't help with." | A new website was launched in 2018. This included a self-help tool to guide individuals through the role of the Ombudsman and explain what the Ombudsman can and cannot do. New graphics will be designed for the website in 2019 that clearly illustrate this. |
| "Have a wider scope and not use methods to avoid dealing with the complaint." | The Ombudsman is looking at the current scope of her powers and how these could be expanded in order to provide effective oversight and meet the needs of complainants. The Ombudsman is unable to enact any changes to her powers herself, but will ensure all steps are taken to raise her views and concerns ahead of the next legislative change. |
| "The referral form was poorly formatted" | All application forms were revised and reissued in 2018. Plans to add an online application portal are also being explored, with a view to finalising this by 2021 at the latest. |
| "Give some training and advertise the service" | The Ombudsman had meetings with key individuals in 2018 to broaden the reach of the Ombudsman's message in training courses. This work will continue in 2019 in conjunction with the Service Complaints Working Group training committee. A new print campaign was launched in 2018 to increase awareness of SCOAF and new adverts were run on BFBS radio. |

Praise for SCOAF

"Once the case reached the [Ombudsman], I finally had my faith in the system restored with their input of non-biased, non-judgmental objective examination of the complaints. It seemed like the first time I was speaking to someone trained and competent in the process, with excellent advice on how to proceed and which elements of [my complaint] would be investigated."

"The timely response, detailed information and overall service...were quite simply outstanding."

"I am very satisfied with the service I have received. Even though there was a backlog of work they have acknowledged my complaint paperwork in a timely manner."

"The decision was clearly looked at in detail and explained in a way that I was able to understand."

"Prior to reading your report, I received an emailinforming me that a review of the decision to stay my SC will be conducted. I strongly believe that this would not have otherwise occurred without your intervention."

"Your speed of acknowledgement and response is very encouraging after the endless delays I have experienced up until now."

"The outcome of your investigation is not what I was expecting having lost faith in the system due to the previous investigations and oral hearing, with evidence being ignored or just disregarded. It is a breath of fresh air to finally see in black and white that I have been wronged."

"This has been a long 8 years of stress, feeling of betrayal, a lack of self-worth and detrimental effect to my health. Again, I would like to thank you for your time, effort and dedication into this investigation."

"...I'm really grateful for your empathy. This process has gone on for some time; you are kind to have thought of me in writing your email."

"I am disappointed with the result...[but] I understand and respect that you can only draft a report based upon the paperwork in front of you...I thank you for your considerable efforts."

"I would like to thank you, once again, for your thorough and unbiased investigation...it has taken almost 8 long years to get to where we are today and without your patience and diligence, I feel that I would not have arrived at the junction I find myself now."

"Thank you very much for resolving this matter for me, and I greatly appreciate your very informative, unbiased and subjective comments, and fully understand and accept all your recommendations and findings unreservedly."

"Thank you for your time and the professional manner in which you have dealt with my case throughout."

"It has been a tremendous relief to find that someone has at least understood the anger and frustrations of the last 12 years...we thank you unreservedly for your diligence and patience."

"It is a relief to know that your office understands the sense of frustration one feels if they believe that their complaint/concerns are not being taken seriously."



Chapter 3 – The work of the Service complaints system

This chapter provides an overview of Service complaints in 2018 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**. Guidance on the Service complaints statistics process and key terms used can be found in the 'Background Report – SCOAF Annual Report 2018' which can be found on the SCOAF website www.scoaf.org.uk

Breakdown of Service complaints received

Volume

In 2018, 1,185 complaints were processed by the Services under the formal complaint process.

As in previous years, the largest number of complaints were received by the Army (612), followed by the Naval Service (329) and the RAF (244). The level of Service complaints made is about proportionate to personnel strength in the individual Services and in the Armed Forces as a whole.

763 of the complaints were deemed admissible. A further 152 complaints were pending an admissibility decision as of 31 December 2018. 137 complaints were withdrawn or resolved before an admissibility decision was made.

Including complaints submitted before 2018, the single Services worked on 1,435 admissible Service complaints in 2018. Including those complaints that were ruled inadmissible or were withdrawn or resolved before an admissibility decision was made, a total of 1,856 Service complaints were actively worked on in-year²⁰.

Subject of complaint

Of the 763 admissible Service complaints in 2018, the top three areas complained about were:

- career management (33%)
- bullying, harassment and discrimination (25%)
- pay, pensions and allowances (15%)

In previous years, Terms and Conditions of Service (TACOS) was included as a subject of complaint and was always the largest area of complaint (42% in 2016 and 41% in 2017). However, in order to provide more in-depth analysis, this umbrella topic has been broken down into individual subject areas:

- discipline (2%)
- career management (33%)
- manning and discharge (6%)
- other – accommodation, medals, training, welfare (5%)

²⁰ All data in the rest of this chapter refers to admissible Service complaints.



Image courtesy of Defence Imagery under the OGL

25% of admissible Service complaints in 2018 concerned bullying, harassment and discrimination. This was broadly similar to previous years (26% in 2016 and 24% in 2017).

Diversity

For the third consecutive year, female and BAME personnel are overrepresented in the Service complaints system.

While making up only 11% of the total strength of the Armed Forces, female personnel made 23% of the admissible Service complaints in 2018 – a 3% increase on 2017. In addition, 43% of complaints made by female personnel concerned bullying, harassment or discrimination, while this only accounted for 20% of complaints made by male personnel.

| | Female personnel % of Service strength | Female personnel % of Service complaints | Female personnel % of Service complaints about BHD | Male personnel % of Service complaints about BHD |
|------|--|--|---|---|
| 2016 | 11% | 21% | 43% | 21% |
| 2017 | 11% | 20% | 44% | 19% |
| 2018 | 11% | 23% | 43% | 20% |



Image courtesy of Defence Imagery under the OGL

BAME personnel make up only 7% of the total strength of the Armed Forces, however they made 13% of the admissible Service complaints in 2018. In addition, 39% of complaints made by BAME personnel concerned bullying, harassment or discrimination, while this only accounted for 24% of complaints made by white personnel. However, the Ombudsman notes that this is a significant drop from 2017, where 57% of complaints made by BAME personnel concerned bullying, harassment or discrimination.

| | BAME personnel % of Service strength | BAME personnel % of Service complaints | BAME personnel % of Service complaints about BHD | White personnel % of Service complaints about BHD |
|------|--|--|---|--|
| 2016 | 7% | 10% | 61% | 22% |
| 2017 | 7% | 10% | 57% | 21% |
| 2018 | 7% | 13% | 39% | 24% |

While the numbers of personnel who make Service complaints are exceptionally small in comparison to total Service strength, and therefore the number of women and BAME personnel within those figures, are small, there is still overrepresentation.

The Ombudsman has sought to understand this issue over the last three years and in Annual Report 2016 made a recommendation that the MOD commissions a study to determine the root causes of this overrepresentation and to take action to remedy this.

Recommendation 1.10 That the Ministry of Defence commissions a study by the end 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.



Image courtesy of Defence Imagery under the OGL

As per the update given in **Chapter 4**, the single Services have completed internal reviews on this issue and the MOD is currently considering the Ombudsman's recommendation of an independent study. The Ombudsman has not been sighted on a comprehensive report of the reviews undertaken by the individual Services and is therefore unable to determine if this is an issue that requires further review.

Timeliness of complaint handling

In 2018, 50% of all Service complaints were resolved within 24-weeks, down slightly from 2017. The Naval Service was the best performing Service in this regard (68%), followed by the RAF (65%) and the Army (40%), but all Services fell below the target to resolve 90% of Service complaints within 24-weeks.

At the end of 2018, 232 Service complaints submitted prior to 2018 were still pending a decision. 122 of those complaints were at the initial complaint stage and 110 at appeal stage. 9 of these complaints were made prior to 2016.

Despite this, there have been some improvements in the timeliness of complaint handling in 2018.

The number of complaints that remain open past 24-weeks has continued to fall. 426 complaints were still open past 24-weeks in 2018, down from 462 in 2016.

There have also been improvements in the average time taken to reach a decision in a Service complaint. In 2018, the average time tri-Service was 32 weeks. This was down from 38 weeks in 2017. In addition, there was a significant drop in the average time taken to reach a decision at the appeal stage – 89 weeks in 2018, down from 107 weeks in 2017.

While the Ombudsman still believes that the time taken to resolve complaints is excessive, she welcomes these improvements as an indicator that further substantial improvements can be made to the timeliness of complaint handling by the Services.



Image courtesy of Defence Imagery under the OGL

Single Service updates

In addition to providing an update on the Service complaints system as a whole, the Ombudsman also provides a brief annual update of how she believes the single Services have performed in-year. These updates are based on a range of sources, including the cases SCOAF has handled, 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**.

The Ombudsman would like to thank all three Services for their ongoing assistance in providing familiarisation opportunities for her team so that they can learn more about how the individual Services and Secretariats operate.



Image courtesy of Defence Imagery under the OGL

Naval Service

The Naval Service has continued to demonstrate a strong commitment to improving the operation of the Service complaints system, which is evidenced by their significantly improved performance in handling complaints in 2018.

While the Naval Service only resolved 56% of complaints within 24-weeks in 2017, this increased to 68% in 2018. Although falling short of the 90% target, the Ombudsman was particularly impressed by the fact that these improvements were made despite ongoing staff shortages and increased ownership of a greater number of Service complaints within the SC Secretariat.

A key factor that contributed to this increased performance was the use of specific personnel as permanent Decision Bodies for a fixed term period. This has been so successful that the Naval Service plans to add a number of ex-Regular officers as permanent Decision and Appeal Bodies in 2019. As discussed earlier in the report, the Ombudsman believes that such flexibility across the single Services will have a positive impact on the timeliness of complaint decision-making and therefore complaint handling overall and looks forward to seeing how this develops.

The Ombudsman is particularly interested to note that the SC Secretariat has retained full ownership of Service complaints at admissibility stage since the end of 2017. The Ombudsman notes the particular benefits that this approach brings, namely the:

- central provision of legal advice to all SOs ensuring consistency and speed; and,
- ability to determine at an early stage which complaints could be fast-tracked to resolution or that could be investigated quickly.

This has clearly had a strong positive impact on the ability of the Naval Service to meet the time targets in the handling of complaints.

The Ombudsman praises the Naval Service for their continued dedication to improving the Service complaints system in 2018 and looks forward to seeing further positive improvements in 2019.



Image courtesy of Defence Imagery under the OGL

Army

The Army has continued to deliver improvements in their complaint handling performance in 2018, along with championing wider improvements to the system as a whole.

While the Army had the lowest timeliness levels of all three Services, resolving 40% of Service complaints within 24-weeks, this has continued to steadily improve year-on-year since 2016. In that first year of operation of the new system, the Army resolved only 25% of complaints within 24-weeks, rising to 37% in 2017. Although the Ombudsman would like to see improvement at a greater rate, this upward trend continues to demonstrate that positive improvements can be made to the time taken to resolve complaints.

It is also noted that considerable work was undertaken to reduce the number of pre-2016 Service complaints. At the end of 2017, 40 of the 47 open pre-2016 Service complaints were owned by the Army. At the end of 2018, only 9 such complaints remain open – all of which are owned by the Army. The Ombudsman would like to see these remaining complaints resolved, at the very latest, by the end of 2019.

