

## VOLUME 2 - CHAPTER 67 - ADMINISTRATIVE ACTION

[D/DPS(A)/3/67/PS2(A)]

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Gender Throughout the document the male gender is used to represent both male and female personnel



## PART 1 - INTRODUCTION

### 67.01 The Values and Standards of the British Army state:

*“For the Army, the consequences of winning or losing on operations are profound, for the Nation, the Army and for the individual. Consequently British Military Doctrine states that operational effectiveness is the standard by which the Army will be judged, and defines it in terms of fighting power. Within the hierarchy of fighting power it lays emphasis on the moral component: the ability to get people to fight. For the Army, this is achieved in the Land environment where operations are at their most complex.*

*Soldiers are required to close with the enemy, possibly in the midst of innocent bystanders, and fight; and to continue operating in the face of mortal danger. This is a group activity, at all scales of effort and intensities. Soldiers are part of a team, and the effectiveness of that team depends on each individual playing his or her part to the full. Success depends above all else on good morale, which is the spirit that enables soldiers to triumph over adversity: morale linked to, and reinforced by, discipline.*

*Morale consists of many factors, including confidence in equipment, good training and sound administration; but ultimately it is the confidence between commanders and subordinates and between individual soldiers. Such confidence is a product of leadership and comradeship. High morale cannot be created overnight, but requires the forging of close bonds of professional and personal trust, which will withstand the stresses imposed by the demands of operations. It requires commitment and self-sacrifice and to put the interests of the team and the task ahead of one's own.*

*Values and Standards directly contribute to the Army's ethos and to fighting power. They are a moral requirement and have functional utility. Upholding them is the collective responsibility of all members of the Army. They are the foundations of teamwork, and are interdependent. If any one of them is lacking, the team and the mission are threatened. They are fostered and enhanced by good leadership, training and man-management, throughout the chain of command.”*

**67.02** The Values and Standards of the Army are established, upheld and sustained by an amalgam of leadership by example, education, training and regulation. They are regulated by the Army's Discipline system. The Army's doctrine of discipline is founded in its doctrine of command which places the responsibility for maintaining discipline on commanders. In order to fulfil their disciplinary responsibilities, commanders are granted appropriate authority. Most professions and organizations have regulatory or disciplinary codes. Unusually, commanders in the Army are also granted statutory powers under military law, that is the Army Act 1955<sup>1</sup>, in order to support their disciplinary role. The Manual of Military Law clearly sets out the reasons for this:

*“The object of military law is twofold. First, it is to provide for the maintenance of good order and discipline among members of the Army and in certain circumstances among others who live or work in a military environment. This it*

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<sup>1</sup> Armed Forces Act 2006 from Jan 09.

*does by supplementing the ordinary criminal law of England and the ordinary judicial system with a special code of discipline and a special system for enforcing it. Such special provision is necessary in order to maintain, in time of peace as well as war, and overseas as well as at home, the operational efficiency of an armed force. It is for this reason that acts or omissions which in civil life may amount to no more than breaches of contract (like failing to attend work) or, indeed, mere incivility (like being offensive to a superior) become in the context of army life punishable offences. The second object of military law is to regulate certain aspects of Army administration, mainly in those fields which affect individual rights. Thus, there is provision relating to enlistment and discharge, terms of Service, forfeitures of and deductions from pay, and billeting. Often in practice, however, the term "military law" is used with regard to its disciplinary provisions rather than its administrative ones."*

**67.03** Commanders also have lawful command authority to administer their commands. This authority complements their statutory powers and is granted by the Army Board (of the Defence Council) under Queen's Regulations. The Army Board delegates responsibility for administration to various departments of the Army, which issue Army General Administrative Instructions. Taken together, these Powers, Authorities and Instructions define the two components of the Army's Discipline System:

a. **Disciplinary Action.** This involves the Military Criminal Justice System. Disciplinary Action is action taken (to uphold good order and military discipline) by commanders using their statutory powers. It encompasses military custody, summary dealing, courts-martial and review of courts-martial. The statutory *military criminal justice* process involves investigation; charge; trial; conviction and sentence; review; and appeal. Sentences range from admonition and restriction of privileges to, in the most serious cases, imprisonment. The Army Act 1955<sup>2</sup> makes any offence under civil law an offence under military law. Disciplinary Action is a distinct and formal process, which is officially recorded and may result in individuals receiving criminal and prison records. Military courts, but not summary hearings, are conducted in public.

b. **Administrative Action.** Administrative Action is action taken to safeguard or restore the operational effectiveness and efficiency of the Army by commanders using their command authority under Queen's Regulations. The effect of particular conduct and performance that may damage operational effectiveness is assessed by applying the Service Test<sup>3</sup>. Through the process of the Administrative Report sanctions may be applied to restore current operational effectiveness and safeguard it in the future. The *Administrative* process involves investigation; reporting; determination; sanction and review. The soldier's right to complain about any matter relating to his service remains unaffected. This process of self-regulation is familiar to most employers and employees. It is entirely separate from the military criminal justice system. Administrative Action may result in a range of outcomes from an informal interview or rebuke to, in the most serious cases, termination of service. It is taken in accordance with the procedures set out in this AGAI.

**67.04** Disciplinary Action and Administrative Action are both necessary and complementary to one another. Although their uses are entirely separate, their uses are

<sup>2</sup> Armed Forces Act 2006 from Jan 09.

<sup>3</sup> It is the method by which conduct is assessed in the context of the operational effectiveness of the Army, and is described in more detail in paragraph 67.019.

not mutually exclusive: 'upholding good order and military discipline' and 'safeguarding or restoring the operational effectiveness and efficiency of the Army' cover much of the same ground. Commanders must use their powers and authority appropriately and effectively in the context of the offence or misconduct and the operational circumstances. As a general rule, Disciplinary Action should only be used where the offence is wholly deserving of the consequences of the application of military law.<sup>4</sup> On the other hand, Administrative Action – which is intended to set straight *professional* shortcomings – should not be used in clearly criminal matters.

**67.05** Administrative Action must always be considered subsequent to any Disciplinary Action, whether summary, court-martial or prosecution in a civil court, regardless of whether the accused is convicted or acquitted<sup>5</sup>. Such action does not amount to double jeopardy, nor is it in principle oppressive or unfair. It is an established and legally robust dimension of employment practice and is in keeping with the regulation of other professions. It is entirely reasonable for the Army to take into account the employment consequences of a serviceman's failings.

**67.06** Both components of the Army's discipline system contain provisions for an individual to seek a review of their case and formally to appeal. Disciplinary Action includes appeal to the Summary Appeal Court; petition to the Army Reviewing Authority<sup>6</sup> after conviction at court-martial; and appeal to the Courts-Martial Appeal Court. These are all statutory rights. Administrative Action includes review by a superior commander. A soldier also has a right of complaint to the Army Board under Section 180 of the Army Act 1955<sup>7</sup>.

**67.07** The Army's Discipline System has undergone significant reform since 1997 and is compliant with the Human Rights Act 1998. Its continuing compliance is a matter of regular scrutiny by MOD, Ministers and Parliament.

## **TYPES OF AND TERMS USED IN ADMINISTRATIVE ACTION**

**67.08 Types of Administrative Action.** There are four types of Administrative Action; two involve investigation and sanction:

- a. Minor Administrative Action.
- b. Major Administrative Action.

and two are purely administrative involving career management action:

- c. Formal Warning.
- d. Removal from Appointment.

**67.09 Roles in Administrative Action.** The following roles are undertaken in Administrative Action:

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<sup>4</sup> Detailed guidance on the applicability of Administrative or Disciplinary Action may be found in the Commander's Guide to Sentencing (Army Code 64183 – Nov 07 Edition).

<sup>5</sup> As highlighted in the Aitken Report 25 Jan 08.

<sup>6</sup> This right will cease following the activation of the Armed Forces Act 2006 in Jan 09.

<sup>7</sup> ss 334 to 339 Armed Forces Act 2006 from Jan 08.

- a. **Originating Officer.** The person who first takes action in an Administrative Action. This may be the Officer Commanding (OC) or Commanding Officer (CO) in Major Administrative Action, but may be a LCpl in Minor Administrative Action.
- b. **Deciding Officer.** The person who has the authority to consider the evidence and award a sanction. In Minor Administrative Action this is usually the same person as the Originating Officer.
- c. **Assisting Officer.** An officer, warrant officer or NCO nominated by the CO to assist the subject of Administrative Action. Duties of an Assisting Officer are outlined in Annex A.
- d. **Intermediate Commander.** Any commander in the chain of command between the Originating Officer and the Deciding Officer.
- e. **Authorised Commander.** A colonel authorised by the Defence Council to act as or on behalf of a 1\* commander.
- f. **Higher Authority.** This is the ordinary meaning of the words, an officer higher in the chain of command.
- g. **Reviewing Officer.** A higher authority to the Deciding Officer who reviews the case, finding and sanction.

## PRINCIPLES

**67.010 Application.** Administrative Action is taken on the basis that the Service Test has been breached. This AGAI, therefore, applies at all times to all Army personnel, both on and off duty and includes those on operations. It includes all members of the Regular and Territorial Army, Professionally Qualified Officers (PQOs) under training at RMAS, Officer Cadets (OCdts), UOTC Officers and Cadets and members of the Army Reserve Forces. It applies also to Officers of the CCF and ACF but not to Warrant Officers, NCOs or Cadets of the ACF and CCF. Nonetheless, the latter are still expected to uphold the Values and Standards of the British Army. The AGAI also applies to personnel who have left the Service in respect of matters that occurred during their service. Servicemen will be dealt with in their substantive rank, except for Minor Administrative Action for which they are dealt with in their apparent (local or acting) rank.

**67.011 Standard of Proof.** The Deciding Officer must be satisfied that it is more likely than not that the alleged failure in performance or standards of personal behaviour occurred. This is described as a balance of probabilities and it is the standard of proof used in civilian employment law cases. No action may be taken if the evidence falls below this standard of proof.

**67.012 Fairness.** It is a fundamental principle of fairness that, whenever an allegation is made against a serviceman, he has the right to be informed of the allegation, and be given an opportunity to respond to it. In the case of minor action this means giving the serviceman a chance to explain, defend or deny his action before a sanction is applied.

**67.013 Direction and Advice.** In major, complex or serious cases, as well as those in which the reputation of the Service may be affected, the Originating Officer should seek advice from ALS, RMP and Higher Authority (HA). Where appropriate the CO may seek the advice of PS2(A), DM(A) or APC SO1 AR Wg, MS Assurance for officers or the



appropriate Col MS Soldiers<sup>8</sup> for soldiers. Where the circumstances warrant, DPS(A), on behalf of AG, will direct that an Administrative Investigation should be carried out.

**67.014 Sanctions.** Sanctions are intended principally to be corrective and restorative. The disapproval of commanders and peers should be clear to those subjected to sanction. Only one sanction should be applied each time Major Administrative Action is taken. Removal from appointment (except when directed by the Army Board) and Formal Warning are not sanctions. Sanctions and their effects are further explained in the Annexes that support the sections on Minor and Major Administrative Action.

**67.015 Review.** Administrative Action includes review by a superior commander. In addition, a soldier has a right of complaint to the Army Board under Section 180 of the Army Act 1955<sup>9</sup>.

**67.016 Delay.** Commanders at all levels have a duty to process Administrative Action casework as quickly as possible. Excessive delay runs counter to the principles of fairness and those set out in the Military Covenant. However, there will be legitimate reasons why casework may incur delay. Efficiency of dealing must not, of course, be at the expense of the completion of a thorough investigation or a careful consideration to arrive at a proper judgement. The target times at Appendix 8 to Annex D have been designed to bring a serious case, that is, one requiring the attention of the Army Board, to its conclusion within 9 months. It should be possible to complete simple cases much more quickly.

## GROUNDS FOR ADMINISTRATIVE ACTION

**67.017 Operational Effectiveness.** Operational effectiveness is the ability of a unit or formation to function as a cohesive team to perform the operations, missions, actions or any other duties for which it is organised or designed. When servicemen fail to meet or uphold the Army's standards of conduct, Disciplinary or Administrative Action may be taken against them. In the latter case, the Service Test always is applied to determine whether the operational effectiveness of the Army has been adversely affected.

**67.018 Types of Failing.** The types of failing which might require the chain of command to take Administrative Action are:

a. **Unsuitability.** A serviceman may be considered unsuitable for an appointment for a variety of reasons outside his control such as lack of ability (which includes aptitude and temperament, but see paragraph 67.018b below), lack of suitable training or experience, a compassionate situation or medical condition, lack of required security clearance or unacceptability to a host nation. In these circumstances it may be necessary to remove the officer from appointment but it would not be appropriate to take Minor or Major Administrative Action leading to a sanction. The removal is deemed to be Non-Blameworthy.

b. **Inefficiency.** Inefficiency is a failure to perform a given duty, task or function due to lack of application that manifests itself in carelessness, slackness, disorganisation, poor performance, irresponsibility or incompetence. There is a fine judgement to be made as to whether the lack of aptitude or temperament is due to innate inability, and therefore the serviceman is unsuitable, or merely a lack of application and therefore the serviceman is inefficient. Factors that impair

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<sup>8</sup> Cols MS Sldrs (Combat), (Combat Support) or (Combat Service Support).

<sup>9</sup> ss 334 to 339 Armed Forces Act 2006 from Jan 08.

performance should be taken into account such as alcohol, drug misuse or irresponsible indebtedness. Sustained patterns of failure in punctuality, turnout, performance or failures in responsibility will all constitute sufficient cause to take Administrative Action under this category. The majority of this kind of behaviour will be dealt with using warnings in the first instance; a failure to respond appropriately to a warning will lead to Administrative Action being taken.

c. **Misconduct.** Misconduct is behaviour that undermines trust and cohesion thereby damaging morale and undermining discipline. It comprises the following categories, which are explained below:

- (1) Personal.
- (2) Social.
- (3) Conviction by a court.
- (4) Findings of other tribunal proceedings.
- (5) Matters exposed by other investigations.

d. **Misconduct - Personal.** Personal Misconduct may include:

- (1) Discrimination.
- (2) Bullying and Harassment<sup>10</sup>.
- (3) Dishonesty or deceit.
- (4) Drug misuse.
- (5) Alcohol misuse.
- (6) Irresponsible indebtedness.
- (7) Unauthorised contact with the media.
- (8) Other clearly unacceptable behaviour that breaches the letter or spirit of the Values and Standards of the Army. This will include, for example, conduct that demonstrates lack of integrity, involves abuse of authority or brings the Army into disrepute.

e. **Misconduct - Social Misconduct.** The Armed Forces Code of Social Conduct<sup>11</sup> is to be found in Annex B. In cases of social misconduct, when applying the Service Test, COs are to:

- (1) Analyse the case by formally considering the facts against the Service Test set out below in paragraph 67.019. They should exercise their professional judgement and experience, and consider the overall potential effect of the failure in conduct or performance, recognising that many of the factors are interwoven.

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<sup>10</sup> For the investigation of complaints of Harrasment see JSP 763.

<sup>11</sup> Edition 2 D/SP/Pol/2/50/1 dated Feb 03.

