
Annual Report 2017



INDEPENDENCE

IMPARTIALITY

INTEGRITY

Annual Report 2017

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.

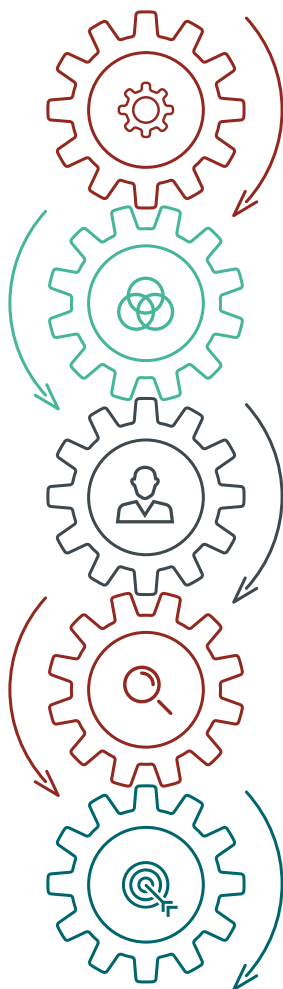
Our mission

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 customer charter can be found on the OSCO website
www.servicecomplaintsombudsman.org.uk

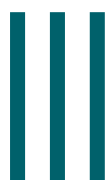
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Message from the Ombudsman



Dear Secretary of State,

I am pleased to present my Annual Report for 2017, as required under my statutory obligations set out in the Armed Forces Act 2006 (as amended).

This report covers the second year of operation of the OSCO and the use made of the increased powers available in support of the Service complaints system. In my 2016 Annual Report, I reserved judgement on whether the new streamlined Service complaints system was operating in an efficient, effective and fair way, as the new system had only started at the beginning of that year. However, in its second year of operation my assessment is that despite clear improvements that have been made, the Service complaints system is still not efficient, effective or fair.

Last year I noted the concerted effort being made by each of the Services to address the backlog of unresolved complaints (legacy cases) under the old system. While I am happy to observe that the number of legacy cases has been largely reduced, there are still over 40 outstanding cases dating from before 1 January 2016, most of which sit with the Army. In addition, although it was needed, I am concerned that considerable resource has been dedicated to reducing legacy complaints without additional resource being dedicated to new complaints. As a result there is now a growing backlog of complaints under the new system. This must be tackled early on in order to ensure that delay does not reach the level seen under the old complaints system which rendered it completely ineffective.

As I outline in this report, I am also concerned about the continued disproportionality of female and Black, Asian and Minority Ethnic (BAME) personnel in the Service complaints process, particularly in relation to complaints concerning bullying, harassment and discrimination. Anecdotal reports of personnel being dissuaded from making Service complaints is an additional area of concern.

However, overall, in the second year of operation of the new Service complaints system, there has been slow, but steady progress. 74% of the admissibility decision reviews conducted by my office were upheld in favour of the Services, up from 51% last year. This improvement demonstrates a better quality of evidenced decision making suggesting that the recommendations made by my office in this area in 2016, and the subsequent changes driven by the single Services, are starting to have an impact at the first stage of the complaint handling process. On the whole complaints are being dealt with quicker which has seen the number of 'red flag' cases fall slightly, although far too many still exceed the 24 week timeframe.

The target to resolve 90% of Service complaints within 24 weeks remains the only agreed metric against which I can objectively measure performance of the complaints system. Following my recommendation in 2016 that this be reassessed, substantial work has been undertaken by the Service Complaints Working Group to develop a standard set of Key Performance Indicators (KPIs) that better reflect the work of the complaints system. I look forward to reviewing these in the near future and reporting against them in the coming years.

There has also been slow and steady progress in my office. The number of contacts to our organisation has increased from 921 in 2016 to 1,060 in 2017 and the number of applications for investigation has risen from 335 to 406. As an organisation, we are the watchdog of the Service complaints system. We have good, effective working relationships with the single Services which do not compromise our independence. I remain prepared to make the tough decisions as and when required. We have also continued to build strong relationships with our civilian stakeholders who are involved in military justice and other parts of the Service complaints process, who inform the broader aspects of the work we do.

For the first time in 2017 I took a thematic approach to the outreach work conducted by my office and had a special focus on the Reserve Forces. This decision was spurred by cases my office dealt with in 2016 in which Reservists did not have the same level of access to the complaints system as regular Service personnel. In the visits I undertook I was particularly careful to ensure that I had the opportunity to interact with a number of Reservists and hear about their experiences in the Armed Forces and of the Service complaints system.

The operational arm of my office has not been at full complement since we opened in January 2016. While this has had an impact on the ability of my team to meet time targets for our investigations, they are to be commended for continuing to produce quality work in spite of this.

My team and I remain committed to delivering independent oversight of the Service complaints process and helping to build a system that operates efficiently, effectively and fairly for all those who seek to avail themselves of it.



Nicola Williams

Service Complaints Ombudsman for the Armed Forces



Executive summary

The Service Complaints Ombudsman's Annual Report 2017 describes the work undertaken by the Office of the Service Complaints Ombudsman (OSCO) throughout 2017 and reports on the current state of the Service complaints process.

In its second year of operation, and despite clear improvements that have been made, the Ombudsman finds that the Service complaints process is neither efficient, effective or fair at this stage.

Efficient, effective and fair

In making an assessment about whether the system is efficient, effective or fair, the Ombudsman takes into consideration a number of factors, including those outlined below.

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 the complaints process People have confidence in the process 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 the OSCO

In 2017 the OSCO:

- Logged 1,060 contacts from individuals making an application or enquiry about the Ombudsman's powers.
- Made 202 referrals for individuals who were unable, or unwilling, to approach their current or former chain of command directly to raise their Service complaint.
- Exceeded the target to make 90% of referrals within seven working days.
- Received 406 applications for investigation.
- Completed 57% of all investigations within the time target.

The Ombudsman is exceptionally pleased with the work undertaken by her office in 2017, particularly in light of the investigations team not operating at full capacity. The Ombudsman is committed to reviewing and improving the service provided by her office in the coming year.

The work of the Service complaints system

In 2017:

- 1,009 Service complaints were received by the Services.
- 775 of those complaints were deemed admissible.
- 41% of those complaints concerned Terms and Conditions of Service (TACOS) and 25% concerned pay, pensions and allowances.
- Both female and Black, Asian and Minority Ethnic (BAME) Service personnel were overrepresented in the complaints system (20% and 10%) when compared to their representation in the Armed Forces (11% and 7%).
- There was a general improvement in the time taken to resolve complaints across the single Services.
- 47 complaints from the old Service complaints system remained open at the end of 2017 (i.e. complaints made on or before 31 December 2015).

Recommendations

Based on the work undertaken by the OSCO in 2017 and the current state of the Service complaints system, the Ombudsman makes the following recommendations in her report.



Recommendation 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.

Recommendation 2.2

That by December 2018, JSP 831 is amended to explicitly set down as a required step that upon receipt of:

- a written statement of complaint (whether or not on an Annex F), or
- a referral from the Ombudsman

the Specified Officer *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.

Recommendation 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.

Recommendation 2.4

That by April 2019, training is available to personnel involved in making decisions as part of the Service complaints process, including Specified Officers, Decision Bodies and Appeal Bodies, on decision writing for complaints handlers. This could be discreet training or part of a wider package on Service complaints as referred to in Recommendation 2.7.

Recommendation 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.

Recommendation 2.6

That by October 2018, the method for approval and payment of compensatory 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.

Recommendation 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.

Recommendation 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.

Recommendation 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.

Recommendation 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.



Chapter 1 – What makes a complaints system efficient, effective and fair?

It is not sufficient for a workplace complaints system to simply exist – it must also be efficient, effective and fair. These are basic principles of complaint handling and the Ombudsman is required to make an annual assessment as to whether the Service complaints system has met those principles.

Such an assessment is not rigid; it requires a judicious balancing of myriad factors against each individual principle, many of which overlap, and consideration of them as a whole. The Ombudsman has found that the reformed Service complaints system is still not efficient, effective nor fair. The broad factors that the Ombudsman has taken into consideration when making this assessment are outlined below.

Efficient

An efficient complaints system is one which:

Deals with complaints at the lowest suitable level

Dealing with complaints at the lowest *suitable* level does not mean dealing with all complaints informally. It simply means that steps must be taken to try and resolve a complaint at the correct level in the first instance – with regards to both the proper investigation and the granting of redress.

This concept is reflected in the reformed Service complaints system by ensuring that the complaint is given to the person who, in the first instance, can grant the redress sought should the complaint be upheld.

While informal resolution should be considered, it is not always appropriate. Informal resolution should not be pursued when:

- the complainant does not wish to follow an informal process to resolve their complaint
- serious allegations such as bullying, harassment or improper behaviour have been made
- the allegations made require investigation in order to determine whether the complaint can be upheld

From correspondence received by the OSCO and the undue delay cases dealt with in 2017, the Ombudsman is concerned that the focus of the single Services has been on resolving complaints at the lowest *possible* level rather than the lowest *suitable* level – and there is often a substantial difference. Although the Ombudsman applauds the increasing effort to resolve matters informally and make use of alternative dispute resolution¹, not all complaints lend themselves to informal resolution. Therefore care must be taken to ensure that the correct metric, i.e. the lowest suitable level, is being used.

¹ Alternative dispute resolution refers to methods of resolving complaints that fall outside of the formal complaints process e.g. mediation.

Resolves complaints within the allocated timeframes

Published timeframes for handling a complaint not only provide the individual complainant, and respondent, with a guide as to when they can expect the matter to be concluded, but are also a valuable tool for measuring how effectively the system is operating as a whole.

Timeframes should be stretching, but they must also be realistic. Otherwise, they provide no certainty to complainants or respondents, nor are they a useful measure of how the system is operating.

Currently the Service complaints system requires that 90% of complaints are resolved within 24 weeks. This target assumes that only 10% of Service complaints are complex issues that require additional time to resolve. As no individual Service has ever met this target, and because there are still a number of legacy complaints in the reformed system, the Ombudsman recommended in her Annual Report 2016 that the Ministry of Defence, in conjunction with the single Services and the OSCO, evaluates this target and determines if it is appropriate. This work is still ongoing.

In 2017 the tri-Service rate of resolution within 24 weeks was 52%.

At this time, this is the only agreed KPI for measuring the efficiency of the Service complaints system.

Handles complaints without undue delay

Not only should complaints be dealt with in the required timeframe, they should be handled without undue delay. While there is no precise definition of undue delay in law, it is commonly held to mean that something has taken too long. In respect of complaint handling, it would mean that the time taken to resolve a complaint has been excessive or unfair. A complaint does not need to exceed the published timeframe in order for there to be undue delay. Equally, undue delay will not necessarily be found in a complaint that does exceed the published timeframe.

In 2017, the OSCO found undue delay in 79% of the 61 investigations of this kind completed in year.

Is equipped with sufficient resource

In order to be efficient, a complaints system requires sufficient resource to operate. Such resource not only includes the resources required to handle individual complaints but the infrastructure of the complaints system as a whole.

Resource for individual complaints	Infrastructure
Sufficiently staffed secretariats	Adequate and up-to-date policies
Fee Earning Harassment Investigation Officers (FEHIOs)	System for recording and analysing complaint data
Independent Members (IMs)	Training

“No matter how well structured a complaints system is, it cannot be effective if the target group it serves does not know about it, or have a good understanding of how it operates.”

The Service complaints system, like many other areas, does not currently have the resources it requires in order to operate efficiently. Throughout her report, the Ombudsman references the lack of:

- Training offered to personnel on the Service complaints process
- FEHIOs and IMs
- Updated JSPs that govern the complaints process

In addition, the Naval Service has reported a shortage of manpower in its secretariat during 2017. While there is work ongoing to address a number of these issues, each of the resources are important and play a role in ensuring the efficiency of the process.

Effective

An effective complaints handling system is one that:

People have knowledge of

No matter how well structured a complaints system is, it cannot be effective if the target group it serves does not know about it, or have a good understanding of how it operates. This applies to both the internal system and external oversight.

Although the Ministry of Defence indicates that a range of training on the complaints process is provided to Service personnel (see Chapter 4), Service personnel still report having limited knowledge of the system and awareness of the OSCO.

- The Armed Forces Continuous Attitude Survey (AFCAS) 2017 reported that 8% of personnel answering the survey did not make a Service complaint when they experienced bullying, discrimination, harassment or other improper behaviour because they did not know how to.
- Feedback provided to the OSCO throughout the year consistently referenced the limited training and information offered to personnel regarding the Service complaints system.

Rates of satisfaction were low for the:

- amount of information provided by the Service (33%)
- availability of information about the Service complaints process (32%)
- availability of training provided on the Service complaints process (19%)

“All soldiers should be educated about the complaint process and the roles and responsibilities of the SCO as part of their initial training. Active soldiers should all be re-educated in this regard.”

“ both the perception and experience of the complaints system must be one that is deemed to be fair and positive. ”

“I think Service complaint training and awareness should form part of the annual mandatory training syllabus.”

“I don’t believe there is any training, SC is noted as an option during unit training and briefs. However the process is not explained and it’s only when I felt compelled to submit an SC that I read all of the policy and information available.”

- Knowledge and awareness of the Ombudsman fell in 2017, particularly among “Other Ranks/ Ratings”², as reported in AFCAS 2017. While steps have been taken by the single Services and the OSCO to improve this, more work needs to be done in 2018 to find a more effective way of distributing print materials advertising the OSCO throughout the numerous units within the UK and abroad.

People have confidence in

Those who have used the complaints system need to retain confidence in it regardless of the ultimate outcome of their complaint. The complaints system must also operate in a culture that views complaints positively and does not discourage individuals from making a complaint.

This means that both the perception and experience of the complaints system must be one that is deemed to be fair and positive.

The majority of personnel in the Armed Forces, 71% according to AFCAS 2017, believe they are treated fairly and many go through their entire career without having the need to make a complaint. However for those who do, confidence in the reformed Service complaints system remains substantially lower than it should be.

Given the delays and inefficiencies that plagued the old system, the Ombudsman notes that it will take time for the changes to bed in. However, there remains concern that some people are not using the complaints system because they have no confidence in it.

² “Other Ranks/Ratings” is the classification used to describe members of the single Services who are not officers.

“Only one in ten personnel who experience bullying, harassment or discrimination make a Service complaint.”

As reported in AFCAS 2017, only one in ten personnel who experience bullying, harassment or discrimination make a Service complaint. The main reasons given for not complaining were a belief that nothing would be done (59%) and concerns that it would have a negative impact on the complainant's career (52%).

In addition, the majority who did make a complaint were dissatisfied with the process overall. The level of dissatisfaction increased in four out of the five categories when compared to 2016:

- Objectivity and fairness (48% dissatisfied compared to 39% in 2016)
- Time taken to resolve complaint (64% dissatisfied compared to 60% in 2016)
- Kept informed of progress (51% dissatisfied compared to 47% in 2016)
- Support from Assisting Officer (38% dissatisfied – the same as in 2016)
- Outcome (59% dissatisfied compared to 54% in 2016)

Complainants also continue to report to the OSCO that they were discouraged from making a complaint, even following a referral from the Ombudsman as discussed in Chapters 2 and 3.

This is of significant concern to the Ombudsman and while this negative culture toward complaints continues there will not be an effective complaints system.

“I was met with negativity my CO tried to convince me NOT TO make a Service complaint and told me it was ‘for my own good’.”

“My Service actively tried to dissuade me and others to make a Service complaint”.

Changes as a result of complaints that have been made

An effective complaints system not only resolves the complaints made, but brings about change as a result by looking at wider issues and implementing lessons learned.

In respect of the Service complaints process there are a number of different aspects to this, namely how:

- a. lessons learned are identified and acted upon following an investigation of a Service complaint in the internal system;
- b. recommendations and wider learning points are implemented following the outcome of an individual investigation conducted by the OSCO;



- c. recommendations made by the Ombudsman in her Annual Report are implemented by the Ministry of Defence and single Services;
- d. lessons learned are identified on a systemic level and proactive steps taken to improve the system.

The Ombudsman has been impressed with the work undertaken by the Ministry of Defence, single Services and her office through the Service Complaints Working Group and Quarterly Reviews to regularly assess and address systemic issues.

Going forward, as the number of investigations handled increases, the OSCO will be undertaking greater analysis of the recommendations and wider learning points made in order to identify trends or recurrent issues to challenge the Services harder.

Fair

There are a number of principles that are considered when determining whether, on balance, a complaints system is fair. The Ombudsman Association sets out five criterion which the Ombudsman uses to make an assessment of how fair the system is as a whole.

Clarity of purpose

The purpose of a complaints process and how it operates must be clear to those who may want to use it.

Although the remit of the Service complaints system is set out clearly in legislation, there remains concern that the JSP guiding personnel in this area, JSP 831, is not in plain English and is difficult to navigate. There are further concerns that JSP 763, which specifically covers complaints concerning bullying and harassment, has yet to be updated to reflect the reformed system. In addition, with individuals continuing to report insufficient, or an absence of, training around Service complaints, knowledge and understanding is not as high as it should be.

Recommendation 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.

Accessibility

Complaints systems should be free and easy to access.

The Service complaints system is free and available to all Service personnel who believe they have been wronged in their Service life. However, as previously discussed, there are barriers to accessing the complaints system.

“*The reformed system has far greater flexibility to deal with complaints than its predecessor.*”

- Those personnel who have limited knowledge of the system may not know how to make a complaint.
- People may be discouraged from making a complaint or be under the impression that they will be victimised for doing so.
- Many lack confidence that anything will be done as a result of making a complaint and therefore feel that making a complaint would be fruitless.

In addition to these barriers, there is anecdotal evidence to suggest that many personnel feel that they need legal representation to make a Service complaint. Whether this is to frame the initial statement of complaint or to provide advice throughout the process, it can come at significant cost to the individual. If an individual believes that they need legal representation in order to access the system, or that they are at an unfair advantage without such representation, it can create a perceived barrier to access.

Flexibility

While complaints systems need to have clear processes and procedures, they must also offer a level of flexibility to ensure complaints are dealt with quickly and appropriately in the first instance.

The reformed system has far greater flexibility to deal with complaints than its predecessor. The process now allows for admissible complaints to be assigned directly to those who have the ability to grant the required redress should the complaint be upheld.

In addition, other practices within the system also demonstrate flexibility, including:

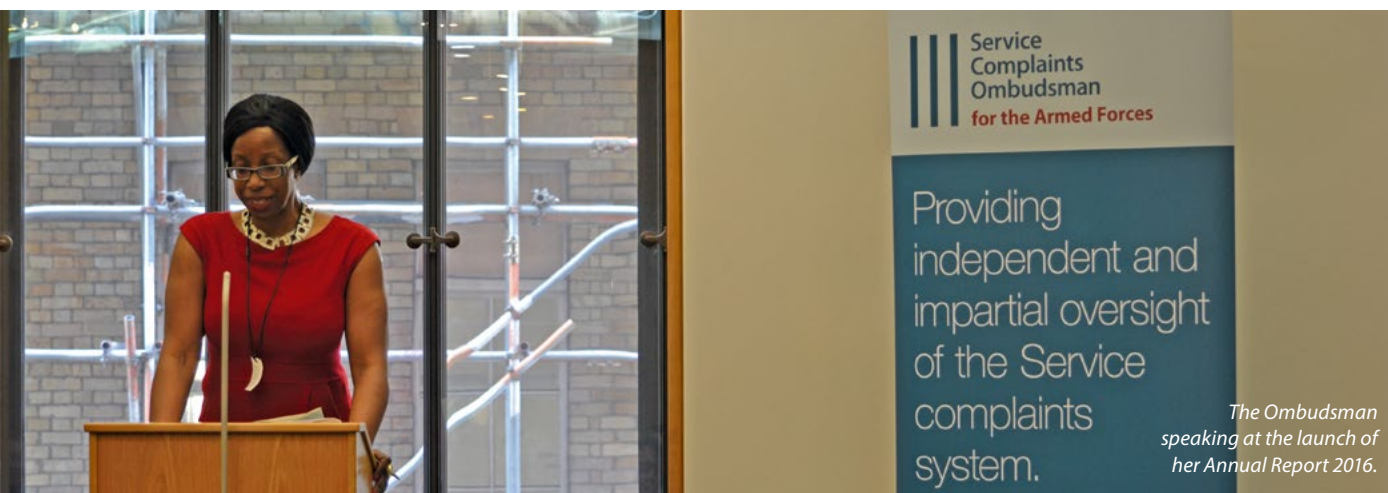
- Pausing the process where the health of the complainant means they are unable to engage and the complaint cannot be decided without their involvement.
- The ability for individuals to pursue informal resolution or Alternative Dispute Resolution instead of the formal complaints process, where suitable and acceptable to the complainant.
- The “quick fix” and “fast track” schemes introduced by the Naval Service and RAF to resolve complaints and provide redress outside of the Service complaints system where it is clear that the individual has been wronged and no investigation is required.