The Ombudsman has been most impressed with the work undertaken by the Army in 2018 to address the culture around Service complaints. As the Ombudsman has noted in successive annual reports, the lack of confidence in the system is a longstanding cultural issue across the Armed Forces. The Army has demonstrated their commitment to driving change by:

- carrying out a review of the structure and processes of the Army SC Secretariat
- directing an assurance review of the Army's Service complaints processes by the Army Inspector
- increasing engagement and communication around Service complaints

Most notably, the Army amended Annex H to AGAI 67 Part 3 to move the act of obstructing a person from making a formal or informal complaint about bullying, harassment or discrimination from the Serious Misconduct to Very Serious Misconduct category of failure. .

The Ombudsman commends the Army for the work they have done throughout 2018 and, while not underestimating the time it can take to bring about cultural change, looks forward to seeing the positive results of these actions.



Image courtesy of Defence Imagery under the OGL

RAF

The RAF has continued to take a leading role in the improvement of the Service complaints process, initiating a number of new strategies in 2018 to that end.

While the RAF's timeliness in complaint handling fell from 75% in 2017 to 65% in 2016, it is noted that the shortage of Fee Earning Harassment Investigation Officers (FEHIOs) has played a part in this and that the RAF is committed to improving these figures in 2019.

The Ombudsman was pleased that her office was invited to two key RAF Service complaints events in 2018 – the Service Complaints Workshop and the Annual Service Complaints Conference. The SCOAF staff attending these events on behalf of the Ombudsman were exceptionally impressed with the whole-of-Service approach taken to sharing learning about Service complaints and the importance with which the topic is regarded. This approach can only serve to generate consistency in the handling of complaints, strong support for the process and drive improvements as it continues.

One of the new initiatives introduced by the RAF in 2018 was the introduction of a Service complaints analytics cell. The RAF already collates and analyses data about the types of Service complaints made and the handling of those complaints. The ultimate aim of the analytics cell is to obtain a better understanding of the root causes of complaints and to address these issues – on both a single and tri-Service level. The Ombudsman looks forward to seeing the learning that comes out of this initiative in 2019 and how it can be used to bring about improvements to the system.

The Ombudsman applauds the RAF for their continued commitment to ensuring the success of the reformed Service complaints system and looks forward to seeing a return to past performance levels in 2019.



Chapter 4 – Progress made on previous Ombudsman recommendations

In her first two annual reports, the Ombudsman made a total of 22 recommendations for improvement to the Service complaints system: 12 in 2016 and a further 10 in 2017. These recommendations are made to address specific issues or concerns that the Ombudsman has noted through her work in-year. The timeframe given for substantial completion is set following consideration of the scope of the recommendation.

The Ombudsman continues to be disappointed at the lack of real progress that has been made against these recommendations in the last two years, with only nine having been substantially completed.

In addition, the Ombudsman is disappointed in the length of time it has taken for the MOD to respond to the recommendations made. In respect of Annual Report 2017, the report was published in April 2018 and a full formal response was only received, from the Minister (Defence Personnel and Veterans) at the end of November.

The Ombudsman raised these same concerns in her 2016 annual report and suggested “that scheduled progress reports are provided at agreed stages throughout the year and that a baseline agreement be reached as to what content should be provided therein.” As this remained an issue for the current reporting period, the Ombudsman has made Recommendation 3.9 in an attempt to formally resolve this issue.

In addition to that recommendation, in future years it is important that there is early engagement on the recommendations made in order to ensure a shared understanding of:

- the scope of the recommendation made
- the key elements of each recommendation
- what evidence is required by the Ombudsman to mark substantial completion
- issues faced by the MOD that may prevent recommendations being implemented in accordance with the timeframes
- what recommendations have not been accepted by the MOD



Recommendation 3.9

That the Ministry of Defence and the Service Complaints Ombudsman for the Armed Forces prepare a written agreement 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 include 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.

Progress report

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 commenced on this recommendation

Recommendation has been rejected by the MOD or the single Services

| Analysis & Research | |
|---|---|
| Recommendation | Progress |
| 1.10 That the Ministry of Defence commissions a study by the end 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>The Ministry of Defence reports that following on from the work undertaken by each of the single Services they are currently considering the Ombudsman's recommendation that an independent study is carried out.</p> <p>The Ombudsman notes the response from the Ministry of Defence that the internal reviews did not wholly support her concerns. However, outside of the minimal information provided in the single Service narratives, no comprehensive report of these reviews has been provided to the Ombudsman. As such, the Ombudsman still considers that an independent review is appropriate.</p> |
| 2.9 That by December 2018, in time for the 2019 survey, a section is added to the Reserves Continuous Attitude Survey that mirrors that in the Armed Forces Continuous Attitude Survey looking at fairness at work, the Service complaints process and knowledge of the Service Complaints Ombudsman. | <p>The Ministry of Defence report that the Reserves Continuous Attitude Survey (ResCAS) 2019 is now open and contains within the 'Fairness within the Service Environment' section, questions that mirror those in Armed Forces Continuous Attitude Survey (AFCAS) that relate to Service complaints and the role of the Service Complaints Ombudsman for the Armed Forces.</p> <p>The Ombudsman thanks the Ministry Of Defence for ensuring this change was made in time for the 2019 survey and looks forward to seeing the resulting data.</p> |

| Ombudsman's office and powers | |
|--|--|
| Recommendation | Progress |
| <p>2.8 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 better understand the scope and intent of the recommendation.</p> <p>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.</p> |

| Policy and guidance | |
|--|--|
| Recommendation | Progress |
| <p>1.1 All three Services should develop/review detailed guidance for Specified Officers on how to make an admissibility decision by end of June 2017. This guidance should include a model decision letter and standard wording that correctly communicates: a) the complainant's statutory right to appeal to the Ombudsman and b) the complainant's right to seek a judicial review of the Services' decision, and the correct timelines to do so for each. A common approach across the Services should be adopted where practical.</p> | <p>The Ministry of Defence reports that standard wording to communicate the complainant's statutory right to appeal to the Ombudsman and to seek judicial review of the relevant Service's decision has been agreed across the Services. While reporting in 2017 that a standardised letter was to be developed, following further consideration it has been determined that a model decision letter would not provide an improvement on the flexibility that a bespoke decision letter offers when explaining their decision to the complainant.</p> <p>The Ombudsman thanks the Ministry of Defence and the single Services for their work in agreeing on standard wording. Given the vast improvement in the quality of decision letters produced by Specified Officers in 2018, the Ombudsman agrees that the guidance that has been put in place is sufficient and a model decision letter is not required at this time.</p> |
| <p>1.2 That all Service complaints policy, including JSP 831 and 763, whether owned by the Ministry of Defence or the individual Services, is reviewed by the end of 2017 to ensure that more detail is provided about the role of respondents in the process and when/how Specified Officers, Decision Bodies etc. should be communicating with respondents throughout the life of the Service complaint and their duties/responsibilities towards them.</p> | <p>As outlined in Annual Report 2017, the single Services have each undertaken significant work in this area.</p> <p>The Ombudsman has no concerns about how this recommendation is progressing and notes that the only outstanding action point relates to the review of JSPs 763 and 831. As these reviews are scheduled to take place in 2019 and the Ministry of Defence has committed to including this information, the Ombudsman is satisfied that this recommendation is substantially complete.</p> |
| <p>1.3 That the individual Services conduct a review of the procedures that underpin the Service complaints process and make recommendations for change to ensure a targeted and effective use of resources in order to minimise delay in the handling of Service complaints. These recommendations should be made by the end of April 2018.</p> | <p>The Ombudsman is satisfied that this is business-as-usual for the Services and that issues are routinely being identified and resolved by the individual Secretariats and the Service Complaints Working Group. This is borne out in the Service narratives that the Ombudsman receives annually.</p> |

| Policy and guidance | | |
|--|--|--|
| Recommendation | Progress | |
| <p>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.</p> | <p>The Ministry of Defence has confirmed that both JSP 763 and JSP 831 will be reviewed in 2019 and that additional resource is now in place to specifically take forward and coordinate a full review of JSP 763. They have committed to ensuring that, as part of these reviews, ‘plain language’ standards will be applied to the documents.</p> <p>The Ombudsman welcomes the news that additional resource has been secured for these reviews and looks forward to seeing the revised JSPs.</p> | |
| <p>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.</p> | | |
| <p>2.2 That by December 2018, JSP 831 is amended to explicitly set down as a required step that upon receipt of:</p> <ul style="list-style-type: none"> • a written statement of complaint (whether or not on an Annex F), or • a referral from the Ombudsman <p>the Specified Officer speaks 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.</p> | <p>The Ministry of Defence reports that they are not aware of this being an issue with complainants. They further report that 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.</p> <p>The Ombudsman appreciates that the existing JSP provides guidance on this topic, but clarifies her original recommendation by explaining that she is seeking the language to be strengthened so that it is clear that this step <i>must</i> occur, rather than should occur, unless there is a legitimate reason for omitting this step.</p> | |
| <p>2.3 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>(Also falls into the training category)</p> | <p>The Ministry of Defence has not accepted this recommendation. They believe 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>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 prior to making a decision to not accept it.</p> | |
| <p>2.5 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>The Ministry of Defence reports that this issue has been added to the list of issues to consider as part of the review of JSP 831 and that they will engage with the Ombudsman’s office on these points.</p> <p>The Ombudsman welcomes the Ministry of Defence’s engagement on these issues.</p> | |

| Policy and guidance | |
|--|---|
| Recommendation | Progress |
| <p>2.10 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> | <p>The Ministry of Defence has confirmed that all three Services now have provisions in place for complaints to be withdrawn and that the Secretariats have processes in place to ensure that the reasons for withdrawal are considered before a complaint is closed.</p> <p>Furthermore, this issue will be considered as part of the review of JSP 831.</p> <p>The Ombudsman welcomes the steps taken by the Services to implement new, or strengthen existing, procedures around the withdrawal of complaints. The Ombudsman 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.</p> |
| Process | |
| Recommendation | Progress |
| <p>1.12 That the Ministry of Defence facilitates a review of the internal processes developed by the single Service secretariats by the end of June 2018 to ensure that they use a common approach where appropriate and that best practice is shared. This includes, but is not limited to, the standardisation of template letters and reports.</p> | <p>The Ombudsman is satisfied that this has become business-as-usual for the Services and that best practice is routinely shared across the individual Secretariats and the Service Complaints Working Group. This is borne out in the Service narratives that the Ombudsman receives annually.</p> |
| <p>2.6 That by October 2018, the method for approval and payment of consolatory sums of £500 or less is standardised across the single Services. The Ombudsman recommends that the Naval Service and RAF follow the lead of the Army and seek delegated authority from Her Majesty's Treasury to make such payments in order to avoid further delays.</p> | <p>All three Services now have delegated authority to make consolatory payments of £500 or less.</p> <p>The Ombudsman thanks the Ministry of Defence and the single Services for moving this issue forward swiftly.</p> |
| Resource | |
| Recommendation | Progress |
| <p>1.4 That the Ministry of Defence reviews the current level of Harassment Investigation Officers (HIOs) and Independent Members (IMs) by end April 2018 to ensure that the Service complaints system is adequately resourced in those areas. As part of this process the Ministry of Defence is invited to carefully consider the diversity of the pool of IMs going forward.</p> | <p>The Ministry of Defence undertook work in 2017 and 2018 to increase the number of FEHIOs and IMs. The Ministry of Defence reports that DBS reviewed and increased the size of the FEHIO cadre from 32 to 97, resulting in the number of investigations awaiting allocation reducing to single figures. The pool of IMs has increased from 4 to 14.</p> <p>The Ombudsman is satisfied that this recommendation is now substantially complete and that there is sufficient resource dedicated to the ongoing monitoring of the level of HIOs and IMs.</p> |

