

Grievance and Dispute Resolution Policy and Procedures

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Policy overview

1. Grievances and disputes between colleagues sometimes arise in the workplace. When they do, it is important that all employees feel able and safe to raise such issues and be confident that they will be dealt with fairly and sensitively. Some of these issues will be relatively minor and can be dealt with through discussion without the need for any further action, for example when resolving minor interpersonal issues or disagreements in relation to management decisions that perhaps have not been fully explained or understood. When the issue is ongoing and cannot be resolved through an informal discussion, workplace mediation might be helpful in repairing a damaged working relationship.
2. Other issues will require formal investigation and resolution, either because the parties are unable to agree, or because of the severity of the issue.
3. This grievance and dispute resolution process should not be used where there is already an appeals process in place as part of another policy, or where there is a separate complaints process (such as [JSP 763 - The MOD's Bullying and Harassment Complaints Procedures](#)).

Policy principles

4. The Ministry of Defence (MOD) is absolutely committed to ensuring that all employees are treated with dignity and respect. We are working to create a culture of inclusivity where all staff are engaged, but this cannot be achieved if anyone feels excluded, bullied or harassed. The MOD does not tolerate any form of bullying, harassment - including sexual harassment, or discrimination from any source. Where it occurs, it is essential that everyone feels able to report it so that it can be tackled.
5. It is also important that those employees who witness any behaviour that falls short of expected standards feel confident to raise their concerns through this procedure. This may not be behaviour that is directed towards them but may be behaviour that makes them feel uncomfortable in some way, or where they believe a colleague has been made to feel uncomfortable by someone's behaviour. All concerns raised will be taken seriously.
6. The emphasis should always be on using informal channels to settle issues wherever possible. Many complaints and disagreements at work can be resolved through confidential discussion with a colleague and/or line manager or countersigning manager. It can also help to discuss the issue with someone not directly involved, such as a work colleague, or informally with a [Trade Union representative](#), or through the [Employee Services Team](#) or [SpeakSafe](#). This can

help gain a different perspective on the issue and help someone decide on the best course of action to resolve it.

7. Everyone involved in the grievance and dispute resolution process is expected to:

- try to resolve the issue informally before considering a formal resolution
- show respect for others
- work together to resolve the issue
- feel confident that by raising an issue this will not impact negatively on themselves or their career when the issue is raised in good faith - anyone who does victimise another employee for raising an issue or concern will be subject to [misconduct and disciplinary action](#)
- maintain confidentiality at all times, including once the process has been concluded – failure to maintain confidentiality could result in misconduct and disciplinary action

8. **Note** - the need to maintain confidentiality in relation to grievance and dispute resolution and misconduct and disciplinary matters should not be confused with or prevent someone from raising a matter under the Public Interest Disclosure Act 1998 (PIDA) where they have a relevant concern. A relevant concern is one that is about past, present or imminent wrongdoing, or an attempt to cover up wrongdoing, in an organisation or a body of people. The information that they disclose should be in the public interest, meaning that the issue must affect others, for example the organisation, work colleagues or the general public. Details can be found in [the whistleblowing policy and procedure](#). Whistleblowing procedures should not be used to raise concerns of a personal nature.

9. This document is designed to provide practical guidance and support to line managers, employees and their representatives when looking to resolve workplace issues. The aim should always be to create and maintain good and effective working relationships based on mutual trust and respect, reducing the opportunity for difficulties to arise. There is evidence to suggest that in organisations where managers have an open policy for communication and consultation, problems and concerns are often raised and settled quickly through informal channels.

10. There will be occasions where an informal resolution is not possible or appropriate, and on those occasions, it is important that interventions support all of those people involved in resolving issues promptly, transparently, fairly and consistently.

11. Note that where this document states that a manager, decision maker, investigator, appeal manager or employee 'must' take a particular action, this designates a legislative requirement. Where this document states that a manager, decision maker, investigator, appeal manager or employee 'should' take a particular

action, this designates a Civil Service or departmental requirement and the expectation is that the guidance will be followed. Individuals may only deviate from the guidance in exceptional circumstances and be mindful that there are risks associated with doing so. Individuals will be expected to account for any such deviations from the guidance.

Scope of policy

12. This policy and its related procedures apply to all civilian employees in the MOD and Service line managers of civilian employees in the execution of their line management responsibilities, including casual and fixed-term appointments except Locally Engaged Civilian employees (who should follow local procedures).

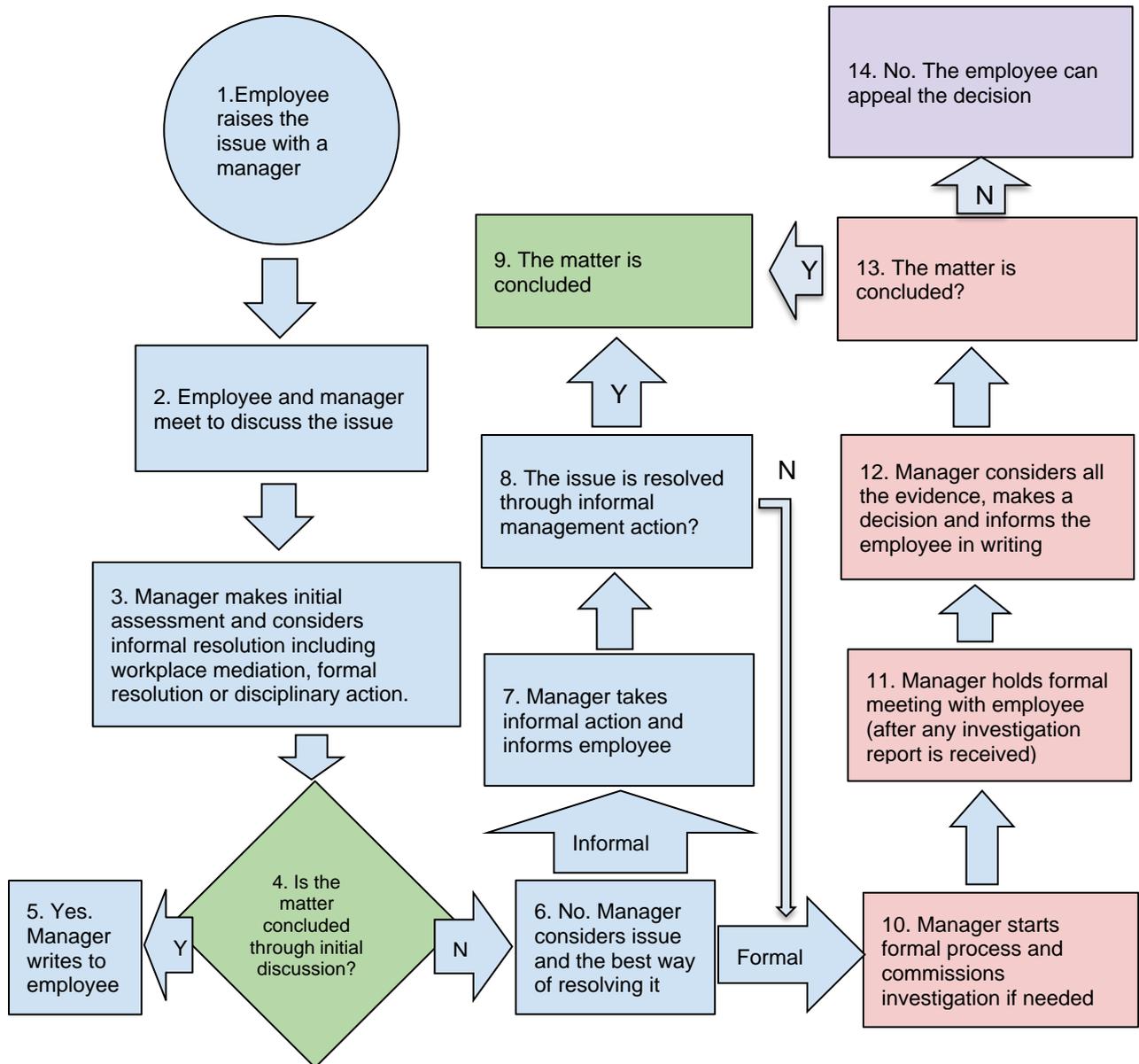
13. This grievance and dispute resolution policy and procedure follows the principles set out in the [ACAS Code of Practice on Discipline and Grievance](#)