(2) As a general principle, the acceptance of increased rank and responsibility brings with it the liability for increasingly severe sanctions. Misconduct is a matter of the subject's personal choice. These factors must be reflected in the Administrative Report. Certain trades or specialisms may be liable to more severe sanctions. Dishonesty by a military policeman, a lack of fidelity by a finance clerk or a lapse in the moral conduct of a padre are examples of the effect of employment on the seriousness of a breach in Values and Standards.

f. **Misconduct - Conviction by court-martial or by a civil court.** Administrative Action is always to be considered, (subject to the Service Test being breached) in the circumstances outlined in this paragraph. In such cases it is essential that legal advice should always be sought:

(1) Conviction by a civil court, whatever the sentence, including an absolute or conditional discharge, or being bound-over. However, isolated minor traffic offences<sup>12</sup> should not normally be made the subject of Administrative Action.

(2) Police cautions, Anti Social Behaviour Orders, Football Banning Orders, Fixed Penalty Notices or equivalent police actions issued by other national police forces.

(3) Conviction by a court-martial whatever the sentence as courts-martial may award punishments that include employment sanctions. It would not normally be appropriate for any Administrative Action to be based solely on the charges on which the accused has been convicted in the court-martial proceedings. Should a CO feel that Administrative Action is required following a court-martial he should consult his Divisional Legal branch at an early stage.

g. **Misconduct - Acquittal by court-martial or civil court.** Administrative Action is always to be considered (subject to the Service Test being breached) following an acquittal by a civil court or a court-martial.

h. **Misconduct - Other court or tribunal proceedings.** Administrative Action is always to be considered (subject to the Service Test being breached) where evidence emerges from other legal proceedings (e.g. Employment Tribunal, County Court or High Court) whether or not a hearing has taken place and whatever the outcome.

i. **Misconduct - Investigation not resulting in criminal court proceedings.** The outcome of an inquiry or investigation may provide sufficient evidence for Administrative Action, even if it does not result in trial on a criminal charge by a civil court or a court-martial. It will normally be appropriate in cases of harassment, unlawful discrimination, bullying or inappropriate behaviour.

## THE SERVICE TEST

**67.019 The Service Test.** In the above cases where Administrative Action is considered, the Service Test is always applied and is:

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<sup>12</sup> Such as those dealt with by Fixed Penalty Notices.

*“Have the actions or behaviour of a serviceman adversely impacted or are they likely to impact adversely on the efficiency or operational effectiveness of the Army?”*

Administrative Action may be taken only where the Service Test is breached, that is where the answer to the question is ‘yes’. The test clearly encompasses the potential for adverse impact, and proof of actual impact is not required. In order to show that the Service Test has been breached, conduct or performance should be considered as to whether in some way it:

- a. Adversely affects the standards, effectiveness or reputation of the Army or unit.
- b. Undermines confidence in a serviceman or calls into question his integrity or his suitability for his rank or appointment.
- c. Damages or compromises command or management relationships.
- d. Damages or hazards the marriage or personal relationships of others within the immediate Defence community that supports them.
- e. Adversely affects the Army as a corporate body, although it has no direct bearing on the unit to which the serviceman belongs. An example of this might be where a serviceman’s failings have resulted in adverse media coverage.
- f. Undermines morale, good order, discipline, trust or unit cohesion and standards of conduct in the broadest sense.
- g. Failed to maintain the standards of performance and conduct reasonably expected of those of his rank and service.

**67.020** Reserved.

## DUTIES OF THE ASSISTING OFFICER

1. A serviceman suspended, subject to investigation, removed from appointment or subject to an Administrative Report is to be offered the services of an Assisting Officer. The Assisting Officer should be an officer/MSF RO/WO/SNCO of the serviceman's own choosing. If he declines to choose an Assisting Officer or if the person chosen is not available or is unwilling, then the CO is to appoint one, unless the subject serviceman confirms in writing that he does not require one. To avoid conflict of interest, an Assisting Officer is not to be an officer who would normally act as the Originating Officer, an Intermediate Commander or a Deciding Officer. A service lawyer is not permitted to act as an Assisting Officer, but a serviceman may employ a civilian lawyer at his own expense to advise him.
2. The CO has a duty of care to the serviceman throughout the process. Careful selection of an Assisting Officer when required and making sure that he has enough time to carry out his duties is vital.
3. At the request of the subject serviceman the Assisting Officer is to:
  - a. Help in the preparation of any written responses the serviceman subject to Administrative Action may make.
  - b. Liase with other interested parties (eg Regimental Headquarters).
  - c. Where a serviceman is suspended from duty, conduct research on behalf of the serviceman.
  - d. Keep the CO informed of any concerns that the subject serviceman may have.
  - e. Safeguard the interests and welfare of the subject serviceman while the administrative procedures are followed until determination of the case.
4. Any conversation or correspondence between the serviceman and the Assisting Officer is to be treated as privileged information and should not be disclosed to the chain of command. However, the serviceman is to be made aware that an Assisting Officer is obliged to report any information which indicates there has been or may be:
  - a. A breach of security or safety.
  - b. A serious criminal act.
5. If a serviceman subject to an Administrative Report submits a complaint in accordance with section 180 of the Army Act 1955<sup>13</sup> relating to the Administrative Action, where possible the same Assisting Officer should be appointed in respect of both procedures.

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<sup>13</sup> ss334 to 339 Armed Forces Act 2006 from Jan 08.



**THE ARMED FORCES CODE OF SOCIAL CONDUCT<sup>14</sup> - POLICY STATEMENT**

1. The Code of Social Conduct explains the Armed Forces' policy on personal relationships involving Service personnel. It applies to all members of the Armed Forces regardless of their gender, sexual orientation, rank or status. The provisions apply equally to members of the Regular and the Reserve Forces.

2. In the area of personal relationships, the overriding operational imperative to sustain team cohesion and to maintain trust and loyalty between commanders and those they command. This imposes a need for standards of social behaviour which are more demanding than those required by society at large. Such demands are equally necessary during peacetime and on operations. Examples of behaviour which can undermine such trust and cohesion, and therefore damage the morale or discipline of a unit (and hence its operational effectiveness) include:

- a. Unwelcome sexual attention in the form of physical or verbal conduct.
- b. Over-familiarity with the spouses or partners of other Service personnel.
- c. Displays of affection that might cause offence to others.
- d. Behaviour which damages or hazards the marriage or personal relationships of Service personnel or civilian colleagues within the wider defence community.
- e. Taking sexual advantage of subordinates.

It is important to acknowledge in the tightly knit military community a need for mutual respect and a requirement to avoid conduct that offends others. Each case will be judged on its merits.

3. It is not practicable to list every type of conduct that may constitute social misbehaviour. The seriousness with which misconduct will be regarded will depend on the individual circumstances and the potential for adversely affecting operational effectiveness. Nevertheless, misconduct involving abuse of position, trust or rank, or taking advantage of an individual's separation, will be viewed as being particularly serious.

4. Unacceptable social conduct requires prompt and positive action to prevent damage. Timely advice and informal action can often prevent a situation developing to the point where it could impair the operational effectiveness of a unit. However, if the misconduct is particularly serious, it may be appropriate to proceed directly to Major Administrative Action or to Disciplinary Action. Such action is always to be proportionate to the seriousness of the misconduct. It may constitute a formal warning, sanction, suspension, internal posting, and the removal from appointment of one or more of the parties involved or Disciplinary Action. In particularly serious cases, or where an individual persists with, or has a history of acts of less serious social misconduct, formal Disciplinary or Administrative Action may be taken, which might lead to termination of Service.

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<sup>14</sup> Edition 2 - D/SP/Pol/2/50/1 dated Feb 03.

5. **The Service Test.** When considering possible cases of social misconduct, and in determining whether the Service has a duty to intervene in the personal lives of its personnel, COs at every level must consider each case against the following Service Test:

*“Have the actions or behaviour of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness<sup>15</sup> of the Service?”*

In assessing whether to take action, COs will consider a series of key criteria outlined below. This will establish the seriousness of the misconduct and its impact on operational effectiveness and thus the appropriate and proportionate level of sanction.

## **GUIDANCE NOTES FOR COMMANDING OFFICERS**

6. **Key Criteria.** The investigating officer, after taking legal advice, must assess incidents that involve the potential commission of a civil or military offence, at an early stage. If it is assessed that further action is necessary a decision should then be made as to which procedures (Statutory Disciplinary or Administrative Action) should be used. Following such consideration, and where it is judged that a case should be dealt with by adopting administrative procedures, then the following factors should be considered when assessing the seriousness of the actual or potential impact of the alleged social misconduct:

- a. **Rank, Status and Responsibility.** What are the ranks (or status) of the individuals involved? Was any influence, inducement, manipulation, coercion or threat exercised by virtue of rank or status (e.g. instructor/student relationship)? Or might an individual have justified reason to believe that they might be subjected to unreasonable influence?
- b. **Extent of Service Involvement.** Does the social misconduct involve other Service personnel, spouses or dependants of Service personnel, or civilian employees? Has any relationship directly or indirectly impacted upon command or management chains? Does it involve working relationships and, if so, have, or might these have been damaged or compromised to any extent?
- c. **Damage to other Relationships.** Has the conduct damaged or placed in hazard the marriage or personal relationships of other Service personnel, or those within the wider defence community?
- d. **Operational Circumstances.** Did the incident occur within an operational theatre or environment? If so, the impact may be more immediate and severe.
- e. **Understanding of the Service Interest.** To what extent has the serviceman wilfully disregarded the Service’s attitude towards social misconduct?
- f. **Previous Warnings.** Has the serviceman been previously warned about his behaviour - if so, when and how and to what extent has the warning been disregarded?
- g. **Unwelcome Attention.** Has the behaviour involved unwelcome sexual attention in the form of physical or verbal conduct?

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<sup>15</sup> Operational effectiveness - *“Operational effectiveness is the ability of a unit or formation to function as a cohesive force to perform the operations, missions or actions for which it is organised or designed.”*



- h. **Damage to Service Reputation.** Has the incident caused damage (actual or potential) to the reputation of the Service? If so, how and to what degree?
- i. **Awareness of Circumstances.** Was the behaviour conducted in the knowledge of the circumstances of the status of all parties? Was a spouse or partner absent from the unit on an operational detachment, leave, temporary duty or other long-term detachment? Was there any evidence of collusion or abuse of privilege to facilitate that absence?
- j. **Public Knowledge.** Has the relationship been conducted discreetly or has it become the subject of wider Service or public knowledge?
- k. **Response to Discovery.** Did the serviceman volunteer the information before it came to light? Once the incident came to light, did he or she freely admit the misconduct, attempt to lie or prevaricate? Were the denials repeated? Did the relationship continue despite (repeated) denials? Did the serviceman show remorse? Full co-operation and genuine contrition or remorse should be given due weight when considering an Administrative Action case.
- l. **Any Other Factors.** Do any other factors, such as stress or a medical condition, have a bearing on the case? Is there a security aspect to the case?
- m. **Delay.** Has there been exceptional delay in the processing of this case?

All cases must be fully investigated by the CO so that the Service Test can be correctly applied in the full knowledge of the facts. Breaches of discipline will be dealt with in accordance with Service law. Complaints of harassment or discrimination will be dealt with in accordance with the appropriate redress of complaint procedures and may involve other agencies such as EOIT. All cases are likely to require timely legal advice from the Service legal advisors, and the majority will require reference to HA.

## **TRI - SERVICE CASES**

- 7. It is important to accept that even when cases are judged within a common (tri-Service) framework, the outcome might well vary from one case to another. Social misconduct involving individuals from different Services will invariably be the subject of liaison between the relevant policy staffs of the respective Services involved to ensure fair and appropriate handling of cases.
- 8. In constructing a common framework, therefore, it is necessary to ensure that the approach for considering the action to be taken in the case of social misconduct is consistent. It is for the chain of command to judge the ultimate level of response on the basis of all the circumstances of the case, taking full account of both its mitigating and aggravating features. Thus, any case of social misbehaviour can be dealt with proportionately, can be judged against a common set of characteristics and can be disposed of by the appropriate chain of command after taking full account of all of the facts in the case.



## **PART 2 – MINOR ADMINISTRATIVE ACTION**

**67.021 Minor Administrative Action in the Joint Environment.** The policies set out in this AGAI are applicable in units commanded by officers of the Royal Navy, Royal Marines or the Army. In units commanded by RAF officers, RAF procedures will apply.

**67.022 Routine Discipline.** This AGAI is not intended to replace the minor informal rebukes and corrections that are taken in the course of normal Service life. It may be possible to correct a failing immediately and, if so, it should be done. For example, ordering a soldier, airman or rating to pick up a piece of litter dropped, or to re-clean a weapon that is still dirty. The existence of the minor administrative regime does nothing to affect how this type of correction should be used. Such action is taken on the basis of maintenance of routine discipline within a unit to which the principles of proportionality and common sense apply.

**67.023 Minor Administrative Action.** It is Army policy that AGAI 67 is to be used to deal with minor failures to meet the stated standards of behaviour or performance unless there is a specific reason why a serviceman should merit Disciplinary Action under the Army Act 1955<sup>16</sup>. Minor Administrative Action gives provision to award minor sanctions in response to these failures. Types of failings include poor turnout, bad soldiering, performing duties below the expected standard and absence for periods up to 48 hours. These sanctions offer commanders at all levels a wide range of responses. Repeated failings should attract Major Administrative or Disciplinary Action.

**67.024 Procedure.** The procedure for Minor Administrative Action is at Annex C and associated Appendices and is to be carefully studied before taking action. In outline the procedure is:

- a. A minor failing is identified.
- b. The person initiating Administrative Action investigates the alleged failing, applies the spirit of Service Test and comes to a judgement.
- c. If it is judged that the Service Test has been breached, an appropriate sanction and/or formal warning is selected and the serviceman is informed verbally.
- d. The Record of Minor Sanction Awarded is filled out and forwarded to the Review Officer.
- e. The Reviewing Officer conducts a review, if requested, giving the serviceman an opportunity to appear before him and to say why he believes the finding to be unfair or why he should not receive the sanction given.
- f. The record is completed and the serviceman signs it in the presence of the Reviewing Officer.
- g. The serviceman receives a minor sanction if the review upholds the award.

**67.025 Sanctions.** The sanctions available following the deciding of a Minor Administrative Action are:

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<sup>16</sup> Armed Forces Act 2006 from Jan 09.

- a. Report Back Muster/Parades.
- b. Extra Tasks or Duties.
- c. Extra Work.
- d. Informal Interview.
- e. Formal Interview.
- f. Returned to Unit.

**67.026 Absence Up to 48 Hours.** Cases of absence of up to 48 hours, may, if the CO feels it appropriate, be dealt with by Minor Administrative Action combined with regularisation of a serviceman's leave account.

**67.027 Record of Minor Sanctions.** For Minor Sanctions a record is to be held in a sub-unit file and is subject to inspection as directed in Annex C and annual AGC (SPS) inspection. For Formal Interviews, a copy of the interview form is to be retained on the serviceman's AF B9999 which is normally to be removed on posting.