| Training | |
|---|---|
| Recommendation | Progress |
| <p>1.7 That the Ministry of Defence develops or procures specialised training for those complaint handlers and Assisting Officers who are appointed to deal with sensitive matters, including those of a sexual nature and that the single Service secretariats embed a mechanism within their processes to ensure that sensitive complaints are assigned to those individuals who have completed this training. This should be rolled out by the end of June 2018.</p> | <p>In addition to the work outlined in Annual Report 2017, the Ministry of Defence has now established a Service Complaints Working Group training committee. The purpose of this group is to review all training provided on the issue of Service complaints to ensure that it is targeted, meaningful and addresses emerging issues. The Ministry of Defence has reported that the working group will keep this recommendation under review.</p> <p>The Ombudsman welcomes the establishment of a dedicated group to oversee the training offered on Service complaints at all levels. While the Ombudsman notes that there are specific elements of this recommendation yet to be completed, steps have been taken to address this issue. As such, it is considered to be substantially complete, but the wider issue will be monitored by the Ombudsman.</p> |
| <p>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> | <p>Work has not yet commenced on this recommendation. The Ministry of Defence has reported that they do not accept this recommendation at the present time, but that it will be kept under review by the Service Complaints Working Group training committee.</p> <p>The Ombudsman welcomes the establishment of the Service Complaints Working Group training committee. However, she does not agree that a recommendation can be simultaneously not accepted but also kept under review. The Ombudsman encourages the Ministry of Defence to further engage with her office on this issue.</p> |
| <p>1.9 That training/education on the Service complaints system, including the role of the [Ombudsman], is provided to all Service personnel, including new recruits and reservists. The [Ombudsman's office] should be invited to contribute to the development of those portions of the training that concern the role of the Ombudsman to ensure that the independent and impartial message of the office is shared with personnel. The Ministry of Defence should report to the Ombudsman on the progress made by the end December 2017.</p> | <p>As per the Ombudsman's Annual Report 2017, the outstanding elements of this recommendation were:</p> <ul style="list-style-type: none"> the provision of a list of relevant training at all levels to the Ombudsman's office engaging the Ombudsman's office in the development and improvement of training resources. <p>At the end of 2018, a list of training events was provided to SCOAF and the Service Complaints Working Group training committee engaged with the office on potential training enhancements for 2019.</p> <p>The Ombudsman is satisfied that this recommendation has been substantially complied with and that further work will continue in this area between the Service Complaints Working Group training committee and her office. The wider issue of training will continue to be monitored by the Ombudsman.</p> |

| Training | |
|---|---|
| Recommendation | Progress |
| <p>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 discrete training or part of a wider package on Service complaints as referred to in Recommendation 2.7.</p> | <p>Work has not yet commenced on this recommendation. The Ministry of Defence has reported that they do not accept this recommendation at the present time, but that it will be kept under review by the Service Complaints Working Group training committee.</p> <p>The Ombudsman welcomes the establishment of the Service Complaints Working Group training committee. However, she does not agree that a recommendation can be simultaneously not accepted but also kept under review. The Ombudsman encourages the Ministry of Defence to further engage with her office on this issue.</p> |
| <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.</p> | <p>Work has not yet commenced on this recommendation. The Ministry of Defence has reported that they do not accept this recommendation at the present time, but that it will be kept under review by the Service Complaints Working Group training committee</p> <p>The Ombudsman welcomes the establishment of the Service Complaints Working Group training committee. However, she does not agree that a recommendation can be simultaneously not accepted but also kept under review. The Ombudsman encourages the Ministry of Defence to further engage with her office on this issue.</p> |



Appendices

Appendix A – Glossary

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

Annex F

A Service Complaint Form (Annex F to Part 2 of JSP 831) which captures key information about the issues being complained about and the redress that is being sought.

It is the primary method for formalising a complaint, although the legislation only requires that the complaint be in writing. See also **Statement of complaint**.

Appeal Body

One or more individuals (who might include independent members) who have been appointed by a single Service complaints secretariat to consider and to make a determination on an appeal.

Army Service Complaints Secretariat (Army SC Sec)

The Service complaints secretariat for the Army.

Assisting Officer (AO)

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.

Commanding Officer (CO)

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.

Contact

Recorded instance of an enquiry or application being made to SCOAF.

Equality and Diversity Advisor (EDA)

EDAs 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.

Fee Earning Harassment Investigation Officer (FEHIO)

An individual appointed to investigate formal complaints of bullying and harassment and who receives a fee for undertaking that investigation.

Finally determined

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.

Harassment Investigation Officer (HIO)

An individual appointed to investigate formal complaints of bullying and harassment.

Independent Member

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 on appointment to complaints of a specific type.

Informal complaint

Any allegation(s) or issue(s) raised with the relevant Service ahead of a written, signed and dated complaint being submitted.

Informally resolved

Refers to a complaint which is resolved prior to a formal decision being made.

Internal process

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.

Investigating Officer (IO)

An individual appointed by a Decision or Appeal Body to investigate a complaint on its behalf and to report back with findings of fact.

Joint Personnel Administration (JPA)

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.

Maladministration

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.

Although delay can be a form of maladministration, the Ombudsman has separate powers to investigate undue delay while a Service complaint is ongoing.

Naval Service Complaints Secretariat

The Service complaints secretariat for the Naval Service.

Non-Commissioned Officers and Warrant Officers (NCOs and WOs)

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).

Office of the Service Complaints Ombudsman (OSCO)

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. **This term is no longer used as of April 2019.**

Officers

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.

Out of time (OOT)

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.

Pte & Equivalent

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).

Red flag complaint

A complaint which has missed the 24-week target and remains unresolved.

Referral

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.

Service complaint

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.

Service Complaints Ombudsman for the Armed Forces (SCOAF)

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.

Service Complaints Statistics Working Group (SCSWG)

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 MOD. This group is responsible for ensuring integrity of the data that underpins the reporting on Service complaints.

Service Complaints Working Group (SCWG)

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 it is fit for purpose; shares best practice and lessons learnt.

Service Complaints Working Group training committee (SCWG-TC)

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 consider how it is delivered; identify if there are any gaps; and how it might be provided in the future.

Service Complaints Team

The Service complaints secretariat for the RAF.

Special to type (STT)

A category of complaint where there is "another formal system" that must be exhausted prior to a Service complaint being acted upon, e.g. Service medical care, housing complaints, pay and allowances.

Specified Officer (SO)

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.

Statement of complaint

The document in which a Service person must set out the particulars of their Service complaint. The Annex F provides a template for this.

Undue delay

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.

Victimisation










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.

Withdrawn

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 Appendix 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 | 4 weeks and 2 days from the date the admissibility decision is posted or emailed | Application for review of admissibility decision | Annex F Admissibility decision | |
|  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) | 6 weeks and 2 days from the date the final decision is posted or emailed | Application for substance (merits) or maladministration application | Annex F Decision letters from the initial and appeal stage | |
|  Maladministration | 6 weeks and 2 days from the date the final decision is posted or emailed | Application for substance (merits) or maladministration application | Annex F Decision letters from the initial and appeal stage | |
| | Applications can be accepted outside the time limit if the Ombudsman determines it is just and equitable. | Application forms need to be completed in full. This includes a fully completed consent section. | 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 www.scoaf.org.uk . If you can't find the information you are looking for, email contact@scoaf.org.uk or phone 0207 877 3450. |

Appendix C – SCOAF strategic objectives

Strategic Objectives 2016–2020

| Strategic Objective | In 2018 we have..... |
|---|--|
| <p>1. Provide an independent, transparent and accountable Service Complaints Ombudsman for the Armed Forces.</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"> • Exceeded our timeliness KPI for referrals. Our Enquiries and Referrals Team are the frontline of our organisation. In addition to handling all 872 enquiries that were made in 2018, the team made 99% of referrals within seven working days. This is above the 90% target for processing referrals and the third consecutive year the team has exceeded the KPI. • Revised our application forms. Our application forms were redesigned following feedback in 2017 and this process continued in 2018. The design of our forms was tweaked and we also started work on an online application portal. This will make it easier for complainants to complete their application forms. • Changed our email and web addresses. Our old addresses used the full 'Service Complaints Ombudsman' title. This meant that individuals with low literacy levels had difficulty successfully sending an email or finding our website. Both have been shortened to 'SCOAF', which is in line with our branding on social media. • Published Annual Report 2018. This was the second 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. |
| <p>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.</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"> • Streamlined our investigation process. We stopped conducting the initial case review • for substance and maladministration investigations. This removed a layer of duplication which contributed to internal delays and realigned complainant expectations. • Failed to meet our allocated timeframes for investigations. All KPIs are set at a target to complete 90% of investigations within the stated timeframe. In 2018: <ul style="list-style-type: none"> • 72 % of admissibility reviews were completed within 17 days • 78 % of undue delay investigations were completed within 17 days • < 5% of substance (merits) investigations were completed within 100 days • < 5% of maladministration investigations were completed within 100 days |

| Strategic Objective | In 2018 we have..... |
|--|---|
| <p>3. Provide information, education and outreach with the Armed Forces and wider stakeholders to promote the Service complaints system.</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 SCOAF.</p> | <ul style="list-style-type: none"> • Launched our new website. The new website is responsive and includes a self-help tool for individuals looking to find out how the Ombudsman can help them. • Released a new print campaign. This included a simpler tagline to help people better understand the role of our office. Alternate versions of our posters are now available, in different sizes, to meet the needs of all literacy levels. • Ran new ads on BFBS radio. These were both general ads to raise awareness of our office and targeted ads to raise awareness of our new email and web address. This will continue in 2019 and expand to television adverts. • Held our inaugural Stakeholder Symposium. The Ombudsman presented her annual report to all of our non-Service stakeholders and listened to their thoughts and concerns about the process. We will be looking to build upon this in 2019. • Continued to engage with Ombudsman Association (OA) working groups. SCOAF is a full member of the OA. We have representatives from our office participate in each of the OA working groups. One of our Senior Investigators was part of the working group that developed guidelines for member organisations to report on the Service Standards Framework in 2018. |
| <p>4. Be a learning organisation and develop the capabilities (knowledge, skills and behaviours) required to achieve our priorities now and in the future.</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 SCOAF 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"> • Approved funds for Plain Language Training. Funds were approved for all of our staff to receive training in plain language. This will take place in 2019. • Introduced Fee Earning Investigators. An initial cadre of 4 fee earning investigators started in 2018. The fee earners were introduced as a flexible resource to help manage the current backlog and to handle cases post-backlog when permanent investigators are at capacity. • Streamlined our investigation process. We stopped conducting the initial case review for substance and maladministration investigations. This removed a layer of duplication which contributed to internal delays and realigned complainant expectations. |