14. For Service personnel, [JSP 831](#) sets out the MOD policy concerning Service complaints seeking redress of individual grievance under sections 334 to 339 of the [Armed Forces Act 2006 \(AFA 06\)](#).

15. All employees should refer to [JSP 763 for the MOD's Bullying and Harassment Complaints Procedures](#), which should be used for all bullying and harassment related complaints.

Procedure

Grievance and dispute resolution process map



N.B: 'Manager' does not necessarily mean line manager. Please refer to the section 'Appointing someone to deal with the matter' for details of when it is not appropriate to appoint an individual's line manager to handle a case.

16. There are three distinct approaches that managers can use to resolve issues at work:

- informal resolution
- workplace mediation (this is available at any stage in the grievance and dispute resolution process, but all parties should agree to it – it cannot be enforced)

and, if informal resolution and/or workplace mediation have been unsuccessful or aren't appropriate in resolving the issue, an employee still has the option of raising the issue through:

- formal resolution

17. Whilst these steps do not have to be carried out in the sequence as shown above, informal resolution and workplace mediation should always be considered and where appropriate, used to resolve issues.

18. The line manager or the manager appointed as the person who will decide on the matter (the decision maker) will always undertake an initial assessment of the facts relating to the issue (speaking to both parties as necessary) before informing the employee of the most appropriate route to quickly and effectively resolve their issue. This could be informal management action, [mediation](#), formal action or (depending on the nature and seriousness of the case), through [the misconduct and discipline process](#).

The role of the DBS Casework Service

19. The DBS Casework Service provides expert support and advice to line managers, decision makers, investigators and appeal managers.

20. Decision makers should consult with the DBS Casework Service when considering commencing formal grievance and dispute resolution action and confirm with them once a decision is made to take such formal action. A DBS Caseworker can provide advice to ensure that the grievance and dispute resolution policy and process is being correctly followed and will monitor the case to ensure everything is being done to progress it and that there are no unnecessary delays.

21. A case conference will be held if the matter has not been concluded after 30 working days and a DBS Caseworker will be present at that case conference to help review the case and its progress.

22. DBS Caseworkers do not make decisions – that is the responsibility of the decision maker and appeal manager – but they can advise on the policies and

procedures and help to ensure that the process is followed correctly and provide additional support and assurances to those who are making decisions based on the information available to them.

Informal grievance and dispute resolution

23. If managers act on early warning signs and talk to employees as soon as issues arise, for example, if they notice that an individual is unhappy or withdrawn or not engaging in a process, this can sometimes help resolve them without a formal complaint being made. It is almost always worth using the informal route, particularly where the employee (or manager) feels the formal process would only add to the timescale and would not add value to the final outcome. In addition to taking much longer to resolve issues, formal action can also cause tension amongst colleagues or between employees and managers. However, no-one should feel pressurised into taking informal action rather than formal action.

Support and advice available to employees and managers

24. This can be a worrying time for all those involved, and it can sometimes be difficult to take an objective view of the situation. There are various sources of support, signposting and advice that employees and managers can access to help them as they consider the options available to resolve an issue. These include:

- line managers/other managers
- work colleagues/friends
- [Trade Union representatives](#)
- [SpeakSafe](#)
- [Mental Health First Aiders](#)
- [the Employee Services Team](#)
- [The Charity for Civil Servants](#)

Talking to someone else in confidence can help to focus thoughts and therefore help employees decide on the best course of action to resolve the issue.

25. In particularly sensitive cases it can help to allow the employee (regardless of whether they are the complainant or are the subject of the complaint) to be accompanied at meetings by a close friend or family member. Requests of this nature should be viewed sympathetically. Such companions should agree to maintain confidentiality at all times and will be there purely for emotional support. Employees may also request to be accompanied by a work companion or trade union representative, although there is no statutory right for these at informal grievance and dispute resolution meetings. Employees may not bring legal representatives with them to the meeting.

26. Managers should always be mindful of their organisation's duty of care to the employee who is the subject of the complaint. Employees who are identified as the subject of a complaint should also be signposted to support and advice services such as those listed above. They should be reassured that there is no presumption of guilt, that they will be given every opportunity to state their case, and that confidentiality will be observed at all times.

Appointing someone to deal with the matter

27. Where the matter can be dealt with informally, in most cases it will be appropriate for the line manager or someone in the management chain to deal with it.

28. However, there may be exceptional occasions where it is appropriate for someone outside of the line management chain to deal with the matter. A manager should not deal with a matter if they are, or could reasonably be perceived as:

- being somehow involved or implicated
- being biased
- having a personal interest in the outcome of the case

29. Where an employee feels they cannot approach their line manager with a complaint, they should approach their Countersigning Officer (CSO). If the employee feels they cannot approach anyone in their line management chain due to concerns relating to bullying or harassment, then they should raise the issue through the formal route set out in JSP 763 and contact their Civilian Workforce Advisor (CWA) or equivalent, who will be responsible for finding someone to act as decision maker and to whom the employee can submit their formal complaint.

30. Where an RFA employee raises a formal grievance (after leaving a ship), the role of the Decision Maker in certain circumstances, may be undertaken by an appropriate manager within RFA Pers Ops.