**67.028** Reserved.

## MINOR ADMINISTRATIVE ACTION

### INTRODUCTION

1. It is Army policy that AGAI 67 is to be used as the basis to deal with minor professional and personal failings in order to meet the stated standards of behaviour or performance. Minor Administrative Action provides commanders at all levels with a swiftly delivered and reviewed, legal, fair and formally regulated way of dealing with minor failings in standards and performance.
2. If the failing is more serious then no minor action should be taken and the appropriate procedure to commence Major Administrative Action should be followed. It will never be appropriate for matters that would amount to criminal conduct or to a disciplinary offence that has 'criminal' elements to be dealt with administratively. In this case, the appropriate action under the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955<sup>17</sup>.
3. For Minor Administrative Action only, AGAI 67 applies up to and including the rank of Lieutenant Colonel, both on and off duty, and to members of the reserve forces for failings that occur while they are subject to service law. Individuals are to be treated in the rank that they wear at the time of the failing – including acting rank or rate. In all cases where Minor Administrative Action is to be taken it must be proportionate and appropriate to the failing and taken for remedial purposes.
4. The table at Appendix 1 to this Annex sets out the levels of authority required and the level at which cases must be reviewed, together with the relevant provisions in relation to delegations and other relevant information on authority. This is the framework and the minimum ranks must be complied with. The precise authority of personnel will be dictated by the CO of a unit and his view of the needs of that unit. He may permit the exercise of these powers in accordance with the table, or he has the discretion to limit these powers, but he may not extend them.

### PROCEDURE

5. **A Failing is Identified.** If a failing cannot be dealt with through the use of minor informal rebukes and corrections of normal Service life, then formal action may be considered. The Originating Officer must decide this himself, taking advice from the chain of command if necessary. If there is any doubt about the appropriateness of taking Minor Administrative Action then further advice should be sought (including if necessary legal advice) before any Minor Administrative Action is taken.
6. **Investigation.** If, after initial investigation, it is considered that the Service Test has been breached and minor action is considered appropriate the matter should be investigated. In every case, the matter should be investigated fully to the extent appropriate; the person originating the action is to gather sufficient facts in order to decide the most appropriate course. This may involve very little, but the factors which should be considered in deciding whether minor action is appropriate include (there may be additional relevant factors in individual cases):

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<sup>17</sup> Armed Forces Act 2006 from Jan 09.

- a. The context in which the incident occurred and its impact on operational effectiveness. For example, if the unit or ship was about to deploy or was under sailing orders then an incidence of being late would be much more serious than at other times and Minor Administrative Action is likely to be inappropriate.
- b. The extent of adverse impact or likely impact on the individual, unit or service.
- c. The rank or rate of the individual or level of responsibility.
- d. The age and maturity of the individual.
- e. The individual's previous conduct and warnings.
- f. Any relevant personal circumstances or mitigating factors.
- g. The individual's response to the discovery of the incident.

The fundamental principles of the standard of proof, fairness and avoidance of delay described in paragraphs 67.011, 67.012 and 67.016 must be followed.

7. **Application of the Service Test.** The person contemplating initiating action applies the Service Test and considers whether, on the balance of probabilities a breach of the Service Test has occurred and that Minor Administrative Action is appropriate.
8. **Sanctions.** The person initiating minor action, must select the appropriate sanction, outlined below with detail at Appendix 2, and inform the serviceman verbally that he is to be subject to a sanction for failing to meet the standards of behaviour or performance required. Sanctions are:
  - a. Report Back Muster/Parades.
  - b. Extra Tasks or Duties.
  - c. Extra Work
  - d. Informal Interview.
  - e. Formal Interview.
  - f. Returned to Unit.
9. **Implementation of Sanctions.** Sanctions must be appropriate to the failing identified. They must be proportionate, appropriate and remedial. They must not contain any of the following elements;
  - a. Unreasonableness.
  - b. Public humiliation.
  - c. Sustained and oppressive treatment that amounts to or could be construed as harassment, including any form of bullying.
  - d. Sleep deprivation or deliberate infliction of pain.
  - e. Work for any benefit other than that of the service.

10. **Record of Minor Sanction Awarded.** The person initiating the action completes the Record of Minor Sanction Awarded at Appendix 3 and takes this and the serviceman<sup>18</sup> to the appropriate Reviewing Officer in order for the form to be signed.
11. **Review.** The review is to be conducted as soon as practicable. The Reviewing Officer will ask in all cases whether the serviceman wishes a review and if he does this will be noted on the minor sanctions form at Appendix 3 in the presence of the Reviewing Officer. Whether or not the individual wishes for formal review, the Reviewing Officer is to confirm whether Minor Administrative Action is the appropriate course in the circumstances.
  - a. If the Reviewing Officer is satisfied that Minor Administrative Action is appropriate, he must ask the individual against whom action is being taken, whether he wishes a formal review. If the individual does not wish a formal review, the Reviewing Officer is still to consider the matter to ensure it has been appropriately investigated by the person initiating the action, that correct procedures have been followed and that the sanction is an appropriate one to the circumstances. He may reduce the sanction applied or endorse the sanction awarded. Where the Reviewing Officer reduces a sanction he may change it to any other sanction but he may not increase the number originally awarded.<sup>19</sup>
  - b. If the Reviewing Officer considers that the action taken is not appropriate and that no action should have been taken he will not endorse the record and cancel the Administrative Action in which case the matter is complete. He will then inform the individual of this and the matter is complete.
  - c. If he considers that it is not appropriate because either Major Administrative Action or Disciplinary Action should be taken, he will take those steps that are necessary to have the particular matter dealt with and will inform the individual.
12. **Formal Review.** If the individual wishes a formal review then he should be given an opportunity to appear before the Reviewing Officer and to say why he believes the finding to be unfair or why he should not receive the sanction given and then the Reviewing Officer is to consider the matter taking into account what the individual has said and any other relevant factors.
13. **Completion.** The form at Appendix 3 is completed and the serviceman signs it in the presence of the Reviewing Officer. The sanction is to be carried out as directed. The completed Appendix 3 will be inserted into the sub-unit minor sanction folder. The sanction must be completed within 8 days of the date on which it was awarded or finally endorsed by the Reviewing Officer.

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<sup>18</sup> Where, in exceptional circumstances (which should be rare) it is not practicable to take the individual to a Reviewing Officer of the correct rank the review may be carried out by other means (including by telephone or electronic means) and the Reviewing Officer should sign the forms at the earliest opportunity thereafter.

<sup>19</sup> For example, although he may substitute 2 report back muster/parades for 2 or 1 extra duties he may not increase the number of extra duties to 3.

## UNIT ADMINISTRATION

14. **Inspection.** In addition to review that is carried out before the award of a sanction and formal review at the individual's request, it is important that regular inspections of the sub unit minor sanctions book are carried out by COs. A weekly inspection should be carried out within every unit by the head of department or OC as appropriate and any significant matters should be brought to the attention of the CO and appropriate steps taken. **The CO should carry out an inspection at least once a month. The records of Minor Administrative Action should be retained for 5 years and be available for inspection at any time by higher authority.**
15. **Interviews.** If a serviceman is posted when having recently having been subject to an Informal or Formal Interview his CO should consider whether the receiving unit should be made aware of the circumstances to enable the assistance he is receiving to continue.
16. **Annual Appraisals.** Any single service guidance on the writing of annual reports must be followed and appropriate advice should be taken when writing reports.

## REDRESS

17. Any serviceperson who considers themselves to have been wronged by the application of a minor administrative sanction may submit a redress under section 130 of the Naval Discipline Act 1957 or section 180 of the Army Act, or of the Air Force Act 1955<sup>20</sup>. This will not delay the carrying out of any award. If an application for redress is upheld then the authority dealing with the application will determine the appropriate redress.

### Appendices:

1. Table of Authority.
2. Administrative Report.
3. Record of Minor Sanctions Awarded.
4. Record of Formal Interview.

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<sup>20</sup> Armed Forces Act 2006 from Jan 08.



**APPENDIX 1  
TO AGAI 67 ANNEX C**

**LEVELS OF AUTHORITY FOR MINOR ADMINISTRATIVE SANCTIONS**

All ranks and rates shown below include acting rank or rate.

The table on the following pages sets out the MINIMUM ranks and rates of the Deciding Officer and the Reviewing Officer. COs may vary these upward where it is considered necessary to suit the structure of their unit.

In each unit specific individuals must be appointed (either by name or by appointment) as a Reviewing Officer and this should be promulgated within the unit.

<b>Rank or Rate of Subject</b>	<b>NATO Code</b>	<b>Minimum Rank or Rate of Deciding Officer</b>	<b>NATO Code</b>	<b>Minimum Rank or rate of Reviewing Officer</b>	<b>NATO Code</b>	<b>Sanctions available</b>
UT or AB  <b>Pte</b>  Airman	OR 1/2	LH/LCpl/  Cpl (RAF)	OR3/  OR4	PO/Sgt/  Sgt (RAF)	OR5  OR6	All available
<b>LCpl</b>	OR 3	LH/Cpl/  Cpl (RAF)	OR4	PO/Sgt/  Sgt (RAF)	OR5  OR6	All available  <u>Except</u> show parades/ musters  Extra work awarded <u>must</u> take into account and be suited to the rank or rate of the subject.
LH  <b>Cpl</b>  Cpl(RAF)	OR 4	PO/Sgt/  Sgt (RAF)	OR5  OR6	CPO  <b>SSgt</b>  Chf Tech or FS	OR7	As Above

<b>Rank or Rate of Subject</b>	<b>NATO Code</b>	<b>Minimum Rank or Rate of Deciding Officer</b>	<b>NATO Code</b>	<b>Minimum Rank or rate of Reviewing Officer</b>	<b>NATO Code</b>	<b>Sanctions available</b>
PO <b>Sgt</b> Sgt(RAF)	OR6	CPO <b>SSgt</b> Chf Tech or FS	OR7	WO2 <b>WO2</b> WO(RAF)	OR 8  OR 9	As Above
CPO <b>SSgt</b> Chf Tech or FS	OR7	WO2 <b>WO2</b> WO(R AF)	OR8  OR9	Lt <sup>21</sup> <b>Capt</b> Flt Lt	OF 2	As Above
WO2 <b>WO2</b>	OR8	WO1 <b>WO1</b> WO (RAF)	OR9	Lt Cdr <b>Major</b> Sqn Ldr	OF3	As Above
WO1 <b>WO1</b> WO (RAF)	OR9	Lt Cdr <b>Major</b> Sqn Ldr <sup>22</sup>	OF3	Cdr <b>Lt Col</b> Wg Cdr	OF4	Informal or Formal Interview  RTU and extra tasks
Officers up to (and including) rank of Lt <b>Capt</b> (Army) Flt Lt	OF1-2	Lt Cdr <b>Major</b> Sqn Ldr <sup>23</sup>	OF3	Cdr <b>Lt Col</b> Wg Cdr	OF4	

<sup>21</sup> Except that, where the matter arose solely as the result of a matter internal to the Sgts' Mess the matter may be reviewed by the Presiding Member of the Mess.

<sup>22</sup> Except that a OC of the rank of Lt/Capt/Flt Lt may award sanctions at this level.

<sup>23</sup> Except that a OC of the rank of Lt/Capt/Flt Lt, an Adjutant or the XO of a minor war vessel may award sanctions at this level.

<b>Rank or Rate of Subject</b>	<b>NATO Code</b>	<b>Minimum Rank or Rate of Deciding Officer</b>	<b>NATO Code</b>	<b>Minimum Rank or rate of Reviewing Officer</b>	<b>NATO Code</b>	<b>Sanctions available</b>
Lt Cdr <b>Maj</b> Sqn Ldr	OF3	Cdr <b>Lt Col</b> Wg Cdr <sup>24</sup>	OF4	Capt <b>Col</b> Gp Capt	OF5	Informal or Formal Interview  RTU
Cdr <b>Lt Col</b> Wg Cdr	OF4	Capt <b>Col</b> Gp Capt	OF5	Cdre <b>Brig</b> Air Cdre	OF6	

Unauthorised Absence: No case of Unauthorised Absence for a period over 48 hours may be dealt with by Minor Administrative Action. For periods up to 48 hours, where appropriate, an award may be made but only by a CO or an officer who has been specifically designated by the CO to carry out this task.

Where an award is made in respect of Unauthorised Absence then the subject's leave account will need to be regularised. For each day or part of a day, one day's leave may be deducted from a serviceman's annual leave entitlement. This is an administrative way of setting the record straight and regularising the leave account.

<sup>24</sup> Except that a CO of the rank of Lt Cdr/Maj/Sqn Ldr may award sanctions at this level.



**APPENDIX 2  
TO AGAI 67 ANNEX C**

**MINOR ADMINISTRATIVE ACTION SANCTIONS**

1. The sanctions available following the deciding of a Minor Administrative case are:

a. **Report Back Muster/Parades - no more than 5<sup>25</sup> times.** An individual may be required to report back at a specific place and time in order to emphasise good time keeping and to ensure equipment and clothing is at a suitable state of upkeep and maintenance.

- (1) Each parade must be as long as necessary to correct the failing and never more than 45 minutes duration.
- (2) Dress and equipment should be as directed by the person originating the award.
- (3) Poor standard of turnout may result in an award of 'show again' where the required standard is not met. There may be a maximum of 2 'show against' for each muster/parade awarded, after which Disciplinary Action should be considered. Failure to attend should attract Disciplinary Action under the relevant SDA. Where the matter is sent for Disciplinary Action no further performance of the sanction awarded should be required of the individual.
- (4) Skills training that is relevant to the failing, including appropriate physical training may be included if the service person's failing warrants it. All training is to be conducted by an appropriately qualified instructor.

b. **Extra Tasks or Duties - no more than 5<sup>26</sup>.** An individual may be required to carry out tasks in addition to his normal duties in order to emphasise the efficient performance of those duties. The additional task or duty nominated must be of the same nature as the duty in which the individual failed. So for example a failure on orderly sergeant duties could result in extra orderly sergeant duties, but a failure by a chef in his normal chef duties could not result in extra orderly duties, but he may be required to perform extra chef's tasks. Any duty should be of the same or less duration of the normal period for the duty imposed and should not extend beyond 24 hours. In imposing and supervising this sanction care must be taken to ensure that, together with the individual's normal duties, he is not being required to undertake an unreasonable or unlawful number of hours. All appropriate breaks as would be available in the normal performance of that duty must be available to the individual.

c. **Extra Work - no more than 3 of maximum 4 hours each.** Extra work is different from extra tasks in that it will not consist of a duty that is regularly performed by the individual within the unit. However it must still be relevant to the

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<sup>25</sup> The limit of 5 parades only applies to an Army commander dealing with Army personnel in an Army unit. In other circumstances the limit is 3.

<sup>26</sup> As for footnote 24.

failing and designed to correct that failing. It may consist of ad hoc jobs to be done in the unit and it may be carried out together with others who have been awarded this sanction. It is designed to emphasise good order and discipline and to correct the failing identified in the individual. It can be used subject to the following conditions:

- (1) The work must be of a constructive nature for the benefit of the unit as whole.
- (2) All work must be properly led, planned and risk assessed. It is to comply with health and safety regulations.
- (3) Correct tools are to be provided.
- (4) Each period of work may last no longer than 4 hours.
- (5) A period of up to 4 hours may be split into 2 sessions within the day but may not be spread to cover more than one day.