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.²¹

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. SCOAF has adopted this framework as a full member of the OA and will report against it annually.

| OA Service Standard | Our performance..... |
|---|--|
| Accessibility <ul style="list-style-type: none"> • Members' service should be free to complainants. • Members should ensure that their procedures are customer focused. • Members should work with complainants to understand their needs, in order for complainants to access their service easily. • 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. • 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. | <p>SCOAF is a free and impartial service open to current and former members of the UK Armed Forces.</p> <p>Individuals can make enquiries by phone, email or post and specify when and how they would like to be contacted.</p> <p>Individuals are asked if there are any reasonable adjustments they may need. All efforts are made to meet these requests.</p> <ul style="list-style-type: none"> • An individual who was experiencing mental ill-health and had minimal support contacted the office. They were finding it difficult to complete the application form. A member of our Enquiries and Referrals Team completed the form on their behalf over the phone and then sent it to them to check and sign. • An individual who was already engaged in our processes notified their assigned investigator that they found it difficult to receive bad news. A system was put in place where they were notified in advance if correspondence was pending that was likely to upset them. The individual would then arrange to have a support person with them when it came through. |

²¹ Objectives of the Ombudsman Association – <http://www.ombudsmanassociation.org/association-objects.php>

| OA Service Standard | Our performance..... |
|--|---|
| | <p>While our application is digital by default, we acknowledge that not all individuals wishing to use the Ombudsman's services will have access to/willingness to use IT. Therefore, we make our application forms available by post.</p> <p>Where enquiries concern matters that fall outside of our jurisdiction, our Enquiries and Referrals Officers signpost to the most appropriate organisation (if this information is known). We also include a link to the OA's Ombudsman Finder on our website and regularly include this in our social media content.</p> |
| <p>Communication</p> <p>Members should treat service users courteously, respectfully and with dignity.</p> <p>Members should communicate with complainants through complainants' own chosen method where possible.</p> <p>Members should explain their role to service users.</p> <p>Members should let complainants know what they can and cannot do, and, if they are unable to help them explain why.</p> <p>Members should clearly explain to service users their process for handling complaints about organisations and likely timescales.</p> <p>Members should keep service users regularly informed of the progression of their case, and how long things are likely to take.</p> <p>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.</p> <p>Members should be accurate in their communications with service users using plain and clear language.</p> | <p>SCOAF has a published customer charter, which sets out what individuals can expect from us when accessing our services. This incorporates the values of respect and open communication.</p> <p>Our new website is designed to be the primary source for people seeking information about our office. It includes:</p> <ul style="list-style-type: none"> • Clear information on what the Ombudsman can and cannot do • A self-help tool so that people can understand what the Ombudsman can do for them in respect of their specific circumstances • Factsheets on our processes and key issues • Links to support services • Update bulletins about any backlogs or delays in our office • The Ombudsman's blog which looks at topical issues in greater detail than the factsheets can provide <p>Individuals are allocated a named investigator who is responsible for providing information on the process, in addition to regular updates, throughout the life of the complaint.</p> <p>The office is continuing to move towards plain language to ensure that our communication is as clear and accurate as possible.</p> |

| OA Service Standard | Our performance..... |
|---|--|
| <p>Professionalism</p> <ul style="list-style-type: none"> 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. Members should deal with complaints in a timely manner, taking into account the complexity of the case. Members should ensure that remedies are appropriate and take account of the impact any identified faults have had on the complainant. Members should use the outcomes of complaints to promote wider learning and improvement of the service and the sector complained about. Members should ensure their record keeping is accurate and that they hold data securely. Members should ensure that if and when sharing of information is necessary, it is done appropriately. 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. Members should actively seek feedback about their service and use it to improve. | <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.</p> <p>We publish timelines for all aspects of our work:</p> <ul style="list-style-type: none"> 2 days to respond to an enquiry 7 days to make a referral 10 days to allocate an application to an investigator for an eligibility assessment 17 days to complete an admissibility review 17 days to complete an investigation into undue delay 100 days to complete substance (merits) and maladministration investigations <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 2018:</p> <ul style="list-style-type: none"> 99% of referrals were made within 7 days 72% of admissibility reviews were completed within 17 days 78% of undue delay investigations were completed within 17 days < 5% of substance (merits) investigations were completed within 100 days < 5% of maladministration investigations were completed within 100 days <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>Our records are maintained on a secure e-case management system.</p> <p>Information on how to make a complaint about the service received from SCOAF is published on our website.</p> |

| OA Service Standard | Our performance..... |
|---|---|
| | <p>In 2018 we received 42 complaints about our office. These included complaints about:</p> <ul style="list-style-type: none"> • delays in our office (24) • decisions not to investigate (5) • investigation findings (6) <p>All complaints were acknowledged by the Chief of Operations or the Head of Investigations with a clear outline of what has been done as a result of the complaint and/or the next steps.</p> <p>Feedback on satisfaction with the service we provide is routinely sought from everyone who makes an application to our office. In 2018:</p> <ul style="list-style-type: none"> • 45% of complainants were satisfied with the service they received following an application for investigation • 88% of complainants were satisfied with the service they received following an application for referral <p>The results are reviewed quarterly and used to make improvements in a range of business areas. In 2018, feedback was used to improve the:</p> <ul style="list-style-type: none"> • design of our application forms • content of our website • plans we have for outreach and education in 2019 |
| <p>Fairness</p> <ul style="list-style-type: none"> • Members should work with service users without discrimination or prejudice. • Members should make decisions on cases based on their independent and impartial evaluation of the relevant evidence. • The reasons for decisions should be documented and explained to relevant parties. • Members should publish information concerning any opportunities that may exist for service users to challenge their decisions. • Members should make clear to service users their approach to unacceptable behaviour. | <p>SCOAF is independent and impartial. All service users are treated equally and with respect.</p> <p>Thorough and independent investigations are undertaken and findings are supported by decision reports.</p> <p>Information on judicial review is made available on our website and as part of the decision process.</p> <p>Our customer charter 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>Transparency</p> <ul style="list-style-type: none"> 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. Members should have procedures in place to deal with any conflicts of interest around the handling of complaints. Members should be transparent about their investigation with the relevant service users. Members should publish the learning that can be drawn from the complaints they handle in order to drive service improvement across the sector. Members should provide service users with information explaining the approach they take to handling complaints about their own service. 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. | <p>Information about the Ombudsman is published on our website alongside information about the legislative framework the organisation operates within. We have a clear conflict of interest policy that is revised on an annual basis. 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 concerns 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 recommendations made to improve the complaints system. 31 recommendations have been made since 2016. In 2019/2020 we will be looking to publish an anonymised casebook on our website.</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, it receives its funding as part of the Defence Budget. While wholly independent of the MOD 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 MOD in the commitment of its financial resources.

Financial expenditure by SCOAF 2018

| Category | Spend (£) |
|---|------------------|
| Staff costs ²² | 1,145,754 |
| Accommodation and office running costs (including IT and office machinery ²³) | 412,911 |
| Training and professional membership fees | 13,221 |
| Independent legal advice | 16,455 |
| Travel and subsistence | 19,461 |
| Fee Earning Investigation Officers | 28,570 |
| Total | 1,636,373 |

Table 1 – Financial expenditure by SCOAF in 2018

²² 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.

²³ Accommodation and office running costs were shown separately in last year's report, but have been aggregated this year due to changes in how these costs are recorded

Appendix F – Events and visits

The table below lists all of the official events attended by the Ombudsman in 2018. It does not include regular meetings held with the Service chiefs. Those marked with a * represent events at which the Ombudsman was represented by a member of her office.

| Date | Event Type | | Location |
|-------------|--------------|--|--|
| 9 January | Meeting | The Rt. Hon. Tobias Ellwood MP, Minister for Defence People and Veterans | MOD Main Building |
| 5 February* | Presentation | Future Commanders Study Period | Joint Services Command and Staff College, UK Defence Academy, Shrivenham |
| 7 February* | Presentation | Commanding Officer Designate Course | HMS Collingwood |
| 22 February | Meeting | Ombudsman Association Executive Committee Quarterly Meeting | Dublin |
| 8 March* | Presentation | Commanding Officer Designate Course | Royal Military Academy Sandhurst |
| 14 March | Conference | Keynote Speaker at the Army Servicewomen's Network Conference | Sandhurst |
| 2-3 May | Visit | Visit to RNAS Yeovilton | RNAS Yeovilton |
| 16 May | Presentation | Naval Legal Services Spring Update | HMS Excellent Portsmouth |
| 21 May | Presentation | Army Mediation Service | SCOAF |
| 24 – 25 May | Conference | Ombudsman Association Conference | Edinburgh |
| 6 June | Presentation | Commanding Officer Designate Course | HMS Collingwood |
| 7 June | Presentation | Military Chaplaincy | SCOAF |
| 12 June | Visit | Familiarisation visit for new SCOAF staff | Army Service Complaints Secretariat |
| 19 June | Visit | Army Personnel Centre | APC Glasgow |
| 26 June | Meeting | Lt Gen (Retd) Temba Mantazima, South African Military Ombudsman | SCOAF |
| 28 June | Meeting | Mr Michael Manthorpe PSM, Commonwealth Ombudsman (Australia) | SCOAF |
| 2 July | Presentation | Future Commanders Study Period | Joint Services Command and Staff College, UK Defence Academy, Shrivenham |
| 4 July | Meeting | Liz Saville-Roberts MP | Portcullis House |
| 4 July | Meeting | Madeleine Moon MP | Portcullis House |
| 4 July | Meeting | The Rt. Hon. Earl Howe PC | MOD Main Building |
| 17 July | Visit | Familiarisation visit for all SCOAF staff | RAF Benson |
| 19 July | Visit | Familiarisation visit for new SCOAF staff | Navy Command HQ |