Decision maker capability

31. Managers should ensure that they have the relevant knowledge before undertaking the role of decision maker. In addition to familiarising themselves with this grievance and dispute resolution policy and process, it is strongly recommended that decision makers access Civil Service Learning, as this contains resources to help them when faced with issues around misconduct and discipline or grievance and dispute resolution, including:

- decision making
- discipline and grievance

- discipline and grievance – top tips
- managing discipline and grievance cases

32. Managers are also strongly advised to visit the MOD's own '[Line Manager's Portal](#)', which provides further learning and guidance content to help managers enact their responsibilities fairly and effectively.

Using the correct process

33. Employees often choose to complain about issues such as performance management, management decisions, or bullying, harassment and discrimination. This process should not be used where there is already a formal appeals process as part of another policy, or another complaints policy and process in place, such as [JSP 763 - the MOD's Bullying and Harassment Complaints Procedures](#). Although employees cannot use this grievance and dispute resolution process to raise concerns about departmental policy, they can use it to dispute decisions made by managers when implementing these policies. Formal grievance and dispute resolution can be lengthy and difficult for everyone concerned, so resolving issues informally, whenever possible, is always the best option.

34. If someone is unhappy about a management or organisational decision, they should discuss the issue with their manager or another manager (such as their countersigning officer) as soon as they become aware of the impact on them. Managers may be able to resolve the issue quickly by discussing it with the employee. By arranging time together as soon as the problem or complaint is identified and taking the opportunity to talk through the issues, the matter could be quickly resolved. This could also help if someone is experiencing difficulties in a work relationship. If a manager is unable to resolve an issue, they may want to discuss it in confidence with their own manager, as they may be able to suggest a way forward.

35. It is important for the manager to keep the employee informed so that they know that they are still seeking a resolution. It is also important to be open with the employee from the outset, as it isn't always possible to resolve an issue to an employee's satisfaction. If the issue cannot be satisfactorily resolved, or the employee remains dissatisfied, managers may be able to help them come to terms with that by explaining why it wasn't possible to give them the outcome they wanted.

Bullying, harassment and discrimination

36. Bullying, harassment and discrimination (BHD) complaints should always be treated seriously, but this does not necessarily mean going straight to the formal procedure, particularly when the employee themselves raises the issue informally and agrees that it may be possible to rectify the matter informally. Sometimes

people are unaware that their behaviour is unwelcome or inappropriate and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease immediately. It may be that the individual will choose to do this themselves, or they may need support from a manager or an employee representative.

37. [JSP 763: The MOD's Bullying and Harassment Complaints Procedures](#) is the process that should be followed by all Service and civilian personnel with regard to making, responding to, advising on, investigating, and deciding on, complaints relating to bullying and harassment.

38. There may be cases where a manager identifies that an issue is serious enough to result in misconduct and disciplinary action, and that it is more appropriate to consider and investigate the issue under [the MOD's misconduct and disciplinary policy and procedures](#) from the outset. In these cases, the manager should discuss the course of action with the employee raising the issue. The employee is entitled to a written decision confirming the outcome of their complaint.

Sexual harassment

39. Sexual harassment is unlawful under the Equality Act 2010. Employers have a duty of care to protect employees and will be legally liable for sexual harassment in the workplace if they have not taken reasonable steps to prevent it. Sexual harassment can take many forms and can sometimes be difficult for people to identify. The key characteristic of sexual harassment is that the behaviour is unwanted by the recipient and/or any conduct of a sexual nature is non-consensual. It can be a one-off incident and does not need to be repeated to constitute sexual harassment. Sexual harassment does not just happen in the office; it can happen at work-related functions and parties, on training courses and at conferences. Sexual harassment can be intentional or unintentional. The [sexual harassment guidance](#) provides further detail and advice.

40. Any employee making, responding to, advising on, investigating, or deciding on, complaints of sexual harassment should refer to [JSP 763: the MOD's Bullying and Harassment Complaints Procedures](#).

Breakdown in working relationships

41. Where the working relationship between two individuals has completely broken down, managers should carefully consider whether, from a welfare perspective, it might be beneficial for those concerned to be offered a move to another role or team. This is to avoid further escalation of the situation and to give managers the opportunity to investigate the issue and seek a resolution. Managers should be clear on the rationale for taking this action and the situation should be

handled sensitively to avoid apportioning (or being perceived to be apportioning) 'blame'.

42. Following a discussion with the employees concerned, managers should identify an alternate role for one (or both) of those concerned. It should not be assumed that where the issue is between an employee and their line manager that the employee should automatically be the one who is moved. Moves should never be used as a step to avoid fully investigating and resolving issues or taking [misconduct and disciplinary action](#) in cases of alleged misconduct.

Workplace mediation

43. Workplace mediation is an effective part of the grievance and dispute resolution process and is cost and time efficient in resolving issues informally. It empowers people to work together to resolve issues and can therefore be less stressful and have a less negative impact on morale. Mediation is most effective when used early in a grievance or dispute before people become fixed in their positions. However, mediation can still be successful in later stages, even after a formal process has concluded.

44. Mediation can take place between colleagues or between line managers and their employees. It is usually between two parties, but mediation can also work for groups. Mediation can be used to resolve a range of issues including breakdown in relationships.

45. If two or more people agree that there is a problem, then the steps in the process are for them to:

- both agree to attend mediation as an option for resolving the issue
- individually attend a meeting with trained mediators
- collectively attend a meeting to state how they each see the problem and how it might be resolved
- engage with the mediator who will work through the issues and confirm agreements with everyone as they are reached

46. Although mediation is often perceived as an early form of intervention, it can also help people rebuild relationships once an issue has been resolved. Mediation is not suitable for cases where a decision about right or wrong is needed, for example where there is suspected criminal activity. The [mediation policy and procedures](#) explain what mediation is, when mediation is to be used, the mediation process, and how to access mediation and associated support and advice within the MOD.

Formal grievance and dispute resolution

Timing

47. Unless there are exceptional circumstances, it is expected that employees and managers will try to resolve issues together informally in the first instance, as this can be in everybody's best interest. If it hasn't been possible to resolve an issue through informal resolution, or if informal resolution is not appropriate (for example, due to the serious nature of the issue), the next step is to move to formal grievance and dispute resolution.

48. The issue should be raised in writing without unreasonable delay and employees should be encouraged to do this, providing as much detail as possible, at the time the issue arises so that action can be taken to quickly resolve it. This will ensure that the facts are fresh in everyone's minds. If the issue relates to an operational decision, it will help ensure timely reconsideration where this is appropriate.

49. In most cases, such grievances or disputes should be raised within three months of the event or issue taking place, or within three months of the informal grievance and dispute resolution process concluding (including mediation).