As a general approach the Services should not be so rigid in their processes that they dismiss alternative ways of dealing with a complaint or fail to trial or implement new ways of working.

Openness and transparency

There is far greater openness and transparency in the reformed complaints process as evidenced by the establishment of the Ombudsman and her role in the provision of independent and impartial oversight.

Each of the Services is required to report to the Ombudsman annually to provide statistics on how they have performed in the handling of Service complaints that year. In addition, monthly “red flag” reports are provided, which indicate the number of complaints that have not been resolved within 24 weeks.



However, openness and transparency is not only required with the Ombudsman, but with those who use the complaints system. Open communication plays a substantial role in this. In 2017, the Ombudsman noted that decision letters did not always clearly communicate how a decision had been reached, an issue that was often raised in 2016, and this is an area that requires further attention.

The Ombudsman acknowledges that great strides have been made in updating the information that is made available to personnel regarding the Service complaints system. This includes the new leaflets that both the Army and RAF have developed and updates to information on websites across the single Services. The Ombudsman encourages the initiative shown and hopes that work will continue in this vein.

Proportionality

A proportional complaints system is one that uses appropriate processes to handle a complaint and grants appropriate redress where complaints have been upheld.

The reformed system has stripped away a substantial amount of the bureaucracy that governed the previous complaints system. The Ombudsman will be monitoring the impact of this over the coming years.



Chapter 2 – Work of the Office of the Service Complaints Ombudsman

This chapter outlines the work undertaken by the Office of the Service Complaints Ombudsman (OSCO) under each of the key legislative functions in 2017 in addition to the outreach work undertaken by the Ombudsman. All statistics referred to can be found in more detail in Appendix G, which starts on page 71. Further statistics concerning the work of the OSCO in 2017 can be found on our website- www.servicecomplaintsombudsman.org.uk.

Part 1: Enquiries, Referrals and Investigations

The OSCO provides independent and impartial oversight of the Service complaints system. The primary way in which this is done is through the Ombudsman's powers of referral and investigation. Using these powers, the Ombudsman can:

- refer a Service person's intention to make a Service complaint to their chain of command.
- review a decision by the chain of command to not accept a complaint for investigation or to not allow a complaint to proceed to appeal for a further decision.
- investigate allegations of undue delay in the handling of a Service complaint or Service matter.
- investigate the substance (merits) of a Service complaint which has completed the internal system.
- investigate allegations that there was maladministration in the handling of a Service complaint which has completed the internal system.

The Ombudsman has no powers of own initiative investigation. This means that the Ombudsman can only use her powers after receiving an eligible application. She cannot conduct investigations into issues because of concerns raised in the media, through a confidential report, or arising from a visit she has undertaken.

The requirements for an eligible application, in both legislation and OSCO policy, are set out in Appendix B.

Enquiries

Anyone can contact the OSCO to seek information on the Service complaints process or the Ombudsman's processes. Where an individual provides sufficient information to confirm they are making a new contact³ the enquiry is logged in the case management system and a unique case number is assigned.

In 2017, the OSCO received 1,060 contacts from individuals enquiring about the Ombudsman's powers, an increase of over 130 on the number of contacts received in 2016. While contacts can be made by anyone, the overwhelming majority of contacts (81%) were made by current Service personnel, or those who had recently left the Service.

93% of all contacts were potentially in scope; however, only 608 applications were made requesting the Ombudsman use her powers of referral or investigation.

³ A new contact can constitute either an individual that has not previously contacted the OSCO or an individual that is contacting the OSCO about a new issue.



202

referrals made

99%

of referrals were made within the time target

Referrals

If a Service person believes they have been wronged in their Service life they have the right to make a formal complaint. This 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. For this reason it is open to individuals to ask the Ombudsman to raise their intention to make a Service complaint with their chain of command. This is known as a referral.

A referral is not a formal Service complaint and does not require an individual to pursue a formal complaint. However, a referral does place a legal obligation on the chain of command to discuss the potential complaint with the individual and to begin the formal complaints process if the individual wishes.

Where an application for referral is received from a current or former Service person and it concerns a potential complaint relating to their Service life, a referral is automatically made once consent has been received.

The Ombudsman takes no view on whether the potential complaint should be accepted as a Service complaint or whether it has merit. The Ombudsman will only exercise her discretion not to refer where the application does not meet the criteria set out in the legislation (see Appendix B).

In 2017, the OSCO made 202 referrals. This represents 20% of all contacts received by the Ombudsman in the reporting year.

This continues the downward trend on the number of referrals made since the final year of the Office of the Service Complaints Commissioner in 2015.

As reported in Annual Report 2016, this downward trend was anticipated and is a reflection of the strengthened powers of the Ombudsman under the reformed system.

While individuals are not required to give reasons for why they have elected to approach the Ombudsman rather than their chain of command, knowing this can provide significant insights into how the Service complaints system is operating on a practical level.

For this reason, we ask this as one of the questions in the OSCO feedback survey that is sent out at the end of the referrals process. In 2017, the 92 individuals completing the survey reported the following as reasons for approaching the Ombudsman over their chain of command:

- lack of confidence in the chain of command (30%)
- no longer serving (20%)
- concern that complaining directly would result in victimisation or being dissuaded from submitting a complaint (5%)
- progress of an existing complaint (5%)
- other (40%)⁴

⁴ The OSCO recognises that given the high number of individuals selecting this response, further work needs to be done in 2018 to establish what those "other" reasons are.

The Ombudsman firmly believes that her role as an alternative point of contact is an essential part of a fair and just process and should always remain. However, she continues to be concerned about the number of individuals reporting that they fear potential victimisation for making a Service complaint. The Ombudsman is also particularly concerned about reports from individuals stating that they have been discouraged from lodging a formal Service complaint following a referral from the OSCO. This issue is discussed further in Chapter 3.

Timeliness of referrals

The OSCO has an internal target to make 90% of referrals within seven working days of receiving a complete application. A complete application is defined by the OSCO as one that contains all required information, including consent. The Enquiries and Referrals Team exceeded this target, with 99% of referrals made within seven working days.

The Ombudsman commends the Enquiries and Referrals Team for the excellent job it has done this year in what is a key role for the organisation.

Investigations

In 2017, the OSCO received 406 applications requesting the Ombudsman use her powers of investigation:

Investigation type	Number of applications in 2017	Total percentage of applications in 2017 ⁵
Review of admissibility decision	106	26%
Undue delay	104	26%
Substance (merits)	108	27%
Maladministration	88	22%

Not all applications are accepted for investigation. Applications must meet the eligibility criteria set out in both the legislation and the relevant OSCO policy for the specific type of application being made. For some investigation types there is a two-stage eligibility process. This information is set out in Appendix B. Of the 406 applications received in 2017, 273 were eligible to be considered for investigation.

In addition to the findings made by the Ombudsman at the end of an investigation, it is open to the Ombudsman to make recommendations for action or redress in each matter. Wider learning points can also be made as a result of an investigation. These tend to be more generic in nature and apply across the Service complaints system, rather than being specific to an individual complaint.

⁵ Due to decimal rounding this adds up to 101%, however the figures are correct.



All investigations are conducted by the OSCO's Investigations Team under delegated authority. Individual investigators also write the decision reports, including reaching a finding following investigation and making recommendations and wider learning points as appropriate. For the purpose of clarity, where the report refers to a decision by the Ombudsman, this includes decisions made under delegated authority. The Investigations Team, when fully staffed, consists of ten experienced investigators and is managed by the Head of Investigations under the purview of the Chief of Operations.

The numbers referred to in the below sections, refer only to the applications received by the OSCO that were deemed eligible.

Review of admissibility decisions

An admissibility decision is a decision made by the chain of command about whether a Service complaint can be accepted for investigation or whether a complaint can proceed to appeal for a further decision. In the first year of operation, these types of decisions were called "gateway decisions" as these were the two points at which a Service complaint could be turned away from the system. Following feedback from Service personnel who found the term unnecessarily confusing, the OSCO now refers to such decisions as what they are – admissibility decisions.

Following receipt⁶ of an admissibility decision, an individual has four weeks to make an application to the Ombudsman to request a review of that decision.

The review undertaken by the Ombudsman looks only at the admissibility decision itself. The review does not consider the substance (merits) of the complaint.

In 2017, a total of 87 eligible applications were made asking the Ombudsman to review an admissibility decision. 79 (91%) of those applications were accepted for investigation. Of the reviews that had been completed by 31 December 2017:

- 26% of all applications accepted for review were upheld, to some extent, in favour of the complainant.
- Of the remaining reviews, 74% found in favour of the relevant Service.

Seven reviews were still ongoing as of 31 December 2017 and one application was withdrawn by the complainant before a decision had been made.

OSCO statistics do not distinguish between the review of initial admissibility decisions and appeal admissibility decisions.

⁶ Regulation 2(5) of The Armed Forces (Service Complaints) Regulations 2015 states: 'Any reference in these Regulations to the day on which a person received notification shall be deemed to be a reference to the second day after the day on which the notification was posted, sent electronically or delivered in person to the intended recipient'.

Outcomes, recommendations and wider learning points made following reviews of admissibility decisions

The purpose of the Ombudsman's power of review is to make a final decision about whether a matter can be accepted as a Service complaint, or proceed to appeal. The Ombudsman's decision is binding. Therefore, if the review is upheld in favour of the complainant, the matter is accepted as a Service complaint, or as an appeal.

Aside from redress, the purpose of the recommendations and wider learning points made by the Ombudsman is to improve the quality and consistency of decision-making on admissibility issues across the single Services.

Although more reviews were found in favour of the single Services in 2017 than 2016 (74% compared to 37%), many of the same issues arising in 2016 were again seen in the reviews conducted in 2017.

As these reviews examine admissibility decisions, the quality and content of the Services' decision letters is a key factor in the Ombudsman's consideration. Some of the more common recommendations and wider learning points raised in reviews in 2017 include:

- **The Specified Officer (SO) must ensure that decision letters are clear. This includes providing clear and correct information about when complainants can contact the Ombudsman and the time limits for doing so.**

This was a significant issue in 2016 reviews resulting in the Ombudsman's Recommendation 1.1 that a model decision letter and standard wording be developed that correctly communicates the following:

- a. the complainant's statutory right to approach the Ombudsman;
- b. the complainant's right to seek a judicial review of the Service's decision; and
- c. the correct timelines for both a) and b) to be submitted.

In accordance with the Ombudsman's update on the progress against her 2016 recommendations as set out in Chapter 4, steps have been taken to progress this recommendation but it has not yet been completed.

That these issues are ongoing in 2017 indicates the importance of ensuring Recommendation 1.1 is fully implemented at the earliest opportunity. The Ombudsman will continue to monitor this issue in 2018 and consider further steps and recommendations that may be taken if it continues to be a substantial factor in admissibility reviews.

- **The SO should speak to the complainant at the beginning of the process to ensure that they understand what the complaint is about.**

JSP 831 Part 2, Chapter 3, paragraph 22 encourages the SO, or someone on their behalf, to talk to the complainant upon receiving a written statement of complaint to ensure that, among other things, they understand the nature of the complaint.

In the instances where this does not occur, the reasons are not entirely clear. A plain reading of this section of JSP 831 suggests two possibilities:

- i. The use of the word “should” potentially gives rise to a belief that this step is optional, rather than required.
- ii. Such discussions are focussing on the other issues covered in the paragraph. Namely, the redress sought, additional information required, names of respondents and witnesses or the need for an Assisting Officer (AO).

Overall, it seems likely that the SOs believe they understand what the individual is seeking to complain about and therefore feel that such a conversation is not required.

However, assumed understanding and failure to have these discussions is what leads to situations where there is a significant difference between what the individual believes their complaint is about and what the SO, from reading the written complaint, understands the complaint to be about.

This can be exacerbated where an individual has:

- not had the assistance of an AO to draft their complaint
- received poor advice in the process of drafting their complaint
- one or more barriers to communication.

Recommendation 2.2

That by December 2018, JSP 831 is amended to explicitly set down as a required step that upon receipt of:

- a written statement of complaint (whether or not on an Annex F), or
- a referral from the Ombudsman

the Specified Officer *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.

- **The SO should reference the specific sections of the legislation under which they consider matters are excluded, rather than making broad statements that the matter is excluded under the legislation.**

In 2016, one of the common recommendations made by the Ombudsman was that decision letters should clearly set out the different heads of complaint (where applicable) detailing which are admissible, which are not and the reasons why.

While there has been significant improvement in this area, more detail for a determination that a complaint is an excluded matter, whether in whole or in part, is required in decisions letters.

- **Where a complaint is made out of time, the SO must ensure that they speak to the complainant to find out why the complaint is late and to consider these reasons when determining if it would be just and equitable in all the circumstances to accept the complaint out of time.**

As outlined above, it is hoped that the issue of addressing all issues within the decision letter will be tackled by Recommendation 1.1 which included the recommendation that the guidance provided to SOs on what must be considered when making an admissibility decision be reviewed. This should be reinforced by the review of JSP 831 which is scheduled to take place in the first half of 2018.

That SOs are still making admissibility decisions that a complaint is out of time, without asking the complainants for any 'just and equitable' reasons for the late submission of the complaint, indicates the need for interim steps to be taken by the Services to rectify this issue.

Although complainants have the right to ask the Ombudsman to review an admissibility decision, the initial responsibility for such decisions rightly lies with the single Services. Therefore, care must be taken to ensure the decisions are made in accordance with correct procedure in the first instance rather than making a quick decision that the Ombudsman will "fix" upon review. The Ombudsman has no current concerns that this is happening in practice. However, this is the second year we have made recommendations reiterating the importance of obtaining all relevant information to inform the determination, which is a fundamental part of the decision making process.

- **Complainants must be provided with correct process information, including the time limits for making a Service complaint that arises under the Equality Act 2010.**

In the second year of the reformed process the OSCO identified that there seemed to be limited knowledge and understanding of the extended timeframes for making a Service complaint where the issue falls under the Equality Act 2010. This is an issue that has arisen not only through reviews of admissibility decisions but also when the Ombudsman, or her representative, has delivered briefings at the Commanding Officer Designate Courses/Future Commander Study Periods.

The extended timeframe was introduced to the reformed system to ensure that where a complaint *could* be taken to an Employment Tribunal (ET)⁷ the individual Service person had the same amount of time to make a Service complaint as they did to lodge their case at the ET. This was deemed necessary to ensure fairness, as in order for a Service person to have a matter heard at the ET they must also have made a Service complaint.

While this change is still relatively new, it is an important part of the reformed process and all Commanding Officers who could be asked to consider the admissibility of a Service complaint should be aware of it.

⁷ The Armed Forces has an exemption under the Equality Act 2010 for age and disability.



Recommendation 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.

Recommendation 2.4

That by April 2019, training is available to personnel involved in making decisions as part of the Service complaints process, including Specified Officers, Decision Bodies and Appeal Bodies, on decision writing for complaints handlers. This could be discreet training or part of a wider package on Service complaints as referred to in Recommendation 2.7.

The Ombudsman will continue to monitor the quality and content of decision letters in 2018 and consider whether further steps need to be taken to address these ongoing issues.

Undue delay

The Ombudsman has power to investigate undue delay in an ongoing Service complaint or Service matter.

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. Such delays are not desirable, but there may be legitimate and justifiable reasons for the delay.

In 2017, 65 eligible applications were received asking the Ombudsman to investigate alleged undue delay. 57 (88%) of those applications were accepted for investigation. Of the investigations that had been completed by 31 December 2017:

- 79% of all applications accepted for investigation were upheld, to some extent, in favour of the complainant.
- 21% of the remaining investigations were upheld in favour of the relevant Service.

Two investigations were still ongoing as of 31 December 2017 and six applications were withdrawn by the complainant before a decision had been made.

OSCO statistics do not distinguish between undue delay in Service matters and Service complaints.

Outcomes, recommendations and wider learning points made following undue delay investigations

Delay has been an ongoing issue since the initial Service complaints process was introduced in 2008 and was a primary factor in the decision to reform the system. The ultimate purpose of the Ombudsman's power to investigate undue delay while a Service complaint or matter is ongoing is to try and tackle delay as it arises. Aside from redress, the recommendations and wider learning points made as part of those investigations seek to ensure that steps are taken to speed up the resolution of specific cases and to minimise delay in the system as a whole.

Some of the more common recommendations and wider learning points made by the OSCO in 2017 include:

- **Action taken in progressing Service complaints and Service matters should be kept in written form.**

JSP 831 requires that Service complaints are recorded on the Joint Personnel Administration (JPA) system. This includes not only logging the complaint, but recording the steps taken to progress the Service complaint. While this is a requirement, a written record is not always kept detailing the steps taken to progress the complaint.

In addition, we have seen that written records are often not kept for informal processes, which fall outside of JSP 831.

Keeping an accurate written record of how a complaint has been handled ensures that:

- the Decision Body is clear about what has been done and what is left to do.
- timely and meaningful updates can be provided to both the complainant and any respondents.
- an accurate overview of the steps taken is available on appeal or to the Ombudsman during the course of an investigation.

The single Services should work to ensure that all officers charged with handling complaints, whether formal or informal, understand the importance of proper record keeping. The Ombudsman will continue to monitor this throughout 2018, particularly in respect of how records on the handling of informal complaints are maintained.

- **Complainants must be updated regularly on the progress of their Service complaint.**

JSP 831 requires that Decision Bodies maintain regular contact with complainants (and any other parties involved) and provide them with updates on the progress of their complaint⁸. Failure to do so is not only a cause for a complainant to make an application asking for an Ombudsman investigation into alleged undue delay, but can amount to maladministration.

The requirement to provide regular updates is not new to the reformed system and the Ombudsman acknowledges the anecdotal feedback over the years indicating that many complaint handlers find this action to be an administrative burden when balanced against the other requirements of their role.

While the Ombudsman recognises that the need to record all information on JPA is an additional administrative requirement, doing so should assist in the preparation of the updates. This particular example recommendation relates only to complainants, but the Ombudsman stresses the importance of providing regular updates to all parties connected to a complaint.

- **Where there has been a delay, a written apology should be provided to the complainant.**

A significant cultural change that is required as part of the reformed Service complaints process is the need for apologies to be provided where there has been a delay or mistake in process.

Providing a written apology for a delay in the handling of a complaint is about being transparent and accountable. It acknowledges the fact that the complaint has not progressed according to the expected timelines and provides the reasons for this and the steps that will be taken to resolve the issue. Because an apology often provides a complete redress, it can in the majority of cases remove the need for a complainant to seek external review.

While this example recommendation is specific to complainants, Decision Bodies must always remember that the complaints process can be stressful for others involved in the process, including respondents and even witnesses. This stress is often exacerbated by delays. As such, written apologies should be provided to all parties to a complaint, where appropriate.

- **When providing timelines for resolving a Service complaint, the Services need to ensure that they are realistic and achievable.**

How long a particular Service complaint will take to resolve will differ based on, among other things, the complexity of the issues, the availability of parties to the complaint and the resources available to investigate the complaint.

⁸ JSP 831 Part 2 Chapter 4, paragraph 7(d) "be open and maintain contact with the complainant and any other directly involved parties, such as respondents, especially if there has been no activity on the complaint for some time (e.g. two-three weeks). Keeping the complainant up to date on matters can help to alleviate anxiety and maintain their confidence that their complaint is being taken seriously. The same applies to any other parties who are involved".