| Date | Event Type | | Location |
|----------------|--------------|---|--|
| 23 July | Visit | British Embassy – Defence Section | Washington DC, U.S.A. |
| 23 – 24 July | Visit | <ul style="list-style-type: none"> Provost Marshal and Deputy Inspector General (Army) Principal Deputy Inspector General Department of Defence Deputy Judge Advocate General (Navy) | Pentagon, Washington DC, U.S.A. |
| 25 July | Visit | NATO HQ Allied Command Transformation | Norfolk, Virginia, U.S.A. |
| 25 July | Visit | Naval Ocean Processing Facility (NOPF) Dam Neck | Virginia, U.S.A. |
| 26 July* | Presentation | Commanding Officer Designate Course | Royal Military Academy Sandhurst |
| 27 July | Meeting | Office of the Department for National Defence and Canadian Armed Forces Ombudsman | Ottawa, Canada |
| 27 July | Meeting | Rear Admiral Haydn Edmundson, Deputy Chief of Military Personnel and Lt Col Nathalie Boisvert, Director of Human Rights and Diversity | Department for National Defence, Ottawa, Canada |
| 29 – 31 July | Visit | British Army Training Unit Suffield (BATUS) | Alberta, Canada |
| 2 August | Visit | 39 Sqn RAF, Creech Air Force Base | Clark County, Nevada, U.S.A. |
| 10 September | Visit | RAF Lossiemouth | RAF Lossiemouth |
| 11 September | Visit | 3 SCOTS, The Black Watch, 3 rd Battalion The Royal Regiment of Scotland | Fort George Barracks |
| 12 September | Visit | REME 39 Engineer Regiment | Kinloss Barracks |
| 18 September | Visit | 38 (Irish) Brigade | Thiepval Barracks, Lisburn |
| 20 September | Presentation | Commanding Officer Designate Course | Royal Military Academy Sandhurst |
| 24 September* | Presentation | Future Commanders Study Period | Joint Services Command and Staff College, UK Defence Academy, Shrivenham |
| 1 October | Presentation | MOD Black History Month Opening Event | MOD Main Building |
| 4 October | Meeting | The Rt. Hon. Tobias Ellwood MP, Minister for Defence People and Veterans | MOD Main Building |
| 24 October | Presentation | Commanding Officer Designate Course | HMS Collingwood |
| 28 -31 October | Conference | 10 th International Conference of Ombuds Institutions for the Armed Forces (ICOAF) | South Africa |
| 14 November | Visit | Army Training Centre, Pirbright | ATC Pirbright |

| Date | Event Type | | Location |
|---------------|--------------|---|--|
| 26 November * | Presentation | Future Commanders Study Period | Joint Services Command and Staff College, UK Defence Academy, Shrivenham |
| 29 November | Presentation | Executive Committee Army Board | Andover |
| 29 November | Visit | Army Service Complaints Secretariat | Andover |
| 6 December | Visit | Ombudsman Association Executive Committee Quarterly Meeting | Dublin |

Appendix G – Statistics

Statistics for Chapter 2: The work of SCOAF in 2018

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

SCOAF was established in January 2016 as part of wider reforms to the Service complaints system. All data from 2016 onwards relates to the operation of SCOAF and the current powers available. As such, the data is not directly comparable with any historic data that relates to the operation of the Service Complaints Commissioner (SCC).

Guidance on the Service complaints statistics process and key terms used can found in '[Background Report – SCOAF Annual Report 2018](#)'.

Key findings:

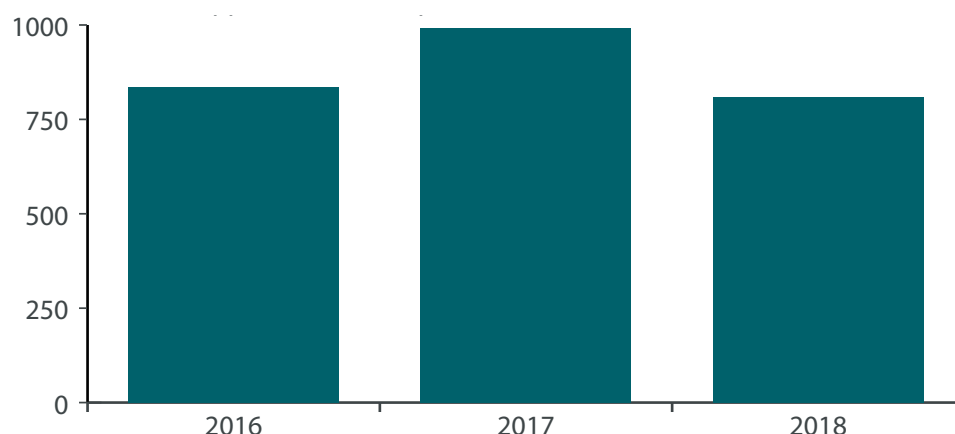
| | |
|---|--|
| Decrease in contacts to SCOAF | SCOAF received 872 contacts, a decrease of 18% on the previous year (1,060). Requests for investigation decreased by 15% compared to 2017, whereas referrals fell by 18%. |
| Percentage of cases upheld in favour of the complainant fell | The uphold rate (fully or partially) for cases reaching an outcome in 2018 was 45% – down from 49% in 2016, with largest falls seen in the RAF and Admissibility complaints. |
| 56% of investigations completed on time | Fewer eligible investigations were closed within timeliness targets in 2018 compared to 2016, falling to 56% from 57%. |

Contacts

During 2018, SCOAF received 872 contacts, this represents a decrease of 18% compared to the previous year (1,060).

Of the total contacts received, 93% (808) were within the remit of the Ombudsman's powers (in scope) – this is broadly consistent with rates seen in previous years.

Figure 1.1 – Contacts (in scope), 2016-2018



Referrals

The number of referrals (168) made by SCOAF continued to fall, down 18% on 2017 (205). 99% of referral requests were completed within SCOAF timeliness targets during 2018.

Gender:

17% of referrals made by SCOAF were on behalf of female personnel. This is disproportionate to the 11% female representation in the UK Armed Forces (regular and reserve)²⁴.

Rank:

Around half (53%) of referrals made by SCOAF were on behalf of Non-Commissioned Officers and Warrant Officers, with 36% on behalf of Privates²⁵ and 11% were on behalf of Officers and Officer Cadets.

Service:

76% of referrals made by SCOAF were on behalf of Army personnel. This is disproportionate to the 60% Army representation in the UK Armed Forces (regular and reserve).

Investigations

During 2018, SCOAF received 346 applications for investigation, a decrease of 15% on 2017 (406). The proportion of closed eligible cases which met SCOAF timeliness targets fell from 57% in 2017 to 56% in 2018.

The case types with the highest rates of timeliness in 2018 were investigations into undue delay and admissibility (78% and 72% of cases were closed within target times respectively), while substance and maladministration investigations had the lowest rates (both less than 5%).

Of the 198 cases where an investigation was completed during 2018, around half (45%) were upheld in favour of the complainant (fully or partially). The uphold rate fell by four percentage points compared to 2016 (49%).

The case types with the highest upheld rates in 2018 were maladministration investigations (71% fully or partially upheld in favour of complainant) and undue delay investigations (61%), while substance investigations and admissibility investigations had the lowest upheld rates (27% and 34% respectively).

²⁴ UK armed forces biannual diversity statistics: 2018, Ministry of Defence

²⁵ or equivalent rank

Statistics for Chapter 3: Service complaints in 2018

This section provides an overview of Service complaints handled by the Armed Forces during 2018.

Relevant individual Service breakdowns are reported here where appropriate, however separate factsheets can be found on our website.

The Service complaints process changed on 1 January 2016, making it simpler and more streamlined with one instead of two levels of appeal. These reforms have required SCOAF to make changes to the data collected and published regarding the work of the Service complaints system. Any comparisons to figures for the previous Service complaints system have been removed.

Guidance on the Service complaints statistics process and key terms used can found in '**Background Report – SCOAF Annual Report 2018**'.

Key findings:

| | |
|---|--|
| Female and BAME personnel overrepresented as complainants | Female and BAME personnel continue to be disproportionately represented in complainant counts (23% and 13%) compared to the Armed Forces strength (11% and 7%), with continued higher bullying, discrimination and harassment complaints for these groups. |
| Time to close complaints remains an issue despite improvements | 50% of complaints were closed within the 24-week target in 2018. Pre-2016 complaints were heavily reduced from last year with 9 outstanding complaints at the end of 2018 compared to 47 at the end of 2017. |

Volume

In 2018, 1,185 statements of complaint were received that needed to be processed through the formal Service complaints system (including rulings on admissibility). This is a rise of 1% from 2017 (1,173 complaints).

Of these 1,185 complaints, 64% were ruled admissible, 11% ruled inadmissible, 11% were withdrawn, 1% remedied before an admissibility decision and 13% were yet to receive a ruling on admissibility.

Career management was the most common complaint category, accounting for 33% of complaints ruled admissible in 2018, followed by bullying, harassment and discrimination (25% of complaints) and pay, pensions and allowances (15%).

Including complaints received before 2018, the Service complaints system worked on 2,117 complaints of which 261 (12%) were dealt with informally.

Box 2.1: Armed Forces Continuous Attitude Survey (AFCAS) 2018

The volume of complaints alone does not necessarily reflect levels of 'wrongs' occurring within the Services – rather this reflects wrongs experienced by those willing and able to submit a complaint. The findings of the AFCAS survey can help to supplement the complaints data and provide a broader understanding of how Service personnel feel regarding fair treatment within the Armed Forces. The full report is available here: <https://www.gov.uk/government/statistics/armed-forces-continuous-attitude-survey-2018>

Key findings:

- 12% of personnel surveyed report experiencing bullying, harassment or discrimination in the last 12 months.
- Of these, only 6% go on to make a formal complaint regarding the experience.
- 13% did not make a formal complaint as they resolved this informally and 2% did not make a formal complaint as they resolved the matter through mediation.
- The most common reasons given for not making a formal complaint were feeling that 'nothing would be done' (63%) and that complaining would adversely affect a respondent's career (50%).
- For those who did complain, the highest levels of dissatisfaction were for the time taken to resolve the complaint (64%) and not being kept updated (57%).
- 17% of Service personnel had never heard of the Service Complaints Ombudsman for the Armed Forces.

Gender:

- A higher percentage of female personnel report suffering bullying, harassment or discrimination in the last 12 months compared to male (24% compared to 11%).
- Of these, slightly fewer females entered a formal complaint compared to male (8% compared to 10%).
- Overall a higher percentage of male personnel have 'never heard of' the Service Complaints Ombudsman for the Armed Forces (18% compared to 14%) – this increased for both female and male personnel from 2017.

Ethnicity:

- A higher percentage of BAME personnel who reported suffering bullying, harassment or discrimination in last 12 months compared to white personnel (18% compared to 11%).
- Similar levels of BAME and white personnel enter a formal complaint following bullying, harassment or discrimination (6%).
- A higher percentage of white personnel have 'never heard of the Service Complaints Ombudsman for the Armed Forces' (18%) compared to BAME personnel (12%).

Service:

- There is a small difference across the Services in percentage of personnel who reported in the survey suffering bullying, harassment or discrimination in last the 12 months with the lowest rate found in the Naval Service (10%) and the highest in the Army (12%).
- Of these, roughly the same proportion across the Services entered a formal complaint (6% – 7%).
- Awareness of the Ombudsman was slightly worse in the RAF, where 19% had not heard of the Ombudsman compared with 15% for the Naval Service and 16% for the Army.