In imposing and supervising this sanction care must be taken to ensure that, together with the individual's normal duties, he is not being required to an unreasonable or unlawful number of hours.

d. **Informal Interview.** This should be imposed as a sanction, where it is considered that the most appropriate method to remedy the individual's professional or personal failings is through a process that will enable him to discuss his shortcomings and receive advice on how they may be rectified.

e. **Formal Interview.** A formal interview is intended to make a serviceman aware of his shortcomings and advise him as to how he must rectify his behaviour. The formal interview is to contain constructive and specific advice on conduct and performance and this should be noted on the form at Appendix 4. It should have the following elements:

- (1) The serviceman's detailed failings or weaknesses with examples and dates wherever possible.
- (2) Dates and types of any previous verbal warnings or rebukes.
- (3) The standard of behaviour or performance required and direction on how they are to be achieved.
- (4) The possible consequences of failing to improve performance within the timescales set, namely that Major Administrative or Disciplinary Action could be considered.

f. **Returned to Unit (RTU).** If an individual is on a non-career course or on loan to another unit then he may be returned to his unit as a sanction under this AGAI. Being returned to unit from a career course, that is one that is required for further promotion, will follow the process for Removal from Appointment contained in Part 5 and Annex F.

g. **Combinations Of Sanctions.** Report Back Musters/Parades, Extra Tasks and Extra Work cannot be awarded in combination with each other but can be awarded in combination with Formal or Informal Interviews and/or a Return to Unit.





**APPENDIX 3  
TO AGAI 67 ANNEX C**

**RECORD OF MINOR SANCTION AWARDED**

1. Name & initials	2. Rank/Rate	3. Number
<input type="text"/>	<input type="text"/>	<input type="text"/>

4. Date of Award	5. Date of Interview
<input type="text"/>	<input type="text"/>

6. Sanction(s) Awarded (If includes formal interview please also complete Appendix 4)

7. Reason for award
8. Reviewing Officer Minor Administrative Action <b>is/is not</b> appropriate.
9. Was the individual asked if he wished to have a formal review? <b>Yes/No</b>
10. Did the individual request a formal review? <b>Yes/No</b>
11. Formal review carried out taking into account evidence and serviceman's representation? <b>Yes/No</b> Minor Administrative Action <b>Endorsed/Cancelled</b> Sanction <b>Upheld/ Reduced</b> Details of new sanction if reduced: Date:

Originating Officer Signed:	<input type="text"/>	Subject Signed:	<input type="text"/>
Name:	<input type="text"/>	Name:	<input type="text"/>
Rank:	<input type="text"/>	Rank:	<input type="text"/>
Appt:	<input type="text"/>	Appt:	<input type="text"/>
Date:	<input type="text"/>	Date:	<input type="text"/>

Reviewing Officer:	<input type="text"/>	Subject Initials:	<input type="text"/>
Signed:	<input type="text"/>	Date:	<input type="text"/>
Name:	<input type="text"/>		
Rank:	<input type="text"/>		
Appt:	<input type="text"/>		
Date:	<input type="text"/>		

Date(s) to be completed

Date(s) of satisfactory completion (must be no later than 8 days after awarded (or date reviewed whichever is the later))

**For Absence up to 48hrs Only**

Leave Account Regularised:    1 Day           2 Days  

**Place in sub-unit minor sanctions file, enter details in the index (to be archived for 5 years)**

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**APPENDIX 4  
TO AGAI 67 ANNEX C**

**RECORD OF FORMAL INTERVIEW**

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1. Name & initials

2. Rank

3. Number

4. Date of Interview

5. Reasons for Interview

6. Remedial Action Required

7. Your performance will be monitored and should you fail to improve and achieve the standards required then you may be subject to further Administrative Action, either Minor or Major and including a Formal Warning.

8. Review date:

Deciding Officer:

Witness:

Signed:

Signed:

Name:

Name:

Rank:

Rank:

Appt:

Appt:

Date:

Date:

9. I acknowledge receipt of this record of interview:

Signed:

Name:

Rank:

Appt:

Date:

Copy to: Personal File

**To be removed from file on posting**

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### **PART 3 – MAJOR ADMINISTRATIVE ACTION**

**67.029 Major Administrative Action.** Major Administrative Action, taken for more serious failings and which is explained later in this AGAI, is originated by an OC (Maj) or CO (Lt Col) or Higher Authority (HA). It requires the initiation of an Administrative Report and includes the use of Formal Warnings. After determination, the outcome of Major Administrative Action can lead to the award of career sanctions and, in the most serious cases, termination of service. COs are reminded of their responsibilities outlined in QR 5.398 – 5.400C for the forfeiture of medals and awards when Major Administrative Action results in administrative discharge or a Regimental Entry.

**67.030 Procedure.** The procedure for Major Administrative Action is at Annex D and associated Appendices and is to be carefully studied before taking action. In outline the procedure is:

- a. A serious failing is identified.
- b. The Originating Officer makes an initial assessment and categorises the type of failing.
- c. Take professional advice.
- d. Conduct an initial interview.
- e. Appoint an Assisting Officer. Guidance is at Annex A.
- f. Conduct an investigation.
- g. Apply the Service Test.
- h. Originate Administrative Report.
- i. Pass the Administrative Report up the chain of command to the appropriate Deciding Officer.
- j. The Deciding Officer decides the case.
- k. The sanction is awarded and reviewed; or case dismissed as decided.

At any stage, Major Administrative Action can be reverted to Minor Administrative Action.

**67.031 Administrative Report.** An Administrative Report is raised in response to a failure in a serviceman's performance or behaviour that merits a Major Administrative Action.

**67.032 Discontinuance of Administrative Action - No Further Action.** If at any stage during the procedure it is decided that no further action is to be or can be taken, the Originating Officer or Intermediate Commander making that decision is to, consult the authority to which he would pass the report, inform the serviceman and record his reasons in the case file. If necessary the case may be re-opened. Under no circumstances are cases to be left open.

**67.033 Sanctions.** The sanctions available following the deciding of a Major Administrative Action are:

- a. Formal Interview.
- b. Letter of Censure.
- c. Rebuke.
- d. Expression of Displeasure.
- e. Expression of Severe Displeasure.
- f. Reduction in Rank.
- g. Removal from Appointment<sup>27</sup> by the Army Board.
- h. Termination of Service.
- i. Dismissal, Retirement or Resignation.

**67.034 Regimental Entries Following Administrative Action.** In cases where Major Administrative Action finds that a breach of the Service Test has taken place, a Regimental Entry will normally be made. Regimental Entries normally become spent after 5 years except where the Deciding Officers awards a Letter of Censure and directs that it should only be recorded for 3 years (See Appendix 3 to Annex D).

- a. Major Administrative Action is frequently taken as a result of a serviceman receiving a civil conviction. There is a need to demonstrate equity of dealing between offences dealt with summarily or at court-martial, and those offences dealt with at civil court.
- b. The visibility to promotion boards of Regimental Entries arising from Major Administrative Action, courts-martial and summary dealing is to be the same. The Military Secretary will manage this process using a sticker on the CR book.

**67.035 Career Effects of an Ongoing Investigation.** Whilst under investigation for Major Administrative Action, a serviceman should not be posted or promoted (if previously selected) or have any acting rank substantiated. Similarly, whilst he may be considered by boards<sup>28</sup> for promotion, command, extension of commission, change of commission, re-enlistment, re-engagement (including S Type, continuance and Long Service List) and commissioning, the results may not be promulgated but are held in suspension. All other promulgation and promotion will be authorised subsequently if, when the case is decided, the serviceman is found not to have breached the Service Test. In certain circumstances, and following a full review of an individual's case, posting and/or promotion may be authorised on the agreement of the individual's chain of command and the respective MS Branch of the APC.

**67.036 Date of Award.** Any sanction awarded comes into effect on the date that the deciding authority signs the directed letter. Deciding Officers may, however, backdate an award as a result of unreasonable delay in processing the case. Sanctions relating to the award of a court will normally be backdated to the date of the court award except where

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<sup>27</sup> Exceptionally, the Army Board is permitted to order removal from appointment as part of the deciding of a case and under this exception, and only this, removal from appointment can be ordered as a sanction - see Appendix 3 to Annex D.

<sup>28</sup> MS Boards are not informed of any such investigations.

the serviceman has delayed informing the chain of command of the court finding. Deciding officers are to state the effective date of the sanction and their reasons for selecting it clearly on the directed letter to the serviceman. Only one sanction may be awarded as a result of an Administrative Report but the sanction may be accompanied by Removal from Appointment and/or a Formal Warning.

**67.037 Records.** Units are to report all cases of potential Major Administrative Action through the chain of command, whether they result in action or not. They are to be entered onto *Casebook* (the Army's G1 casework tracking database) at Bde HQ. For that reason the procedure of notification to G1 staff at Bde HQs of Administrative Reports must follow the same system as it does for disciplinary proceedings leading to a court-martial under AA 55. The operational chain of command is also to be kept informed of the progress of Major Administrative Action cases. Once entered on to the database it is the responsibility of that level of command currently dealing with the case to ensure that the records relevant to the case are maintained on Casebook, including findings and sanction. Unit records are to be kept using the Warnings and Sanctions element of JPA.

**67.038 Reports concerning Officers.** PS2 (A) is to be informed of all Administrative Reports raised against officers when the case is first considered. This may be by phone, fax, e-mail or signal and should include the number, rank and name of the individual, his unit, location and nature and date of the alleged failing. PS2 (A) will then be able to monitor the progress of the case using JPA.

**67.039 Media or Public Attention.** PS2 (A) should always be informed, regardless of the rank of the individual, of cases that are likely to involve or attract media or public attention; for example a matter reported to a Member of Parliament.

**67.040 Completion.** On completion of the Administrative Action, the original file remains with the Deciding Officer (to be retained for 5 years) and a copy of the file is to be sent to PS2(A) Post Trial Section.

**67.041** Reserved.





**ANNEX D TO AGAI 67****MAJOR ADMINISTRATIVE ACTION****INTRODUCTION**

1. It is Army policy that AGAI 67 is to be used as the basis to deal with major professional and personal failings that fall short of the stated standards of behaviour or performance. Major Administrative Action provides commanders at all levels with a swiftly delivered and reviewed, legal, fair and formally regulated way of dealing with more serious failings in standards and performance. It will never be appropriate for matters that would amount to criminal conduct or to a disciplinary offence that has 'criminal' elements to be dealt with as Major Administrative Action. The matter should be referred up the chain of command for Disciplinary Action under the Army Act 1955.<sup>29</sup>
2. AGAI 67 applies at all times, to all Army personnel, both on and off duty, and to members of the reserve forces for failings that have an effect on the operational effectiveness of their unit. It applies also to officers of the ACF and CCF but not to Warrant Officers, NCOs or Cadets of the ACF and CCF. In all cases where Major Administrative Action is to be taken it must be proportionate and appropriate to the failing and taken for remedial purposes. The AGAI also applies to personnel who have left the Service in respect of matters that occurred during their service.
3. The table at Appendix 1 to this Annex sets out the levels of authority required and the level at which cases must be reviewed, together with the relevant provisions in relation to delegations and other relevant information on authority. This is the framework and the minimum ranks must be complied with.

**PROCEDURE**

4. **Initial Assessment.** A failing is identified or an allegation is made. The Originating Officer must take stock of what he knows of the allegation and decide whether it is so serious or complex that it requires investigation by RMP or, in appropriate circumstances the Equal Opportunities Investigation Team (EOIT). He will also assess whether the failing is likely to result in Disciplinary or Administrative Action and whether that action is Minor or Major. This assessment will be kept under review until completion of the process. The Originating Officer may wish to take legal or RMP advice at this stage to inform his decision.
5. **Legal Advice.** Legal advice is available to the CO from the local Divisional Legal Advisory Branch, and should be sought early. In serious cases it should be taken at the initial assessment, after administrative or criminal investigation and once the Administrative Report has been prepared. Legal advice in any form must not be disclosed. In cases of social misconduct, advice on the method of investigation may be necessary. Where a subordinate commander is initiating Administrative Action he should seek his legal advice through his CO.

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<sup>29</sup> Armed Forces Act 2006 from Jan 09.

6. **RMP Assistance.** Exceptionally in complex and difficult cases the RMP may be requested to assist the CO by taking witness statements and providing advice on the investigation, but interviews under caution will normally not be appropriate. In appropriate circumstances assistance may be sought from other investigating authorities such as the EOIT.
7. **Appoint an Assisting Officer.** As soon as it becomes apparent that there is evidence of inefficiency or misconduct, the serviceman is to be informed and an Assisting Officer is to be appointed for the serviceman. Guidance for Assisting Officers is at Annex A. Originating officers are to record the appointment on their report. This may occur before the initial interview if the Originating Officer feels that the circumstances justify it.
8. **Initial Interview.** In every case the serviceman is to be interviewed by the Originating Officer. The subject is to be informed of the purpose of the interview, the principles of Administrative Action and the procedures to be followed, and be confronted with the precise allegation. He is to be given an opportunity to comment on it and provide an explanation. Where possible the interview should take place in the presence of a third party and the proceedings are to be carefully recorded in writing. This is not a verbatim record nor is it an interview under caution. For this reason the notes from the interview cannot be used as evidence at a subsequent disciplinary hearing (summary or court-martial) but may be used in making a determination in Administrative Action. It is to be attached to the report and a copy retained in the unit. There is no entitlement to legal representation at this interview but the serviceman being interviewed should be offered the services of an Assisting Officer. In exceptional circumstances where the serviceman is attached or posted elsewhere, an appropriate officer should carry out the initial interview where the serviceman is at that time. At the end of the interview the Originating Officer should tell the serviceman if an investigation is to be carried out. It is possible that on initial investigation there is no case to answer and therefore no further action should be carried out. Alternatively it may be appropriate to award a minor sanction, or Formal Warning.
9. **Suspension or Removal.** Initially, and throughout the process the Originating Officer must keep under review whether the position in post of the serviceman is sustainable. It may be that he has lost the confidence of his seniors or subordinates, he may be under media or personal pressure, or his position may be untenable for a number of other reasons. A CO may decide to internally post, suspend or apply for removal from appointment. These actions, whilst not sanctions, may have career effects and particularly where no wrongdoing has yet been proved should be used only when retention in post is impossible. Details on removal from appointment are contained in Part 5 and Annex F.
10. **Investigating the Facts.** The form of investigation is a matter for the Originating Officer, but in every case it must be expeditious, thorough and fair. The Originating Officer may delegate the business of the investigation but remains personally responsible for its prompt and fair execution. It is not necessary to follow the strict rules of evidence used by the courts and the best available direct evidence should be obtained. Where written statements or transcripts of evidence are not already in existence they should be obtained from witnesses and signed by them. Hearsay might provide justification for investigation and should not automatically be discarded, but it should be used with caution. Anonymous allegations should be disregarded unless supporting evidence exists. If termination of service is a possible outcome at any level, commanders should take appropriate advice.