50. In cases of sexual harassment or severe forms of bullying, harassment or discrimination, employees may not feel able to come forward and report the issue until significantly after the event. It is important that the employee knows that managers will still consider these issues and deal with them appropriately. If someone thinks they are being sexually harassed but feel unable to report it or choose not to report it at the time, it is advisable that they keep a record of what has happened to them. The more detailed the account they keep the better, including dates, times and names of any witnesses. If someone has made a note of the details of the incident(s) it avoids them having to rely on their memory to recall the specific details later on. However, employees should be aware that complaints of sexual harassment will usually only be considered at an employment tribunal if the worker makes a claim within three months of when the incident took place. The complaints procedure that should be followed for bullying and harassment cases is detailed in [JSP 763](#).

51. Managers should always carefully consider the circumstances leading to any delay in reporting and review why the employee did not feel they were able to come forward at the time the incident took place. Managers should not reject a formal grievance or dispute purely on the basis of a delay in reporting the issue and should normally accept any case in relation to sexual harassment or severe forms of bullying, harassment and discrimination regardless of the time elapsed. Decision makers may wish to consult the DBS Casework Service if they need advice on

whether they should accept a case outside of the three-month period, but ultimately, it will be for them to make that decision.

52. It is recognised that exceptionally there may be delays in progressing matters. This may be due to the complexity of the case or because of short absences that are part of the everyday working environment such as employee or decision maker working patterns and/or short-term absences due to annual leave, illness or disability. In these cases, all steps should be taken as soon as reasonably practicable and the reasons for any delay should be recorded. Employees should be kept updated on progress and informed of any delays by the decision maker, and likewise, the employee should inform the decision maker of anything that may delay the case (such as planned or unplanned absence).

Employee action

53. When an employee wishes to make a formal complaint, they should write a formal letter which should provide as much information as possible, [using the template Grievance and Dispute Resolution Letter](#) and:

- be clear about the grounds for the grievance or dispute
- describe what happened
- describe what has been done to informally resolve the issue, and if nothing has been done, explain why
- be factual and avoid using language that might be considered insulting or abusive
- state who was involved and if appropriate who witnessed any incident
- explain what outcome is being sought
- attach any relevant supporting documentation
- provide details of any planned leave/holidays and what arrangements they would like with regard to staying in touch with the decision maker during that time (providing preferred contact details as appropriate)

54. In most cases, and where the issue is around operational decisions or team working, the formal complaint will be submitted by the employee to their line manager. However, a manager should not deal with a matter if they are, or could reasonably be perceived as:

- being somehow involved or implicated
- being biased
- having a personal interest in the outcome of the case

Where an employee feels that they cannot approach their line manager with a complaint, they should approach their Countersigning Officer (CSO). If the employee feels they cannot approach anyone in their line management chain due to concerns relating to bullying or harassment, then they should raise the issue through the formal route set out in JSP 763 and contact their Civilian Workforce

Advisor (CWA) or equivalent, who will be responsible for finding someone to act as decision maker and to whom the employee can submit their formal complaint. The manager who is identified as the decision maker should then handle the case with the support and advice of the DBS Casework Service.

55. It is important that employees are treated fairly throughout the grievance and dispute resolution process. If an employee believes that the appointed decision maker or appeal manager cannot deal with the matter objectively and impartially, they should raise this with the [Employee Services Team](#), who will consider such concerns on a case-by-case basis. Whilst every effort should be made to allay or address the employee's concerns, this does not mean they can choose who deals with the matter.

56. If an employee believes that the decision maker or appeal manager is taking an unreasonable amount of time to deal with their grievance or dispute, they should raise this with the [Employee Services Team](#).

57. An employee may give written consent to the Employee Services Team for their trade union representative to contact them directly on any matters of concern. However, the Team will not be able to discuss a case with a trade union representative if such express consent has not been received.

Initial decision maker action

58. When the decision maker receives the formal complaint, they should check that it has been submitted within the timescales detailed in this guidance (but note that the ['Timing' section](#) sets out how to consider grievances and disputes not raised within three months). The decision maker should also review what informal action has already been taken to resolve the issue, including management action, and why this was unsuccessful.

59. If informal/management action has not already been considered, and where consideration indicates that the complaint is more appropriate for such action, the decision maker may wish to have an initial meeting with the employee to discuss their complaint, clarify any points and make a decision about how it should best be handled (either informally or formally). If the decision maker decides that informal action is the most appropriate approach, they should write to the complainant to acknowledge receipt of the complaint and tell them this (adapting [the template Grievance and Dispute Resolution Complaint Acknowledgement Letter](#) as appropriate).

60. [Mediation](#) as an informal action should also be considered at this point if it hasn't already, and where appropriate, the decision maker should propose this as the most effective route for resolving the issue to both parties (although both parties should agree to the mediation). This action often concludes the matter and the decision maker should write to the employee giving their final decision (using [the template Grievance and Dispute Decision Letter](#) (adapted as appropriate)).

61. If such informal management action is not appropriate or has been unsuccessful, the decision maker should start the formal process and inform the DBS Casework Service that the formal case is underway.

Decision maker meetings with employees where an investigation is not required

62. Some cases may not require a formal investigation. Decision makers are responsible for deciding whether they need to commission a formal investigation, or whether the matter is straightforward, the facts are not disputed by any party and they already have all the evidence and information that they need to make their decision. Decision makers may wish to consult with the DBS Casework Service on this point, though ultimately, this decision will be theirs to make. Where an investigation is not required because the decision maker feels they already have all the evidence they need on a case and the matter is not disputed by any party, the decision maker should write to the employee within five working days of receiving the grievance and dispute letter and invite the complainant to meet with them to discuss the matter, giving a suitable date and time for the grievance and dispute resolution meeting to take place using the template [Grievance and Dispute Resolution – Complaint Acknowledgement Letter](#). The decision maker should give the employee at least five working days' notice of the meeting, as this will give them time to prepare and identify a TU representative or work colleague to accompany them (if they so wish).

63. In particularly sensitive cases where an employee may need emotional support, it can help to allow the employee, regardless of whether they are the complainant or are the subject of the complaint, to be accompanied at meetings by a close friend or family member. This is in addition to their TU representative or work colleague.

64. The decision maker is responsible for making sure that the matter is progressed promptly, and that delays do not occur. The decision maker will inform the employee of any delay in the meeting taking place. They should also keep all those involved in the resolution process updated throughout the time the matter is under consideration. All parties should remember that a grievance and dispute meeting is not the same as a misconduct and disciplinary meeting and is an occasion when discussion and dialogue may well lead to a resolution.