Complaints by complainant characteristic

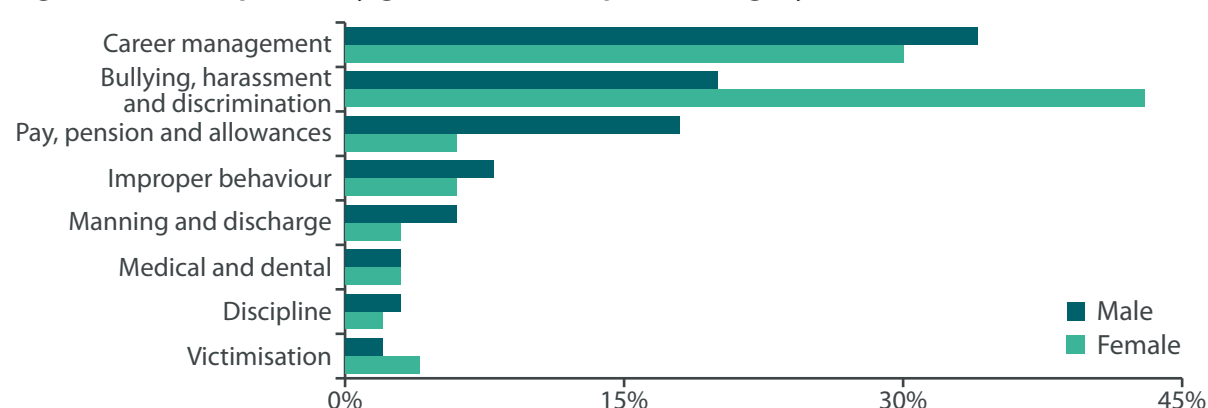
Gender:

The proportion of complaints received from female personnel continues to be disproportionate to their representation in the UK Armed Forces (regular and reserve)²³. Around 23% of admissible complaints were submitted by female personnel, despite making up 11% of the Service strength.

Bullying, discrimination and harassment were more commonly the cause of complaints received from female personnel. Around 43% of complaints from female personnel relate to these categories compared to only 20% for male personnel.

There is insufficient data to comment on whether these higher rates are generally systemic throughout units in the Services, or are due to a higher rate of Service complaints being made in those sections of the Services with a higher than average proportion of females.

Figure 2.1 – Complaints by gender and complaint category, 2018



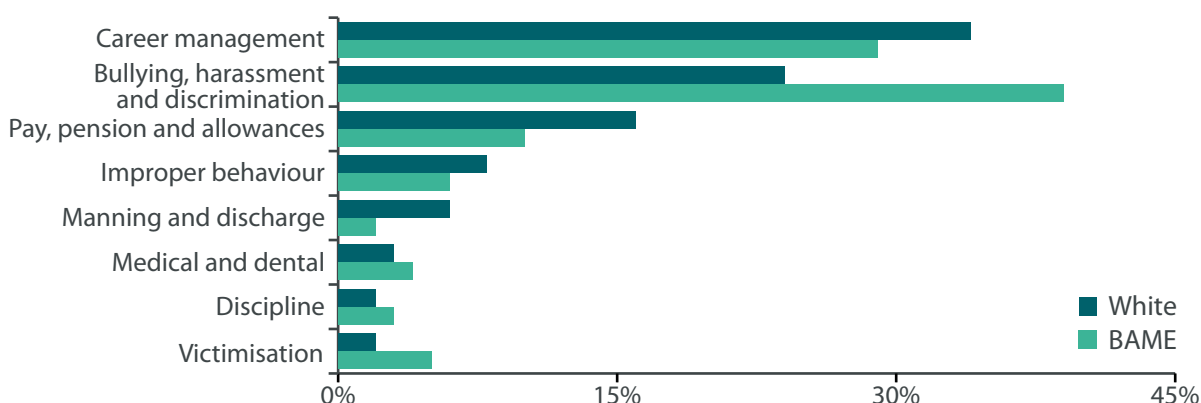
Ethnicity:

The proportion of complaints received from BAME personnel continues to be disproportionate to their representation in the UK Armed Forces (regular and reserve)²⁶. Across all Services, 13% of complaints were entered by BAME personnel despite accounting for 7% of the UK Armed Forces population.

As with female personnel, bullying, discrimination and harassment were more commonly the cause of complaints received from BAME personnel compared to white personnel. Around 24% of complaints from white personnel relate to these categories compared to 39%. This is a significant reduction from 57% in 2017.

There is insufficient data to comment on whether these higher rates are generally systemic throughout units in the Services or are due to a higher rate of Service complaints being made in those sections of the Services with a higher than average proportion of BAME personnel.

²⁶ UK armed forces biannual diversity statistics: 2017, Ministry of Defence

Figure 2.2 – Complaints by ethnicity and complaint category, 2018

Complaints by Service²⁷:

For the RAF and the Naval Service, 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)²⁸. Both RAF and the Naval Service make up 20% of the Service strength but 19% of formal complaints were dealt with by the RAF while 22% of formal complaints were dealt with by the Naval Service. The Army accounted for 60% of Service strength and dealt with 59% of formal complaints.

Around 16% of complaints dealt with by the Naval Service relate to bullying, discrimination and harassment compared to only 27%-28% for other services. These figures have been consistently at this level for a number of years.

Outcome:

Of all complaints decided during 2018, 44% were upheld in favour of the complainant, 37% were not upheld in favour of the complainant, 13% of complaint outcomes were withdrawn by the complainant and 6% remedied pre-decision.

The Army had the highest relative level of withdrawn complaints at 17%, compared to 9% in the Naval Service and 4% in the RAF.

Handling of complaints

Assisting Officer allocation:

Nearly all complainants who raised a complaint in 2018 had been offered an Assisting Officer (AO) by the end of the year (only three out of 763 were yet to be offered an AO). Of these, 24% declined an AO; this is a small decrease on the previous year (27%).

In-year closures and timeliness:

Of those complaints ruled admissible in 2018, 35% were closed within the year, with the Naval Service achieving the highest in-year closure rate (43%). In-year closures accounted for around 38% of all closures achieved by the three Services, with a total of 710 cases closed (for cases ruled admissible, both in 2018 and earlier years).

The percentage of complaints ruled admissible and closed in 2018 within the 24-week target period was 50% – well short of the MOD's 90% target. This varied markedly by Service, with the Naval Service showing the highest proportion of complaints closed within the target (68%) compared to the RAF (65%) and Army (40%).

²⁷ Apart from a small number of specialised cases, nearly all Service complaints are dealt with by the Service in which the complainant was serving at the time the incident behind the complaint occurred.

²⁸ UK armed forces biannual diversity statistics: 2018, Ministry of Defence

Median duration for processing Service complaints has been dropping over the years to 32 weeks in 2018 from 60 weeks in 2016. The RAF has the shortest median duration with 17 weeks, while the Army has the longest with 37 weeks.

Red flag and legacy complaints:

In 2013, a new reporting system was introduced to provide better visibility of complaints which had exceeded, or were likely to exceed, the MOD's 24-week target.

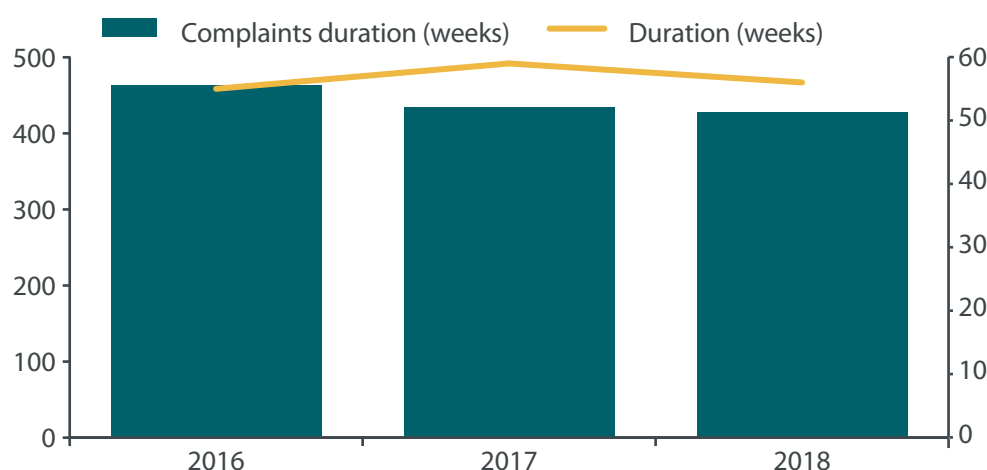
At the end of 2018 there were around 426 complaints open beyond the 24-week time target – this represents a decrease of 2% on the previous year (433). The RAF was the only Service to report an increase in red flag cases: up 4% on last year.

Red flag cases are spending 56 weeks open beyond the 24-week target. This represents a 4% decrease compared to 2017 (59 weeks). This duration varies a little by service with red flag case duration for the army and RAF being 55 weeks and for the Naval Service being 65 weeks.

The majority (58%) of red flag cases were open for more than double the initial 24-week target. This is up from December 2017 (53%).

Pre-2016 (legacy) complaints were heavily reduced from last year with 9 outstanding cases at the end of 2018 compared to 47 at the end of 2017.

Figure 2.3 – Complaints beyond 24-weeks and median duration beyond target



SCOAF investigations:

The Ombudsman has the power to:

- Review the admissibility decisions made by each Service's complaints system
- Investigate undue delay in the handling of a Service complaint or Service matter
- Investigate the substance (merits) of a Service complaint that has been finally determined
- Investigate alleged maladministration in the handling of a Service complaint that has been finally determined

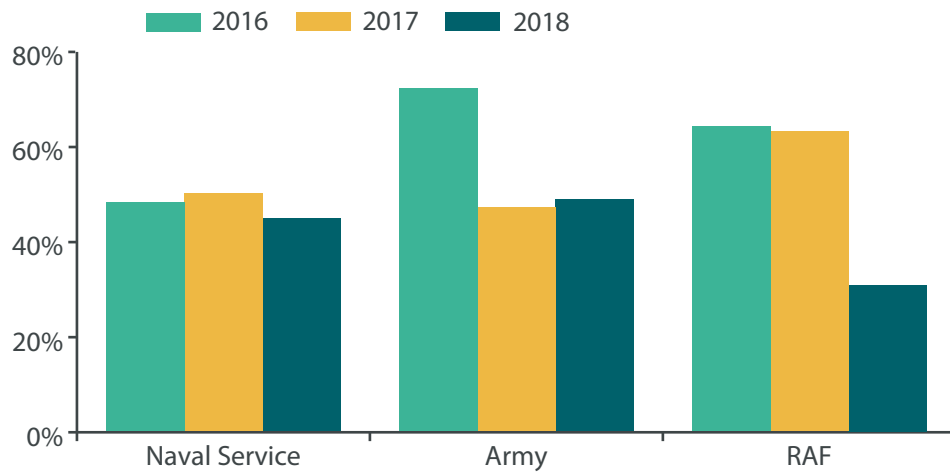
For the RAF and the Naval Service, there is a significant difference between the proportion of applications made to the Ombudsman in 2018 and their representation in the UK Armed Forces (regular and reserve)²⁹. Both the RAF and the Naval Service make up 20% of the Service strength but 16% of applications to the Ombudsman were from RAF personnel, while 25% of applications were from the Naval Service. The Army accounted for 60% Service strength and dealt with 58% of formal complaints.

The proportion of these applications relating to maladministration and substance (merits) was highest for the RAF (55%) and Army (53%) and lowest for the Naval Service (26%).

²⁹ UK armed forces biannual diversity statistics: 2018, Ministry of Defence


The highest rates of SCOAF investigations closed in 2018 that were upheld (in favour of the complainant and against the Service complaints system) was 49% with Army processed complaints, compared with 45% for the Naval Service and 31% for the RAF.