11. **Concluding the Investigation.** Before proceeding with the preparation of a report the originator must:

- a. Be satisfied that there has been a sufficient investigation.
- b. Decide whether on the balance of probabilities, the alleged conduct or omission occurred.
- c. Decide whether the failure in conduct or performance merits an Administrative Report leading to the imposition of a sanction. This is conducted by applying the Service Test:

*Have the actions or behaviour of a serviceman adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the Army?*

- d. Categorise the alleged type of unsatisfactory performance or inappropriate behaviour as unsuitability, inefficiency or misconduct.

12. **Consider the Recommended Sanction.** The Originating Officer must decide what sanction he is to recommend to the Deciding Officer. His decision must primarily be based on the failing and its effect on operational effectiveness. As a guide he may consult Appendix 4 to this Annex. Having considered the recommended range of sanctions he will consider mitigation and aggravation before settling on an appropriate sanction. Finally, the Originating Officer may consider the effect of this sanction on the serviceman bearing in mind the serviceman's personal, financial and career circumstances as supplied by the pay and career staffs, whilst ensuring broad equity of dealing. If his recommended sanction is different to those recommended in Appendix 4 he should explain his reasons in the text of the Report.

## THE REPORT

13. **Prepare the Report.**<sup>30</sup> The Originating Officer is to prepare the final report in accordance with the detail set out below:

- a. **Title Sheet.** With list of Flags and Side Flags. A password protected or read only floppy or compact disc with all the key documents on it is to be in a pocket on the cover of this file.
- b. **Flag A.** This is Appendix 2 to this Annex. The Originating Officer's part should be at Side Flag 1 and subsequent authorities' reports should be inserted using this Appendix at further side flags as the case progresses to determination. The Originating Officer's justification must include the following headings:
  - (1) Reasons for raising the report including the command relationship that the Originating Officer has to the subject. This should include reference to the impact or potential impact of the failure in conduct or performance on the efficiency or operational effectiveness of the Army.

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<sup>30</sup> The report is to be made on the form at Appendix 2 to this Annex. Where the discharge of a WO or below is recommended the report must also be accompanied by a completed AFB 130A/130A(TA).

- (2) The facts of the case.<sup>31</sup>
- (3) Comments on the serviceman's character and performance.
- (4) Comments and judgement on the application of the Service Test. This should include comment on each of the sub para headings in the form at Appendix 2 to this Annex.
- (5) Recommendation on sanction, which are listed at Appendix 3 with guidelines at Appendix 4.
- (6) Confirmation that an Assisting Officer has been appointed.

c. **Flag B.** Copy of Initial Interview by Originating Officer.

d. **Flag C.** Copy of Witness Statements and other evidential documents as Side Flags, if applicable, as evidence. This should include statements made to the RMP or EOIT if they have assisted in any investigation.

e. **Flag D.** Guidance on the effects of sanctions and their Financial and Career Implications are at Appendices 5 and 6.

(1) Written advice is to be sought from the APC on the career and future employability impact of likely sanctions. The Originating Officer may intimate the likely sanction(s) he has in mind allowing the career manager to be more specific about their effect. However, advice should be given on a range of sanctions. Career advice for Ptes, LCpls and Cpls can be provided by an RCMO.

(2) Financial advice should be sought from the RAO on financial implications of potential sanctions. A copy of AF 09611 detailing the serviceman's income and pension entitlement is then to be generated and included under this Flag. These must be considered when recommending any sanction.

f. **Flag E.** Conduct Sheet and JPA Personal Disciplinary Record.

g. **Flag F.** Representation to the Originating Officer's report or a Certificate in Lieu if the subject declines to submit a representation at this stage. This Flag should be side flagged for representations at each level of authority.

h. **Flag G.** AFB 130 A if the recommended sanction is discharge of a soldier.

i. **Flag Z.** Legal Advice. This should be side flagged for each piece of advice. It should be detached for disclosure purposes and not included in the title sheet index.

**14. Disclose the Report.** In every case the serviceman being reported must be shown all the papers, less privileged advice, which will be submitted to the Deciding Authority. In practice this means that the Serviceman should see, and be given a copy of the (thus far)

<sup>31</sup> If AGAI 67 Action is being taken after a Civil Conviction involving Sex Offenders Act 2003 where a serviceman has been placed on the Sex Offender's Register or after another Civil Conviction, has been placed on a Community Service Order, the determining officer must consider the serviceman's future employability and take both legal and APC advice.

completed case file before his interview with the Originating Officer and later any additional information or advice which will be seen by the Deciding Officer, before his interview with him. Originating Officers, Intermediate Commanders and supporting staff must be careful not to make "off file" comments or briefs to the Deciding Officer.

**15. Privileged Advice.** The definition of what may or may not be privileged information can be complex and where there is any doubt commanders should take legal advice. In simple terms, in the context of Administrative Action legal advice and the advice section of an RMP report are privileged, although the statements contained in the RMP report are not. Advice from G1 or MS staffs is not privileged and has to be disclosed. Correspondence, e-mails etc which are not shown to the Deciding Officer need not be disclosed but may be asked for by the subject serviceman using rights granted by legislation on data protection.

**16. Interview the Serviceman.** The Originating Officer is to interview the serviceman again in the presence of a third party and:

a. Give the serviceman a copy of this AGAI and a copy of the report<sup>32</sup>.

b. Inform the serviceman that:

(1) He may, within a reasonable period<sup>33</sup> submit a written representation in response to the contents of the report.<sup>34</sup>

(2) He may consult others, including a lawyer at his own expense, in the preparation of his representation.

(3) Deciding Officers (including the Army Board) are not bound by the recommendations of the Originating Officer.

(4) Other than when the Deciding Officer decides to dismiss the case on the basis of the Administrative Report alone, he will be offered an interview with the Deciding Officer (including where this is the Army Board) before a final decision is made.

(5) Other than when the Deciding Officer is the Army Board, he will have the right to request a review, by a higher authority, of the Deciding Officer's decision.

c. He may decide the case where authorised to do so (see Appendix 1 to this Annex) or forward the report, with any representation, up the chain of command.

**17. Forward the Report.** The Administrative Report is to be forwarded up the chain of command to the appropriate Deciding Officer. Intermediate Commander(s) may comment on the content of the report. An Intermediate Commander making substantive comment on a report or who wishes to clarify matters contained in the Originating Officer's report may require the serviceman to attend an interview. There is no need for additional

<sup>32</sup> This includes any other material, less legal and RMP advice, that will be forwarded up the chain of command.

<sup>33</sup> Normally within 10 working days.

<sup>34</sup> If he declines to do so he should sign a statement to this effect that will be attached to the report instead. If he fails to produce a written representation within a reasonable period, the report may be forwarded without it and the officer will be so informed.

disclosures or representations during these intermediate stages; however, a full disclosure of everything to be presented to the Deciding Officer must be made prior to the interview with the Deciding Officer.

## DECISION

18. **Interview by Deciding Officer.** The Serviceman being reported will, in every case, be offered an interview with the deciding authority, prior to deciding the case. (He must be given at least 24 hours notice of this interview.) The date fixed for the Interview by the Deciding Officer should allow sufficient time for the serviceman to have seen the final disclosure of information, consulted his Assisting Officer and, if he wishes, prepare a submission to hand to the Deciding Officer at interview. A record of the interview must be maintained. In addition, where it is considered necessary by the Deciding Officer, an oral hearing may be held. This might be to allow the questioning of witnesses or to hear submissions, or both. The decision to hold an oral hearing is a matter for the discretion of the Deciding Officer (after taking legal advice) based upon what is fair, reasonable and necessary. It is likely that an oral hearing will be required where it is necessary to resolve a conflict of evidence which is central to the issue for determination and which cannot be resolved on the available written evidence. A separate Interview need not be held in cases when an Oral Hearing takes place. Army Board Administrative Casework Rules of Procedure<sup>35</sup> may be adopted or adapted, as appropriate, for use in Oral Hearings. Whether or not a legal representative is permitted to accompany the serviceman is a matter for the Deciding Officer. He is entitled to be accompanied by an Assisting Officer.

19. **Deciding a Case.** Before making any award the Deciding Officer must check the following:

- a. **Authority.** That he is the correct authority to decide the case – Appendix 1.
- b. **Investigation.** That there has been a thorough and fair investigation into the case.
- c. **Consider the Evidence.** That, on the evidence contained in the report, and taking into account the representations (if any) of the serviceman concerned, the failure in conduct or performance justifies the exercise of administrative powers.
- d. **Consider the Recommended Sanction and its Financial and Career Implications.** That the financial implications of any sanction provided by the local SPS personnel, have been considered in detail and that the career implications provided and APC staff has also been considered. In a case of Gross Misconduct which is wholly deserving of termination of service, even very serious financial and career implications are unlikely to be sufficient to justify a lesser sanction than discharge. Nevertheless, such matters should be taken into account before making a final decision on the appropriate sanction. Guidance is at Appendix 5.
- e. **Previous Conduct and Convictions.** That previous conduct and behaviour, if relevant has been taken into consideration when deciding a case. Recent Formal Warnings are particularly relevant. The Rehabilitation of Offenders Act 1974 dictates that, in the normal course of events, a conviction, once spent, may not be considered for the purposes of employment or used as evidence during proceedings

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<sup>35</sup> DCI 102/04.

before a judicial authority. It follows that spent convictions should not normally be taken into account in Administrative Action cases. If it is considered necessary, however, in the interests of justice, that a spent conviction must be taken into account then legal advice should be sought to ensure compliance with the provisions of the Act.

f. **Effect of Sanctions.** That the effect of the sanction that the he has in mind is appropriate and will not have any unintended consequences. No Deciding Officer should award a sanction that would inevitably result in a dismissal unless the Deciding Officer is authorised to order a dismissal as a sanction.

20. **Finding By Deciding Officer.** Taking all of the facts into consideration the Deciding Officer will decide:

- a. Whether, on the balance of probabilities, the alleged conduct or omission occurred.
- b. Whether the Service Test has been breached.
- c. To what extent operational effectiveness has been or potentially could be effected.
- d. Bearing in mind mitigating and aggravating factors what sanction is appropriate.
- e. Given the financial and career advice received, whether the effect of that sanction is commensurate with the failing.

21. **Interview.** The Deciding Officer is to inform the serviceman, at interview unless exceptional circumstances prevent it, of the final outcome and the consequences of the sanction, then, or subsequently, provide him with a copy of the finding, by directed letter. In exceptional circumstances it may be necessary to notify the serviceman by VTC, telephone or via a delegated officer. The decision and its effective date should be communicated to the serviceman as a matter of urgency.

22. **Directed Letter.** The directed letter based on the format at Appendix 7 to this Annex, will confirm whether the Deciding Officer found the allegation proved and give the serviceman the reasons for his choice of sanction. In more complex cases the reasons for sanction may become a separate letter.

23. **Date of Award.** Any sanction awarded comes into effect on the date that the deciding authority signs the directed letter. Deciding Officers may, however, backdate an award as a result of unreasonable delay in processing the case. Sanctions relating to the award of a court will normally be backdated to the date of the court award except where the serviceman has delayed informing the chain of command of the court finding. Deciding officers are to state the effective date of the sanction and their reasons for selecting it clearly on the directed letter to the serviceman. Only one sanction may be awarded as a result of an Administrative Report but the sanction may be accompanied by Removal from Appointment and/or a Formal Warning.

24. **Promulgation.** Once the deciding authority has promulgated the final decision by directed letter, he is responsible for informing the appropriate directorates and agencies. In the first instance the decision should be notified by to SO1 AR Wg, MS Assurance and

MOD PS2(A) for officers; the respective Col MS Soldiers, DM(A) and MOD PS2(A) for soldiers. The report should be promulgated as follows:

- a. A copy file and the completed conduct sheet sent to MOD PS2(A).
- b. Copies of the report and directed letter less supporting evidence be sent to the SO1AR Wg, MS Assurance for officers; Col MS Soldiers and DM(A) for soldiers.
- c. The APC copy should be held on the Personal File by APC staff and retained at the Documents Handling Centre.
- d. Major Sanctions are to be recorded on the Serviceman's Personal Discipline Record.
- e. A sticker is placed on the cover of the CR book.

25. **Target Times and Checklist.** A list of target times to be met for the completion of Major Administrative Action is at Appendix 8 with a checklist at Appendix 9.

## REVIEW

26. There is no automatic requirement for Review but a Higher Authority may of his own volition review any case or sanction. DPS(A) may request that a Higher Authority review a case or sanction. A serviceman may request that a review of his case or sanction be conducted by the Higher Authority of the Deciding Officer (except when the Army Board is the Deciding Officer) within 28 days of the promulgation of the sanction. The serviceman requests the review by writing to the Deciding Officer.

27. On review of a case, a Higher Authority of the Deciding Officer, acting as the Reviewing Officer, must assess the evidence, including the serviceman's explanation. A sanction can be upheld only if he is satisfied of the following:

- a. That there has been an adequate investigation.
- b. That, based on the evidence before him, including any representation, on the balance of probabilities, the alleged conduct or omission occurred.
- c. That the Service Test has been breached.

28. The serviceman also must be offered the opportunity of an interview with the Reviewing Officer before he makes a decision on the case. A record of the interview is to be made. There may be circumstances when it is impractical for senior officers to conduct interviews, for example due to dislocation or operational circumstances. Interviews using video links are permissible if facilities are available. In such cases the reasons for being unable to offer such an interview are to be annotated on the report. The serviceman is not entitled to legal representation at this interview. The options available to the Reviewing Officer are:

- a. Revoke the sanction.
- b. Uphold the sanction.
- c. Substitute a less severe sanction.



- d. Refer the case back to the Deciding Officer for reconsideration with specific direction for investigation.

29. The review of the case is to be conducted and the Reviewing Officer's page of the Administrative Report, as found in Appendix 2 to this Annex is completed. The results of a review are to be recorded and promulgated as a further Directed Letter as in Appendix 7 to this Annex.

30. On receipt of a file completed by the Deciding Officer, or Reviewing Officer if a Review has been carried out, PS2(A) Post Trial Section (PTS) will scrutinise the file to ensure that the process has been followed correctly. Should scrutiny disclose an error the case may be referred back to the Deciding Officer or Reviewing Officer as appropriate.

## **REDRESS OF COMPLAINT**

31. Notwithstanding the right of review above, an application for redress of complaint may be made under s180 Army Act 1955.<sup>36</sup> The progress of Administrative Action should not be delayed by the complaint. The complainant may include the grounds of their complaint in their representations to the Deciding Officer or Reviewing Officer so that their concerns can be taken into consideration at that stage, but this is without prejudice to their right to apply for redress.

## **CIVIL CONVICTIONS**

32. **Recording Civil Convictions.** A CO who has become aware of a soldier receiving a civil conviction should act in accordance with QR 6.178, 6.179 and Annex H to QR Chapter 5. He may either:

- a. Either decide that the Service Test had not been breached but that the offence was one which:
  - (1) Had it been dealt with using the Military Criminal Justice System it would have merited court-martial.
  - (2) Had it been dealt with at summary dealing the penalty was one that would have warranted a Regimental Entry.
  - (3) For any other reason, he believes that the conviction should be recorded on the soldier's record.

In these cases he should direct that the conviction should be recorded as a Regimental Entry.