The Ombudsman encourages the Services to resolve Service complaints as quickly as possible, adhering to proper process, and stresses the importance of expectation management. When providing timelines for resolving a Service complaint, whether to a party to the complaint or the Ombudsman, it is more important that the timeline is achievable than aspirational. This does not mean that timelines should be artificially inflated, only that they are realistic.

The factors that must be taken into account when determining timelines are the resources needed to resolve the complaint, the availability of that resource and the complainant's circumstances.

- **When assigning a complaint to a Decision Body, steps must be taken to determine if the Decision Body is available and has the required resource and knowledge to take on a Service complaint.**

One of the key features of the reformed system is that complaints are assigned to the appropriate Decision Body in the first instance. However, Decision Bodies often lack the required resource to handle the matter within the required timeframe – even where the matter is not complex.

The Ombudsman believes that there is an onus on the single Service secretariats to take steps to determine if the identified Decision Body is available to deal with the Service complaint. There is a corresponding responsibility on the part of the Decision Body to immediately notify the secretariat that they are unable to deal with a Service complaint that has been assigned to them and the reasons why. This ensures that steps can be taken to either identify a new Decision Body, or provide advice on how to progress the matter and/or, if possible, additional resource.

- **Complainants should be provided with clear information on who is responsible for handling their Service matter.**

Investigations into undue delay in a Service matter found that Service personnel were often unsure who was responsible for dealing with their informal complaint. While JSP 831 sets out the requirements to notify a complainant about who is handling a formal complaint, there are no corresponding guidelines for how to handle an informal complaint.

Informal complaint handling processes are best used when an issue can be resolved quickly and does not need to be investigated. While the benefits of informal complaint handling include being flexible with the approach taken to resolve the matter, basic principles still apply in order to ensure that the process is managed correctly.



Recommendation 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.



In addition to the above common recommendations, there were two key issues identified in undue delay investigations in 2017.

Fee Earning Harassment Investigation Officers (FEHIOs)

Many of the issues arising in undue delay investigations in 2017 were similar to those dealt with in 2016. A major source of undue delay in the handling of Service complaints in 2017 was due to the availability or actions of FEHIOs.

The number of FEHIOs in the system and their conduct was an issue discussed in the Ombudsman's Annual Report 2016 and resulted in two recommendations: Recommendation 1.4 that asked the Ministry of Defence to consider increasing the number of FEHIOs; and Recommendation 1.6 which asked that the Ministry of Defence reviewed the training and performance management of FEHIOs. As per the Ombudsman's update in Chapter 4 on progress made against the recommendations in the Annual Report 2016, substantial progress has been made in recruiting new FEHIOs and Independent Members (IMs). However, the Ombudsman acknowledges that it will take time for those individuals who have been newly appointed to take on cases and for the impact to filter through.

As part of the ongoing work being undertaken in this area, clear information on how individuals can raise complaints about the conduct of FEHIOs needs to be disseminated across the single Services. This information must also be provided to the OSCO so that it can be made available on our website and provided to individual complainants by our Enquiries and Referrals Officers and Investigators as required.

Compensatory payments of £500 or less

A second issue that played a part in a number of undue delay cases investigated by the OSCO in 2017 was how compensatory payments of £500 or less were being made to complainants and the power to authorise those payments. Across the single Services there is disparity as to who can authorise such payments to be made to complainants. While the Army has recently obtained delegated powers to make payments of £500 or less, both the Naval Service and the RAF have to request Her Majesty's Treasury approval of such payments. The process for requesting treasury approval can be lengthy and add substantial delay to the resolution of a complaint.

Furthermore, some payments of this type are paid via cheque and others through the payroll system. Payments made by the latter method are therefore subject to income tax and National Insurance contributions resulting in the complainant receiving less money.

Recommendation 2.6

That by October 2018, the method for approval and payment of compensatory 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.

Substance (merits)

Once a final decision on a Service complaint has been made as part of the internal system, the complainant has six weeks and two days from the date of the final determination to make an application to the Ombudsman to ask for an investigation into the substance (merits) of that complaint. This is essentially a reinvestigation of the complaint, either in whole or in part.

Although individuals have an automatic right to make such an application to the Ombudsman, the Ombudsman is not a third level of appeal. This means that there is no automatic right to have the Ombudsman investigate simply because the application has been made in time.

In 2017:

- 68 eligible applications were received asking the Ombudsman to investigate the substance (merits) of a Service complaint. Of those applications:
 - 39 were discontinued following an initial case review which indicated that further investigation by the Ombudsman would not be a proportional use of resources; i.e. further investigation would not lead to any significant change or lead to a different outcome for the complainant.
 - None were accepted for investigation following an initial case review.
 - 29 were still going through the initial case review process as at 31 December 2017.
- Nine applications that had been received in 2016 were discontinued following an initial case review which found that it would not be proportionate to undertake a new investigation into the merits of the complaint.
- Two substance (merits) investigations⁹ were concluded in 2017 and had decisions issued. Of these:
 - 50% were upheld, to some extent, in favour of the complainant.
 - 50% upheld the original decision made by the Service.

⁹ This refers to investigations concluded in 2017, where the original applications were received in 2016.

“ Within the initial case review, OSCO investigators not only determine whether a full investigation should be conducted, but also make wider learning points to address issues where appropriate. ”

Although the acceptance rate for this type of investigation may appear to be exceptionally low, eligible applications go through an initial case review before a decision is made about whether the matter should be accepted for a full investigation. Initial case reviews are resource intensive and can take anywhere between 4 and 25 working days to complete¹⁰. As part of these reviews, OSCO investigators examine relevant documents from the Service complaint file and those provided by the complainant to determine if there is any suggestion that the complaint, or parts therein, was not investigated properly or that further investigation by the OSCO would lead to a different outcome.

Within the initial case review, OSCO investigators not only determine whether a full investigation should be conducted, but also make wider learning points to address issues where appropriate.

Maladministration

Once a final decision on a Service complaint has been made as part of the internal system, the complainant has six weeks and two days from the date of the final determination to make an application to the Ombudsman to ask for an investigation into alleged maladministration in the handling of that complaint.

There is no 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
- inadequate liaison or consultation

In 2017:

- 53 eligible applications asking the Ombudsman to investigate alleged maladministration were received. Of those applications:
 - 29 were discontinued following an initial case review which found that there was no indication of alleged maladministration or that the maladministration had been redressed within the internal complaints process.
 - One was accepted for investigation following an initial case review.
 - 23 were still going through the initial case review process as at 31 December 2017.

¹⁰ This assumes it is the only task the investigator is working on for the duration of the working day.

- Six applications that had been received in 2016 were discontinued following an initial case review, which found that there was no indication of alleged maladministration or that the maladministration had been redressed within the internal complaints process.
- Five maladministration investigations¹¹ started in 2016 were concluded in 2017 and had decisions issued. Of these:
 - 100% were upheld, to some extent, in favour of the complainant.

Although the acceptance rate for this type of investigation may appear to be exceptionally low, eligible applications go through an initial case review before a decision is made about whether the matter should be accepted for a full investigation. Initial case reviews are resource intensive and can take anywhere between 4 and 25 working days to complete¹². As part of these reviews, OSCO investigators examine relevant documents from the Service complaint file and those provided by the complainant to determine if there is any suggestion of improper or incorrect handling of the complaint that might constitute maladministration. They also consider whether that maladministration has been remedied within the internal system.

Within the initial case review, OSCO investigators not only determine whether a full investigation should be conducted, but also make wider learning points to address issues where appropriate.

Outcomes, recommendations and wider learning points made following initial case reviews of substance (merits) and maladministration applications

Wider learning points made as part of initial case reviews that determined a complaint did not require a full investigation by the OSCO included:

- Appeal Bodies need to remember the importance of the tone of language used in decision letters and the impact this can have on the recipient.
- The use of informal resolution in bullying and harassment complaints is not appropriate.
- Personnel handling Service complaints should be reminded to refer matters to the Service police where it is considered that criminal activity may have occurred.
- The single Services should consider retaining the audio recordings made during interviews until such time that the complainant has had the opportunity to read any resulting transcript and either accept or reject the accuracy of that transcript.
- Highlighting the need for a consistent approach across the single Services in relation to pension implications following wrongful discharge.
- Highlighting the need for a consistent approach across the single Services in relation to how consolatory payments are made.

¹¹ This refers to investigations concluded in 2017, where the original applications were received in 2016.

¹² This assumes it is the only task the investigator is working on for the duration of the working day.



Given the relatively small number of full investigations undertaken by the OSCO in these two areas, the Ombudsman is unable to separate individual recommendations and wider learning points made when considering substance (merits) and maladministration applications. However, it is noted that many of the recommendations made in these areas are not dissimilar to the recommendations made following reviews of admissibility decisions or investigations into undue delay.

That the recommendations made at these later stages still concern fundamental matters of complaint handling raises questions about the level of training and guidance available to complaint handlers within the Services, outside of the JSPs.

Recommendation 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.

Timeliness of OSCO investigations

The OSCO has an internal target to complete 90% of investigations within the published time targets. These targets differ for each investigation type.

In 2017, the OSCO fell short of this target with only 57% of all investigations being completed in time. This is down from 76% in 2016.

Investigation type	Time target	Outcomes within target (%)
Review of admissibility decision	17 working days	42%
Undue delay	17 working days	41%
Substance	100 working days	82%
Maladministration	100 working days	83%

While the Ombudsman recognises that OSCO timeliness falls substantially below the time target, it is imperative to note that the Investigations Team has never been at full complement since the office opened on 1 January 2016.

As of 31 December 2017, only five of the ten investigator positions were occupied and only five had been filled for a substantial period throughout the year. Furthermore, while one investigator post was technically occupied, the post-holder was on sabbatical from June 2017 and the Head of Investigations post had been vacant since May 2017.

At least five instances of recruitment action had been undertaken throughout the year in an attempt to fill these vacancies. Some of those recruitment actions were to fill multiple posts.

As the Investigations Team has never been at full complement, it is not possible for the Ombudsman to determine whether this is the cause for the OSCO failing to meet investigations time targets. Considerable efforts will be focussed on bringing the team to full complement in the first half of 2018. Once this has been achieved and the entire team has bedded in, the situation will then be monitored to determine if the level of resource allocated to the OSCO is correct, or whether further permanent resource is required.

While recruitment has been an ongoing concern, the OSCO has taken a number of other steps to improve the timeliness of dealing with complaints. The most significant of these was the restructure of the OSCO which took place in 2017.

As part of this restructure the role of Head of Office was abolished and replaced with two positions – Chief of Operations and Chief of Staff. The role of the Chief of Operations is to oversee the operational arm of the OSCO while the Chief of Staff focusses on the business management side of the organisation.

As well as providing much needed resource to the Enquiries and Referrals and Investigations Teams, the Chief of Operations has also conducted a review of the OSCO's operations procedures. This review has streamlined processes to remove any unnecessary elements that were causing delay. The impact of these changes will be monitored throughout 2018.

In addition, considerable resource has been put in to the recruitment of a cadre of Fee Earning Investigators (FEIs) to support the permanent Investigations Team. The FEIs commenced work from March 2018 as a flexible resource to enable caseloads to be better managed and more investigations to be completed.

Challenge to decisions

The findings made by the Ombudsman in any investigation are binding on all parties and can only be challenged by way of judicial review. This does not apply to the recommendations or wider learning points made by the Ombudsman which are not binding.

Judicial review

In 2017, one individual sought to bring a judicial review against a decision made by the Ombudsman to not investigate the substance (merits) of a Service complaint or allegations of maladministration in the handling of the same complaint. Permission to bring a judicial review was not granted by the court and the OSCO was awarded reasonable costs.

Information on the costs incurred defending this action can be found in our financial statement at Appendix E.

Other challenges

In addition to the judicial review action outlined above, the Ombudsman deemed that there was an additional challenge in 2017.

A determination by the Ombudsman following a review of an admissibility decision found aspects of a Service complaint to be admissible, overturning a decision made by the RAF Decision Body that particular elements of the complaint were excluded matters. In summary, a respondent in a Service complaint had sought to make their own Service complaint about procedural failings in the handling of the original Service complaint made about them. They further alleged that these failings led to the Service Complaints Panel (SCP) reaching an incorrect decision.

The Decision Body deemed these matters to be excluded as they sought to challenge the decision made by the SCP which, according to the policy extant at the time, constituted an excluded matter.

Following legal advice, the Ombudsman determined that while two matters had been correctly excluded, a further two matters did not amount to a challenge of the SCP decision and should be accepted for investigation.

Six weeks after receiving the Ombudsman's report, the RAF informed the Ombudsman that while it accepted the admissibility decision was binding, it was unable to implement two aspects of the Ombudsman's findings as they fell outside the law. The issue was that the RAF believed the Ombudsman had erred in finding that the subject being complained about did not amount to a collateral challenge of a SCP decision.

Although the RAF did not move to bring a judicial review, the Ombudsman sought to find a way forward. The Ministry of Defence, acting as intermediary, sought independent legal counsel on the issue. The opinion from counsel was that the RAF had been correct in its assessment of the nature of the complaint and that both direct and collateral challenges to the decision of a SCP were excluded under the legislation that was extant at the time.

The Ombudsman accepted counsel's findings and wrote to the complainant to notify them that she would be overturning her earlier decision and to apologise for the error and delay in reaching a conclusion.

The OSCO has learned some key lessons following this case – primarily with respect to delay in our processes. The Ombudsman is deeply regretful that it took over 12 months to reach an outcome following this challenge. While the delay was not entirely within the control of the OSCO, steps have been taken to analyse what happened in the handling of this case and review processes to ensure that action is taken swiftly and decisively in the future.

Part 2: Customer feedback and lessons learned

Once a referral or investigation has been finalised, individual complainants are asked to provide feedback on the service provided by the OSCO and their experience of certain aspects of the Service complaints process.

Feedback is provided anonymously through an electronic survey. The link to the survey is emailed out by a member of staff not involved in the handling of the case.

57% of the individuals who responded to the survey in 2017 were satisfied with the service provided by the OSCO. The Ombudsman notes that this is a sharp fall from 2016 where 75% of individuals indicated they were satisfied with the service provided.

The highest levels of reported dissatisfaction related to

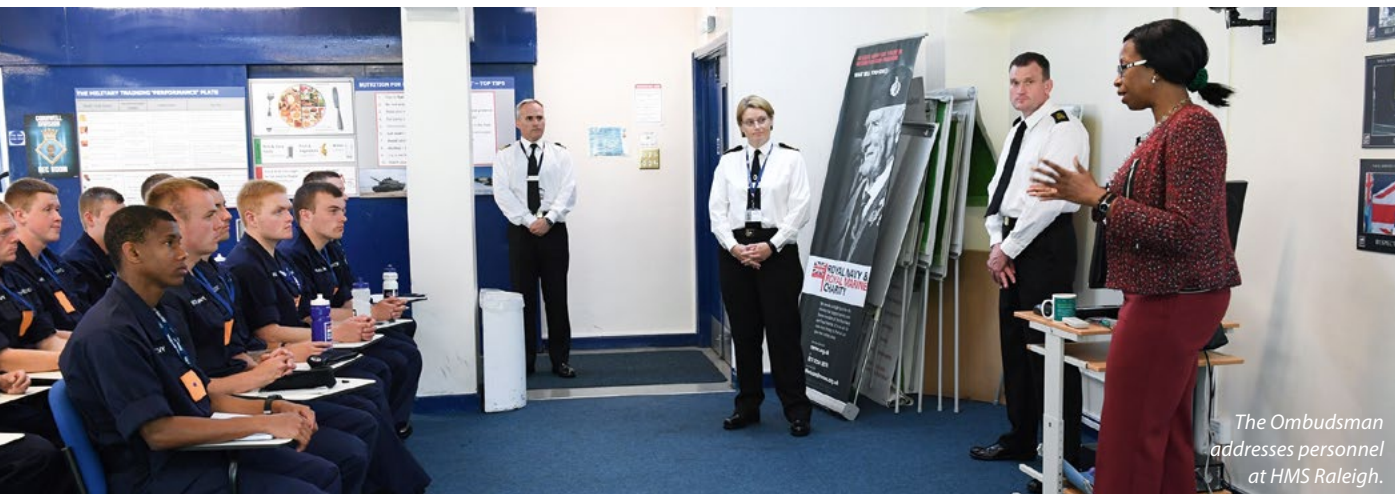
- the outcome of their request (47%)
- objectivity and fairness (30%)
- time to comment on the preliminary investigation report (20%)

Where individuals reported dissatisfaction with the OSCO's objectivity and fairness, the associated free text comments seemed to suggest that by not overturning a decision made by the Service, the complainant was of the view that the Ombudsman simply existed to "rubber stamp" the actions the Services had taken.

Although the Ombudsman categorically refutes this, she is concerned that this perception exists among some complainants. Careful consideration is given to how we communicate what we do across the Services and the processes we follow to ensure greater transparency and visibility. This will continue to be monitored throughout 2018. Work will also be conducted by the Ombudsman to assess whether her investigative powers are sufficient to deliver independent oversight and investigations in support of an effective Service complaints process for members of the Armed Forces.

The Ombudsman acknowledges that the staff shortages within the OSCO have led to delays in applications being processed and investigations being completed, and that this in turn has caused complainants further frustration and anxiety. As outlined in the previous part, all possible steps have been taken to try and fill the vacancies in the office and this continues to be a priority. A review will also be conducted of how complainants are informed of potential delays in the handling of their matter and all necessary steps will be taken to improve the quality and timing of the information provided.

The OSCO takes all feedback seriously and has acted to make changes where required. We are not always able to act on the feedback we receive immediately. However, no feedback is dismissed. We regularly review the feedback we receive to determine the best way to action it.



The Ombudsman addresses personnel at HMS Raleigh.

You said ...	We did ...
<p><i>"Emphasise and advertise more that the [Ombudsman] is there to help".</i></p>	<ul style="list-style-type: none"> • updated our website, including publishing a series of fact sheets • increased our presence on social media • ran a new print campaign (posters and brochures) in 2017 • advertised on British Forces Broadcasting Service (BFBS) radio • supplied each Service with OSCO banners that can be displayed during training and briefings to raise awareness of the role of the Ombudsman <p>Plans for 2018 include:</p> <ul style="list-style-type: none"> • a new interactive website • a new print campaign • radio and TV adverts with BFBS • increased social media presence – including Facebook • more Ombudsman visits and research into potential OSCO roadshows
<p><i>"Perhaps sending out a (sic) leaflets in paper format or electronic version to each new case that the SCO accepts may remind individuals of the roles of the SCO and act as a reference point".</i></p>	<ul style="list-style-type: none"> • published a series of fact sheets to inform complainants and potential complainants of what they can expect from the Ombudsman <p>Plans for 2018 include:</p> <ul style="list-style-type: none"> • development of new brochures/fact sheets that can be sent out to complainants
<p><i>"Cut out the jargon, use plain English".</i></p>	<ul style="list-style-type: none"> • reviewed the content of our website to cut out as much jargon as we could <p>Plans for 2018 include:</p> <ul style="list-style-type: none"> • more plain language material • ensuring the majority of content on the new website meets plain language standards • sourcing plain language training for OSCO staff

You said ...	We did ...
"Understand the negative effect of no action on personnel with PTSD".	<ul style="list-style-type: none"> • all OSCO operational staff are trained in Mental Health First Aid for the Armed Forces • processes for reasonable adjustment have been reviewed and refined • the OSCO signed up to the Mental Health Media Charter <p>Plans for 2018 include:</p> <ul style="list-style-type: none"> • signing up to the Time to Change strategy • development of response checklists for frontline staff to use in crisis situations

Praise for the OSCO

"I am amazed and pleased at the efficiency and attention of the Ombudsman's Office ... you have been swift and informative and helpful".

"I have welcomed the introduction of an Ombudsman (from the former Commissioner), and have been fully satisfied with the service of treatment from the SCOs office".

"I have no faith in the Service Complaint System at all and feel that the Ombudsman and the Ombudsman Investigators were the only one's [sic] who took my complaint seriously and dealt with my case objectively".

"It was a meticulous, comprehensive, and accurate report that came to a balanced, fair and appropriate set of recommendations".

"I am extremely grateful to you for taking the time to investigate this".

"Thank you so much for this comprehensive response".

"I would like to thank you and the office of the Service Complaints Ombudsman for your time and effort".

