

From the Chief Executive Officer **Amanda Campbell CBE**

In Confidence
Richard Heaton
Permanent Secretary
Ministry of Justice
102 Petty France
Westminster
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12th December 2018

RE: Information on the complaints we handled about the Ministry of Justice in 2017-18

Dear Richard,

I am writing to provide you with information about the complaints we handled about the Ministry of Justice (MoJ) and its agencies in 2017-18.

This year, instead of publishing an annual report with a detailed breakdown of the complaints handled about government departments and agencies, we have decided to write to the Permanent Secretaries of the four departments that account for the majority of our investigations.

The numbers of complaints we handled

In 2017-18 we received 1119 enquiries about agencies falling under the remit of the MoJ and we assessed 294 complaints. We received the largest number of enquiries about HM Courts and Tribunal Service (HMCTS), followed by Cafcass and the Legal Aid Agency.

Together with the Department of Work and Pensions, the Home Office and HM Revenue and Customs, the MoJ and its agencies continue to make up around three quarters (74%) of the investigations we complete. On its own, the MoJ made up around 18% (73) of the total 403 complaints we investigated about government departments and agencies. The number of complaints we investigated about the MoJ declined, however, from 91 in 2016-17 to 73 in 2017-18.

In 2017-18 we fully upheld one case and partly upheld 13, which is significantly fewer than in 2016-17 (eight fully upheld and 25 partly upheld). We did not uphold in 59% (43) of the cases we investigated, and we discontinued or resolved cases without issuing a final report in 22% (16).

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Over the last year we have been making important changes to our service. We have recruited a significant number of new caseworkers and made changes to our casework allocation process by assigning each case to a single caseworker. This helps to reduce hand-offs and improve timeliness, but the new processes and staff have taken time to bed in. We have also placed a greater emphasis on giving complainants a decision as quickly as possible and resolving more cases informally without the need for a full investigation. This means we have concluded fewer investigations.

An example of a case we were able to resolve is a complainant who raised concerns about HMCTS not considering the actual financial loss they had experienced following failings in their handling of a court case. Working with HMCTS' complaint handling team we supported the complainant to gather enough evidence for HMCTS to agree that a payment should be made. The case was satisfactorily resolved for all parties and is a good indication of the sort of resolution work we would like to do more of in the future.

Issues and themes from our casework

When we conduct an investigation we record data about the specific issues we are considering in the complaint. This means we are able to provide detail about both the overall decisions we have made about a particular organisation and the types of issue we most commonly see occurring.

Issues regarding services

The most common issue we investigated about the MOJ and its agencies related to communication, which was an issue in more than 27% (20) of the cases we investigated. This was also the most common issue in 2016-17. We did, however, see a drop in the number of communication-related cases we fully or partly upheld, from 12 in 2016-17 to 6 in 2017-18.

As an example, the enclosed case summary highlights a failure in how Cafcass communicated with an individual with hearing loss.

Issues regarding complaint handling

The most common issues raised around complaint handling in our investigations related to the complainant receiving an insufficient personal remedy or apology, as well as the complaint response being wrong or incomplete and conclusions being unsound or not evidence-based. We fully or partly upheld the most complaints about the first two issues, although this relates to a small number of investigations.

It is worth highlighting that we found specific failures in the Office of the Public Guardian's (OPG) complaint handling in two investigations. In the first case the individual's complaint

remained unanswered for 18 months and they were left having to contact the OPG on several occasions to obtain a response. In the other investigation, we found that the OPG did not acknowledge its failings and put these right until the individual brought their complaint to us. We saw no evidence that the OPG could not have done this during its own complaint investigation, and this led to a delay in the individual's concerns being resolved.

Annexes

I have attached in an annex a full statistical breakdown of the complaints we handled about the MoJ and its agencies in 2017/18. A table containing the complaints we handled about all government departments and agencies in this period is also available on our website and in line with our commitment to transparency a copy of this letter will also be placed online on 17 December.

I hope that you find this information useful. I would be happy to discuss further any of the information set out in this note if you would find this helpful. We have sent a copy of this letter to the Chairs of the Justice Select Committee and Public Administration and Constitutional Affairs Committee to help inform Parliament's scrutiny work.

Yours sincerely

A handwritten signature in cursive script that reads "Amanda Campbell".