- b. Or decide that the Service Test may have been breached. He should complete an Administrative Report as required by AGAI 67, on completion of which he should record any sanction awarded. If no recordable sanction is awarded the CO may still, if appropriate, direct that the original conviction be recorded as a Regimental Entry.

33. Regimental Entries recording Civil Convictions should list the offence for which the soldier was convicted, the civil court punishment and, where appropriate the AGAI 67

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<sup>36</sup> ss 334 to 339 Armed Forces Act 2006 from Jan 09.

sanction awarded. It should not normally occur that more than one entry is recorded for a civil conviction.

## TERMINATION OF SERVICE

34. **Soldier Discharge.** Major Administrative Action Reports in which the Originating Officer recommends discharge of a soldier are to have an AF B 130A as Flag G of the Administrative Report. The AF B 130A will be completed as the file is staffed through the chain of command. The authority for soldier discharge under QR 9.403, 9.404 or 9.405 is the Deciding Officer as laid down in Appendix 1 to this Annex. The authority for soldier discharge under QR 9.414 is DM(A). Many applications for discharge under these Queens Regulations are not part of the AGAI 67 Major Administrative Action process at all.

35. **Soldier Discharge Authorities.** Where DM(A) is the authority for discharge in a case processed by AGAI 67 action, the Deciding Officer of the case remains as set out in Appendix 1 to this Annex. It is the Deciding Officer who decides whether the case has been properly investigated and whether the Service Test has been breached. However, whereas in other cases the Deciding Officer also authorises the sanction, in the case where the recommendation is dismissal of a soldier under QR 9.414 or TA Regs 5.191, it is DM(A) that has the final decision on discharge. Should DM(A) not authorise the discharge recommended, he will inform the Deciding Officer with a recommendation that a lesser sanction be applied. The Deciding Officer will then re-consider the sanction to be applied.

36. **Officer – Compulsory Retirement, Resignation**<sup>37</sup>. Officers guilty of Gross Misconduct may be required to resign or retire by the Army Board. Major Administrative Action Reports, which carry a recommendation for resignation or retirement for misconduct, by the Originating Officer, or Intermediate Commander will follow the chain of command to HQ LAND who will pass the file to PS2(A) who will in turn schedule the brief for Army Board consideration. Compulsory retirement or resignation for inefficiency will always be preceded by at least one Formal Warning. An Originating Officer recommending resignation or retirement for inefficiency will have to satisfy the Army Board that the officer is not only inefficient in his current post but is unlikely to become efficient in that or any other post.

## HIGHER AUTHORITIES

37. **Function of Higher Authorities including the Army Board – Officers.** The report is to be passed up the disciplinary chain of command to the Army Board without delay, unless decided at a lower level. Commanders and the Army Board must offer the officer an interview before deciding the case, but may offer an interview at any other stage. The options available to higher authorities are as follows:

a. **One Star or Authorised Commanders**<sup>38</sup> may:

- (1) Refer the case back to the CO for further investigation and representation.
- (2) Refer the case with comment to the next higher authority<sup>39</sup>.

<sup>37</sup> Army Pay Warrant 1964, articles 253 and 255.

<sup>38</sup> Includes Colonels authorised as Appropriate Superior Authority and designated within the discipline CoC.

<sup>39</sup> BFFI, Gibraltar and other overseas detachments direct to HQ LAND.

- (3) Dismiss the case after consultation with Division.
- (4) Decide the case.

b. **2 Star Commanders** may:

- (1) Refer the case back to the CO for further investigation and representation.
- (2) Refer the case with comment to the next higher authority.
- (3) Dismiss the case after consultation with HQ LAND<sup>40</sup>.
- (4) Decide the case (where authorised to do so – see Appendix 1 to this Annex).

c. **3 and 4 Star Commanders** may:

- (1) Refer the case back to the CO for further investigation and representation.
- (2) Refer the case with comment to the Army Board.
- (3) Dismiss the case after consultation with DPS(A).
- (4) Decide the case (where authorised to do so – see Appendix 1 to this Annex).

d. **The Army Board** may:

- (1) Refer the case back to the CO for further investigation and representation.
- (2) Dismiss the case.
- (3) Decide the case.
- (4) The Army Board, acting on behalf of the Defence Council, may call upon an officer to resign his commission or to retire<sup>41</sup>, or award any other sanction it deems appropriate. In exceptional circumstances the Army Board may award Removal from Appointment.

**38. Function of Higher Authority including (exceptionally) the Army Board – Warrant Officers, Non Commissioned Officers and Soldiers.** The report is to be passed up the disciplinary chain of command, unless disposed of at a lower level. Commanders must offer the soldier an interview before deciding the case, but may offer an interview at any other stage.

a. **Lieutenant Colonels in Command; and Colonels, Brigadiers and Major Generals in command and those authorised to act as ASAs** may:

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<sup>40</sup> Including CBF Cyprus but with the exception of GOC NI who should consult with PS2(A).

<sup>41</sup> The Pay Warrant 1964, Article 255.

- (1) Refer the case back to the Originating Officer for further investigation and representation.
- (2) Refer the case with comment to the next Intermediate Commander.
- (3) Dismiss the case.
- (4) Decide the case if authorised to do so.

b. **DM(A)** may:

- (1) Authorise the sanction recommended by the Deciding Officer.
- (2) Refer the case back to the Deciding Officer for consideration of another sanction.
- (3) Refer the case back to the Deciding Officer for consideration of any matter which DM(A) feels needs clarification before he can authorise a sanction of discharge.
- (4) Exceptionally refer the case with comment to the Army Board.

c. **The Army Board** may:

- (1) Refer the case back to the Originating Officer for further investigation and representation.
- (2) Dismiss the case.
- (3) Decide the case.

## **SERVICEMEN NO LONGER SERVING**

39. Administrative Action in respect of conduct that occurred during an individual's service may continue after the serviceman has resigned, retired, or otherwise terminated his service. In addition, if in the opinion of the Originating Officer, there is a compelling service reason to do so, Administrative Action may be initiated, in relation to conduct during his service, up to 3 years after the serviceman has resigned, retired, or terminated his service.

40. Notwithstanding their changed status, ex-servicemen having Administrative Action taken against them will continue to:

- a. Be entitled to the services of an Assisting Officer.
- b. Have relevant documents disclosed to him.
- c. Be informed of and invited to attend interviews should he wish.
- d. Be informed of the decision of the Deciding Officer.
- e. Have the right to request a Review.

- f. Have the right to seek redress under the service redress system, up to 3 months from the date that the finding of a Review is promulgated.

41. Deciding Officers may award any of the sanctions listed in Appendix 3 of this Annex, including Dismissal from the Reserve or Resignation of Commission where authorised. Whilst sanctions will not normally have a material effect on the subject they will be recorded on the Service Record and will be taken into consideration if the subject applies to re-join the Armed Forces at a later date. A revised AFB 108 may be issued.

#### Appendices:

1. Table Of Authorities.
2. Administrative Report.
3. Major Administrative Action Sanctions.
4. Guidelines for the Award of Sanctions.
5. Effects of Sanctions.
6. Financial and Career Implications.
7. Directed Letter – Administrative Sanction.
8. Target Times for Completion.
9. Checklist for Completion of Casework.
10. Officers Sentenced to Imprisonment by Civil Courts.



**APPENDIX 1 TO  
ANNEX D TO AGAI 67**

**MAJOR ADMINISTRATIVE ACTION SANCTION TABLE OF AUTHORITIES**

Subject	Originating Officer	Deciding Officer					
		Formal Interview/Letter of Censure/Rebuke/Displeasure/ Severe Displeasure,	Reduction in Rank (See Note 5)	Termination of Service (See Notes 6 and 7)			
(a)	(b)	(c)	(d)	(e)			
1*	2*	3*		Army Board			
Col	1*	2*		Army Board			
Lt Col	1* (Note 8)	2*		Army Board			
Maj	CO	2*		Army Board			
Capt & Lt	CO	1*		Army Board			
				QR 9.403	QR 9.404 TA Regs 5.200	QR 9.405 (Note 9)	QR 9.414
WO1	CO	2*	2*	2*	2*		2*
WO2	CO	1*	2*	1* (Note 10)	1* (Note 10)		1*
SSgt	OC	CO	2*	1* (Note 10)	1* (Note 10)		1*
Sgt	OC	CO	1*	1* (Note 10)	1* (Note 10)		1*

Subject	Originating Officer	Deciding Officer					
Rank		Formal Interview/Letter of Censure/Rebuke/Displeasure/ Severe Displeasure,	Reduction in Rank (See Note 5)	Termination of Service (See Notes 6 and 7)			
Cpl	OC	CO	1*	1* (Note 10)	1* (Note 10)		1*
LCpl	OC	CO	CO	1* (Note 10)	1* (Note 10)	1* (Note 10)	1*
Pte	OC	CO		1* (Note 10)	1* (Note 10)	1* (Note 10)	1*

General Notes to be read in conjunction with this table:

1. Letters of Censure for 2\* and 3\* will be dealt with directly by the Army Board where the same principles laid out in this AGAI will apply.
2. CO - commanding major unit or subordinate commander with powers of CO or authorised by HA or PS2(A) (minimum rank Maj).
3. OC - commanding sub-unit with powers of subordinate commander or the 2IC of an Independent Sub Unit (minimum rank Capt).
4. When it is unclear where the AGAI 67 Action chain lies, consult SO1 Casework PS2(A) who will authorise one.
5. Under QRs 1975 para 9.177 a CO may order any acting rank to revert to substantive rank, and order any LCpl, to revert to Pte.
6. In all cases the discharge (WO1 to Cpl) of any soldier may be authorised by DM(A). QR 9.327 refers. Where discharge is under QR 9.414 the Deciding Officer must recommend discharge to DM(A) who has the right to authorise or not. COS RMAS has delegated powers in respect of discharge of officer cadets under QRs 9.414.
7. Following a sentence of dismissal, or dismissal with disgrace by court martial the CO is the authority for discharge.
8. Includes Colonels authorised as Appropriate Superior Authority and designated within the discipline CoC.
9. QR 9.405e. NCOs of the rank of Cpl or above should not be warned under this paragraph but for reduction in rank in accordance with QR 9.176 to 9.184.
10. Brigade Commander or any brigadier or colonel commanding any garrison or force superior in command to the CO.



**ADMINISTRATIVE REPORT**

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**1. Serviceman's Details.**

Name & initials		Army / P / Number	Regt / Corps
<input type="text"/>		<input type="text"/>	<input type="text"/>
Commission or CEG/CEQ	Acting Rank	Substantive Rank	Date of Birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Date Assumed Appointment	Theatre/Country	Post and Unit	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

**2. Report raised on the grounds of:** (tick boxes as appropriate)

**Inefficiency**

**Misconduct**

**ADMINISTRATIVE REPORT – ORIGINATING OFFICER**

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**3. Justification by Originating Officer.**

(expand as required and cover the headings in para 13b of Annex D as well as those below)

“Have the actions or behaviour of a serviceman adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the Army?”

Have the standards, business or reputation of the Army been adversely affected?

Has the confidence in a serviceman been undermined or has his integrity or his suitability for his rank or appointment been called in to question?

Have command or management relationships been damaged?

Have the marriage or personal relationships of others within the immediate defence community that supports them been damaged or put at risk?

Has morale, good order, discipline, trust or unit cohesion and standards of conduct in the broadest sense been undermined?

Has the Army been adversely affected although it has no direct bearing on the unit to which the serviceman belongs?

**Comments:**

*Reasons for raising the report.*

*The facts of the case.*

*Comments on the serviceman's character and performance.*

*Comments and judgement on the application of the Service Test.*

*Recommendation on sanction.*

Confirmation that an Assisting Officer has been appointed.

4. Originating Officer's Recommendation. (tick as necessary)

- Formal Interview  Expression of Severe Displeasure
- Letter of Censure  Reduction in Rank
- Rebuke  Termination of Service
- Expression of Displeasure  In addition to a sanction that the serviceman be removed from his appointment.

5. Originating Officer's Declaration and Signature.

I have:

- a. Given the serviceman a copy of this AGAI and a copy of the report.
- b. Informed the serviceman that:
  - (1) He may, within a reasonable period submit a written representation in response to the contents of the report.
  - (2) He may consult others, including a lawyer at his own expense, in the preparation of his representation.
  - (3) Deciding Officers (including the Army Board) are not bound by the recommendations of the Originating Officer.
  - (4) Other than when the Deciding Officer decides to dismiss the case on the basis of the Administrative Report alone, he will be offered an interview with the Deciding Officer (including where this is the Army Board) before a final decision is made.
  - (5) Other than when the Deciding Officer is the Army Board, he will have the right to request a review, by a higher authority, of the Deciding Officer's decision.

Rank and name

[Empty box for Rank and name]

Appointment and unit

[Empty box for Appointment and unit]

Signature

[Empty box for Signature]

Date of signature

[Empty box for Date of signature]

**6. Serviceman's Acknowledgement.**

- a. I acknowledge that I have today (been interviewed and informed that an Administrative Report is being raised against me and of the potential implications that this may have on my future employment and overall career.
- b. I acknowledge that I may make a representation in response to this report, normally within 10 days.

Signature

Date of signature

**ATTACH INTERMEDIATE COMMANDER REPORTS FOR EACH APPROPRIATE LEVEL**

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**ADMINISTRATIVE REPORT - INTERMEDIATE COMMANDER**

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**7. Intermediate Commander:** (completed by any Intermediate Commanders)

a. I have/have not interviewed

insert rank and name

on: (insert date)

and have considered the facts of the case.

b. **Decision.** My decision is that I: (tick as appropriate)

- refer the case to the Deciding Officer/ Next Intermediate Commander.
  
- refer the case back to Originating Officer for further directed investigation as detailed below.

c. **Comment.**

Please choose one of the options below:

- I support the recommendation of the Originating Officer.
  
- I support the recommendation of the Originating Officer with reservations, (see Comments above).
  
- I do not support the recommendation of the Originating Officer(see Comments above).

Rank and name

Appointment and unit

Signature

Date of signature

**8. Serviceman's Acknowledgement.** (to be completed if interviewed) I acknowledge that I have today been interviewed and informed of the progress of the Administrative Report that is being raised against me reminded of the potential implications that this may have on my future employment and overall career.

Signature

Date of signature

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**ADMINISTRATIVE REPORT – DECIDING OFFICER**

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**9. Deciding Officer:**

a. I have interviewed /  (insert rank and name)  
an interview was declined by

on: (insert date)  and have considered the facts of the case.

b. **Decision.** My decision is that I: (tick as appropriate)

- dismiss the case after consulting with my higher authority.
- refer the case back to initiating officer for further directed investigation as detailed below.
- decide the case and award a sanction of

c. **Comment.**

As Deciding Officer I have examined the full financial, career and future employability implications for this serviceman and consider this sanction to be fair and appropriate.

Rank and name

Appointment and unit

Signature

---

Date of signature

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**10. Serviceman's Acknowledgement:**

a. I acknowledge that I have today been interviewed and informed of the result of the Administrative Report that is being raised against me reminded of the potential implications that this may have on my future employment and overall career.

b. I understand that I have 28 days in which to ask for a review of this finding.