65. The meeting invitation will:

- tell the employee that they have the right to be accompanied by a Trade Union representative or work colleague - where an employee requests that a non-work friend or family member accompany them to the meeting in particularly sensitive cases, decision makers should sympathetically consider the reasons for the request
- if the employee or their companion cannot reasonably attend the meeting, they should propose new dates to the decision maker as soon as possible to allow the meeting to take place within five working days of the original meeting date (employees should be given a

reasonable opportunity to make arrangements, but the meeting should not be unreasonably delayed on the basis that a specific companion is unavailable). If this isn't possible, or the employee doesn't attend the re-arranged meeting, the resolution process will go ahead in their absence based on the available information (it is therefore important that the employee and their companion make every effort to be there in person to give their side of the events)

- ask whether the employee or companion have any specific requirements or adjustments that need to be made to enable them to attend the meeting, read the correspondence or otherwise participate fully in the process – the decision maker is responsible for ensuring that such adjustments are put in place
- enclose copies of the [grievance and dispute resolution employee information leaflets](#)
- confirm who else will be in attendance during the meeting - such as the note taker (an independent note taker will be appointed by the decision maker and will be present at the meeting to keep a factual record of the discussions that take place)

66. At the meeting the decision maker will:

- introduce all present at the meeting (including the note taker) and explain that the meeting is to discuss a grievance or dispute, and will be conducted with a written record being kept
- clarify points which aren't clear to ensure a common understanding and to establish the facts
- ask what attempts have been made to resolve the issue informally
- use open questions (what, how, why) to encourage more information to be shared
- use precise closed questions only where specific information is needed
- avoid leading questions
- allow the employee to ask questions and present evidence
- at any point during the meeting, a break can be requested, for example, if the employee would like to consult with their Trade Union representative or companion, if the employee becomes distressed and cannot continue, or for a comfort break
- in exceptional circumstances the decision maker may need to make further enquiries (in these cases it would normally be better to adjourn at the end of the meeting with a continuation at a later date)

67. Once the discussion is complete the decision maker will:

- summarise the main points of the case
- make sure they have all the relevant facts and information to make their decision

- ask the employee if there is anything they would like to add, and confirm what their preferred outcome would be
- let the employee know when they will make their decision and/or let them know if they need to refer the matter on (for example, in cases where a performance marking is being disputed)

Deciding the outcome when an investigation has not been conducted

68. After the meeting with the employee, the decision maker will assess all the evidence put forward by the employee and others and decide whether to uphold the complaint if they are satisfied that it is more likely to be justified than not. The decision maker should consult with the DBS Casework Service before making their decision if they feel they need further guidance, advice or support, but ultimately, the decision that they make will be their own.

69. The decision maker should notify the employee of their decision in writing within five working days of the meeting, enclosing the written notes of the meeting using [the template Grievance and Dispute Decision Letter](#). They should also notify the subject of the complaint of the outcome using [the template Grievance and Dispute Decision Letter to Subject of Complaint](#). In some cases, it may help the employee understand the rationale for the decision if the decision maker meets with them to discuss the outcome. [Mediation](#) can also help people rebuild relationships once an issue has been resolved.

70. The decision maker should notify the DBS Casework Service of the outcome of the formal grievance and dispute resolution process. Any actions agreed as part of the decision should be taken forward by local management.

Cases where a formal investigation is required

71. In cases where the evidence is unclear from the formal written complaint or there is dispute/disagreement about what happened, the decision maker may decide that they need additional information and that a formal investigation is required. It is in the best interests of all parties for matters to be fully and fairly investigated and resolved quickly. Investigations are opportunity for transparency – for everyone involved to state the facts of the matter and for these facts to be shared so that the decision that is ultimately made (based on the facts) can be put into context. Where an investigation is needed, it should be usually be undertaken before the formal grievance and dispute resolution meeting between the decision maker and complainant takes place. That does not mean that the decision maker cannot have an initial meeting with the complainant before the formal investigation and grievance and dispute resolution meeting if they believe it would be helpful - to clarify any points etc. – decision makers should use their judgement depending on

the nature of the case.

72. An investigator should be assigned via the decision maker's Civilian Workforce Advisor (or equivalent) who will be responsible for finding someone who is sufficiently independent and able to conduct an objective and unbiased fact-finding investigation. In practice, this means they will not have any personal or close professional links with the main parties or any other perceived conflict of interest with the case. They should also have the capacity and capability to reach a timely conclusion to the investigation.

73. The decision maker should commission the investigation using [Annex D: Template terms of reference in the Investigations Standards document](#). Investigators should then follow the [Investigations Guidance](#) and [Investigations Standards](#), including writing to the person subject to the complaint and any witnesses informing them of the complaint and inviting them to interview using [the template letters in the investigations guidance](#).

74. The decision maker should write to the complainant, acknowledge their complaint and explain that their complaint is being investigated (adapting the template [Grievance and Dispute Resolution Complaint Acknowledgement Letter](#), as appropriate). The investigator will also write to the employee and any relevant witnesses using [the appropriate Annex in the Investigations Guidance](#) to tell them about the investigation that they are undertaking.

75. The decision maker should actively monitor the case on an ongoing basis to ensure that action is taken to resolve the issue as quickly as possible and to minimise any delays. If the matter is not resolved after 30 working days of the formal process commencing, the case should be reviewed by the DBS Casework Service. The purpose of this review is to ensure that everything is being done to progress the case, that the correct process is being followed and that there are no unnecessary delays.

Decision maker action following an investigation

76. Once the investigation is concluded, all the evidence should be analysed objectively and impartially by the investigator to conclude whether there is a case to answer or not. These findings should be documented in an investigation report (using [the investigation report template at Annex E in the investigations guidance](#)), be presented in a clear, concise and consistent manner and submitted to the decision maker.

77. The decision maker should check that the investigation report meets the terms of reference for the investigation as set out in their original commission and follows [the investigations guidance](#) and [standards](#). If it doesn't, or if the decision maker thinks there are gaps in the evidence, they should set this out in writing to the

investigator immediately and request any further information they require. In the interests of transparency, any such correspondence should be made available to the subject of the investigation and the complainant as part of the investigation report.

78. Once the decision maker is content with the investigation report, they should invite the employee to meet with them to discuss their formal complaint using [the template Grievance and Dispute Resolution – Complaint Acknowledgement Letter](#) (adapting as appropriate). The decision maker should enclose a copy of the investigation report and give the employee at least five working days' notice of the meeting following completion of the investigation.

79. The decision maker is responsible for making sure that the matter is progressed promptly, and that unavoidable delays do not occur. The decision maker will inform the employee of any delay in the meeting taking place. They should also keep all those involved in the resolution process updated throughout the time the matter is under consideration. All parties should remember that a grievance and dispute meeting is not the same as a misconduct and disciplinary meeting and is an occasion when discussion and dialogue may lead to a resolution.