Figure 2.4 – Uphold rate (%) by Service, 2016 – 2018



Appendix H – Single Service annual updates

From Vice Admiral Tony Radakin CB



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Deputy Chief of Naval Staff**

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29 January 2019

NAVAL SERVICE PERSPECTIVE ON SERVICE COMPLAINT HANDLING IN 2018

Thank you for your letter OSCO/AR118/Naval Service of 12 Nov 18. I welcome this opportunity to give additional context to the Navy's annual data on our management of Service Complaints (see Annex).

The Handling of Naval Service Complaints - Assessed Against the Key Performance Indicator (KPI)

In 2017, we reported the resolution of 56% of all admissible Service Complaints within the 24-week timeline. In 2018, Naval Service performance against this KPI has improved to 68%. As was the case in 2017, there have been no findings of maladministration in respect of Service Complaints managed by the Navy's Service Complaints team in 2018.

How has this improvement been delivered?

- While caseworker soft gapping within the SC Secretariat has been evident in 2018, the impact of gapping on throughput has not been as significant as it was in the previous year, particularly in respect of key posts. We continue to retain control as appropriate within the Complaints Secretariat of a greater number of Service Complaints (including full ownership of the admissibility stage), where we can apply a form of triage and, where appropriate, deal with cases through a fast track process; this initiative allows us to identify and prioritise cases with clear potential to be resolved within 24 weeks.
- The production of a standard form of legal advice to all Decision Bodies (DBs) ensures that the management of Service Complaints dealt with in the Fleet receive the appropriate focus and guidance from the outset.
- The identification and use of Captain RN/1-star/2-stars as dedicated DBs for fixed-term periods in between assignments or as they approach retirement has significantly reduced the time taken to decide Service Complaints.

We continue to work collaboratively with your office, MOD Centre's policy desks and our sister Services in pursuing continuous improvement, organisational learning and in championing best practice. We have continued to invest support in the provision of value-added legal and SC

1

handling advice at all stages of the process; and have maintained our focus upon the prioritisation of casework.

Factors which have contributed to delay in 2018, and which continue to do so, include the availability of Fee Earning Harassment Investigation Officers and how they are allocated by DBS, your own staff's capacity and the complexity (and, in some cases, the multiplicity) of complaints submitted, i.e., 19 of 179 SCs admitted in 2018 were duplicates (where a complainant made two or more SCs) which amounts to 9 individuals submitting 11% of all SCs dealt with in 2018.

Assuming the factors above remain constant against a comparable scale and type of Service Complaints, we would anticipate broadly similar performance levels in future. Should the factors vary, performance will alter.

Looking Ahead

The existing KPI focusses upon timeliness as the sole indicator of the fairness, efficiency and effectiveness of the redress system, to the exclusion of any other factors that might be considered integral to internal dispute resolution. As you acknowledged in your 2016 Annual Report, KPI reform is needed to better reflect other factors such as the quality of investigations, decision-making and the integrity of the redress process which should be just as relevant as timeliness¹. I remain concerned that such a KPI regime is yet to be developed and implemented which can facilitate a more holistic approach to managing our people's grievances. I look forward to KPI reform being enacted as early as possible in 2019.

During the course of 2019, the RN will see the benefits of the addition of a small cadre of ex-Regular officers to enhance our Decision and Appeal Body capacity, and welcome enhancements to our in-house team's ability and capacity to investigate Bullying and Harassment.

The Naval Service recognises resource capacity within the OSCO has as much relevance as limited resources within the Service Secretariats. I am pleased to note that the RN will be hosting a familiarisation visit for your newly recruited investigators in March. The importance of familiarisation visits is much valued from our perspective as they introduce the Service context which is of much relevance to the work of your team.

Finally, we are currently exploring a new initiative to deliver a series of mediation roadshows across the Naval Service this year.

Other Points of Note

The RN data compiled for the Service Complaints Working Group Training Sub-Committee (in support of Recommendation 2.3 in your 2017 Annual Report) revealed that at least 20% of the Naval Service undertakes such training in one form or another every year including: Divisional Officers, Commanding Officers, Executive Officers, and Senior and Junior Ratings undertaking Leadership and Command Courses.

As was the case last year, there have been no successful challenges to the operation of the reformed Service Complaints system by way of Judicial Review arising from Naval Service complaint handling. Likewise, there have been no adverse Employment Tribunal judgments.

The few remaining "legacy" Service Complaints, i.e., those submitted prior to 2016, reached conclusion in 2018.

¹ As well as the broader factors you outlined in Chapter 1 of your 2017 Annual Report.

The Work of the Office of the Service Complaints Ombudsman in 2017

For completeness, RN records show the following data sets and outcomes arising from the work of your office in 2018:

Admissibility Review:

19 out of 29 Applications (66%) did not alter the RN admissibility decision.

Undue Delay:

In 12 out of 27 applications (44%) Undue Delay was not found.

Maladministration and Substance:

1 Application was not accepted by the OSCO; 8 cases remain pending.

Maladministration:

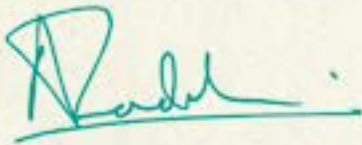
Zero Applications in 2018.

Substance:

2 Applications were not accepted for investigation by the SCO.

NB: Of the total number of Applications (all types) made in 2018, 13 were submitted by 3 individuals, which represents 19% of all Applications. If one includes individuals who submitted more than one SCO Application, this brings the total to 21 Applications being made by 7 individuals, representing 30% of all Applications.

I am content for this document to be reproduced in full as an Annex to your 2018 Annual Report.



Annex:

A. Naval Service Complaint Handling Statistics 2018.

Copy to:

EA/1SL
CDP
DCGS
AMP



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Ref: DCGS_01_01_04/02/19

04 February 2019

SINGLE SERVICE CONTRIBUTION TO THE SERVICE COMPLAINTS OMBUDSMAN'S 2018 ANNUAL REPORT (ARMY)

1. Thank you for seeking our input to your Annual Report for 2018. We remain grateful for your continued candour and keen personal and professional interest in the Army's Service Complaints (SC). The external and independent oversight that you provide has been pivotal in holding the chain of command to account in its handling of complaints as we work towards a system which operates efficiently, effectively and fairly.

2. In this year's submission, I intend to capture the Army's progress since your last report. The Army's reputation is based on its acknowledged ability to deliver success on operations and during training – at home and abroad – underpinned by world class junior leadership. CGS remains focused on readiness and arresting manning decline whilst maximising talent. Leadership and empowerment lie at the heart of this. Setting the right working environment is as important as developing the force. We continue our efforts to create the conditions to attempt to improve the Army's Culture and Leadership at every level whilst reducing unacceptable behaviour including incidents of Bullying, Harassment and Discrimination (BH&D¹). The goal is to generate an ethos and an environment where all Army personnel, regardless of gender, race, sexual orientation or social background (or any protected characteristic) can feel appreciated, rewarded and fulfilled. Understanding the impact of grievance is vital to understanding our culture in a more holistic way. And in an organisation where the median length of service of the workforce is around seven years, this remains a perennial challenge.

3. The Army's Diversity and Inclusion (D&I) end state is '*a demonstrably inclusive employer that respects difference, attracts talent from all areas of society, overtly embraces equality of opportunity and always challenges unacceptable behaviour.*' The tone is set through Army Leadership Doctrine, Values and Standards, diversity champions, education and training, and benchmarking. Understanding and improving the lived experience is completed through climate assessments, surveys, the 'Speak Out' helpline, the Army Mediation Service and a network of Diversity and Inclusion Advisors. We seek to deliver change through Employee Support Networks (of which the Army have four: Servicewomen's, BAME, LGBT+ and Parents'), unconscious bias

¹ This includes those incidents related to ethnicity (racism), gender (sexism), sexual orientation (homophobia or biphobia), gender reassignment (transphobia) or belief or non-belief.

training, the introduction of women into all ground close combat roles, and a plan for improving BAME and female representation.

Key Successes and New Developments

4. I believe that the Army's SC headline for 2018 is our success in inculcating within the Army the approach that SC are a Business-as-Usual activity rather than a niche capability. This is the first step towards real long term cultural change. I believe that the internal narrative has altered; SCs are increasingly seen as a valuable tool to gauge the issues and concerns of our officers and soldiers. The Army is good at taking action on the results of complaints: people who deal with SCs understand that issues falling out of a SC might need to be addressed more widely; the Army Mediation Service is very good; and we have driven down legacy complaints. But there is still room for improvement. Commander Home Command has carried out a review² into the structure and processes of Army SC Secretariat (Army SC Sec). This seeks to confirm and re-set the requirement (outputs), determine the most efficient ways to achieve the outputs (process) and identify the quantity and type of resources (people), to feed that process. Additionally, I have directed a further assurance review by the Army Inspector. This evaluation is predicated on comments made in your previous reports that, despite the good work undertaken by the Army, that you hold the process to be *'neither truly effective, efficient nor fair'*.

5. To increase satisfaction in the SC process and in SC investigations the Army has invested in a continual Engagement and Communication effort designed to promote confidence in (and awareness of) the SC process. The Army SC Sec contributes to 70 formal instructional opportunities throughout the year and many additional seminars and study days. Commanders at all levels are briefed in depth on the process and all Army personnel are reminded - through mandatory annual training - of the Ombudsman and your role. Regular reviews are undertaken to ensure that resource material and process guides on the Army SC Sec website are both current and applicable.

6. Our determination to increase satisfaction in the SC process is demonstrated by the amendment of the Army's Administrative Action policy (AGAI 67) to make clear that the act of obstructing a person who wishes to make either a formal or informal complaint of BH&D will be treated with the utmost gravity. This level of breach carries with it possible career sanctions of reduction in rank, forfeiture of seniority for officers, or the premature termination of Full Time Regular Reserve commitment. This change of policy is designed to ensure that there are concrete protections laid out in procedure for those who wish to make a complaint but believe they may be obstructed in doing so.

7. We are also fully engaged with the Ministry of Defence (MOD) in working towards your recommendations – unilaterally where appropriate. We share your concerns on Performance Management metrics in the SC process, especially the problematic target completion time³. As a single Service we have driven the work to generate a more meaningful set of metrics against which to measure our overall performance.

8. The following statistics are intended to demonstrate performance:

- We have continued to reduce the number of pre-2016 SC (currently 9).

² The CARTWRIGHT Review – for consideration Jan 19.

³ Currently 90% within 24 weeks, this does not distinguish between necessary and unnecessary delay – nor does it give credit for resolving other than formally recorded complaints.