"Thank you for your help in this Service complaint. Hopefully this will aid in the urgency of the decision. Thanks for a very swift response and investigation".

Respondents

As in 2016, throughout the year the OSCO received a number of contacts from individuals who had been named as respondents in a Service complaint. Enquiries generally related to individuals wanting the Ombudsman to investigate undue delay in the handling of the Service complaint that they were named in. Individuals seeking the assistance of the Ombudsman in these circumstances were exceptionally frustrated to discover that the Ombudsman has no legal power to assist them and that their only option was to submit a Service complaint of their own. However, this was not an option for those individuals who were respondents in a complaint that had been ongoing for a number of years and had now left the Service. In addition, many respondents who were still serving did not want to raise their own Service complaint as this would only increase the stress and anxiety they were experiencing.

This issue was also raised by Commanding Officers at the Commanding Officer Designate Courses/ Future Commander Study Periods (CODCs/FCSPs), which the OSCO presents at, as well as being brought to the attention of the Ombudsman when undertaking outreach work.

In her Annual Report 2016, the Ombudsman sought to address this issue through Recommendation 1.2: "That all Service complaints policy, including JSPs 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".

“During 2017, the Ombudsman visited establishments at home and abroad, including a visit to personnel based in the Falkland Islands.”

In accordance with the Ombudsman’s update on the progress against her 2016 recommendations as set out in Chapter 4, steps have been taken by both the single Services and the Ministry of Defence to progress this recommendation but it has not yet been completed.

In light of the continuing issues in 2017, the Ombudsman recognises that Recommendation 1.2 only went some way to addressing this matter. There is still a significant disparity between complainants and respondents in the process, and the requirement for respondents to make a Service complaint of their own not only adds further delay to the process but is unjust for those who have left the Service.

Recommendation 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.

Part 3: Outreach and stakeholder engagement

In addition to carrying out the statutory functions of the Ombudsman, the OSCO also undertakes a substantial amount of outreach work in order to raise awareness of our role and function. While a lot of this work concerns “routine business” – that is, quarterly/biannual meetings with senior personnel – much of it is aimed at meeting Service personnel and hearing their concerns.

During 2017, the Ombudsman visited establishments at home and abroad, including a visit to personnel based in the Falkland Islands. A full list of her engagements can be found at Appendix F.

These visits are an essential part of the Ombudsman’s work and afford her the opportunity to meet with a range of personnel from all ranks and to discuss the issues that are important to them. On each visit the Ombudsman holds a number of focus groups made up of personnel of the same or similar ranks. The discussions in these groups provide the Ombudsman with useful insight into how the Service complaints process is perceived, the impact it has on personnel who have been involved in the process and how her office and functions are viewed.

In addition to these visits to Service personnel, the wider outreach undertaken by the Ombudsman and her office includes:

- Presenting a brief at each of the CODCs/FCSPs for all three Services. These briefs provide an important opportunity to not only explain the role and function of the Ombudsman but to emphasise the critical role that Commanding Officers have in making the complaints process work well.



The Ombudsman speaks with personnel on a visit to Catterick.

- Raising awareness of the Ombudsman by communicating with Service personnel and stakeholders through a range of mediums including a new print campaign, the Ombudsman's blog, the OSCO website and social media.
- Participating in the wider Ombudsman community, both in the UK and internationally.

Focus on Reserves

In 2017, the Ombudsman had a special focus on the Reserve Forces as part of her outreach work. This was the first time the Ombudsman took a thematic approach to this aspect of her work.

The impetus was a small number of admissibility decision reviews conducted by the OSCO in 2016 that concerned Reservists. In each case, the individual had sought to make a Service complaint which was deemed inadmissible by the SO. They had sought to make their complaints about a wrong that occurred in their Service life, but were not on duty when they submitted their complaint. The decision made by the SO was based on the Armed Forces Act 2006 (the Act) which defines Reservists as only being subject to Service law when on duty (s367(2)(d)).

As a Service complaint can only be made about a wrong in Service life that occurs when the Service person is subject to Service law (s334(1) of the Act), the admissibility decisions found that a Reservist who was not on duty could not make a Service complaint. The Ombudsman overturned these decisions as it was determined to be an unfair and unintended application of the legislation. This was because it had the practical effect of placing Reservists at a disadvantage and denying them the opportunity to complain about matters that were clearly related to their Service life.

While only a small number of cases, it did raise concerns with the Ombudsman that the experience Reservists have of the Service complaints system could be different to that of their regular Service colleagues. In particular the Ombudsman wanted to find out:

- The level of knowledge Reservists have of the Service complaints process and the Ombudsman's office
- Whether Reservists felt confident to make a Service complaint and how the rate of complaint differed from regular Service personnel
- Whether Reservists felt excluded by the Service complaints process

On visits to the Falkland Islands, Dartmouth and Catterick, among other places, the Ombudsman met with Reservists and talked to them about their experiences and understanding of the process. The topic was also a theme of meetings with Service chiefs, the Minister and other key personnel throughout the year and was a focus of the Ombudsman's reading.

Accepting the limitations of the methodology, the Ombudsman found it to be a helpful and informative process. The Ombudsman was particularly interested to learn that the Reserves Continuous Attitude Survey does not ask Reserve personnel the same questions about Service complaints and knowledge of the Ombudsman that AFCAS asks regular personnel. In many of the conversations the Ombudsman

had on this topic throughout 2017, there were differing opinions about the Reserves' experience with Service complaints. This ranged from whether they were, due to the nature of their engagement, more likely to be over the three-month time limit in making a Service complaint, to whether they were more likely to resign from the Reserve Forces rather than make a complaint if they had been wronged in their Service life. The Ombudsman firmly believes that this is an area that needs to be looked into further and on a consistent basis, in the same vein as AFCAS, in order to better understand what the experience of Reservists is when it comes to making a Service complaint, or the decision not to make a complaint.

Recommendation 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.



The Ombudsman with the Welsh Guards Band for London Poppy Day.



Delegates of the 9th ICOAF at The Tower of London.

9th International Conference of Ombuds Institutions for the Armed Forces (9ICOAF)



On 9 – 10 October 2017 the OSCO had the great honour to co-host the 9th International Conference of Ombuds Institutions for the Armed Forces (ICOAF) in London.

ICOAF was established in 2009 by the Geneva Centre for the Democratic Control of the Armed Forces (DCAF). The conference, which assembles annually, is held in a different member state each year and is jointly hosted by DCAF and the delegate institution in the host nation.

ICOAF is the only platform of its kind for independent ombuds institutions for the Armed Forces to share good practice. Following previous conferences in Berlin (2009), Vienna (2010), Belgrade (2011), Ottawa (2012), Oslo (2013), Geneva (2014), Prague (2015), and Amsterdam (2016), 9ICOAF was not only the first time the conference was held in the United Kingdom, but was the highest attended conference to date. Over 90 delegates from 40 countries were represented this year, highlighting that ICOAF has become an “important international forum for promoting and ensuring democratic oversight of the Armed Forces”.¹³

Member delegates came from a range of institutions including military specific ombudsmen, general ombudsmen and Inspectors-General. International organisations with an interest in the welfare of Armed Forces personnel were also represented, with delegations from both EUROMIL and OSCE/ODIHR, among others, represented.

The breadth and scope of the delegates in attendance ensured dynamic discussion over the two days. Under the broad umbrella of “The Moral Compass of the Armed Forces: How Ombuds Institutions Can Break Down Barriers to Achieve Change,” delegates explored a range of issues including:

- Maximising the role of ombuds institutions within legal and ethical boundaries
- Mental health
- Building an inclusive Armed Forces: addressing the needs of diverse groups
- Duty of care in international missions
- Are Armed Forces personnel reluctant to complain?

With delegates drawn from a broad range of countries and representing many different ombuds institutions and relevant international organisations, the conversation over the two days was dynamic. The outcome of what was discussed and agreed can be found in the official conference statement¹⁴.

¹³ 9ICOAF conference statement https://docs.wixstatic.com/ugd/b86d90_ba2b523b4e7b4baf82fc230991849bb1.pdf

¹⁴ https://docs.wixstatic.com/ugd/b86d90_ba2b523b4e7b4baf82fc230991849bb1.pdf



Chapter 3 – Work of the Service complaints system

This chapter provides an overview of Service complaints in 2017 and reports on the work of the Service complaints system in the Naval Service, the Army and the RAF.

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 necessitated changes to the data the OSCO is able to collect and publish regarding the work of the Service complaints system. Any figures relating to absolute levels from the previous Service complaints system have been removed and any comparison should be made with extreme caution.

Guidance on the Service complaints statistics process and key terms used can be found in 'Background Report – SCO Annual Report 2017' which can be found on the OSCO website. All statistics referred to can be found in more detail in Appendix G, which starts on page 71.

Part 1: Overview of the Service complaints system

Breakdown of Service complaints received

Volume

1,009 formal Service complaints were received by the Services in 2017¹⁵, an increase of around 119 complaints from 2016. In line with the previous year, the largest number of complaints were received by the Army (565) followed by the Naval Service (223) and the RAF (221). The level of Service complaints made is about proportionate to personnel strength in the individual Services and in the Armed Forces as a whole.

775 of these complaints were deemed admissible.

The vast majority of complaints received in 2017 concerned Terms and Conditions of Service (TACOS) which comprised 41% of all Service complaints received. The next largest area of complaint was pay, pensions and allowances which made up 25% of all complaints received – up six percentage points from 2016.

The number of complaints concerning bullying, harassment and discrimination remained broadly in line with previous years – 16%, 21% and 5% respectively. However, as in previous years, the results from AFCAS indicate that this is not a true reflection of the level of bullying, harassment or discrimination in the Armed Forces, with only one in ten personnel who experience such behaviour making a complaint.

In her Annual Report 2016, the Ombudsman stated she was confident that the reformed system, and in particular the role of the Ombudsman, could assist in raising confidence levels but that this attitudinal shift had yet to occur. The Ombudsman must again report that while this shift unfortunately is still yet to occur, it is only the second year of the reformed system and this is a significant change that will take time to come through.

The Ombudsman also has concerns about the continued reports from personnel that they were discouraged from making a Service complaint or advised that it was not in the best interest of their career to do so. The Ombudsman is not only concerned about the apparent persistence of this attitude among Service complaint handlers and other individuals charged with providing advice to complainants, but also of the failure of the Services to act on this where they have been made aware of it.

An example of the latter is where the Ombudsman has referred an individual's intention to make a Service complaint. Following a referral, the Services are required to update the Ombudsman when key events occur, including the withdrawal or closure of a complaint. While a referral does not require an individual to commit to the formal process, the decision as to whether to pursue informal resolution or to withdraw a complaint must be theirs alone to make, and made without pressure, regardless of the subtlety of that pressure.

¹⁵ This is the total number of Service complaints received in 2017 regardless of whether or not they were subsequently accepted for investigation.

Over the years there has been substantial anecdotal information that pressure has been applied on individuals to not proceed with a complaint. The OSCO, and before it the Office of the Service Complaints Commissioner, has seen emails sent by individual complainants stating that they have chosen not to pursue their complaint because they have been advised that it would not be in their best interests, they would be seen as a troublemaker, it would have a negative impact on their career or that it would be bad for unit cohesion.

"I am.....under the impression that from a work standing that if the complaint is lodged it would simply bring unwanted attention towards myself from the chain of command that would hamper working relationships and cause stress in the upcoming months."

This is also an issue that personnel have raised with the Ombudsman directly on outreach visits. One of the concerns raised with the Ombudsman on such a visit in 2017 was that making a Service complaint had a negative impact on promotion prospects.

"It could be said that 'X is a good [Service person], but he/she is a troublemaker' – which is what anyone who makes a Service complaint will be called".

The Ombudsman is concerned that in such instances the withdrawal is processed and accepted as "voluntary" when the reasons provided demonstrate otherwise. Where individuals are told that making a complaint will have nothing but negative consequences for them, the decision to not pursue that complaint can never be characterised as voluntary.

Levels of confidence in the system will never improve as long as these attitudes towards complaints prevail. Going forward the OSCO will be challenging all such instances it is made aware of and also expects the single Services to do this as part of changing the culture of complaints across the Armed Forces.

“ For the second year running the Ombudsman has concerns about the continued overrepresentation of both female and BAME Service personnel in the Service complaints system. ”

Recommendation 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.

Diversity

For the second year running¹⁶ the Ombudsman has concerns about the continued overrepresentation of both female and BAME Service personnel in the Service complaints system.

While making up only 11% of the total strength of the Armed Forces, female personnel made up 20% of the Service complaints system overall. In addition, 44% of complaints made by female personnel concerned bullying, harassment or discrimination, while this only accounted for 19% of complaints made by male personnel.

Likewise, BAME personnel make up only 7% of the total strength of the Armed Forces, but 10% of the Service complaints system overall. 57% of complaints made by BAME personnel concerned bullying, harassment or discrimination, while only 21% of complaints made by white personnel concerned these issues.

Recommendation 1.10 in Annual Report 2016 called for the Ministry of Defence to commission a study by the end of April 2018 to determine the root causes of this overrepresentation and to take action to remedy this. While the progress against this recommendation is discussed further in Chapter 4, the Ombudsman is disappointed that this recommendation has been interpreted in the narrowest sense by the Ministry of Defence. Given the discussion and context that preceded the recommendation, the Ombudsman felt it was evident that it was an independent study that was being recommended. However, the work undertaken on this recommendation to date has focussed on the single Services reviewing their own data to determine the causes of overrepresentation. While the Ombudsman encourages ongoing review and improvement, she is not confident that this approach will produce the intended outcome and urges the Ministry of Defence to reconsider how the recommendation is implemented.

The Ombudsman acknowledges the lesson learned regarding the phrasing of this recommendation and will ensure that her recommendations are clear and unambiguous from this point.

¹⁶ These concerns were also expressed in Annual Report 2015, Ms. Williams' second Annual Report and the final report of the Service Complaints Commissioner and the old complaints system.

“ While the average length of time taken to resolve a complaint under the reformed system varies across the Services, there has generally been an improvement across the board. ”

Handling of complaints

Although the reformed Service complaints process introduced a new streamlined system, the Ombudsman remains concerned about the level of delay in the system.

At the end of 2017 there were 214 open Service complaints that had been made in 2016 or earlier. One of these complaints dates back to 2011 and a total of 47 complaints remain open from the old system. While the majority of those 47 complaints sit at Appeal Body level, some remain at an earlier stage of the process.

At the launch of Annual Report 2016, the Ombudsman informed the single Services that she expected all “legacy” complaints, that is complaints from the old system, to be closed by the end of 2017. The Ombudsman acknowledges the tremendous effort and resource that has been invested in trying to resolve these complaints, but notes that the goal to have no legacy complaints open at the end of 2017 has not been achieved. The Ombudsman would like each Service to provide an update on these complaints, specifically the anticipated timeframes for conclusion.

The Ombudsman is not only concerned about the impact legacy complaints have on the effectiveness of the reformed system, but the potential knock on impact of creating a “new legacy” with complaints made since 1 January 2016, still not resolved by the end of 2017.

While the average length of time taken to resolve a complaint under the reformed system varies across the Services, there has generally been an improvement across the board. The most significant improvements have been seen in the RAF who in 2017 resolved complaints at the first level, on average, in 58 days, down from 167 in 2016. At the appeal stage complaints were resolved, on average, in 285 days, down from 742. The Army also showed considerable improvement in the resolution of complaints at the first level in 2017, taking on average 246 days, down from 730 in 2016.

The Ombudsman recognises that there are often legitimate reasons for delay; however every effort needs to be taken to identify issues and the way forward.

One specific issue that has had an impact on the handling of complaints in 2017 is that of sufficient resource given the difficulties engaging FEHIOs and the limited number of IMs. As outlined in Chapter 4, work is ongoing to increase the number of FEHIOs and IMs. However, each Service must have a plan in place to ensure that appropriate resource is allocated to complaints as soon as practicable and that steps are taken ‘to reduce as quickly as possible, the backlog that has built up, so that the reformed system’ does not end up beset with the same delays seen prior to 2016.

None of the single Services met the KPI to resolve 90% of Service complaints within 24 weeks in 2017. Tri-Service, the rate of closure within 24 weeks was 52%. The RAF was the closest to reaching this target in 2017, resolving 75% of complaints within 24 weeks, followed by the Naval Service (56%) and the Army (37%). This is currently the only agreed KPI against which the Services’ complaint handling performance can be measured. As discussed in Chapter 1 work is underway to review this target.



Part 2: Service specific updates

In this part, the Ombudsman provides an update on how she believes the single Services have performed throughout 2017. These updates are based on the work the OSCO has dealt with in year and the statistical returns from each Service. Alongside the statistical return, the Principal Personnel Officer (PPO) for each Service provides the Ombudsman with a written narrative. With the consent of the PPOs, each of these narratives have been reproduced in full at Appendix H.

The Ombudsman acknowledges the hard work of each of the Services in 2017, and thanks them for their continued commitment to improving the Service complaints process.

Naval Service

The Naval Service has performed well throughout 2017, and yet again demonstrated an ongoing commitment to the continuous improvement of the Service complaints system.

In 2017, the Naval Service closed 56% of Service complaints within 24 weeks. This was similar to its closure rate in 2016, and considerably short of the 90% target. While this static performance is disappointing, the Naval Service acknowledges this and has been able to identify specific issues contributing to the lower resolution rate.

The primary issue for the Naval Service was the difficulty in engaging FEHIOs where tri-Service demand significantly outweighed Defence Business Services' (DBS) provision. The Ombudsman appreciates that the Naval Service addressed this challenge head on and, accepting the reality that there was no "quick fix", looked for ways to manage the delays. With the knowledge that they could be criticised down the line, one of the case management decisions made was to appoint non-Harassment Investigation Officer investigators to a small number of complaints where it was felt that further delay posed too great a risk – either to individuals involved in the complaint, the ability to resolve the complaint, or both. While the Ombudsman has concerns about this decision, as there is still potential for these complaints to come to the OSCO it would be inappropriate for the Ombudsman to take a view on the propriety of this course of action at this time.

The Naval Service also put considerable effort in to resolving legacy cases this year, with only six remaining open as of 31 December 2017 – a reduction of 57%. The Ombudsman welcomes these efforts and is hopeful that a nil return on legacy complaints can be achieved before the end of 2018.

While the Ombudsman welcomes the spirit of continuous improvement with which the Naval Service approaches the Service complaints process as a whole, she would encourage review of some internal practices. One such issue is the lower frequency of oral hearings as part of the complaints process. In comparison with the Army and the RAF, the Naval Service holds very few oral hearings. Even accounting for the differences between the single Services, the Ombudsman does question whether greater use could be made of these hearings to the benefit of the complaints process overall. Oral hearings have the benefit of providing greater transparency of the complaint handling process, allow the complainants to feel that they have truly been heard before their complaint is finally determined and offers an opportunity for the respondent(s) to feel more involved in the process as a whole.



In addition, the Ombudsman would also invite the Naval Service to give greater consideration to following the approach taken by the Army and RAF in providing additional resources and information geared toward respondents.

The Ombudsman thanks the Naval Service for its continued commitment to improving the complaints system and its forthright discussion on the obstacles faced in 2017 in striving to meet the established targets. The Ombudsman is confident that with increased resource in 2018, the Naval Service will be able to surmount these issues.

Army

The Army has continued to make good progress in both the handling of Service complaints in 2017, and delivering improvements across the complaints system.

In 2017, the Army closed 37% of Service complaints within 24 weeks. While this fell significantly short of the 90% target, it was a considerable increase on its performance in 2016, where only 25% of complaints were closed within the time target.

The Army's ability to meet the current time target is in part hampered by the ongoing legacy cases. As the largest Service, the Army invariably deals with the biggest number of Service complaints each year and came into the reformed system with the highest number of legacy cases. Despite considerable effort being put into reducing the number of those legacy cases since 2015, 40 of the 47 remaining legacy cases sit with the Army. The Ombudsman is hopeful that steps will be taken in 2018 to resolve these cases and that adequate notice is given of the cases that are unlikely to be resolved by 31 December 2018.

Throughout 2017, the Ombudsman has been impressed with the proactive attitude of the Army in respect of introducing improvements to the system and implementing the recommendations made in Annual Report 2016. This enthusiasm to take the lead and introduce innovative approaches is refreshing and demonstrative of the Army's ongoing commitment to driving cultural change surrounding the complaints process.