80. The meeting invitation will:

- tell the employee that they have the right to be accompanied by a Trade Union representative or work colleague - where an employee requests that a non-work friend or family member accompany them to the meeting in particularly sensitive cases, decision makers should sympathetically consider the reasons for the request before making a decision
- if the employee or their companion can't reasonably attend the meeting, they should propose new dates to the decision maker as soon as possible to allow the meeting to take place within five working days of the original meeting date (employees should be given a reasonable opportunity to make arrangements, but the meeting should not be unreasonably delayed on the basis that a specific companion is unavailable). If this isn't possible, or the employee doesn't attend the re-arranged meeting, the grievance and dispute resolution process will go ahead in their absence based on the available information (it is therefore important that the employee and their companion make every effort to be there in person to give their side of the events)
- ask whether the employee or their companion have any specific requirements or adjustments that need to be made to enable them to attend the meeting, read correspondence or otherwise participate fully in the process – the decision maker is responsible for ensuring that such adjustments are put in place

- enclose the investigation report - this will also include any witness statements to ensure openness and transparency in the investigation process - witnesses do not attend the decision meeting
- the person named as the subject of the grievance or dispute should also receive a copy of the final investigation report
- confirm who else will be in attendance during the meeting - such as the note taker (an independent note taker will be present at the meeting to keep a factual record of the discussions that take place – the decision maker should appoint this person before sending the meeting invitation so that they can give their details in the invitation letter)
- enclose copies of the [grievance and dispute resolution employee information leaflets](#) and this policy and process document if the employee is on any form of long term leave and has not got access to it

81. At the meeting the decision maker will:

- introduce all present at the meeting (including the note taker) and explain that the meeting is to discuss a grievance or dispute, and will be conducted with a written record being kept by the note taker
- clarify points which aren't clear to ensure a common understanding and to establish the facts
- ask what attempts have been made to resolve the issue informally (if this has not already been established)
- use open questions (what, how, why) to encourage more information to be shared
- use precise closed questions only where specific information is needed
- avoid leading questions
- allow the employee to ask questions and present evidence
- at any point during the meeting, a break can be requested, for example, if the employee would like to consult with their Trade Union representative or companion, if the employee becomes distressed, or for a comfort break
- in exceptional circumstances the decision maker may need to make further enquiries (in these cases it would normally be better to adjourn at the end of the meeting with a continuation at a later date)

82. Once the discussion is complete the decision maker will:

- summarise the main points of the case
- make sure they have all the relevant facts and information to make their decision

- ask the employee if there is anything they would like to add, and confirm what their preferred outcome would be
- let the employee know when they will make their decision and/or let them know if they need to refer the matter on

Deciding the outcome after an investigation has been conducted

83. The decision maker will then assess all the evidence put forward by the employee and others and decide whether to uphold the complaint if they are satisfied that it is more likely to be justified than not. The decision maker should consult with the DBS Casework Service before making their decision if they feel they need further guidance, advice or support, but ultimately, the decision will be theirs. As there is a right of appeal in this procedure, the decision maker should establish who will hear any appeal, should the complainant decide to make one, so that they can add their details to the decision letter (refer to the [Appeals Standards](#) guidance for more information on this point). The decision manager will need to contact their Civilian Workforce Advisor (or equivalent) who will be responsible for finding someone suitably independent to act as appeal manager.

84. The decision maker should notify the employee of their decision in writing within five working days of the meeting using [the template Grievance and Dispute Decision Letter](#), including the written notes of the meeting. They should also notify the subject of the complaint of the outcome using [the template Grievance and Dispute Decision Letter – to Subject of Complaint](#). In some cases, it may help the employee understand the rationale for the decision if the decision maker meets with them to discuss the outcome. [Mediation](#) can also help people rebuild relationships once an issue has been decided.

85. The decision maker should notify the DBS Casework Service of the outcome of the grievance and dispute resolution process. Local management are responsible for taking forward any actions identified as part of the decision.

Appeals

86. There is one right of appeal in this procedure. Grounds for appeal could include:

- procedural errors where there is evidence the process was incorrectly followed
- new evidence has come to light that may change the outcome of the original decision

87. Once the employee has received the written outcome of their complaint from the decision maker they have 10 working days to ensure the appeal manager

receives their written appeal. Details of the appeal manager will be provided by the decision maker in the grievance and dispute decision letter.

88. In most cases it should be possible for an appeal to be sent within 10 working days. However, where there has been a delay, managers should always carefully consider the circumstances leading to the delay and review why the employee was unable to meet the deadline. The appeal manager should review the reasons sympathetically, and no appeal should be automatically turned down on the grounds of a delay.

89. The written appeal must:

- make clear the grounds for the appeal (as above) and include all relevant new information or supporting evidence
- clearly state the desired outcome from the appeal

90. Appeals on grievance and dispute matters will be heard by someone senior to the person who made the original decision that is being appealed and should meet the requirements set out in the [Appeals Standards guidance](#). In exceptional circumstances, if finding someone at a higher grade to the decision maker simply is not possible due to operational challenges or some other substantial reason, a manager at the same level as the decision maker may hear the appeal. The appeal manager should be impartial and independent, have no prior involvement in the original decision or meeting and have no vested interest in the outcome of the appeal.

91. The appeal manager would therefore not normally be from within the same line management chain but someone from a different part of the organisation who, where possible, is not known to the decision maker. The decision maker should contact their Civilian Workforce Advisor (or equivalent) who will be responsible for sourcing a suitably independent appeals manager to whom the employee can submit their appeal.

59. It is important that grievance and dispute resolution matters are dealt with fairly, impartially and objectively. If either the complainant or the person being complained about has a genuine and reasonable concern about the integrity or impartiality of the appeal manager, they should raise this with the [Employee Services Team](#) (or give written consent for their trade union representative to do this for them), who will consider such matters on a case-by-case basis. An appeal manager should not deal with a matter if they are, or could reasonably be perceived as:

- being somehow involved or implicated
- being biased
- having a personal interest in the outcome of the case

Every effort should be made to allay or address the concerns raised, but in any instance the employee does not have the right to choose the appeal manager.

Guidance for appeal managers

92. The role of the appeal manager is vital in ensuring that all employees are treated with dignity and respect and that the outcome is transparent and fair. All Appeal Managers should familiarise themselves with the [Appeals Guidance](#) and the [Appeals Standards](#) before considering an appeal. [Civil Service Learning](#) has a range of resources available to managers to support them when handling grievance and dispute resolution matters.

93. Anyone acting as an appeal manager should also have read and understood this policy, procedure and related products.

Appeal manager's action

94. Appeals should be dealt with without delay. It is the appeal manager's responsibility to keep in contact with the appellant throughout the case to let them know of any delays.

95. A meeting should be arranged to hear the appeal - an appeal should not be considered through correspondence.

96. Within five working days of receiving the written appeal, the appeal manager should write to the individual inviting them to a meeting using [the template Invitation to an Appeal Meeting Letter](#).

97. The appeal manager should:

- give the employee at least five working days' notice of the meeting to allow them sufficient time to prepare
- tell them that they have the right to be accompanied by a Trade Union representative or work colleague (in exceptional circumstances relating to particularly sensitive cases, they may also be accompanied by a non-work friend or family member)
- arrange for a note taker to be present at the meeting

98. If the employee or their companion cannot reasonably attend the meeting, the employee should be asked to propose new dates to allow the meeting to take place within five working days of the original meeting date. Employees should be given a reasonable opportunity to make arrangements, but the meeting should not be unreasonably delayed on the basis that a specific companion is unavailable.