Amanda Campbell
Chief Executive Officer
Parliamentary and Health Service Ombudsman

Annex A: Statistics about the MoJ and its agencies in 2017-18¹

Organisation	Enquiries received	Complaints assessed	Complaints resolved through intervention	Complaints accepted in principle for investigation ²	Investigations upheld	Investigations partly upheld	Investigations not upheld	Investigations resolved without a finding	Investigations discontinued	Uphold rate
2017-18										
Ministry of Justice	1119	294	1	33	1	13	43	2	14	19%
Children and Family Court Advisory and Support Service	315	93	0	6	0	3	12	0	3	17%
Criminal Injuries Compensation Authority	21	4	0	0	0	0	0	0	0	n/a
Durham Tees Valley Community Rehabilitation Company Limited	1	1	0	0	0	0	0	0	0	n/a
Greater Manchester Probation Trust	1	0	0	0	0	0	0	0	0	n/a
Her Majesty's Prison & Probation Service	9	0	0	0	0	0	2	1	0	0%
HM Courts & Tribunals Service	465	124	1	10	0	4	13	1	4	18%
HM Prison Service	13	0	0	0	0	1	0	0	0	100%
HMP Frankland	1	0	0	0	0	0	0	0	0	n/a
HMP Full Sutton	2	0	0	0	0	0	0	0	0	n/a
HMP Oakwood	1	0	0	0	0	0	0	0	0	n/a
Legal Aid Agency	95	28	0	10	0	3	4	0	5	25%
Ministry of Justice	20	3	0	0	0	0	1	0	0	0%
National Probation Service	5	2	0	0	0	0	1	0	0	0%
The Official Solicitor to the Supreme Court	0	1	0	0	0	0	1	0	0	0%
Parole Board	8	1	0	0	0	0	0	0	0	n/a
Prisons and Probation Ombudsman	65	14	0	4	1	0	6	0	1	13%
The Office of the Public Guardian	51	23	0	3	0	2	3	0	1	33%
Unknown Prison	31	0	0	0	0	0	0	0	0	n/a
Unknown Probation Trust	5	0	0	0	0	0	0	0	0	n/a
Youth Justice Board for England and Wales	1	0	0	0	0	0	0	0	0	n/a

¹ Please note that in some instances due to different methods of calculation and grouping of data for this year's figures, some of the figures for 2016-17 were re-calculated for comparison and may differ to those use in our 2016-17 report.

² Our casework management system records the date on which we have proposed to investigate a case, rather than when we confirm an investigation. In some cases, following comments from the parties, we may decide not to investigate. The number of complaints we accept for investigation in a financial year differs from the number of investigations that we complete in that same year. This is because our statistics only provide a snapshot of our casework flow at a given time. For example, we may have accepted a complaint for investigation in 2017-18 but may not complete it until the following year, 2018-19. Similarly, we may have completed an investigation in 2017-18 which we originally accepted for investigation in the previous year 2016-17.

Annex B: Case summary

Headline

Failings by Cafcass at each step of the case exacerbated an already stressful situation for a mother.

Background

Mrs R separated from her partner in 2012 and made an application to court in October 2014 for her teenage son and daughter to live with her. Mrs R's children lived with her until June 2014, at which point her son went to live with his father. From this point on, Mrs R had only infrequent contact with her son, leading Mrs R to become concerned that her ex-partner was discouraging her son from contacting her.

Mrs R had an interview over the phone with Cafcass. Following this, Cafcass wrote a safeguarding letter raising concerns about her children living with her. Mrs R complained to Cafcass about these concerns being raised. Mrs R also complained that the fact the interview was conducted by phone when she had hearing loss, which meant that she found this method of communication difficult, and her offer to attend an interview in person was not taken up. Mrs R did not receive a response to this complaint.

In March 2015 following the safeguarding concerns raised, a court ordered Cafcass to prepare a report about Mrs R's children's welfare for a judge to reach a view on. Mrs R complained about the content of this report to Cafcass, stating it did not accurately represent her comments. Cafcass delayed in responding to Mrs R's complaint until shortly before the hearing. They acknowledged the report was only based on comments made from Mr R and the children and did not represent Mrs R's views. As Mrs R said she only received the letter the day before the hearing, she was unable to submit it as evidence.

Mrs R contacted us following the conclusion of her complaint with Cafcass. She was seeking financial compensation. Cafcass had already acknowledged and apologised for a number of failings. This included confirming the safeguarding letter should not have concluded Mrs R's children were not safe in her care based on the information they had at the time. Cafcass also apologised for several other issues including the interview being conducted over the phone, delays, the content of the report, and their complaint handling. They submitted the details of the complaint and their response to the court, and had operational managers discuss complaint handling with their teams.

What we found

Our investigation found that Cafcass had not produced the report in line with their own guidance on analytical writing and reporting to the court. The report failed to give clear advice on one of the issues the court had asked to be addressed.

We found that the way the initial interview had been conducted, and the failings in how Mrs R's complaint had been handled, would have caused added distress and anxiety during an already stressful period.

We also considered that had Cafcass provided a timely response to Mrs R's complaint about the report, she would have been able to share this with the court before the hearing, and would not have had to defend herself against the comments contained within it. We therefore found it reasonable that Mrs R hired a barrister to support her in challenging Cafcass' report.

We partly upheld the case and recommended Cafcass apologise to Mrs R and pay £1173 to cover legal costs arising as a result of their failings, and £750 for the distress and inconvenience experienced. We also recommended that within three months of our final report Cafcass review the failings identified and consider any improvements they could make to prevent the problem from happening again. Cafcass fully complied with our recommendations.