A number of stakeholders have taken the time to inform the Ombudsman of how impressed they have been with the Army's attitude and approach to handling panels to decide Service complaints. It has also been noted that how the panels are managed and constituted has been a driving force in the Army's ability to reduce its backlog of outstanding Service complaints to such a significant degree.

While accepting that this is allowed for in the legislation, the Ombudsman is interested to learn more about how the use of two person panels has been managed. To those outside the complaints process, having an equal number of people on a panel can, on the face of it, appear to be at odds with the basic principles of justice and fairness. Having an unequal number of panel members allows for an objectively fair decision to be made in a "tie-break" situation. The Ombudsman's understanding is that where there is disagreement on a two member panel, the complaint is held to be not proven on the balance of probabilities. Though this does not make the process automatically unfair or unjust, it is important to understand how that process is managed end-to-end as this management is inherently linked to fairness.



The Ombudsman has no specific cause for concern, nor is she questioning the validity of the decisions made to date. However, as the Army has taken a leading role on using the flexibility of two person panels, the Ombudsman would be interested in receiving a report from the Army before the end of 2018 on the achieved efficiencies, any challenges faced, how the decision making process is handled where there is disagreement and thoughts on how and when two person panels can or should be used as the default position.

Overall the Army continues to drive forward positive changes and demonstrates a steady commitment to improving the complaints system for which the Ombudsman commends them. The Ombudsman looks forward to seeing what else the Army is capable of achieving in 2018, with an even further reduced, and hopefully eradicated, backlog of legacy cases.

RAF

The RAF has performed outstandingly in 2017 with respect to the resolution of complaints.

While not meeting the target to close 90% of Service complaints within 24 weeks, at 75% the RAF was the highest performing Service in 2017, and significantly improved on its performance of 50% in 2016. In addition, the RAF only has one legacy case remaining at the end of 2017, which it is confident will be resolved before 31 December 2018, and only has 17 unresolved Service complaints from 2016.

This performance indicates that delay is not an inherent part of the Service complaints process and that it can operate efficiently with sufficient resource¹⁷. The work of the RAF in 2017 is the first clear indication that the reforms made to the Service complaints system may have the potential to deliver a system that is efficient, effective and fair.

In addition to this work, the RAF has continued to demonstrate a willingness to drive improvements in the Service complaints system and has introduced a number of initiatives since 2016 to achieve this goal. These have included the Fast Track Unit and review of internal processes as detailed in the PPO's narrative in Appendix H. The Ombudsman is particularly impressed with the continuation of the annual Service Complaints Team (SCT) conference which is not only a development opportunity for those RAF personnel charged with dealing with Service complaint policy and compliance, but an opportunity for continuous improvement. Through all of this work and more, the RAF has further demonstrated an increased willingness to revise existing processes and procedures to incorporate best practice and to adopt procedures that are working effectively across the other Services.

In 2017, the RAF and OSCO continued to engage on a small number of cases that first arose in 2016. Although the number of cases was small, they raised issues of significant concern for the Ombudsman. Of specific concern was the failure of the RAF to engage at an early stage, which was a contributing factor to the delays in reaching a resolution to these cases. The Ombudsman was further concerned about the potential impact such a lack of engagement can have on complainants in terms of ongoing

¹⁷ This reinforces the points the Ombudsman made in Chapter 1 in her discussion about what makes an efficient, effective and fair complaints system and the importance of the myriad factors to be considered.



Image courtesy of Defence Imagery.

stress and anxiety. While the Ombudsman acknowledges that inroads were made in 2017 to address this issue, there is still work to be done and she looks forward to working together further in 2018 to ensure there are clear lines of communication and timely outcomes for complainants.

The RAF should be exceptionally proud of what it has achieved in 2017 and is working towards in 2018. The Ombudsman hopes that the RAF can further build upon this strong performance.

Part 3: Service Complaints Statistics Working Group

The Service Complaints Statistics Working Group (SCSWG) was formed in 2015 as part of transition to the new Service complaints system. Chaired by the OSCO Statistics Manager, the SCSWG is made up of senior practitioners/management information system (MIS) experts from all three Services in addition to a representative from the Ministry of Defence.

Having achieved its original aim of introducing an improved system for collecting and producing statistics for the Ombudsman's Annual Report, the SCSWG has gone from strength to strength over the last three years and has played an integral role in driving improvements in the Service complaints system.

It is essential to have accurate and consistent data in order to make a proper assessment of how the Service complaints system is operating. While the OSCO collects and controls the data concerning enquiries to, and referrals and investigations by, the Ombudsman, the Services own the data concerning Service complaints. The SCSWG is the body that ensures the integrity of the data that underpins the reporting on Service complaints, in addition to the data reports themselves.

As this group operates at practitioner level, it has the ability to identify, discuss and resolve issues on a working level that may not be identified or resolved so swiftly otherwise. The SCSWG has embraced the move towards consistency across the Services and truly takes the lead on identifying where improvements can be made in the type of data collected and how it should be collected in all areas of complaints handling. An area currently under consideration by the group is how the single Service secretariats should record potential Service complaints that concern Special-To-Type (STT) matters before they have completed the STT process.

The SCSWG also played a key role in the review of the KPI to resolve 90% of Service complaints within 24 weeks. As part of this work the group authored an evidenced based paper outlining potential new KPIs which would be more reflective of the work of the Service complaints system. This paper is currently under consideration and the Ombudsman looks forward to further developments in this area.

The work of the SCSWG identifies areas of, and for, improvement within the Service complaints system. It provides an evidence base for the Ombudsman's recommendations, in addition to policy and communications work that is undertaken to drive these recommendations through.

The Ombudsman applauds the hard work of the SCSWG and appreciates the enthusiastic and diligent manner in which it has approached its work and the improvements it has delivered.



Chapter 4 – Progress made on previous Ombudsman recommendations

In her Annual Report 2016, the Ombudsman made 12 recommendations for improvement to the Service complaints system. An update on the progress made against each of these recommendations is given below. The Ombudsman will continue to report against these recommendations, and those made in this and subsequent Annual Reports, each year until such time as they have been completed.

In making recommendations, timeframes are set by the Ombudsman for substantial compliance based on the specific issue and the length of time it would take to complete all aspects of the recommendation. While the timeframes for most of the recommendations made in Annual Report 2016 are still ongoing, for two of the recommendations the timeframes have passed and the implementation of the recommendations has not been completed.

While the Ministry of Defence and single Services broadly appear to be making progress against each of the recommendations, the Ombudsman is disappointed that not all have been implemented in the spirit in which they were made. Most notably, as discussed in Chapter 3, is Recommendation 1.10 which called for the Ministry of Defence to commission a study into the overrepresentation of female and BAME personnel in the Service complaints system.

However, the Ombudsman notes that the recommendation as drafted did not explicitly specify that the study should be independent rather than an in-house review. Going forward, the OSCO will ensure that all recommendations made are clear in their scope and intent, and encourages the Ministry of Defence to discuss the recommendations, and the interpretation of those recommendations, with the OSCO to ensure a shared understanding of the intent and aim.

As this is the first time the exercise of reviewing the progress made on previous recommendations has been conducted, the quality and timeliness of the progress reports against these recommendations were not as the Ombudsman would have expected. The Ombudsman suggests 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.



Going forward, the OSCO will ensure that all recommendations made are clear in their scope and intent, and encourages the Ministry of Defence to discuss the recommendations, and the interpretation of those recommendations, with the OSCO to ensure a shared understanding of the intent and aim.



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 Ministry of Defence or the single Services

Progress Report

Recommendation	Progress
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>The Ministry of Defence has undertaken work to develop 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. A standardised letter is in the process of being agreed with the single Services.</p> <p>The Ombudsman is satisfied that progress is being made against this recommendation and looks forward to seeing the standardised letter once it has been agreed.</p>

Recommendation	Progress
<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>The single Services have undertaken a review of their own procedures and the following action has been taken:</p> <p>Naval Service</p> <ul style="list-style-type: none"> • Will continue to provide information for respondents on its website. <p>Army</p> <ul style="list-style-type: none"> • Has produced tri-fold leaflets specifically for respondents that are available online and in hard copy. • Has introduced a dedicated point of contact for respondents. <p>RAF</p> <ul style="list-style-type: none"> • Has produced tri-fold leaflets specifically for respondents. • Has appointed a respondents' champion. • ACOS Pers Pol will write to all Station Commanders to remind them of their responsibilities towards respondents. <p>The Ministry of Defence will undertake a review of JSP 831 in 2018. This will include a review of the current advice and guidance concerning the role of respondents in the Service complaints process.</p> <p>The Ombudsman is satisfied that progress is being made against this recommendation and commends the initiatives introduced by the Army and RAF in this area in particular.</p>

Recommendation	Progress
<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>Work all three Services have taken and are undertaking in this area includes:</p> <p>Naval Service</p> <ul style="list-style-type: none"> • Continuous Improvement Event was conducted in early June 2017 which resulted in a reconfiguration of assets and Service complaint outputs within Naval Legal Services. • Direction from Captain Naval Legal Services (CNLS) that all Service complaint handling will come under DACOS casework to ensure a consistency in admissibility decision letters and the provision of timely legal advice. <p>Army</p> <ul style="list-style-type: none"> • The refocussing of legal advice to target undue delay in the system. • Close oversight of Army Decision Body progress by the chain of command. • The delivery of the Service complaint process has been considered as part of future PSTP work. • Maintaining the profile and priority of Service complaint work through regular communications and CoC engagement remains key. DCGS has placed a tight time limit of three weeks from completion of investigation for Commanders to issue decision letters. <p>RAF</p> <ul style="list-style-type: none"> • The RAF undertook a number of studies throughout 2016, including the review of areas such as investigations, mediation, respondents and Assisting Officers. • Outcomes of those reviews have been taken forward. Of note, the Fast Track Cell for TACOS-related complaints has seen significant improvements. <p>The Ombudsman is happy with the progress made by the single Services so far and looks forward to being updated on further work done before the end of April 2018.</p>

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>FEHIOs are “owned” by DBS. In November 2017, DBS commenced a ‘Recovery Plan’ to address the poor performance of the FEHIO cadre. The plan included the proposed recruitment of 150 new FEHIOs, and following legal advice, the allocation of more than one case at a time to a FEHIO. The recruitment campaign identified 118 individuals who met the selection criteria and the first 32 of these completed training in February 2018. The remaining candidates who met the selection criteria will be trained and deployed on a rolling basis.</p> <p>With regards to the development and provision of a new HIO service, Ministry of Defence policy staff and DBS are currently taking forward work to determine the scope and full customer requirement of the service.</p> <p>The Ministry of Defence undertook a recruitment drive to appoint an additional ten IMs. To increase the chances of a diverse pool of applicants, the advert was reviewed by the Ministry of Defence’s Diversity and Inclusion team to ensure compliance with the required standards and the wording was assessed using an online gender tool to ensure the advert had no subtle bias.</p> <p>Following recruitment, eight IMs have been appointed to go into the permanent pool with a further two to act as reserves as needed. Candidates are currently going through security clearance which can take between one and five months to complete.</p> <p>Of the ten new IMs appointed, five are male, five are female and three identify as BAME.</p> <p>The Ombudsman is very pleased with the work that has been undertaken by DBS and the Ministry of Defence against this recommendation in 2017. The only outstanding aspect of this recommendation is the work to be done with respect of Harassment Investigation Officers (HIOs). The Ombudsman looks forward to being updated on this remaining aspect throughout 2018.</p>

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 will be conducting a review of both JSP 763 and JSP 831 in 2018. As part of this process it has committed to applying ‘plain language’ standards to both documents.</p> <p>The Ombudsman will assess progress against this recommendation in Annual Report 2018.</p>
<p>1.6 That the Ministry of Defence reviews the training provided to FEHIOs by end April 2018 to ensure it is adequate and that this training and the procedures used to monitor and manage the performance of FEHIOs is enhanced as required.</p>	<p>The Ministry of Defence is engaged with DBS regarding the training and performance management requirements for FEHIOs. All new FEHIOs will be ACAS trained and will be managed by DBS. To ensure the performance of the FEHIOs is continually monitored and reviewed, DBS will seek feedback from both the FEHIOs and the Services for each investigation undertaken.</p> <p>The Ombudsman is satisfied that this recommendation has been completed and thanks DBS and the Ministry of Defence for the work they have done in this area in 2017. The Ombudsman is confident that the Ministry of Defence will continue monitoring the impact of this work in 2018 and will report on any ongoing issues.</p>

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>Prior to the Ombudsman's recommendation the Naval Service's Complaints and Mediation Team and the Army's Service Complaints Investigation Team (SCIT), both of which are assigned the most sensitive cases including those of a sexual nature, were already trained for handling such complaints.</p> <p>Following the Ombudsman's recommendation:</p> <ul style="list-style-type: none"> • The Army's SCIT received Mental Health First Aid and EDA training • The RAF's Service Complaints Team, VeRR Decision & Appeal Bodies and Investigating Officers received training in a number of areas including: <ul style="list-style-type: none"> – Interviewing vulnerable persons – Sexual assault awareness – Diversity and inclusion – Mental health awareness – The RAF has also produced a leaflet for AOs with guidelines for handling sensitive matters and is offering bespoke briefings to AOs dealing with complex cases. <p>Scoping is ongoing to determine the funding, design and standardisation of the delivery of the required training across all three Services.</p> <p>The Ombudsman is satisfied that significant steps have been taken to implement this recommendation and looks forward to seeing the outcome of the scoping work in 2018.</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 commenced on this recommendation.</p> <p>While the Ombudsman applauds the steps taken to review single Service guidance, including that concerning AOs, this recommendation has not progressed with the speed she would have liked. However, the Ombudsman notes that the Ministry of Defence and single Services have accepted the recommendation and that work will commence in 2018.</p>

Recommendation	Progress	
<p>1.9 That training/education on the Service complaints system, including the role of the SCO, is provided to all Service personnel, including new recruits and Reservists. The SCO 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>All three Services report that they provide training to personnel on the role of the Ombudsman.</p> <p>A representative from the OSCO, or the Ombudsman herself, briefs all future Commanding Officers across the single Services as part of their training programme.</p> <p>In 2017 the OSCO was invited to contribute slides to the MATT 6 Values and Standards Package for the Army which it believes is the simplest and most effective method of providing information on the Ombudsman to all of its personnel.</p> <p>At the end of 2017, each Service was provided with banners containing information about the Ombudsman that can be used during training and briefings.</p> <p>While steps have been taken to meet this recommendation, at the end of 2017 (with the exception of the Army) the OSCO has not been asked to review existing training or contribute to the development of new training. The Ombudsman would ask the single Services to provide a list of training that is provided on this topic at all levels so that it can be determined where the OSCO can add value. The Ombudsman looks forward to this work taking place in 2018.</p>	
<p>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>	<p>The Ministry of Defence reports that each of the single Services has undertaken work in this area and are coming together to understand what that work has shown and what further action might be required.</p> <p>While the Ombudsman is pleased that the single Services are taking steps to determine what the issues may be, she had envisaged that the study commissioned by the Ministry of Defence would be independent rather than in-house. The Ombudsman is not confident that the approach taken in implementing this recommendation will lead to the intended outcome.</p>	

Recommendation	Progress
<p>1.11 That the Ministry of Defence identifies an appropriate working group by end April 2017 to evaluate the current target for resolving 90% of Service complaints within 24 weeks to ensure that it is appropriate, including the method for calculating when the 24 weeks begins. A representative from the OSCO should be involved in this review.</p>	<p>The SCSWG has been identified as the appropriate working group to take this recommendation forward. A number of courses of action have been identified and metrics have been developed by the SCSWG. A detailed analysis paper with proposals is currently being considered by the Ministry of Defence.</p> <p>The Ombudsman is satisfied that this recommendation has been completed and is very pleased with the work that has been undertaken to date on the evaluation of the existing metric and the care that has been taken to ensure any change to the target will be evidence based. The Ombudsman looks forward to discussing the outcome of this evaluation further in 2018.</p>
<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 Ministry of Defence reports that this is considered normal business for each of the Services and that best practice is shared through the quarterly Service Complaints Working Group. An update will be provided to the Ombudsman prior to June 2018.</p> <p>The Ombudsman will assess this recommendation in her Annual Report 2018.</p>



*The Ombudsman with
the Company of Pikemen
and Musketeers.*

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 the OSCO.

Decision Body

One or more individuals who have been appointed by a single Service complaints secretariat to investigate and make a decision on a Service complaint.

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 the OSCO 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.

Joint Service Publication (JSP)

An authoritative set of rules or guidelines with defence-wide applicability or interest.

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 Casework 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.

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

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 which was related to, their Service life.

Service Complaints Ombudsman

The Ombudsman provides independent and impartial oversight of the Service complaints system.

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 OSCO referrals and investigations

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

In addition to the eligibility criteria listed below, in order to be considered a valid and complete application, it must also have:

- been made by the Service person who is seeking to make a complaint or who has made a Service complaint or raised a Service matter
- a completed consent section
- any additional documentation requested within the OSCO application form

Referrals

If a Service person believes they have been wronged in their Service life they have the right to make a formal complaint. This 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. For this reason it is open to individuals to ask the Ombudsman to raise their intention to make a Service complaint with their chain of command. This is known as a referral.

An application for referral is considered eligible by the OSCO where:

- The applicant was a Service person at the time of the alleged wrong(s)
- The issue being complained about was related to their Service life

No assessment is made on whether the potential complaint concerns an excluded matter, a special-to-type (STT) matter or is out of time. Those are considerations to be made by the Specified Officer (SO) assigned to determine the admissibility of any complaint that might be made following referral.

Review of admissibility decisions

An admissibility decision is a decision made by the chain of command about whether a Service complaint can be accepted for investigation, or whether a Service complaint can proceed to appeal for a further decision.

An application for review of an admissibility decision is considered eligible by the OSCO where it is made:

- within 4 weeks and 2 days of the date of the decision; or
- after 4 weeks and 2 days of the date of the decision but the Ombudsman has determined it would be just and equitable to accept the late application.

In order for the application to be considered valid and complete it must also include:

- A copy of the written statement of complaint and a copy of the admissibility decision letter.

Undue delay

The Ombudsman has the power to investigate allegations of undue delay in an ongoing Service complaint, or in a Service matter that could be the subject of a Service complaint, where the complainant is not satisfied with the information provided to them about the reasons for the delay.

Applications for investigations into undue delay can be made at any time while the process is ongoing.

Substance (merits)

The Ombudsman has the power to investigate the substance (merits) of Service complaints that have been finally determined. The purpose of an investigation into the substance (merits) of a Service complaint is to:

- a. determine whether the alleged wrong detailed in the original Service complaint is well-founded, and, if so,
- b. to make recommendations as to how to redress the matter and wider lessons learned, if applicable.

An application for an investigation into the substance (merits) of a Service complaint is considered eligible by the OSCO where it:

- concerns a Service complaint that has been finally determined i.e. has completed the internal complaints system;
- is made within 6 weeks and 2 days of the date of the final decision letter; or
- is made after 6 weeks and 2 days of the date of the final decision letter but the Ombudsman has determined it would be just and equitable to accept the late application.

It should be noted that all eligible applications are then subject to an initial case review. Not all eligible applications are accepted for a full investigation following the initial case review.

In order for the application to be considered valid and complete, it must also include a written statement of complaint and the decision letters on the complaint at each level.

Maladministration

The Ombudsman has the power to investigate allegations of maladministration in the handling of Service complaints that have been finally determined and to investigate any potential maladministration not alleged by the complainant that is identified during the course of an investigation. Maladministration is a broad term with no set definition under the Act, or anywhere else in law – however, it generally means that there has been a failure in the handling of a Service complaint.

An application for an investigation into alleged maladministration is considered eligible by the OSCO where it:

- concerns the handling of a Service complaint that has been finally determined i.e. has completed the internal complaints system;
- is made within 6 weeks and 2 days of the date of the final decision letter ; or
- is made after 6 weeks and 2 days of the date of the final decision letter but the Ombudsman has determined it would be just and equitable to accept the late application.

It should be noted that all eligible applications are subject to an initial case review. Not all eligible applications are accepted for a full investigation following the initial case review.