99. If the employee or their companion requires any reasonable adjustments to enable them to attend meetings, read correspondence or otherwise participate fully in the process, the appeal manager is responsible for ensuring that adjustments are put in place.

100. It is recognised that exceptionally there may be delays in progressing matters. This may be due to the complexity of the case or because of short absences that are part of the everyday working environment such as employee or appeal manager working patterns and/or short-term absences due to annual leave, illness or disability. In these cases, all steps should be taken as soon as reasonably practicable and the reasons for any delay should be recorded. Employees should be kept updated on progress and informed of any delays by the appeal manager.

Support and advice available to employees during the appeals process

101. This can be a stressful and worrying time for all those involved. In addition to the companion, the employees involved may find it helpful to talk to someone in confidence. This can help those participating in the process to remain objective, gather their thoughts and participate fully in meetings. It is important to acknowledge this and for the appeal manager to remind all those involved about the sources of support and advice available during the process and after the matter has been concluded. This includes:

- line managers/other managers
- work colleagues/friends
- [Trade Union representatives](#)
- [SpeakSafe](#)
- [Mental Health First Aiders](#)
- [the Employee Services Team](#)
- [the Charity for Civil Servants](#)

102. Where the grounds for the appeal are unclear, the appeal manager may ask for clarification prior to the meeting.

103. Based on the detail of the written appeal, the appeal manager will conduct a review of the original decision. They will decide whether it was reasonable for the decision maker to have made the decision they made based on the evidence provided, irrespective of whether they would have made the same decision.

104. In very exceptional cases where the appeal has provided evidence to support serious concerns over the way the process was conducted - such as a reasonable adjustment not being put in place to enable the employee to attend or participate in a meeting, a full re-hearing (rather than a review) of the case may be appropriate. Disagreement with the outcome and minor procedural failings do not in themselves warrant a re-hearing. Where the appeal manager believes that a full re-hearing may

be required due to serious concerns over the way the process was conducted, they may wish to consult with the DBS Caseworker before deciding whether the case does need be heard afresh. If the appeal manager decides that the entire case does need to be heard again, they will then become the decision maker.

105. Where an appeal has been raised because of new evidence that has come to light, the appeal manager should assess the impact this new evidence has on the original decision.

106. Before the meeting the appeal manager should:

- Read [the Appeal Manager's Guidance](#) and [Appeals Standards](#) documents
- be clear this is not a rerun of the original grievance and dispute meeting
- check their understanding of the process with the DBS Casework Service as necessary
- check they have all the relevant documentation and have read and understood the grounds for the appeal
- carefully review any investigation report
- obtain and carefully review notes of the grievance and dispute meeting with the decision maker and the decision letter and the reasons given for the decision
- seek clarity on any issues that are unclear
- consider whether the procedure has been properly followed
- consider whether, based on the evidence presented, the original decision was reasonable, being careful not to focus on whether they would have made the same decision
- consider the appeal in light of any new evidence provided, if this is one of the grounds for the appeal
- arrange for a note taker to be present at the appeal meeting

107. At the end of the meeting, the appeal manager should:

- explain to the employee what the next steps will be
- confirm that the written decision, including the reasons for it, will be issued within five working days - this should also include the written notes of the meeting
- confirm that the decision will be final and there is no further right of appeal

108. After the meeting, the appeal manager should take time to reflect on the meeting and consider their decision before confirming it in writing. The appeal manager should not be afraid to overturn a previous decision if it becomes apparent that it was not soundly based. If the decision is overturned, the appeal manager should be clear about the implications and next steps and discuss any lessons learned with the DBS Casework Service. The appeal manager can decide to

overturn or uphold the decision either in full or in part.

109. When the appeal manager has made their decision, they should inform the employee using [the template Grievance and Dispute Resolution Appeal Decision Letter](#). The letter should cover the following points:

- the outcome
- justification for the decision
- the evidence that has been considered including any new evidence and/or evidence that was dismissed or considered irrelevant
- details of any witnesses that were spoken to
- a response to all parts of the specific grounds for appeal
- a response to any points left unresolved at the meeting
- a response to any procedural errors that were identified

110. The outcome of the appeal should be shared with the DBS Casework Service and the original decision maker.

Record keeping

111. It is important that a written record is kept at all stages of the process. Following conclusion of the process the decision manager should send copies of all documents to the DBS Scanning Hub. Records should be protectively marked, kept securely and handled in line with departmental record management policy. See [MOD records management policy](#).

112. At all stages, confidentiality should be maintained and documentation should be managed in compliance with the requirements of data protection legislation.

Special circumstances

Grievances and disputes involving former employees

113. A former employee should raise their grievance or dispute without unreasonable delay and normally within three months of the incident which caused the grievance or dispute. However, managers should adhere to the principles set out in the 'Timing' section of this guidance when considering cases that exceed the three-month guideline. It is important that the employee knows that managers will still consider these issues and deal with them appropriately (for bullying or harassment, [JSP 763: The MOD Bullying and Harassment Complaints Procedures](#) should be followed). If the person raising the issue leaves the department part-way through the formal grievance and dispute resolution procedure, the process will

continue, and a written response will be given when the investigation has been completed.

114. The following modified approach will apply and contains two steps:

- the former employee sends a written complaint to their former manager
- following any necessary investigation, the former employee should normally be written to within twenty working days of receiving the complaint informing them of the decision

115. If the person who is the subject of the complaint leaves the department but remains within the Civil Service, the grievance and dispute resolution process should also continue to conclusion. However, if they leave the Civil Service, the decision maker will need to review whether it is possible to continue with the grievance and dispute resolution process, recognising that someone who has left cannot be compelled to participate in the ongoing process. They should notify the person raising the issue of their decision.

The department's decision is final and there is no right of appeal.

Collective grievances and disputes

116. The collective grievance and dispute process will be used where:

- a grievance or dispute is brought, with Trade Union support, by two or more employees
- a grievance or dispute is brought by two or more employees who appoint one of them or another individual to represent them; or
- two or more employees independently raise separate grievances/disputes on the same issue

117. The process is as follows:

- where there is no Trade Union representation, employees must elect a spokesperson to deal with all aspects of the grievance or dispute for the group - alternatively, they can agree to appoint an advocate to fulfil this role
- if appropriate, a meeting may be arranged between the spokesperson or a Trade Union representative and the responsible manager to discuss the way forward
- a single written appeal is allowed and should be sent by the spokesperson or Trade Union representative to the appeal manager who will always be impartial and not previously involved in the grievance and dispute resolution process

118. Where a collective grievance or dispute is brought or supported by a Trade Union or other appropriate workplace representative, there is no right for an individual employee to opt out of the grievance/dispute being heard collectively.