- Since 31 Dec 15⁴ the Army has reduced the number of open formal SC by 34%. In the meantime, the rate at which formal SC have been submitted has remained constant at 11 per calendar week.
- In Dec 18, our performance against the SC Key Performance Indicator that 90% of admissible SC should be resolved within 24 Weeks has increased from 37.4% in 2017 to 40% in 2018. This rise could have been more significant if not for these two factors:
 - The Army is the owner of 64.6% of all BH&D SC in Defence. This means we have been overly exposed to delay caused by the inability of Defence Business Services to provide Fee Earning Harassment Investigation Officers (FEHIO) in a timely manner. Throughout 2018 the Army has been waiting, on average, 5 months for the allocation of a FEHIO to an investigation. This position is improving but remains a source of delay outwith the Army's control.
 - Staff shortages in the Army SC Sec Appeals Team has delayed cases which went to appeal. These staff shortages have now been resolved with additional in-year funds and this delay is being reduced.
- Of the new complaints received in 2018, 27.3% were resolved informally. I am proud of this informal resolution rate which reflects success in addressing grievances at the lowest appropriate level. This success is not captured in the current performance management metrics but I would like it to be as it furthers our understanding of how grievances are resolved.

Wider Cultural Change

9. Not all complaints submitted are upheld and the proportion of Army Personnel who submit complaints holds at about 0.5%. As I write this submission 55.3% of complaints are upheld at the Decision Body (DB) level and 55.9% are upheld at the Appeal Body level. I assess that the Army's culture is fundamentally better, awareness is improving and we are addressing the over-regimented approach I identified in my last submission. Arguably, SCs in the Army could be considered reflections of our Leadership and Command Climate. Emerging lessons continue to highlight a requirement to reset our approach, both culturally and procedurally, to address complaints and grievances, and the source of complaints. We require the chain of command to engage with the SC early, act with confidence and a sense of urgency to avoid undue delay.

Mediation and Informal Resolution

10. The process of scoping mediation with affected parties is promoting better communication, sometimes leading to a resolution without the need for formal mediation. Awareness of mediation has increased since its re-launch in October 2017 through improved advertising of the Service and the provision of mediation awareness courses to commanders and staff. The option to consider mediation is now mandatory in every BH&D-related SC. The number of mediations has increased encouragingly in the last 12 months and is expected to continue to grow. I am currently considering the merits of moving the Army's Mediation capability into APSG.

⁴ Which is the point at which the term 'legacy' was applied to our open complaints.

11. Our data from 2018 confirms that mediation continues to be a successful means of resolving complaints with over 95% of mediations being classed as successful. Formal mediation is provided by a pool circa 80 independently-trained and accredited mediators, all of whom are required to complete Continuing 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 Senior Non-Commissioned Officer to Colonel (and civil service equivalents). The Army Mediation Service works closely with 'Speak Out', the Army's confidential helpline for Unacceptable Behaviours. 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.

12. The 'Speak Out' Team provides advice to individuals and the chain of command on how mediation might be able to assist with closing or withdrawing SCs; this includes a series of six mediation awareness days held annually and directed at the chain of command, specifically Commanding Officers. The independence of 'Speak Out' and the Army Mediation Service from the chain of command and the formal SC process reassures those engaging that there is no hidden agenda. We advertise the service at the Commanding Officers' Designate Course and Intermediate Command and Staff Course (Land); such interventions will likely result in increased use of this vital component of grievance handling.

13. The Career Management SC Cell at the Army Personnel Centre (APC) remains the Army exemplar of informal resolution; its priority is to attempt informal resolution 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 2018, the SC Team at APC removed the need to submit a complaint or secured its informal resolution in 52 cases.

Outreach

14. I have received positive feedback from the Army units you visited in 2018. I was encouraged to hear that the visits were generally a significant success. Where we have become aware of concerns or observations you may have had, we have taken remedial action. Visits are important; fundamentally, they afford you the opportunity to confirm that your role is understood by Army personnel but more importantly provide you an insight into how the SC process is perceived, and ensure you have the appropriate background knowledge. Additionally, it allows you to assess the impact any visit has had on personnel who have been involved in the process and how interaction (where applicable) with your office and functions were viewed. I will ensure that communication channels remain open and that further visits are facilitated for 2019.

SCO 2017 Annual Report Recommendations

15. Finally, let me turn to your recommendations in 2017. As you are aware we believe that we are very much in the vanguard of MOD activity in terms of compliance. Whilst all areas of Defence must compete for precious resources, I have ensured that we are well represented at the quarterly SC Working Groups. Army SC Sec has been the instigator of numerous initiatives⁵ and continues to be committed, where resources allow, to ensuring that we are proactive on all accounts. I hope that the MOD response to your 2017 recommendations will provide some reassurance that we are

⁵ The Army has been the chief instigator of a new working group formed to deal specifically with your recommendations which touch on improving training.

actively engaged. In addition, your attendance at ECAB in November 2018 provided you with a platform to address the Army's Senior Leaders. You highlighted six areas on which we should continue to focus our efforts: timelines, BH&D, Consolatory Payments, Appeal Boards – Two Person Panel, Legal Advice and Wider Learning Points. This provides me with additional focus and I look forward to developing each of the six areas in the coming year.



DCGS

From: Air Marshal Mike Wigston CBE



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Air Member for Personnel & Capability**

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Nicola Williams
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1 February 2019

Dear Nicola

SERVICE COMPLAINTS – RAF PERFORMANCE

1. Thank you for your letter dated 12 November 2018 seeking the RAF's statistical return for 2018 (see Annex) and inviting a covering narrative.
2. You will recall that last year, my predecessor reported that Service Complaints was one of the highest priorities of the Air Force Board and that the Board is fully committed to achieving the objective that the Service Complaints Process should be efficient, effective and fair for all. This continues to be the case.

Service Complaint Handling

3. A total of 65% of Service Complaints were resolved within the 24-week target timeline in 2018. This is lower than the 75% closure rate for 2017, although I am satisfied that we continue to maintain both a high quality of decision making and increasing confidence levels in the Service Complaints process overall. Consistent with 2017, no findings of maladministration or substance were made in 2018 in respect of Service Complaints administered by the RAF.
4. Whilst unfavourable comparison with our 2017 closure rate of 75% is inevitable, a lack of DBS Fee Earning HIOs has caused delay to investigations and the inherent complexity of Bullying, Harassment and discrimination cases has combined to stall progress¹. Our performance should also be viewed against the significant amount of work we have undertaken in 2018 to refine and improve our working practices and procedures. These include:
 - a. **Service Complaints Analytics.** We have established a Service Complaints Analytics capability to track and analyse complaint data. This includes a new After-Action Tracker which records decisions, recommendations and lessons, and which tracks implementation to the benefit of organisational learning. I intend to formalize the internal

¹ Tri-Service bullying, harassment and discrimination cases took an average of 94 weeks to close in 2017

and external feedback loops to policy owners in the RAF and MOD in 2019 to better address the root causes of complaints.

- b. **Support to Respondents.** Following on from the progress made last year and the introduction of a 'Respondent's Champion', we have introduced a new Respondent's questionnaire to better understand the experience of our Respondents. This will ensure that Respondents have appropriate support through a process that, for some, remains stressful and negative.
 - c. **Oral Hearings.** We have produced an Oral Hearing Guide that provides practical guidance for those involved in Oral Hearings. This was supported by bespoke Oral Hearing training for my Service Complaints Team, including case managers and Volunteer ex-Regular Reserve (VeRR) panel members. The Oral Hearing Guide now forms part of our broader range of guides, namely: Guide for Unit Commanders Acting as Specified Officers and Nominated Decision Bodies; Guide for Respondents; and Guide for Assisting Officers.
 - d. **Annual SCT Conference.** Last November we held an internal workshop and conference where attendees reviewed activity and performance over 2018 and shared collective experience. I was pleased to see that representatives from your office actively participated in both events, reflecting the effective and constructive collaborative relationship we have enjoyed with your team this year. I look forward to a similar relationship next year.
5. These initiatives have undoubtedly led to qualitative improvement in our practices and processes. However, I recognise that further improvement is still required, and we will focus on the following areas in 2019:
- a. **Fast Track Unit (FTU) optimisation.** The FTU was launched in 2017 to handle complaints arising predominantly from Terms and Conditions of Service, including pay, allowances, expenses, challenges to policy and/or career related decisions. The FTU continues to demonstrate its utility and we will be allocating more resource to the management of FT cases to optimise and improve performance.
 - b. **Increased Investigation Capacity.** We have recruited 3 additional VeRR investigators to our Service Complaints Investigation Team and a further 3 investigators will be recruited this year. The further development of this cadre will enhance our investigative capacity, reduce delay and mitigate some of the impact of the lack of availability of FEHIOs.
 - c. **Mediation Training.** We will deliver a revised Mediation refresher training for existing RAF mediators to update and enhance our existing mediation capability.
 - d. **Information Portal.** We will invest in the development of an online information portal, to provide greater support to COs and Unit staff and improve feedback mechanisms for Decision Bodies.

Legacy Service Complaints

6. We have continued to focus a significant amount of effort of legacy cases and I can report that we have no pre-2016 cases remaining and only two of the legacy 2016 cases outstanding; these will be concluded shortly. We have 27 Service Complaints outstanding from 2017 and will prioritise effort on concluding these in the next 12 months.

Female and BAME Representation

7. Like you, I remain concerned that female personnel and BAME personnel continue to be over-represented in the SC system. This trend continued in 2018 with 29% of RAF complaints being submitted by female personnel. This compares to a female representation rate of 14.5%

across the RAF. While this rate is too high, I am satisfied that only 5 of the 42 cases relate to the individual's gender. At 6% of the total complaints submitted, those from a BAME background are also over-represented. We received 8 service complaints from BAME personnel during 2018, with half of those complaints relating to race. I remain committed to addressing the over-Representation of these groups. To complement the Defence Diversity & Inclusion Strategy, we will shortly issue our revised RAF Diversity & Inclusion Delivery Plan to drive and deliver a more inclusive culture across the workforce. I expect this to have a positive effect overall and the RAF Service Complaints Team will continue to work closely with the RAF Diversity and Inclusivity Team to align their statistical data with their understanding of the lived-experience of these groups.

Key Performance Indicator (KPI) Reform

8. While important, closure rate is only one of the performance indicators utilised in the assessment of whether the Service Complaints process is efficient, effective and fair; we remain committed to improving our performance against the extant KPI and I am confident that the initiatives we will introduce in 2019 will have a positive impact both quantitatively and qualitatively. We are also committed to working closely with the MOD, RN, Army and the OSCO to develop more meaningful performance indicators that reflect both the complexity and reality of different types of complaints and the totality of grievance resolution (informal and formal) undertaken across Defence. This work will be afforded the highest priority in 2019.

9. I am content for this single Service narrative to be published as an Annex to your report.

Yours sincerely 

Annex:

A. RAF SCO Annual Statistics 2018

Copy to:

CDP
2SL
DCGS

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

www.scoaf.org.uk

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

<https://www.gov.uk/government/organisations/ministry-of-defence/>

This site provides information on the organisations within the defence system, including reports, data and guidance.

Ministry of Defence Service complaints information

<https://www.gov.uk/guidance/armed-forces-service-complaints-process>

The site provides information and guidance on the Service complaints process.

Details of Ministry of Defence Statistical and Research publications, most of which can be viewed online, 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 single Services can be found at:

Naval Service (Royal Navy and Royal Marines)

<http://www.royalnavy.mod.uk>

British Army

<http://www.army.mod.uk>

Royal Air Force

<http://www.raf.mod.uk>

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