In order for the application to be considered valid and complete, it must also include a written statement of complaint and the decision letters on the complaint at each level.

Appendix C – OSCO business plan

Strategic Objectives 2016-2020

Strategic Objective	In 2017 we have.....
<p>1. Provide an independent, transparent and accountable Office of the Service Complaints Ombudsman</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 Office of the Service Complaints Ombudsman;</p> <p>1.5 Deal with enquiries and referrals efficiently, minimising delay and meeting timeliness targets.</p>	<ul style="list-style-type: none"> • Updated our application forms based on user feedback. Feedback from individuals accessing our Service indicated that our forms needed to be clearer, so we redesigned them all. This has helped ensure we get the information we need in a timely manner and that complainants know what they need to tell us. • Exceeded our timeliness KPI for referrals. Our Enquiries and Referrals Team are the frontline of the OSCO. In addition to handling all 1,060 enquiries that were made in 2017, the team made 99% of referrals within seven working days. This is above the 90% target for processing referrals. • Modified the way we collect statistics. Following the production of Annual Report 2016, an error in the statistics supplied was found. In 2017, the OSCO Statistics Manager began seeing a cut of the Services' statistics on a monthly basis in order to ensure that any discrepancies in how this information was being recorded across the single Services was identified at an early stage. • Produced our first Annual Report. Annual Report 2016 was the first Annual Report of the OSCO and a legislative requirement of the office. 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"> • Reviewed the way we report on timeliness. The way we reported on our time targets for investigations into substance (merits) and maladministration in 2016 did not accurately reflect the level of activity undertaken on these investigations. Review of the process and statistics led to a reformed approach as reported against in Chapter 2. • Restructured the office to provide greater operational support. Review of the structure and operation of the OSCO demonstrated that there was not sufficient support on the operational side. As a result the Head of Office position was abolished and replaced with a Chief of Operations who will oversee all operational activity. A Chief of Staff was introduced to oversee the business side of the office. • Continued to engage with legal challenges. The OSCO continues to engage with legal challenges and has not had an adverse finding to date. In 2017, we were able to reduce the costs spent on these challenges through revising our in-house procedures for obtaining legal advice.

Strategic Objective	In 2017 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 the Office of the Service Complaints Ombudsman.</p>	<ul style="list-style-type: none"> • Hosted 9ICOAF. The OSCO hosted the 9th International Conference of Ombuds Institutions for the Armed Forces in October 2017. This conference is an annual event that brings together ombuds institutions from all over the world with responsibility for the Armed Forces. ICOAF is an important community for the OSCO to be a part of the sharing of best practice. This is the first time the conference has been hosted in London and was the best attended conference to date. • Improved our communications. The OSCO tendered for a new website provider and refreshed our communications. While the new website will not be live until 2018, the process allowed us to review all of our content and put material into plain English where needed. We also ran a new print campaign and advertisements on BFBS radio to promote the role of the Ombudsman.
<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 the Office of the Service Complaints Ombudsman 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"> • Engaged with the Ombudsman Association Working Groups. The OSCO is a member of the Ombudsman Association. In 2017, the office began to engage with the different working groups established through the association in order to further the development of our office and individual staff. • Reviewed our processes. The restructure of the OSCO allowed for our processes to be reviewed and changed/streamlined as required. The aim of this is to improve our capability to deliver our objectives in the coming years. • Invested in training and development. In 2017, the OSCO focused on encouraging team members to take ownership of their learning and development and to seek out potential opportunities that interested them.

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.¹⁸

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

OA's Service Standard	The OSCO's performance in 2017
<p>Accessibility</p> <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>The Office of the Service Complaints Ombudsman is free and accessible to current and former members of the Armed Forces.</p> <p>Individuals can make enquiries by phone, email or post and specify when and how they would like to be contacted in addition to any other reasonable adjustment they may need.</p> <p>While our application process 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 and, where required, our Enquiries and Referrals Officers can take an application over the phone.</p> <p>Where enquiries concern matters that fall outside of our jurisdiction, our Enquiries and Referrals Officers signpost to the most appropriate organisation where this information is known.</p>

¹⁸ Objectives of the Ombudsman Association – <http://www.ombudsmanassociation.org/association-objects.php>

OA's Service Standard	The OSCO's performance in 2017
<p>Communication</p> <ul style="list-style-type: none"> • Members should treat service users courteously, respectfully and with dignity. • Members should communicate with complainants through complainants' own chosen method where possible. • Members should explain their role to service users. • Members should let complainants know what they can and cannot do, and, if they are unable to help them explain why. • Members should clearly explain to service users their process for handling complaints about organisations and likely timescales. • Members should keep service users regularly informed of the progression of their case, and how long things are likely to take. • 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. • Members should be accurate in their communications with service users using plain and clear language. 	<p>The Office of the Service Complaints Ombudsman 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. Our website provides clear information on the scope of our jurisdiction and what we can and cannot do. In addition, there are a number of factsheets on a range of different issues, which provide more in depth information. Our Enquiries and Referrals Officers provide this information by phone or email as required.</p> <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 moving towards plain language to ensure that our communication is as clear and accurate as possible.</p>

OA's Service Standard	The OSCO's performance in 2017
<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 the Office of the Service Complaints Ombudsman, regardless of previous experience or education.</p> <p>There are published timelines for all aspects of our work – from how long it will take to answer an enquiry, through to investigations. Where an investigation is likely to exceed the published timeframe, the individual will be informed with the reasons why and the expected date of completion.</p> <p>The Ombudsman does not have the power to grant redress, only to make recommendations for redress and wider learning points that seek to bring about systemic change. In making these recommendations a number of factors are taken into consideration, including the circumstances of the complainant and the impact the wrong has had on them.</p> <p>All records are maintained on a secure e-case management system.</p> <p>Feedback on satisfaction with the service provided is routinely sought from everyone who makes an application to our office. The results are reviewed regularly and used to make improvements in a range of business areas.</p>
<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>The Office of the Service Complaints Ombudsman 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's Service Standard	The OSCO's performance in 2017
<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. Processes are in place to avoid conflict of interest in the handling of complaints. These will be strengthened in 2018.</p> <p>Investigators are transparent about their work as far as is allowed within the boundaries of privacy and national security. For some types of investigation, preliminary reports are made available to the complainant and other affected parties for comment prior to finalising. 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 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.</p> <p>The Ombudsman does not have the power to compel the Armed Forces to provide redress; she can only make non-binding recommendations.</p>

The OSCO is currently exploring how we can make enhancements to our data collection in order to more comprehensively report against the framework in Annual Report 2018.

Appendix E – Financial statement

The OSCO 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 Ministry of Defence in its role, the OSCO is still required to abide by the financial rules, regulations and procedures laid down by both Her Majesty's Treasury and the Ministry of Defence in the commitment of its financial resources.

Financial expenditure by the OSCO in 2017

Category	Credit (£)	Spend (£)
Staff costs ¹⁹		£1,111,695
Accommodation (including IT)		£280,133
Training and professional membership fees		£16,923
Independent legal advice		£4,424
	£3,758 ²⁰	
Office running costs		£128,714
Travel and subsistence		£10,489
Total	£1,548,620	

Table 1 – Financial expenditure by the OSCO in 2017

¹⁹ Costs reflect the capitation rate for all posts within the OSCO, i.e. the total cost of each position including pay, pension and National Insurance contributions. Unlike previous years, the total cost for the post of Service Complaints Ombudsman is not reported separately.

²⁰ Legal costs credited from judicial review outcome.

Appendix F – Events and visits

Ministers and Members of Parliament		
Date	Engagement	Event/Venue
Quarterly	Meeting	Parliamentary Under Secretary of State and Minister for Defence People and Veterans
Jan	Meeting	Baroness Jolly, House of Lords
Aug	Meeting	Permanent Under Secretary, MOD Main Building
Oct	Meeting	Minister for Armed Forces
Naval Service		
Date	Engagement	Event/Venue
Jan	Meeting	Surgeon General
Apr	Meeting	Commodore Naval Legal Service (CNLS)
May	Meeting	Director Reserves
May	Presentation	Naval Legal Services Spring Update, Portsmouth
May	Meeting	Naval Families Federation, Portsmouth
Jun	Presentation	Commanding Officer Designate Course – HMS COLLINGWOOD
Jun	Visit	Britannia Royal Naval College, Dartmouth
Jun	Visit	HMS RALEIGH, Torpoint
Aug	Visit	HMS PRESIDENT
Sep	Meeting	COMCORE
Oct	Visit	FOST visit to the Ombudsman.
Oct	Dinner engagement	Naval Legal Service Annual Dinner, Wardroom, HMS EXCELLENT
Oct	Dinner engagement	Royal Marines Corps Dinner, Stationers' Hall, City of London
Army		
Date	Engagement	Event/Venue
Feb	Meeting	Assistant Chief of Defence Staff (Reserves & Cadets)
Mar	Meeting	Commander Field Army
Mar	Meeting	Head Army Personnel Services Group
Mar	Presentation and dinner	Chaplain General Annual Conference, Army Headquarters
May	Meeting	Director Reserves
May	Meeting	Provost Marshal (Army)
Jun	Dinner engagement	Army Legal Services Regimental Dinner, Shrivenham

Army cont.		
Date	Engagement	Event/Venue
Jun	Commemorative event	The African & Caribbean Commonwealth War Memorial Unveiling, Brixton, London
Jun	Visit	C Coy, London Regiment (Reserves), Balham, London
Jul	Visit	Headquarters 4 th Infantry Brigade, Catterick Garrison School of Infantry Light Dragoons 5 Regiment Royal Artillery Garrison Welfare Services and Personnel Recovery Centre Medical Centre
Jul	Conference	Army LGBT Conference, Sandhurst
Aug	Commemorative event	Sovereign's Parade, Royal Military Academy, Sandhurst
Oct	Meeting	General Officer Commanding, London District and Major General Commanding the Household Division
Oct	Meeting	Assistant Chief of the General Staff
Oct	Presentation	Army Commanding Officer Designate Course, Sandhurst
Nov	Meeting	Provost Marshal (Army)
Royal Air Force		
Date	Engagement	Event/Location
Feb	Meeting	Director Legal Services, RAF High Wycombe
Feb	Meeting	Deputy Assistant Chief of Staff, RAF High Wycombe
Aug	Training	Mental Health First Aid Course, 22 Training Group, RAF Halton
Aug	Meeting	Director Legal Services RAF
Sep	Presentation	RAF Future Commanders Study Period, Joint Services Command and Staff College, UK Defence Academy, Shrivenham
Sep	Dinner engagement	RAF Legal Services Annual Dinner, RAF High Wycombe
Oct	Meeting	Chief of Materiel (Air) Defence Equipment & Support
Nov	Visit	RAF Service Complaints Team, High Wycombe

Tri-Service		
Date	Engagement	Event/Location
Jan	Visit	Falkland Islands
Feb	Meeting	Surgeon General
Apr	Event	London Race Forum Re-Launch, Main Building
May	Presentation	Muslim Conference
Aug	Meeting	COS NATO ACT
Sep	Conference	Service Prosecution Authority Annual Conference
Sep	Meeting	Directorate for Judicial Engagement Policy
Nov	Event	Armed Forces Christian Union – Service of Prayer for the Armed Forces
Nov	Working lunch	Meeting with CDP & PPOs
Dec	Seminar	Senior Leaders' Seminar, Defence in our Evolving Domestic Socio-Legal Climate: A Senior Leaders' Stocktake, Main Building
Ombudsman/International Military Ombudsman/International Military		
Date	Engagement	Event/Location
Feb	Working lunch	Housing Ombudsman
Apr	Dinner engagement	Defence Attaché, Switzerland
Jun	Reception	The Falkland Islands Government Representative in the UK, Reception at Middle Temple
Jun	Meeting	Defence Acquisition Program Administration (DAPA) Ombudsman, South Korea
Jul	Working lunch	Parliamentary and Health Service Ombudsman
Jul	Meeting	Botswana Ombudsman
Aug	Meeting	Pensions Ombudsman and Pension Protection Fund Ombudsman
Oct	Conference	Hosted 9ICOF, Tower of London, London
Oct	Dinner engagement	German Ambassador
Oct	Meeting	Inspector-General of the Australian Defence Force and the Australian Ombudsman
Oct	Event	Ministry of Justice Public Appointments Event

Family Federations/Charities		
Date	Engagement	Event/Location
Jan	Meeting	Angela Owen, PA Consulting Group
Apr	Meeting	Chairman COBSEO
May	Meeting	SSAFA Controller
May	Meeting	Director, Naval Families Federation
Defence Conference/Law and Independent Members		
Date	Engagement	Event/Location
Apr	Dinner engagement	Forces Law 20 th Anniversary Dinner
Jun	Meeting	Government Legal Department
Sep	Conference	Defence and Security Equipment International Conference, Excel Centre, London
Sep	Meeting	Independent Panel Members
Oct	Meeting	Government Legal Department
Nov	Dinner engagement	Women in Defence UK Awards Dinner 2017
Nov	Meeting	Diversity and Inclusion Team, Ministry of Justice
Nov	Meeting	Dr David Whetham, Reader, Military Ethics Defence Studies Department, Kings College London
Training		
Date	Engagement	Event/Location
Jan	Talk	Whitehall and Industry Group – In conversation with Hilary Scarlett author of Neuroscience for Organisational Change
Mar	Talk	Mens' Mental Health Talk, London
Sep	Talk	Masculinity, Mental Health and the Army – National Army Museum
Oct	Seminar	Whitehall and Industry Group Development Seminar – The Neuroscience of Leadership
Oct	Panel event	Black History Monthly – Empower and Exceed – Future of Civil Service Leadership

Appendix G – Statistics

Chapter 2: The work of the OSCO in 2017

Complaints to the OSCO in 2017

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

The OSCO was established in January 2016 as part of wider reforms to the Service complaints system. Guidance on the Service complaints statistics process and key terms used can be found in the separate document 'Background Report – OSCO Annual Report 2017' on the OSCO website.

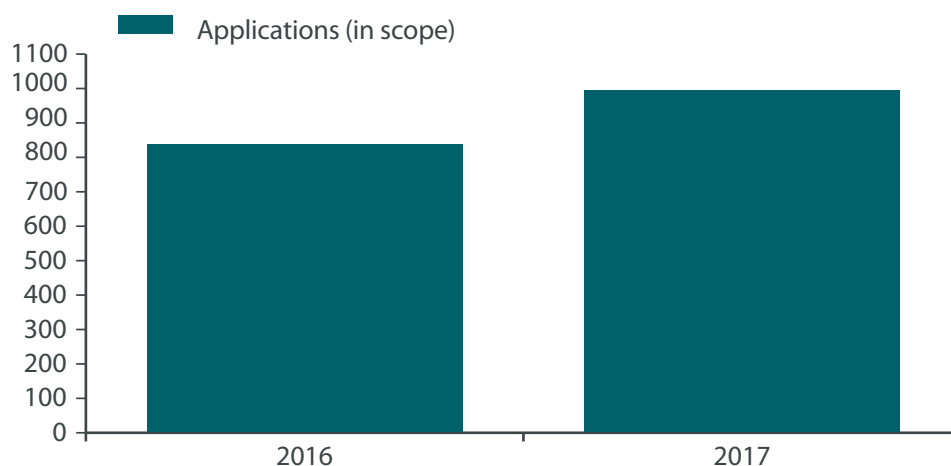
Key findings:

Continued increase in contacts to the OSCO	The OSCO received 1,060 contacts in 2017, an increase of 15% on the previous year (921). Requests for investigation increased by 18% compared to 2016, whereas referrals fell by 10%.
Percentage of cases upheld in favour of the complainant fell	The uphold rate (fully or partially) for cases reaching an outcome in 2017 was 49% – down from 63% in 2016, with the largest fall seen in the Army.
57% of investigations completed on time	Fewer eligible investigations were closed within timeliness targets in 2017 compared to 2016, falling from 76% to 57%.

Contacts to the OSCO

During 2017, the OSCO received 1,060 contacts: this represents an increase of 15% compared to the previous year (921), which was the first year of operation.

Of the total contacts received, 93% (991) were considered as enquiries that potentially concerned matters within the remit of the Ombudsman (in scope).

Figure 1.1 – Applications (in scope), 2016-2017

Gender: 16% of applications received by the OSCO were made by female personnel. This continues to be disproportionate to the 11% female representation in the Armed Forces (regular and Reserve)²¹.

Rank: Around half (49%) of all applications were made by Non-Commissioned Officers and Warrant Officers. Just over a quarter (26%) of all applications to the OSCO came from officers.

Referral decisions made by the Service Complaints Ombudsman

The number of referrals (202) made by the Ombudsman continued to fall, down 7% on 2016 (218). 99% of referral requests were completed within OSCO timeliness targets during 2017.

Referrals accounted for 20% of all enquiries received in 2017. The remaining enquiries were:

- not pursued due to lack of information (36%);
- applications for Ombudsman investigations (41%);
- ongoing as at 31 December 2017 (3%).

²¹ UK armed forces biannual diversity statistics: 2017, Ministry of Defence

Investigations

During 2017, the OSCO received 406 applications for investigation, an increase of 21% on 2016 (335). Requests for investigations into substance (merits) and maladministration both increased by 57%, whereas requests for undue delay investigations and admissibility reviews fell slightly (3% and 5% respectively).

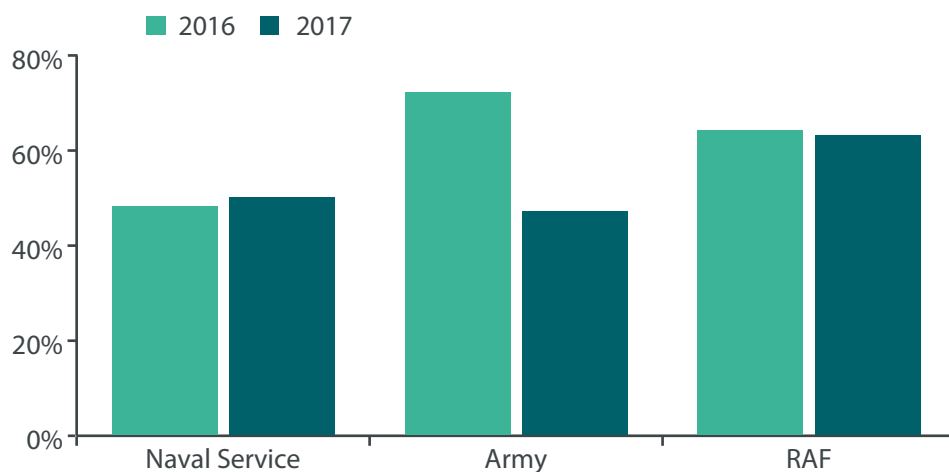
Where an admissibility decision had been made by 31 December 2017, 87% of investigation requests received in 2017 were considered eligible (273). Of these, over three-quarters (78%) had been closed by the end of 2017:

- 50% resulted in an investigation report;
- 25% were discontinued following case review;
- 3% were withdrawn, closed for administrative reasons or closed due to the applicant's failure to engage with the process.

The proportion of closed eligible cases that met OSCO timeliness targets fell from 76% in 2016, to 63% in 2017.

Of the 156 cases which resulted in an OSCO investigation report during 2017, around half (49%) were upheld in favour of the complainant (fully or partially). The uphold rate fell by 14 percentage points compared to 2016 (68%). The largest falls were seen in cases dealt with by the Army (down 25 percentage points) and admissibility requests (down 23 percentage points).

Figure 1.2 – Uphold rate (%) in favour of complainant by Service, 2016 and 2017



Chapter 3: The work of the Service complaints system

This section provides an overview of Service complaints handled by the Armed Forces during 2017.

Relevant individual Service breakdowns are reported here, where appropriate. However, separate factsheets can be found on the OSCO 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 necessitated changes to the data the OSCO is able to collect and publish regarding the work of the Service complaints system. Any figures relating to absolute levels from the previous Service complaints system have been removed and any comparison should be made with caution.

Guidance on the Service complaints statistics process and key terms used can be found on the OSCO website in the separate document: 'Background Report – OSCO Annual Report 2017'.