119. Where a number of employees have raised similar grievances or disputes independently, it will be the department's decision whether to deal with them individually or collectively.

120. If an employee has raised an issue as part of a collective grievance or dispute, they cannot then raise the same issue(s) as an individual grievance or dispute.

Grievances and disputes overlapping with other procedures

121. Where an employee raises a complaint as part of another procedure, such as poor performance, attendance or misconduct and discipline, the ongoing process will continue. Where the ongoing process and the complaint are related, it may be appropriate to deal with both issues at the same time. Wherever possible, the complaint should be dealt with at the appeal stage of the relevant process.

122. Exceptionally, it may be better to delay an ongoing process to hear the complaint first. However, the aim should always be to minimise the period of any delay.

Misconduct or disciplinary issue identified as a result of a grievance or dispute

123. If the grievance and dispute resolution procedure has established (as the final decision) that there is a misconduct/discipline case to be answered, a new decision maker will be appointed to consider the case and the formal misconduct and disciplinary process should be started, using [the misconduct and discipline policy and procedure](#). The employee (who is subject to misconduct/disciplinary action) should be notified in writing using [the template Misconduct and Discipline Example Letter 2](#). There is no need for the misconduct and disciplinary decision maker to start the misconduct/discipline investigation from the beginning when the evidence obtained during the grievance and dispute investigation can be used, for example, witness statements.

124. The employee who raised the original complaint that lead to the identification of the possible misconduct and disciplinary matter will be notified of the outcome of their complaint and see the grievance and dispute resolution investigation report, including witness statements, where appropriate. The employee can also share these with the companion who supported them at the meeting. Decision makers taking forward the misconduct and disciplinary meeting (or investigators undertaking

the misconduct and disciplinary investigation, if one is required) will also see the grievance and dispute investigation reports. However, if there is a further investigation under the misconduct and discipline procedure, the employee who raised the original complaint will not be informed about any of the details of the process. They will not see the misconduct and discipline investigation report or know the decision - this is personal and confidential to the person undergoing the misconduct and discipline process.

125. The employee who is the subject of the misconduct and discipline procedure will see the misconduct and discipline investigation report including witness statements where relevant. Employees and managers need to be aware that:

- any confidential information in the report (such as names, dates of birth and addresses) will be redacted
- sharing the report with any person other than those with a legitimate reason such as, for example, companions, will be viewed as serious misconduct and will be dealt with under the misconduct and disciplinary process

Vexatious or malicious complaints

126. Vexatious or malicious complaints are rare. The presumption should always be that a complaint is made in good faith even if it is not upheld. It will not be possible to make any judgement as to whether a complaint is vexatious or malicious until it has been properly investigated. Where this has been established, managers should follow [the misconduct and discipline policy and procedures](#).

127. The DBS Casework Service should be consulted in all cases where managers suspect that a complaint is vexatious or malicious.

What is a vexatious complaint?

128. A vexatious complaint is one that is pursued, regardless of its merits, solely to harass, annoy or subdue somebody. It is something that is unreasonable, without foundation, is frivolous, repetitive, burdensome or unwarranted. In identifying vexatious complaints, managers should be careful to distinguish between employees who are raising genuine concerns, and recognise where people are simply being difficult.

129. However, a complaint may be regarded as vexatious where the employee:

- persists in pursuing a complaint which has already been investigated by another or the same manager and provides no new or material information

- seeks to prolong contact by continually changing the substance of a complaint or by continually raising further concerns or questions whilst the complaint is being addressed
- fails to clearly identify the substance of a complaint, or the precise issues which may need to be investigated despite reasonable efforts by the manager to assist them
- complains solely about trivial matters to an extent which is out of proportion to their significance
- makes excessive contact with the manager or seeks to impose unreasonable demands or expectations on resources, such as responses being provided more urgently than is reasonable or necessary

130. Vexatious use of the grievance and dispute resolution procedure will not be tolerated. If there is evidence that an employee is making vexatious use of the grievance and dispute resolution procedure, the matter will be investigated under [the misconduct and disciplinary policy and procedure](#). Managers should carefully consider whether they truly believe the complaint to be vexatious and on what grounds/what evidence there is to support this and discuss their concerns with the DBS Casework Service in such cases. They may also find it helpful to discuss the matter in confidence with their manager or countersigning manager.

What is a malicious complaint?

131. A malicious complaint is one that is made with the intention of causing harm, for example, deliberately seeking to defame a colleague or manager and raising a complaint with this intent. This could be through lying about an issue or incident in the knowledge that this will cause harm, or knowingly basing a complaint on rumour and gossip with the intention of causing harm.

132. Each case should be considered on its merits, be evidence based and investigated as appropriate. Any mitigating factors should be taken into account, for example, stress and physical and mental illness, or certain behaviours which may be outward symptoms of underlying problems such as bullying, harassment and discrimination, as these may have a significant bearing on the case.

133. Malicious use of the grievance and dispute resolution procedure will not be tolerated. If there is evidence that an employee is making malicious use of the procedure, the matter will be investigated under [the misconduct and disciplinary procedure](#). Managers should carefully consider whether they truly believe the complaint to be malicious and on what grounds/what evidence there is to support this and discuss their concerns with the DBS Casework Service in such cases. They

may also find it helpful to discuss the matter in confidence with their manager or countersigning manager.

134. It is important to be aware that action taken against a person for raising a complaint of harassment related to a protected characteristic may result in a claim of victimisation under the Equality Act.

Complaints made against non - civil servants

135. The MOD makes contractors and agency staff aware of its diversity and inclusion policies and procedures. If an employee wishes to make a complaint about a non-civil servant (such as a contractor or customer) they should address their complaint to their own line manager. In such cases, the complaint will usually be investigated by the employer of the third party, and the respondent's employer will be advised by the MOD of its expectation that they will invoke their own procedures quickly.

Complaints from third parties (including the public and contractors) against civil servants

136. Misconduct including bullying and harassment of contractors and agency staff by MOD personnel is unlawful, and both the MOD and the individual(s) responsible may be held responsible for this. Where there is a complaint from a contractor or agency worker, the normal investigation procedure will take place and the misconduct and discipline procedure followed, if appropriate. Complaints relating to bullying or harassment should be raised and handled in accordance with [JSP 763: The MOD Bullying and Harassment Complaints Procedures](#).

Complaints made against SPADs, Ministers, ex-Ministers

137. Such complaints should be raised using this grievance and dispute resolution procedure and will be immediately escalated to the Permanent Secretary, who will handle the complaint in conjunction with the Propriety and Ethics team in the Cabinet Office and the member of staff. Employees may be daunted in such situations and it is therefore important that managers ensure they are adequately supported and advised (and pointed to sources of support and advice such as our [Employee Services Team](#)).