Signature

Date of signature





**ADMINISTRATIVE REPORT – REVIEWING OFFICER**

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**11. Reviewing Officer:**

a. I have interviewed/  
an interview was declined.

insert rank and name

on: (insert date)

and have considered the facts of the case.

b. **Decision.** My decision is that I: (tick as appropriate)

Confirm the finding of the Deciding Officer.

Revoke the finding of the Deciding Officer.

Reduce the sanction to one of

Refer the case back to the Deciding Officer for reconsideration.

c. **Comment.**

Rank and name

Appointment and unit

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Signature

Date of signature

12. **Serviceman's Acknowledgement.** I acknowledge that I was given an opportunity to be interviewed by the Reviewing Officer and I have been today interviewed and informed of the review of the Administrative Report that was raised against me.

Signature

Date of signature



**MAJOR ADMINISTRATIVE ACTION SANCTIONS**

1. The sanctions that are available following the deciding of a Major Administrative case are:

**a. A Formal Interview.** A Formal Interview is intended to make a serviceman aware of the fact that his behaviour has breached the Service Test and fallen below acceptable standards. It is carried out by the Deciding Officer, normally on the day that he determines the case. The fact that the interview has taken place is recorded on the Directed Letter (Appendix 7 of Annex D ) only. A Formal Interview is not recorded by a Regimental Entry. A copy of the Directed Letter will be permanently retained on the serviceman's P File in the APC, it will not be recorded on the CR file. A further copy will be placed on the serviceman's AFB 9999 and it will be destroyed after 3 years.

**b. Letter of Censure.** A Letter of Censure is a more serious sanction than a Formal Interview. The "letter" referred to is the Directed Letter from the Deciding Officer in which the serviceman's failure in values and standards are recounted and the disapproval of the chain of command is expressed. The Letter of Censure is recorded by a Regimental Entry that remains on record for 5 years. However, if the Deciding Officer believes neither that the failing is one that could have been dealt with disciplinarily, nor that it relates to a civil offence he may direct that the sanction should be recorded on the CR book for only 3 years. A copy of the Directed Letter will be permanently retained on the serviceman's P File in the APC.

**c. Rebuke, Expression of Displeasure and Expression of Severe Displeasure.** The effects of the sanction shall be:

(1) A serviceman provisionally selected for promotion shall be deselected.

(2) With the exception of those holding acting rank pending completion of CLM personnel holding acting rank will have that acting rank removed. A consequence of losing acting rank may be posting from an appointment requiring that acting rank.

(3) A serviceman will have a Mark Time applied to his career.

(a) A Rebuke will have a 1 year Mark Time applied.

(b) An Expression of Displeasure will have a 2 year Mark Time applied.

(c) An Expression of Severe Displeasure will have a 3 year Mark Time applied.

(4) A Serviceman shall neither be granted promotion nor be considered for any of the following boards for the number of years of mark time awarded as a sanction:

(a) Promotion Boards.

(b) Command Boards.

(c) Commissioning Boards.

(5) The date on which the sanction begins will be as follows:

(a) If a serviceman is already eligible for consideration at a board in every respect, the effect of the sanction will begin on the date of the directed letter.

(b) If a serviceman is not already eligible for consideration at a board in every respect, the effect of the sanction will begin on the date on which the serviceman would otherwise have become eligible in every respect.

(6) The sanction will be recorded by sticker on the inside front cover of the AR/CR book where normally it will remain for 5 years<sup>42</sup>. Subsequent promotion boards will have access to the AR/CR book and will consider the implications of the directed letter in their deliberations. In the case of blameworthy removal from appointment the completed Appendix 2 to Annex F will be held on the AR/CR book.

(7) The Directed Letter will be held on the individual's P File in perpetuity.

(8) Promotions not formally selected by boards such as Lt to Capt or certain PQO promotions are restricted under this paragraph as if they were subject to board selection.

(9) Exceptionally, MS has the authority to grade books before the end of a sanction if, by reason of board dates or other circumstances, the sanction may have a greater impact than the deciding authority intended at the time of the award of sanction.

**d. Reduction in Rank (Not Officers).** The ordering of a reduction in rank is made under the authority of s201 of the Army Act 1955 amended by Army Order 14 of 1972<sup>43</sup>. In some cases the authority to order a reduction in rank is a higher rank than the normal Deciding Officer for other sanctions and even dismissal. A Deciding Officer who contemplates reduction in rank should check Appendix 1 of this Annex to ensure that he holds the appropriate rank. If he does not he should make his recommendation as an Intermediate Commander and pass the file to his higher authority who will act as the Deciding Officer.

**e. Removal from Appointment.** Exceptionally, the Army Board is permitted to order removal from appointment as part of the deciding of a case and under this exception, and only this, removal from appointment can be ordered as a sanction.

**f. Termination of Service (Conduct).** In common with modern employment practice the Army will terminate the service only of those servicemen whose conduct is deemed to be, in common parlance, 'Gross Misconduct'. That is where it would simply be unacceptable to the Army to allow a serviceman to continue to serve. Loss of an immediate pension, for instance, although hard, would not present significant mitigation in such cases. This upholds the principle of proportionality of Major Administrative Action. Examples of those failings that are regarded as Gross

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<sup>42</sup> This ensures comparability with disciplinary dealing.

<sup>43</sup> s332 Armed Forces Act 2006 from Jan 09.

Misconduct and guidelines for the award of sanctions in Administrative Action cases are at Appendix 4. Termination of service on the grounds of misconduct<sup>44</sup> will be effective 28 days from the date that the Directed Letter from the Deciding Officer/Army Board is signed.

**g. Termination of Service (Inefficiency).** Administrative Action that results in a sanction of Termination of Service for inefficiency will have always been preceded by a period of Formal Warning in which the serviceman showed an inability or unwillingness to improve. A Deciding Officer, or the Army Board, before awarding this sanction will have been convinced that the serviceman has had ample opportunity to become efficient, either in his original rank or, in the case of a soldier, a reduced rank. Termination of service on the grounds of inefficiency<sup>45</sup> will be effective after a statutory period (of one week for every year of service) from the date that the Directed Letter from the Deciding Officer/Army Board is signed, except that discharge will not be earlier than 28 days and no later than 12 weeks from that date<sup>46</sup>.

**2. Secondary Effects of Sanctions.** At certain career stages a change of commission is required for an officer's active service to continue. Some soldier trades require a minimum rank. It is not intended that the award of a sanction, other than a requirement to resign or retire, should bring about the end of a soldier or officer's career.

a. If an officer, by having received a sanction, would miss the last Commission Board that would allow him to continue in service; he should be considered by the Board despite the conditions of the sanction.

b. If a soldier's trade has a minimum rank and a sanction of reduction in rank would place him below that minimum; he should be returned to the roll appropriate to his original employment or be reclassified in an employment on a roll appropriate to the circumstances of the case<sup>47</sup>.

**3. Directed Letter.** In addition, in all cases, a Directed Letter will be issued and retained on the P File at the APC.

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<sup>44</sup> Under Articles 255 and 282 of the Pay Warrant 1964 or QR 9.404 or 9.414.

<sup>45</sup> Under Articles 253 and 280 of the Pay Warrant 1964 or QR 9.405 or 9.414.

<sup>46</sup> Section 86 Employment Rights Act 1996.

<sup>47</sup> QR 9.181.



**APPENDIX 4 TO  
ANNEX D TO AGAI 67**

**GUIDELINES FOR THE AWARD OF SANCTIONS IN AGAI 67 CASES**

1. The full range of sanctions set out here is available for any failure in performance or behaviour. Clearly, military judgement needs to be applied whilst taking into account all the circumstances of the case. The levels of misconduct or inefficiency and the usual sanctions that are to be used as a starting point - before consideration of any mitigating or aggravating circumstances - are shown in the table below.
2. **The table represents a framework of guidance only and** each case is to be judged on its merits. The reasons for the sanction awarded must be recorded in the determination of the case.
3. Having established the misconduct or inefficiency and examined the facts of the case, the Deciding Officer should arrive at a 'draft sanction'. It is then mandatory to take into consideration: the Service record; the financial (including pension) factors; career factors; and employability implications in order to decide whether the impact of the sanction on the serviceman is appropriate and proportionate to the level of failure in performance or behaviour.
4. In addition to the sanctions below, a formal warning as to future conduct may be appropriate and may be awarded in conjunction with a sanction.

<b>Level of Failure of Performance or Behaviour</b>	<b>Breach of Values and Standards</b>	<b>Sanction</b>
(a)	(b)	(c)
<p><b>1</b></p> <p><b>LOW</b></p> <p>(Less Serious)</p>	<p>a.Failure to properly supervise Service funds.</p> <p>b.Failure to properly supervise training (where a criminal charge of negligence is inappropriate).</p> <p>c.Minor dishonesty in Service matters (eg misuse of Service postal services or Service telephones).</p> <p>d.Minor failing to supervise SHEF standards.</p> <p>e.Minor Criminal offences eg failure to have a TV licence or road tax) or offences resulting in a formal police caution (or fixed penalty (Scotland)).</p> <p>f.Minor social misconduct (eg over-familiarity).</p> <p>g.A cumulating of minor traffic offences resulting in disqualification from driving.</p> <p>h.Inefficiency.</p>	<p><b>Formal Interview or</b></p> <p><b>Letter of Censure or</b></p> <p><b>Regimental entry (for civil convictions)</b></p>

<p style="text-align: center;"><b>2</b></p> <p style="text-align: center;"><b>MEDIUM</b></p> <p style="text-align: center;">(Serious Misconduct)</p>	<p>a. First non-aggravated drink-driving offence</p> <p>b. Other minor criminal offences (eg common assault).</p> <p>c. Failing to supervise SHEF standards after a warning or adverse safety report.</p> <p>d. Social misconduct, for example - inappropriate intimate relationships.</p> <p>e. Continued inefficiency after a warning.</p> <p>f. Failing to deal with other Service personnel in an honest and open manner.</p>	<p><b>Letter of Censure to Expression of Displeasure or Reduction in Rank Regimental Entry (for civil convictions)</b></p>
<p style="text-align: center;"><b>3</b></p> <p style="text-align: center;"><b>HIGH</b></p> <p style="text-align: center;">(Very Serious Misconduct)</p>	<p>a. First aggravated or second non-aggravated drink-driving offence.</p> <p>b. Serious social misconduct (eg inappropriate intimate relationships which adversely affect other established relationships or attract adverse press coverage).</p> <p>c. Cases involving harassment and/or bullying.</p> <p>d. Continued inefficiency after warnings.</p> <p>e. Serious failure to supervise SHEF standards</p> <p>f. Criminal offences which are not wholly deserving of termination of service.</p> <p>g. Cases referred to in level 4 below where there are significant mitigating circumstances.</p>	<p><b>Expression of Severe Displeasure or Reduction in Rank</b></p>
<p style="text-align: center;"><b>4</b></p> <p style="text-align: center;"><b>GROSS</b></p> <p style="text-align: center;">(Gross Misconduct)</p>	<p><b>Behaviour or performance which involves any or a combination of the following failings deserving of termination of service:</b><sup>48</sup></p> <p>a. Unacceptable social misconduct with serious or multiple aggravating features (eg coercion, violence, taking advantage of age, rank or appointment, linked to operational considerations).</p> <p>b. Unacceptable inefficiency.</p> <p>c. Serious cases involving religious, racial or sexual harassment, harassment, bullying or discrimination.</p> <p>d. At a civil court receives a custodial sentence (whether immediate or suspended) or an officer is</p>	<p><b>Termination of Service</b></p>

<sup>48</sup> After consideration of all the circumstances only conduct which is wholly deserving termination of service should result in that sanction (ie no other sanction is appropriate).



	<p>awarded Community Sentence.</p> <p>e.Is convicted of a serious offence involving:</p> <ul style="list-style-type: none"><li>(1) Dishonesty (including serious cases of smuggling).</li><li>(2) Violence.</li><li>(3) Sexual offences such as rape, indecent assault or offences involving children.</li><li>(4) Disgraceful conduct of a cruel, indecent or unnatural kind.</li><li>(5) Misuse of drugs.</li><li>(6) Second drink-drive offence where one or both of the offences was aggravated; third non-aggravated offence.</li><li>(7) Terrorist offences.</li><li>(8) Any racially aggravated offence.</li><li>(9) Any other offence that reflects adversely on the integrity of a serviceman.</li></ul>	
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**APPENDIX 5 TO  
ANNEX D TO AGAI 67**

**MAJOR ADMINISTRATIVE ACTION - EFFECTS OF SANCTIONS**

Sanction	Impact	Mark Time	Effective Date of Sanction
(a)	(b)	(c)	(d)
Formal Interview	Copy in the serviceman's AF B9999, removed after 3 years then retained on APC personal file permanently.	N/A	Date of directed letter by deciding authority subject to amendment by Deciding Officer.
Letter of Censure	3 or 5 years on AR/CR book as directed by the Deciding Officer, then retained on APC personal file permanently. Recorded on AF B120.	N/A	Date of directed letter by deciding authority subject to amendment by Deciding Officer.
Rebuke	5 years on AR/CR book then retained on APC personal file permanently. Recorded on AF B120.	1 year	Date of directed letter by deciding authority subject to amendment by Deciding Officer.
Expression of Displeasure	5 years on AR/CR book then retained on APC personal file permanently. Recorded on AF B120.	2 years	Date of directed letter by deciding authority subject to amendment by Deciding Officer.
Expression of Severe Displeasure	5 years on AR/CR book then retained on APC personal file permanently. Recorded on AF B120.	3 years	Date of directed letter by deciding authority subject to amendment by Deciding Officer.
Reduction in Rank - applies to soldiers only	5 years on AR/CR book then retained on APC personal file permanently and published on Part 2 Orders Recorded on AF B120.		Date of directed letter by deciding authority subject to amendment by Deciding Officer. See QRs 9.182.



**FINANCIAL AND CAREER IMPLICATIONS**

1. Financial and career implications are two of several factors that a Deciding Officer must consider. A Deciding Officer needs sufficient appropriate information to enable a well-informed decision to be made. Career and financial advice to the Deciding Officer should cover the range of sanctions that may be considered by the chain of command in a particular case. In practical terms this should be the recommended sanction and the one up and down from it.
2. **Pay.** Financial advice should be based on current rates of pay. Advice and assistance should be sought from SPS staff locally. A copy of AF 09611 detailing the serviceman's income and pension entitlement is then to be generated. From this an assessment of the financial implications is to be deduced and included in the case file.
3. **Discharge/Retirement/Resignation.** Quantitative analysis should be provided on the loss of potential earnings due to leaving the Service prematurely. For officers this should articulate whether or not they have reached the immediate pension point and loss of earnings to age 55 or ROD. For soldiers this should articulate the loss of earnings prior to reaching 22 year point. Loss of Terminal grants and qualification for resettlement grants (if applicable) should be mentioned.
4. **Reduction in Rank.** This applies to soldiers only. Quantitative analysis should be provided on the loss of potential earnings caused due to reduction in rank over the range of ranks which may be considered e.g. a WO2 may be reduced down to Cpl. It should be borne in mind that the pension rate is calculated on the highest rank held for 2 years within the last 5 years of service<sup>49</sup>.
5. **Career Implications of Letter of Censure/Rebuke/Expressions of Displeasure or Severe Displeasure.** A written assessment of the impact on a serviceman's career and employability of these sanctions is to be obtained from the APC. In the case of Ptes, LCpls and Cpls this assessment may be provided by the RCMO who may in turn take advice from the appropriate Col MS Soldiers.
6. **Chaplains and other PQOs.** Career implication advice for Chaplains is provided by CG. Advice for other Professionally Qualified Officers will be provided by the SO1 AR Wg, MS Assurance who will consult with the professional head of the officer's function. CG and other officers providing input to the Originating Officer's report must be careful not to take any action that would compromise the proper function of the chain of command.