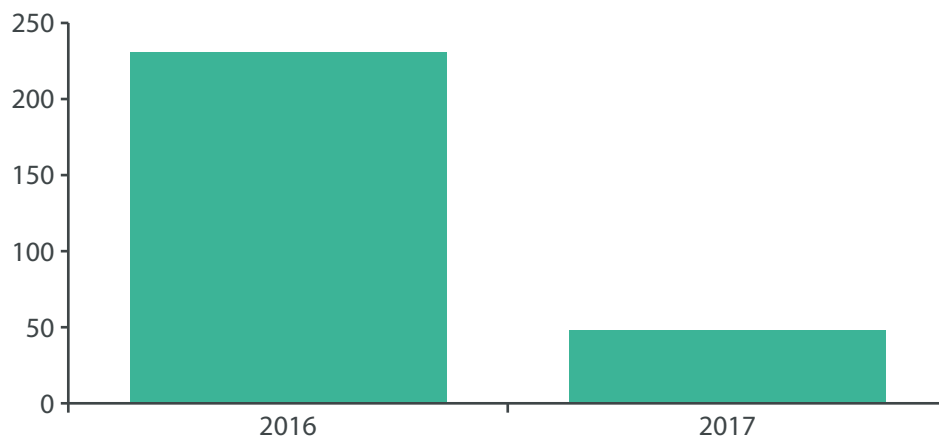
Key findings:

Female and BAME personnel overrepresented as complainants	Female and BAME personnel continue to be disproportionately represented in complainant counts (21% and 10%) 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	Tri-Service, 52% of complaints were closed within the 24 week target. Legacy cases received pre-2016 persist, with a reduction of only 7% from last year.

Volume

During 2017, the Service complaints system received 1,009 formal complaints, of which 23% were deemed inadmissible by the Services and the remaining 77% entered the Service complaints process. Of those admissible complaints 41% were closed within the year. The RAF achieved the highest in-year closure rate (75%).

Figure 2.1 – Number of open legacy complaints



In-year closures accounted for around 40% of all closures achieved by the three Services, with a total of 690 cases closed including legacy complaints. The legacy cases received pre-2016 persist, with 47 still open at the end of 2018.

Box 2.1: Armed Forces Continuous Attitude Survey (AFCAS) 2017

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-2017>.

Key findings:

- 13% of personnel surveyed report experiencing bullying, harassment or discrimination in the last 12 months.
- Of these only 10% go on to make a formal complaint regarding the experience – this varied across the Services, with the lowest rate seen in the RAF (6%).
- The most common reasons given for not making a formal complaint were feeling that 'nothing would be done' (59%) and that complaining would adversely affect their career (52%).
- For those who did complain, levels of dissatisfaction increased or remained stable in all categories. The highest levels of dissatisfaction were for the complaint outcome (59%) and the time taken to resolve the complaint (64%).
- Awareness of the Service Complaints Ombudsman fell, with the proportion of those who have never heard of the SCO increasing by five percentage points.

Gender:

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

Ethnicity:

- There was a small difference in the percentage of BAME personnel who report suffering bullying, harassment or discrimination in the last 12 months compared to white personnel (15% compared to 13%) – the difference seen has fallen markedly from 13 percentage points in 2015 (25% compared to 12%). Similar levels of BAME and white personnel enter a formal complaint following bullying, harassment and discrimination. A higher percentage of white personnel have 'never heard of the SCO' (18% compared to 12%).

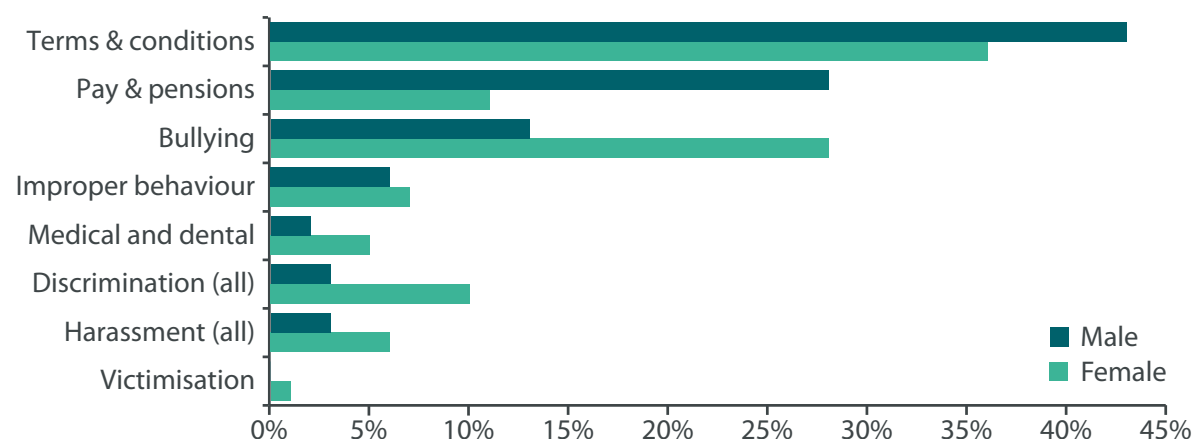
The category of Service complaint is determined by the Services on receiving the complaint. Each complaint is assigned a single, 'primary' category. 'Terms and Conditions of Service' continues to be the most common category of Service complaint, accounting for 41% of complaints received in 2017.

Complaints by complainant demographic

Gender: The proportion of complaints received from female personnel continues to be disproportionate to their representation in the Armed Forces (regular and Reserve)²². Around 20% of admissible complaints were submitted by female personnel, despite making up 11% of the Service strength.

Bullying, harassment and discrimination were more commonly the cause of complaints received from female personnel. Around 44% of complaints from female personnel relate to these categories compared to 19% for male personnel – this was true across all Services. Additionally, sexual harassment and discrimination were more commonly the reason for complaints being entered by female personnel (3%) compared to male personnel (1%).

Figure 2.2 – Complaints received by gender and type, tri-Service, 2017



Ethnicity: The proportion of complaints received from BAME personnel continues to be disproportionate to their representation in the Armed Forces (regular and Reserve)²³. Across all Services, 10% of complaints were entered by BAME personnel despite accounting for 7% of the Armed Forces population.

As with female personnel, bullying, harassment and discrimination were more commonly the cause of complaints received from BAME personnel compared to white personnel. Around 21% of complaints from white personnel relate to these categories, compared to 57% for BAME personnel – this difference was true across all Services and most evident in the RAF (17% for white, 71% for BAME).

²² UK Armed Forces biannual diversity statistics: 2017, Ministry of Defence

²³ UK Armed Forces biannual diversity statistics: 2017, Ministry of Defence

Handling of complaints

AO allocation: All complainants who raised a complaint in 2017 had been offered an AO at the end of the year. Of these, 27% declined the offer. This is a significant increase on the previous year (13%) and coincides with a small decrease in complainant satisfaction with AO support reported in AFCAS 2017 (down four percentage points on the previous year to 35% satisfied), the lowest yet.

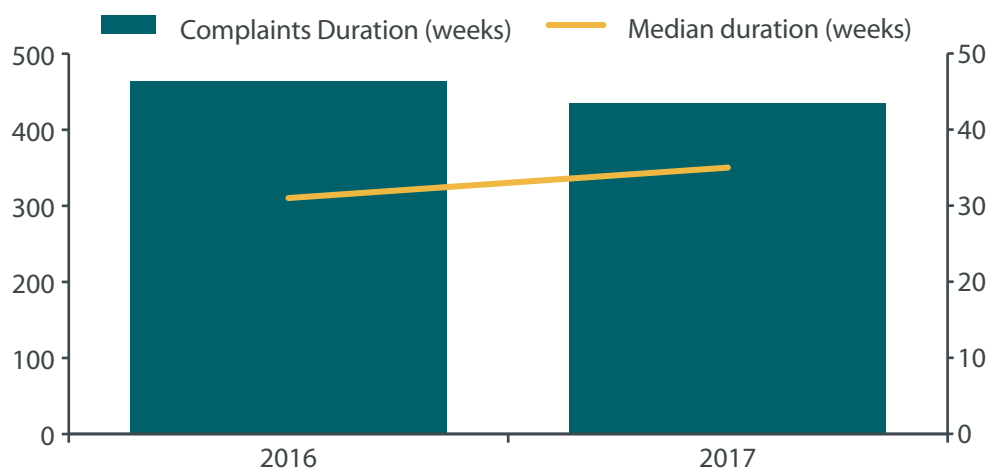
Outcome: Of all complaints decided during 2017, just over a third (37%) were not upheld in favour of the complainant. 17% of complaint outcomes were withdrawn by the complainant or remedied pre-decision. The RAF had the lowest relative level of withdrawn or remedied pre-decision outcomes, 6% compared to 20% in both the Naval Service and the Army.

Timeliness: Tri-Service the percentage of complaints received and closed within the 24 week target period in 2017 was 52% – well short of the Ministry of Defence's 90% target. This varied markedly by Service, with the RAF showing the highest proportion of complaints closed within the target (75%) compared to the Naval Service (56%) and the Army (37%).

Red flag report: In 2013, the then Service Complaints Commissioner introduced a new reporting system to provide better visibility of cases which had exceeded, or were likely to exceed, the Ministry of Defence's 24 week target.

At the end of 2017, there were around 430 complaints open beyond the 24 week time target – this represents a decrease of 6% on the previous year. The Naval Service was the only Service to report an increase in red flag cases, up 32% on last year. This coincides with the dissatisfaction of those who did complain, with the highest levels related to the time taken to resolve complaints (64%) as reported in AFCAS 2017.

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



Red flag cases are spending more time open beyond the 24 week target compared to last year (11% increase). However, this follows a sharp fall seen between 2015 and 2016 (40% decrease).

The majority (58%) of red flag cases were open for more than double the initial 24 week target. This has increased by five percentage points on December 2016 (53%), with increases in the percentage of complaints open for 48 weeks or more seen for the Naval Service and the Army.

Appendix H – Single Service narratives

Vice Admiral Sir Jonathan Woodcock KCB OBE



The Second Sea Lord and
Deputy Chief of Naval Staff

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29 January 2018

OMBUDSMAN'S ANNUAL REPORT 2017: NAVAL SERVICE NARRATIVE

I refer to your letter OSCO/AR17/Naval Service letter of 14 Nov 17 requesting statistical data, together with a covering Principal Personnel Officer narrative to inform the content of your forthcoming SCO Annual Report for 2017. The detailed statistical data on Service Complaint (SC) handling by the Naval Service is enclosed at the Annex to this letter.

Key Performance and the Impact of Investigation Capacity

Our headline achievement for 2017 against the current 90%/24-week Key Performance Indicator (KPI) is 56%. While this is slightly down on 57% in 2016, it does need to be viewed in a wider Defence context among which are the unprecedented difficulties encountered by all three Services throughout 2017 when seeking to engage Fee-Earning Harassment Investigation Officers (HIO) via Defence Business Services (DBS). For the Navy, the number of Service Complaints requiring an HIO investigation increased in year in percentage terms and in consequence, once the increased HIO demand exceeded RN in-house capacity¹, the need to engage FE HIOs increased at a time when the service from DBS was significantly diminished. It has been necessary for the Services to resort to "self-help" to mitigate the impact of the shortfall in FE HIOs. Generating the manpower to create a suitably qualified and experienced cadre of HIOs at speed is not realistic, however we have ensured that those cases awaiting FE HIO allocation are reviewed every few weeks and where in-house capacity has allowed, we have reacquired the HIO investigation from the FE HIO "waiting list". Inevitably though, delay will be a feature of such cases. In other cases, we have carefully assessed the balance of risk, including the personnel impact on the wellbeing of Complainants and Respondents, of having to wait for either FE HIO or in-house HIO capacity to become available against assigning a non-HIO investigator, albeit mitigated by supervision from

¹ We are making steady progress on increasing in-house HIO resource by establishing two additional posts within the Complaint Investigation and Mediation Team. Furthermore, the establishment of a cadre of Reservist HIOs in 2018 will provide additional resilience and agility to mitigate the impact of the DBS FE HIO issue.

the in-house team. There is a risk that our case management in such instances might be the subject of criticism downstream, but balanced against the impact of delay on the personnel involved as well as the effect of the passage of time on the reliability of event memory and consequently evidence, we have judged that this is the best way forward in a small number of cases.

The In-Year Management Challenge

I also know from our discussions in year and the level of turnover of personnel experienced in your office this year that you will also be sympathetic to how personnel “churn”, particularly in key appointments, can adversely affect casework throughput and managerial continuity. At a more junior level, retirements and reduction in working hours also affected capacity and capability. It is equally important to recognise the impact on our SC Secretariat personnel and the management challenge to mitigate “combat fatigue” for SC Caseworkers and Lawyers. In this collective wider context, together with the on-going Service and Civilian manpower and Defence-wide financial position, the Naval Service’s achievement against the KPI at a level broadly on par with that of last year represents a hard-won and, in my view, creditable effort which demonstrates our enduring commitment to the aim of delivering a fair, efficient and effective SC system for our people.

Looking Ahead

I fully recognise that we must continue to strive to incrementally improve the SC process year-on-year. I acknowledge however, that the KPI, as currently set and far too narrowly defined, does not provide a credible baseline measurement to assess the performance of the multifaceted SC system. The current KPI places a value on timeliness in complaint handling alone, taking no account whatsoever of equally valid counterbalancing quality prerequisites, namely due diligence in investigations and properly considered decision making when dealing with such a complex breadth of grievance subject matter as submitted by Armed Forces Personnel. Put simply, being driven to sacrifice investigative thoroughness and rushing into a hasty SC decision to satisfy timelines undermines fundamental quality standards and risks adverse findings whether *via* your Office or from Courts and Tribunals. We should not, in my view, knowingly undermine the credibility of the SC system; more fundamentally though, we owe our people better. In this sense, I wholeheartedly endorse the Recommendation 1.11 in your 2016 Annual Report for a proper review of the KPI and hope that it will be possible to make significant progress early in 2018 to establish a credible and comprehensive standard against which the Services are appropriately and equitably held to account in your Annual Reports.

There are plenty of positives to reflect upon in 2017 in the Naval Service. The outcome of a Continuous Improvement Event implemented in September changed the source of legal advice to Specified Officers on admissibility from our Regional Legal Offices to within the SC Secretariat role. This, ostensibly small, business reconfiguration introduced both End-to-End ownership of SC casework - which ensures consistency in the provision of legal advice from the outset - but equally importantly provides an improved ability to triage statements of complaint and identify potential resolution opportunities at an earlier stage. The associated adjustment to manning liability means it has been possible to establish a small in-house team to act as a Fast-Track SC resolution focal point with capacity also to engage with units to assist and guide them in handling SC business “out in the Fleet”. Although this arrangement has been in train for the final quarter of 2017, the impact is already apparent and bodes well for 2018.

Other Observations

I have also noted that, to date, no successful challenges to the operation of the Reformed SC system by way of Judicial Review have arisen from Naval Service complaint handling. Likewise, there have been no adverse Employment Tribunal judgements in year.

I would also invite you to note that the number of “Legacy” SCs, i.e., those submitted prior to 1 Jan 16, stand at 6 at 31 Dec 17; a 57% reduction in-year.

Referring to Recommendation 1.10 in your 2016 Annual Report, the representation of Naval Service BAME in the Service complaints system reflects the personnel demographic. The representation of females in the Service complaints system is at 18%, slightly higher than the 14% demographic which excludes the predominantly male Royal Marines and Submarine Service to avoid distorting the baseline data set. In numerical terms, 18%/14% reflects statistically small numbers.

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

As a member of the Admiralty Board of the Defence Council and as the RN PPO, you will not be surprised to know that I continue to take particular interest in the outcome of the applications made to your Investigations Team from RN and RM personnel. In this regard, I have noted:

Gateway Review:

12 out of 16 Applications (75%) did not alter the RN admissibility decision

Undue Delay:

6 out of 14 Applications (42%) Undue Delay was not found; where delay was found, it related to Legacy cases from the former SC model.

Maladministration and Substance:

5 out of 6 Applications (83%) not accepted for SCO investigation following initial case review; 1 case pending.

Maladministration:

Zero Applications in 2017.

Substance:

2 out of 3 Applications (66%) resulted in no adverse SCO finding; 1 case pending.

I am content for this document to be reproduced in full as an Annex to your 2017 Annual Report.

Copy to:
EA/1SL



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Ref: DCGS-01 01_02_01/02/18

Date: 22 February 2018

Dear Nicola,

**SINGLE SERVICE CONTRIBUTION TO THE SERVICE COMPLAINTS OMBUDSMAN'S
2017 ANNUAL REPORT (ARMY)**

Introduction

1. Thank you for the opportunity to set-out how I see the Army's position as you write your Service Complaints Ombudsman's annual report for 2017. In this year's submission, I hope to capture the key aspects of how the Army has made progress in identifying and dealing with workplace grievances since the publication of your last report. I believe that the overall tenor is one of moderate success, though I recognise that there are still areas where we can, and must do better.
2. As the Army's Principal Personnel Officer, I am acutely aware of your commitment and professional interest in our approach to the Service complaints (SC) process. As the Ombudsman, you have been instrumental in creating an environment in which conversation rather than confrontation is the medium in which we operate; this has been vital to progress.
3. Setting the right working environment is as important as developing the force. Regardless of race, gender, or sexual orientation (or any of the other protected characteristics) all officers and soldiers must have respect for others, a belief in their own ability and absolute confidence in their leaders. Understanding the impact of complaints is vital to understanding complaints in a more holistic way. The Executive Committee of the Army Board's (ECAB) overarching aim is to achieve transparency and create a culture where individuals feel free to complain. We are also striving to maximise talent, ensuring that our workforce is increasingly diverse, both in terms of constituents and how it thinks. The Army's "Belonging" campaign seeks to get after this. And we are instigating a range of policies to unlock the potential of our people by; building a talent-based human resources model fit for the 21st century; modernising and contemporising educational delivery; improving human performance and behaviours; and widening opportunities.

Service Complaints — Key Takeaways

4. The Army's SC headline for 2017 is our continued progress in resolving legacy complaints (i.e. those submitted before 1 Jan 16) and also the implementation of a robust communication campaign that has enhanced interaction at all levels. Keeping in mind your 2016 Annual Report, we have been determined to implement all of your recommendations. Where these were necessarily directed towards the Ministry of Defence and its centrally-held responsibilities for SC processes, the Army has done all that it may to take action to adopt those recommendations — unilaterally where appropriate. Chief among these, from an Army perspective, is re-setting the target completion time¹ to reflect the totality of work completed to address complaints — whether formal or informal.

5. The Army SC Secretariat's Joint Personnel Administration Subject Matter Expert² is also the Defence lead for Joint Personnel Management of all SCs. She has been at the forefront of developing the Joint Personnel Administration package for SC reform. More recently, tri-Service Oracle Business Intelligence Enterprise Edition reports have been written to aid compliance and assurance and provide coherent statistical data at all levels. The Army report has been used by all three Services to extract the 2017 data for the Service Complaint Ombudsman's Report to ensure consistent reporting. The following statistics are intended to demonstrate improved performance:

- Since 31 Dec 15 (which is the point at which the term 'legacy' was applied to our open complaints) the Army has reduced the number of open formal SC by 38%. Meanwhile, the rate at which formal SC have been submitted has increased to 11 per calendar week; a rise of 9% on 2016. I believe this is a fair indicator of the Army's determination to take SC entirely seriously. We have made SC a priority for commanders at every level and lent it additional resource. This is underlined further when one considers that of the SC submitted since 1 Jan 16, the proportion completed within 24 weeks has risen significantly from 25% in Dec 16 to 37% in Dec 17. So we are getting better, but have much more to do.
- Of the new complaints received in 2016/17 an average of 25% were resolved informally and do not appear in your end-of-year statistics for *formal* complaint resolution. 50.1% of informal complaints were resolved at that level. I am proud of these rising rates which reflects success in addressing grievances at the appropriate (lowest) level. But this success is not captured in the statistics. There may be merit in crediting this improving behaviour which lies, I believe, at the heart of a successful internal grievance system.

6. Beyond the performance statistics, we have effected important changes in 2017, including:

- **Reducing the over-reliance on unnecessary legal advice for decision-makers.** Since May we undertook to provide legal advice on all admissibility decisions and on any redress with a direct or indirect monetary implication. But we have otherwise required experienced and carefully selected commanders (Decision Body (DB)) to decide SC, noting that this need not always involve a lawyer's input. So legal capacity is now better-focused upon

¹Currently 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.

²Who previously was employed as the Joint Personnel Administration process lead for discipline.

appeals and decisions where the Army Board is the DB, generating momentum. Most significantly, it allows commanders to take the lead in important matters which affect their people.

- **Recruiting Harassment Investigation Officers (HIO).** In the face of budgetary pressure, Commander Home Command, James Bashall, has recruited a cadre of reservists to act as HIOs, employing them on Voluntary Employment from the Regular Reserve terms. They will complement the DBS-funded and managed fee earners who may remain available in future. This cadre will take some months to reach "Full Operating Capability", so we have adopted a practical investigation solution involving un-paid investigating officers —independent of complainants' direct chains-of-command — working with qualified Equality, Diversity and inclusion Officers on those cases which normally warrant the use of a HIO.

Cultural Change

7. You rightly focus in your reports, and in our discussions, on the proportion of women and members of the Army's Black Asian & Minority Ethnic community who make complaints. And you invited MOD to lead a study to understand better why this is so; we stand by to support CDP in whatever way we can.

8. From a broader perspective, less than half of one per cent of the Army's strength has an on-going SC — and of that small proportion, by no means all complaints are upheld. So I would assess that the Army's culture is fundamentally good, but is potentially hampered by a sometimes over-regimented approach. And I would accept that there remains a small and dwindling minority of those involved who have been slow to grasp the need for a grievance process. So we are judging where the balance lies between understanding why certain cohorts complain and continuing to change the overall culture to address complaints from *any* cohort in the most constructive manner. I judge the following areas as critical to instigating cultural change:

- **Deepening Confidence in DBs.** The SC system represents an opportunity for low-level resolution. Quick decisions need not be poor, nor can quick decisions disadvantage a complainant where a DB acts reasonably. We have set an aggressive timeline; DBs are to make their decision within three weeks of the completion of the investigation. This is their priority. But we have also reminded DBs that a complainant has access, by right, to *de novo* appeal and that the DB's decision cannot itself be complained about.
- **Placing Progress before Process.** The complex transition between the now-legacy SC mechanism and the current, reformed process brought with it understandable but unhelpful behaviours. For some, process was more important than achieving the best and fair outcome. We are working to address this and the Army SC Secretariat now conducts an expanded series of briefings to formations. You heard, first hand, the evolving message from Lieutenant Colonel Joe Howe at the Commanding Officers Designate Course in October. SC Reform has created a new platform for SC resolution and we are determined to use it to the full.

- **Seeing Opportunity not Burden.** The parallel message is that SC are routine activity, not an additional burden. Complaints provide the Chain of Command with an important opportunity to learn about the concerns of complainants; to move away from *what* the complaint appears to be about and to consider *why* it is the complainant has decided to lodge a complaint. And this should stimulate wider thought by commanders on issues within the Chain of Command that he or she may need to address. This is a potentially very powerful tool. Ultimately, and perhaps arguably, the formal SC process should become a thing used *in extremis* for more complex matters where delegated powers of redress are needed — not for the day-to-day, immediate, low level and clear grievances which service life might create.
- **Horizon Scanning.** Army Personnel Services Group is well-connected to wider policy and structural developments in the Army. Inevitably, some of the things we decide can be unpopular and can give rise to grievances. Army Personnel Services Group is in a position therefore to inform policy and communications about changes in order to minimise unintended outcomes and reduce the need to complain.

Improving Awareness

9. We have sought to improve awareness of SC reform through a reinvigorated communications strategy.³ We have delivered over 500 verbal briefs throughout the year to Human Resource staffs and the Chain of Command reinforcing processes and sharing best practice. We undertake regular reviews to ensure that resource material and process guides on the Army SC Secretariat website are both current and applicable. We have issued three tri-fold pamphlets, easily understood by all ranks, to all units explaining the complaints process and the role of the Service Complaints Ombudsman. The Army SC Secretariat intranet site allows immediate access to all SC publications for all Service personnel with Defence Information Infrastructure access. Secretariat staff issue the guides and advertise their availability at every briefing and course at which they speak.

10. Having last year introduced a 'Lessons' Officer focal point the Army SC Secretariat has continued to collate (and act upon) post-2016/17 recommendations and wider learning points contained in the Service Complaints Ombudsman Investigation Reports. This information along with lessons identified by the Chain of Command is recorded on the Joint Personnel Administration platform. This has allowed a more informed and timely analytical review of those areas that need to be addressed, particularly those associated with policy and Standing Operating Procedures. Whilst adjustments to the Joint Service Publications have yet to be promulgated, this action has ensured that all those handling complaints — regardless of level or location — have access to current information. The Army SC Secretariat is dedicated to following statistical signposts which point to areas which merit deeper understanding and action as part of the lessons process.

³In addition to SC briefs, we are including a 'Learning Specification relating to SCs' in a revised annual individual training package (Military Annual Training Test 6 - Values & Standards (Diversity & Inclusion)).

Mediation and Informal Resolution

11. Our data from 2017 suggests strongly that mediation is a successful means of resolving complaints. Formal mediation is provided by a pool of approximately 80 independently trained and certified mediators. 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 Bullying, Harassment and Discrimination helpline. Callers are provided with assistance to work through the SC 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 and or withdrawing SCs. Mediation can be conducted alongside the SC process. Both teams work closely with the Army SC Secretariat. The independence of 'Speak Out' and the Army Mediation Service from the Chain of Command and the formal SC process reassures those engaging with the services that there is no vested interest in recommending mediation.

13. It has been disappointing, therefore, to see that the Army Mediation Service remains an underutilised resource. To address this, ECAB directed on 14 Dec 17 that DBs are in future to consult the Army Mediation Service to scope *all* Bullying, Harassment and Discrimination complaints for possible mediation. And to further raise awareness, we launched the Army Mediation Service "brand" during National Mediation Awareness Week. This has resulted in an increased number of calls to the Army Mediation Service in the last quarter of the year. We intend to build upon this momentum in 2018 whilst ensuring that we reinforce the message that, whilst informal resolution is a valid and attractive option, formal resolution remains a legally protected right.

14. Army SC Secretariat also employs trained mediators who are able to filter and highlight possible cases for early informal resolution. The exemplars for the use of informal resolution remain the Career Management Service Complaints Cell at the Army Personnel Centre. Those working within this cell provide detailed explanation of Career Management policy. In turn this can lead to the complainant withdrawing the complaint, or to remedial action without the requirement for a formal decision by an appointed DB. Informal resolution is an important metric in the success and application of the SC process. In 2017 the SC Team at the Army Personnel Centre secured the informal resolution of 42 SCs without the requirement for a DB to reach a formal decision.

SCO 2016 Annual Report Recommendations

15. Finally, let me turn to the recommendations in your 2016 report. Beyond HIOs and performance metrics which I have already covered, I am pleased to note that over 390 people have applied to become Independent Members on Bullying, Harassment and Discrimination SC. We share your desire to take this opportunity to recruit as diverse and experienced cohort of Independent Members as possible. This will further reduce potential delay which lies outside the Army's control.

16. Your recommendation which drives the greatest work is to review the current *90% in 24 weeks*' target used by the three Services and which remains, for the Army unachievable and has yet to be attained by any of the three Services. This MOD-set target rather distorts the measurement of success and is, strictly, a statement of policy intent rather than an explicit goal. The onus is with us to describe a target which better reflects the totality of work on SC (informal and formal) and in a more realistic timeframe. But the right solution must include a measurement method which keeps sight of the best, fair outcomes for those who complain and which attacks *unnecessary* delay while acknowledging that some delay is both necessary and welcome.

17. The more straightforward of your recommendations have also been addressed including: guidance for Specified Officers and Respondents; the better utilisation of resources; training for complaint handlers and Assisting Officers; training on SC process and your role; and the development of a common approach (such as the sharing of best practices and the templating of letters and reports).

18. Shifting focus to legacy cases, these continue to distort performance and mask the full benefit of the reformed SC system. The legacy residue in the Army is now small; less than 5.7% of the original 713 cases⁴ and many are, as you know, necessarily delayed in process beyond the Army's control. While they remain very important to all those they affect I do not detect a way to apply increased resources to them nor to prioritise them for action any more than we already do. I therefore propose that we remove them from our future statistical analysis.

19. One of the linked benefits of having to close with the legacy caseload is the relationship which has built-up between our organisations. Between 1 Jan 16 and now, we have seen 391 Investigation Requests submitted to you by complainants. Among those, of the 105 citing grounds of Substance and/or Maladministration, you have upheld only 7% in favour of the complainant. I ascribe much of this improvement to the hugely constructive dialogue we now experience. I will continue to ensure that we commit resources to what we call the Army's SCO Liaison Team (ASCOT) to keep the communication channel open.

Summary

20. In sum, I believe that we are in a significantly better place than at this stage last year. Total numbers of open complaints have fallen despite the fact that the rate at which new complaints arise appears to be increasing. A reduced number of in-year referrals received by the Army during 2017 suggests improving levels of confidence in the Chain of Command's ability to deal with an SC or informal grievance when it arises. We have learned where better to apply resource and we have reinforced capacity where necessary. You have had less cause to overturn our well-reasoned and well-explained decisions.

21. But I believe the greatest potential return on any future investment lies in changing commanders' attitudes to SC, helping them to see the inherent opportunities and supporting swifter resolution at the lowest levels. No matter what role a Service Person is employed in they must be aware of and understand their statutory right to submit a SC during their service if they feel that they have been wronged, without any fear of reprisal. Commanders, and the culture that they

⁴ Of which only 1.3% have yet to receive a first decision.

shape, are central to this. In terms of outcome, my focus remains on maximising our fighting effectiveness: and I am clear that doing right, swiftly by those who have cause to complain and those adversely affected by the wider SC process, contributes directly to that end.

Yours, 

Copy to:

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From: **Air Marshal Sean Reynolds CBE DFC RAF**



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January 2018

1. Thank you for your letter dated 14 November 2017 seeking the RAF Service Complaints statistics for 2017 and offering us the opportunity to provide a covering narrative for your next Annual Report.

2. You will recall that last year I reported to you that Service Complaints was one of the highest priorities of the Air Force Board who were fully committed to achieving the objective that the Service Complaints Process should be efficient, effective and fair for all. I am pleased to report that this continues to be the case, and the Air Force Board Executive maintains regular oversight of the RAF delivery of the Service Complaints process and is committed to ensuring this continues on a sustained and enduring basis.

3. I am also pleased to report that following considerable changes to our working practices and procedures introduced in the latter half of 2016 through the “get-well-plan”, the initial improvements seen at the end of 2016 continued to develop as the various improvements became more established. Overall, in 2017 we have seen a notable improvement in the handling of Service Complaints whilst continuing to maintain the high quality of decision making that we felt was already a key feature.

4. Whilst we have also seen a significant increase in the number of admissible complaints in 2017, up 72% on 2016, we consider this to be a positive demonstration of increased confidence in the system; we always anticipated that the overall number of complaints would increase as confidence grew.

Statistics

5. The statistics at Annex A highlight the improvements in the processing and handling of Service Complaints mentioned above and we ended the year with a higher number of complaints resolved within the 24 week target timeline; **75%** in 2017, up from 50% in 2016.



6. Regarding your target to the Services to complete all pre-2016 complaints by the end of 2017, I can report that we ended the year with only **one** pre-2016 complaint outstanding. This particular complaint was scheduled for an Appeal Body hearing in December but on convening, the panel members felt the need for an Oral Hearing, which took place in mid January, the earliest date which could be arranged. At the time of writing, I can confirm that this complaint is very nearly concluded. In addition, whilst we would like to have resolved all 2016 cases by now, it is commendable that we have only 17 outstanding.

7. In reviewing the statistics you will see that we ended 2017 with **97** live complaints, representing an improvement on the 2016 closing figure of 105. Against this impressive performance, we need to consider this in context of the 72% increase in the number of complaints received in year, 187 compared with 109 in 2016.

8. In your 2016 Annual Report you highlighted the over representation in the complaints process of female and/or BAME personnel. In this regard, we conducted a review of all 2016 complaints and have now done the same for 2017. Whilst I note that the female representation in the complaints process at 21% is an over representation when compared to our relative proportion of females in the Service at 14%, we are satisfied that the nature of the majority of those complaints is not connected to the individual's sex. I am sure you will be pleased to note that an additional work strand has been initiated in order to understand the complete lived-experience for our staff, which will specifically consider the impact of service life on our personnel and females in particular.

9. Regarding BAME personnel, we received 7 service complaints from BAME personnel in year, representing 4% of the caseload. Of the 7 complaints, 3 were directly related to race and none of the race related complaints were female complainants. Whilst at this time we see no trends or areas for concern with complaints we are better geared up to monitoring the situation and now have a Command Brief produced on a monthly basis, which provides a wealth of statistical data including the make up of complaints by Station, Group, Officer-vs-Airman, gender and trade group. We also monitor the nature/type of complaints being made in order to spot trends and take early action where required.

Single Service Narrative

10. Following the introduction of the new Service Complaints system on 1 January 16, the RAF has expended considerable effort, energy and resources to achieve these impressive improvements, which are helping to deliver a process that is more "efficient, effective and fair to all" than it was in 2016 or before. I also recognise that there are still improvements to be made and I have detailed some of the areas for further development in the coming year. I have also taken the opportunity to update you on some of the initiatives launched in 2016/2017 and how they have contributed to the overall performance.

a. **Fast Track Unit (FTU).** In 2017 the FTU was launched 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 handled a far greater number of complaints than had been anticipated. The FTU now provides the RAF with a capability to handle a significantly increased volume of complaints, within a more reasonable timeframe, as was evidenced when we received 31 pay related complaints from Non-Commissioned Aircrew.

b. **Volunteer ex-Regular Reserve (VeRR) Investigating Officers (IOs).** Following the 2* study into how Service Complaint investigations are conducted, one of the recommendations was to establish an in-house cadre of an additional 9x IOs to augment the 2x Service Complaints Investigation Team (SCIT) investigators. A national network was



established in the early part of 2017 and following initial training, started delivering positive results almost immediately. Further, the in-house cadre has been able to mitigate some of the impact of the issues that arose with the Fee Earner HIO service provided by Defence Business Services (DBS) in the last 6 months of 2017.

c. **Reserve Cadre Panel Members.** Doubling the cadre of panel members at the Air Vice-Marshal/Air Commodore rank from 10 to 20 combined with the recruitment of a permanent Decision Body has provided the Service Complaints process with a substantial pool of experienced officers, able to make decisions in a timely manner, with maximum flexibility. Furthermore, they sit outside the chain of command and bring a level of independence which has been a notable positive feature for parties involved in the process. As well as being committed to maintaining the number of panel members at 20, we have added an additional capacity at the DB level to alleviate pressure and to improve efficiency.

d. **Provision of Legal Advice to Panels and Oral Hearings.** The process of embedding the same legal officer to support a complaint throughout its journey has been firmly established in how we do our business. Removing the need to automatically escalate the requirement for a senior legal officer has improved timeliness and efficiency in listing of panels and oral hearings.

e. **Introduction of RAF Service Complaints into an Air Publication (AP).** The publication of a comprehensive guide to the Service Complaints process provides a hand-rail for Units dealing with complaints on a day to day basis and details the RAF specific aspects of this process including checklists and templates. In order to maintain its integrity and usefulness, it will be reviewed annually to ensure that the information provided to Units is the most current and accurate that is available, incorporating the lessons learned to date.

f. **Training.** Training has continued to be an important feature of 2017 for the Service Complaints Team (SCT). We now deliver Service Complaints Training at all levels¹ throughout the careers of Service Personnel, across all ranks. Further, in 2017 the SCT also developed a training package for Unit Investigating Officers in order that they are better prepared to undertake this role. In addition, there is continuous training to retain specialist knowledge within the SCT and I am pleased to see the introduction of mental health and vulnerable witness training that was conducted at the Annual Conference.

g. **Annual SCT Conference.** The Annual conference this year for Service Complaints was held in November at RAF Halton and was an internal event for all members of the SCT including military and civilian staff, as well as the Reserve Panel Members and Investigating Officers. The conference covered some key training as mentioned above, as well as giving the team the opportunity to review their interactions and identify areas for further improvement. I am grateful that this event was supported by your office which added a valuable contribution to the event.

h. **Respondents / Assisting Officers (AO) Champion.** It is key for us that all parties involved in the Service Complaints process have appropriate support as the experience can be both stressful and negative. We continue to develop our support to both Respondents and AOs including training packages for AOs. We are aware of the business need to retain all of our personnel who may become disenfranchised by their involvement in a complaint. Further, where those who have elected to leave the service are party to a complaint, the experience may be their enduring memory of their entire service career and as such, we are committed to making the process as painless as possible.

¹ Courses covered include AMLC, HMLC, HR Management, MIM, P1 Conference, Service Discipline, IOD2 and IOD4.




Looking forward

11. In recognising the significant progress made to date, it is important to recognise that we are not there yet and there are still a number of issues which need to be addressed. For the coming year, I have directed work on the following areas:

- a. **Investigations.** I continue to be concerned at the availability of well trained and capable FEHIOs. Well conducted timely investigations are the bedrock of the Service Complaints process and the service provided by DBS is not meeting the demand. Therefore, I remain concerned that investigations into complaints of bullying, harassment or discrimination will not be conducted to the quality and timeliness required. It is going to be some time before departmental change delivers what the Services need and as a result I have sustained and indeed expanded the mitigation to address this significant issue.
- b. **Respondents.** Despite the significant inroads we have made to address the experience of Respondents in order to achieve a process which is “efficient, effective and fair for all” there continues to be a consistently perceived disparity in the treatment and entitlements of Respondents vs Complainants. As you know, the RAF now have a Respondents’ Charter and Champion, and we give specific guidance to Units on how important it is to treat Respondents appropriately during what is clearly a stressful situation. That however, is not enough and we must do more. We invite consideration to more legislative provisions for the protection of Respondents and we are working hard to champion those rights with our sister Services. During 2018 the RAF will be working on phase 2 of the treatment of Respondents where we will seek to adopt cultural change in the perception of the involvement in a Service Complaint. We are also reviewing the levels of welfare support available for Respondents to ensure that it adequately meets their needs.
- c. **Mediation.** Having recognised the importance for early resolution in the complaint process the link with mediation is obvious. Last year I reported that this is a capability that had not been effectively exploited previously. The centralised mediation capability within the SCT will look to develop a comprehensive capability.
- d. **Special-to-Type (STT) Process.** In reviewing the Service Person’s experience where there is a special-to-type process to follow prior to commencing a Service Complaint, it is often one which is extremely lengthy and protracted. I will be engaging with the various STT policy owners to review their processes and implement the lessons learned in the wider Service Complaint sphere to ensure they are as expeditious and transparent as possible and to adopt a willingness to resolve issues at the earliest stages to prevent them from becoming Service Complaints.

12. Overall I have been impressed with the performance of the RAF Service Complaints Team in 2017. Having implemented major change, which is already delivering positive results, we are now better placed for handling complaints in the future than at any time previously. I recognise that there are still areas for improvement and you can be assured that our approach is to continue to explore how we can improve the processes and experience for all of our personnel who are ‘touched’ by the Service Complaint process to deliver a system that is “efficient, effective and fair to all”.

S. K. P. 



Appendix I – Directory of related websites on Service complaints

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

Office of the Service Complaints Ombudsman

<https://www.servicecomplaintsombudsman.org.uk>

The OSCO website contains copies of all past Annual Reports and statistical briefings concerning the Service complaints system in addition to publications and information concerning OSCO processes.

Ministry of Defence

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

This site provides information on the organisations within the defence system, reports and 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 individual Services covered by the Service complaints system can be found at:

Royal Navy

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

British Army

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

Royal Air Force

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

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ExternalRelationsManager@servicecomplaintsombudsman.org.uk**Statistical enquiries**

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StatisticsManager@servicecomplaintsombudsman.gsi.gov.uk**Contact details for individuals wishing to make an application to the Ombudsman or to find out more about the OSCO are:****Website**<https://www.servicecomplaintsombudsman.org.uk>**Email**contact@servicecomplaintsombudsman.gsi.gov.uk**Phone**

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