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<sup>49</sup> But see rules in AFPS 05.



**DIRECTED LETTER - ADMINISTRATIVE SANCTION**

To: (Insert Number, Rank, Name & Details of Deciding Headquarters  
Regt/Corps):

*Date*

1. I am directed to inform you that In consequence of your /inefficiency/misconduct  
(*insert brief outline*)

Reported by (insert name, rank and appointment of Originating Officer) on (insert date)

You have been awarded an administrative sanction of:

by *insert rank, name and appointment of Deciding Officer*)

2. The reasons for the award are:

*Include how the failing breached the Service Test.*

*Aggravating factors*

*Mitigating factors*

*Reason for variance from guidance*

3. This sanction is to be effective from.....(The reason for this being  
the effective date is<sup>50</sup>.)

4. This sanction will be recorded as a Regimental Entry and details will be visible on  
your CR book for 3/5<sup>51</sup> years.

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<sup>50</sup> See Paragraph 67.036.

<sup>51</sup> See Appendix 3 Paragraph 1b.

**RESTRICTED – STAFF** (when completed)

Signed

for (Comd)

Enclosures:

1. Completed Report by Deciding Authority.
2. Copy of Memorandum of Conviction (as appropriate).
3. Copy of Discipline Record or Conduct Sheet recording the award.

Distribution:

Subject Officer.

MOD PS2(A) – with all enclosures.

APC SO1 AR Wg, MS Assurance (officers). }

Appropriate Col MS Soldiers (soldiers). } (Delete as appropriate)

Intermediate Commander - less enclosures. }

Originating Officer - less enclosures.



**TARGET TIMES FOR COMPLETION OF MAJOR ADMINISTRATIVE ACTION CASEWORK**

1. **General.** All commanders have a duty to process Administrative casework as quickly as possible. Excessive delay runs counter to the principles of fairness and those set out in the Military Covenant. However, there will be many legitimate reasons why AGAI 67 casework may suffer delay. Furthermore, efficiency of dealing is not to be at the expense of justice or the completion of a thorough investigation. Initial investigations should be completed as quickly as possible. There may well be other requirements, such as the need for the RMP or Equal Opportunities Inquiry Team (EOIT) to complete part of the investigation and report before the investigating officer is in a position to proceed. PS2 (A) will monitor the progress of cases at every level and seek explanation where delay seems unreasonable.

2. **Target Times.** The guidelines shown below should be used as targets:

Level	Time allocated in working days	Remarks
Originating Officer	30	Subject to any other specialist investigations being required. Includes 10 days for the serviceman to comment.
Col/1 <sup>*52</sup>	20	If the case is being decided at this level.
	10	If the case is to be passed to the next HA without change to its content or recommendation.
	30	If either the finding or the content of the case is changed materially and the matter has to be disclosed again for comment from the serviceman.
2*	20	If the case is being decided at this level.
	10	If the case is to be passed to the next HA without change to its content or recommendation.
	30	If either the finding or the content of the case is changed materially and the matter has to be disclosed again for comment from the serviceman.
3*	20	If the case is being decided within HQ LAND.
	10	If the case is to be passed to the Army Board without change to its content or recommendation.

<sup>52</sup> This applies equally to Commanding Officers when acting as Intermediate Commander.

	30	If either the finding or the content of the case is changed materially and the matter has to be disclosed again for comment from the serviceman.
PS2 (A)	10	Preparation of case to Army Board.
DALS	10	Preparation of legal advice.
Army Board	40	To include a 5 day period for promulgation of findings.

3. **Exceptional Circumstances.** Where the level of command dealing with the case is unable to meet these timelines then they must request authority to delay, with reasons, to the next Intermediate Commander. When granted this is to be recorded in the case file. Such instances might be:

- a. Block leave.
- b. Illness/absence on the part of an individual(s) vital to the case.
- c. Operational deployments (in this instance the case may need to be passed to another unit or headquarter for process).
- d. Should the serviceman be unable to respond within the allotted time they are at the earliest opportunity, to apply in writing for an extension from the level of command dealing with the case at that time. If the delay is deemed significant, MOD PS2 (A) is to be informed.

4. Circumstances such as deployments to BATUS and general exercise commitments, are generally not considered to be sufficient reason to delay the progress of administrative cases.

**CHECKLIST FOR COMPLETION OF MAJOR ADMINISTRATIVE ACTION CASEWORK**

Initial Assessment.	
Appoint an Assisting Officer.	
Initial Interview.	
Suspension or Removal.	
Investigating The Facts.	
Concluding the Investigation.	
Apply the Service Test.	
Category of Failing.	
The Report.	
Take External Advice.	<p>From:</p> <p>Divisional legal.</p> <p>Manning and Career Management Division.</p> <p>RAO on financial implications of potential sanctions.</p> <p>The formation G1 staff.</p>
Prepare the Report.	
Disclose the Report.	
Interview the Serviceman.	
Forward The Report.	
Interview by Deciding Officer.	
Deciding a Case.	<p>Does the DO have the Authority to decide.</p> <p>Has there been a proper Investigation.</p> <p>Consider Financial and Career Implications.</p> <p>Consider Previous conduct and convictions.</p>

Finding By Deciding Officer.	
Soldier Discharge.	
Promulgation.	
Review.	

**OFFICERS SENTENCED TO IMPRISONMENT BY CIVIL COURTS**

1. When an officer is sentenced to imprisonment the misconduct that led to the sentence and the fact of the sentence itself will normally be inconsistent with the continued holding of the Queen's Commission by the officer. Cases involving officers sentenced to imprisonment (including suspended sentences) will be referred to the Army Board to allow it to consider calling on the officer to retire or resign in accordance with the terms of Article 255 and 256 of the Pay Warrant 1964.

2. The procedure for dealing with cases where officers are sentenced to imprisonment, including sentences that are suspended, is as follows:

a. A commanding officer, on learning that an officer under his command has been sentenced to imprisonment by a civil court, should obtain the following:

- (1) A memorandum of conviction from the court.
- (2) A statement of the financial implications of dismissal, prepared by the unit RAO.
- (3) Sufficient facts about the case to allow the Army Board to evaluate the officer's conduct.
- (4) Any other details the Commanding Officer believes relevant and send it, under cover of a report signed by him personally, to MOD PS2(A), with a copy to his brigade headquarters for the chain of command. MOD PS2(A) will prepare a brief for the Army Board for their direction.

b. The Casework Secretary to the Army Board will send a copy of the Army Board brief to the officer, informing him that the Army Board will consider his case and there will be a serious possibility that the Board will call for him to retire or resign his commission. He will be informed that:

- (1) He may, within 28 days, submit a written representation to the Army Board.
- (2) He may, if he wishes, have an officer nominated to assist him in preparing that representation and in any other matters relating to the case before the Army Board.
- (3) He may request to attend the Army Board Meeting personally. The decision whether to allow this attendance will lie with the Army Board; taking into account factors which include the practical difficulties of such an appearance. In some cases it may be practicable to represent to the Board by VTC.
- (4) He may ask to be legally represented, at his own expense, at the meeting of the Army Board.

3. There is no need, in a case of an officer sentenced to imprisonment, to carry out the complete AGAI 67 action against the officer. The Army Board may exceptionally not require the officer to resign immediately but ask for a full Administrative Report to be prepared

4. In the case of an officer who has been sentenced to a term of imprisonment by the civil power and has been discharged from the Army, the date of discharge shall be the date of conviction.



## PART 4 - FORMAL WARNING

**67.042** The purpose of a Formal Warning is to provide a formal written warning that:

- a. Sets out the failure of a serviceman to meet the standards of professional competence, supervisory ability or personal qualities required.
- b. Details the actions required to remedy the failing(s) and the consequences of not doing so.
- c. Sets out a period of formal performance monitoring.

**67.043** A Formal Warning can be given in a variety of situations:

- a. When the serviceman's behaviour is giving cause for concern but Administrative Action is not yet considered necessary.
- b. After Minor or Major Administrative Action, in addition to a sanction.
- c. After Disciplinary Action.

**67.044** A Formal Warning should not only take into account current performance but also consider previous oral or Formal Warnings, sanctions and general disciplinary record. There must be sufficient evidence to support the Formal Warning and the eventual outcome. A Formal Warning offers a serviceman the opportunity to rectify any shortcomings and, in the absence of any improvement, provides the basis for any subsequent Administrative Action.

**67.045** A Formal Warning may be issued for one or any combination of:

- a. Inefficiency.
- b. Misconduct.

**67.046** **Outline Procedure.** The outline procedure for the initiation of a Formal Warning is at Annex E and associated Appendices and is to be studied carefully before taking action. In outline the Originating Officer should:

- a. Inform the serviceman at interview that he is considering placing him on a Formal Warning.
- b. Offer the serviceman the right of reply at the conclusion of the interview, which must be submitted in writing within 48<sup>53</sup> hrs of the date of interview.
- c. Confirm his decision in writing to the serviceman after considering the facts including the serviceman's representation.

**67.047** **Duration.** A Formal Warning will include monitoring performance, initially for a period of 3 months but this may be extended to 6 months. During this time the serviceman should not normally be posted, attend courses or be promoted although he may be selected. This allows the serviceman properly to focus on addressing those matters that led to the Formal Warning being given. Should a commander wish, in

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<sup>53</sup> That is 2 working days.



exceptional cases to extend a warning beyond 6 months he should seek the authority of PS2(A).

**67.048 Monitoring Performance.** The Originating Officer has a responsibility to monitor and advise the serviceman throughout the warning period. Where direct observation by the Originating Officer is not possible, he must make appropriate arrangements to monitor objectively the serviceman's performance. A written record should be maintained of all interviews. As a minimum, advice should be given formally at least monthly. The record should contain any advice given, goals set and details of assistance given.

**67.049** Reserved.



## FORMAL WARNINGS

### INTRODUCTION

1. A Formal Warning sets out, in writing, a serviceman's failings; details the actions required to remedy them; and the consequences of not doing so. Although raised at unit level and noted by APC (APC SO1 AR Wg, MS Assurance for officers; appropriate Col MS Soldiers for soldiers), the original Formal Warning is processed by APC staff to be placed on the serviceman's AR/CR book for the duration of the warning period and, thereafter, on his Personal File and retained at the Documents Handling Centre. It imposes conditions on certain activities for the period it is in force. If he feels that boards should be aware, the Originating Officer must consider raising an AD 2 AR for an officer (with the agreement of APC SO1 AR Wg, MS Assurance) or Special Report for a soldier (with agreement of the appropriate Col MS Soldiers) to reflect a change in performance. He should also alert the reporting chain. This is to identify whether or not the serviceman remains recommended for promotion. Reporting officers should, refer to shortcomings in performance and/or character that have resulted in a warning (or any Administrative Action) when drafting annual reports. However, no specific reference to a particular warning or sanction may be made in a CR/AR.

2. Examples of circumstances that might warrant a Formal Warning include; a deterioration of standards of work; major or repeated instances of misconduct; inefficiency or unsuitability; Service and civil convictions, police cautions; behaviour that does not comply with the standards of conduct required of Service personnel; or a combination of these. Formal Warnings may well follow repeated Minor Administrative Action or be given alongside a Major Administrative Action sanction.

3. The appropriate authorities to issue Formal Warnings are as detailed at Appendix 1 to this Annex.

### PROCEDURE

**4. Initiating a Formal Warning.** In raising a Formal Warning, the Originating Officer is to:

- a. Inform the serviceman that he is considering placing him on a Formal Warning. This must be done orally by interview and a record retained. At the interview the Originating Officer is to explain the nature of the alleged failings, the principles of Administrative Action and offer the serviceman the opportunity to comment on the allegation and provide an explanation. Issues of fact should be resolved at this stage. The interview is to be conducted with a third party present and a record of interview maintained. The serviceman is to be made fully aware of the range of sanctions that could be awarded if his failings are not rectified.
- b. Offer the serviceman the right to reply in writing at the conclusion of the interview, which must be submitted in writing within 48 hrs<sup>54</sup> of the date of interview.
- c. After considering any new facts including the serviceman's representation, the Originating Officer must without delay confirm his decision to the serviceman by giving him a completed copy of the form contained in Appendix 2 to this Annex,

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<sup>54</sup> That is 2 working days

paragraphs 1-7. The serviceman is to sign a copy to acknowledge that he has received it. A copy of the serviceman's representation is to be attached to the warning. The Warning starts on the day the Originating Officer gives the serviceman the form and the terms of the Warning are those contained in the form at that time.

- d. The Formal Warning must clearly identify the failings in performance or behaviour and set specific recovery targets and review dates.
- e. The Originating Officer is to send a copy of the Formal Warning to the APC where it will be processed, placed on the serviceman's AR/CR book for the duration of the warning period, and moved to the serviceman's Personal File at the end of the warning period and retained at the Documents Handling Centre.
- f. A copy of the Formal Warning is placed on the Unit Personnel Folder AF B9999. It is to be destroyed within 2 years of the date of withdrawal of the warning or on posting of the serviceman – whichever is the earlier.
- g. Inform HA.

**5. Monitoring a Formal Warning.** Units should use the type of monitoring which is best suited to their organisation and environment, the following principles should apply:

- a. A responsible person must monitor the performance of the serviceman against the performance targets given to them when the warning was issued.
- b. The assessment of performance must be recorded monthly or more frequently.
- c. The serviceman must be told of the assessment made of his performance.

**6. Ending a 3 month Warning Period.** The initial period for the Formal Warning is three months. The APC SO1 AR Wg, MS Assurance for officers; appropriate Col MS Soldiers for soldiers is to be informed at all stages of all outcomes. Within 14 days after the end of the 3 month period, the Originating Officer must review the case and determine whether to:

- a. Remove the serviceman from warning and copy the Formal Warning completed at paragraphs 7 and 8 to the APC.
- b. Place the serviceman on a Formal Warning for a further 3 months and copy the Formal Warning completed at paragraphs 8 to the APC. It will be necessary to formally record why a second period of warning is required and what further improvement is required.
- c. Initiate Administrative Action and copy the Formal Warning completed at paragraphs 7 and 8 to the APC.
- d. If an application for discharge of a LCpl or Pte is being made, complete paragraph 8 and an AFB 130A /130A(TA) is to be used.

**7. Ending a 6 month Warning Period.** If retained on a Formal Warning for a further 3 months, at the 6 month point, the Originating Officer is to either:

- a. Remove the serviceman from warning and copy the Formal Warning completed at paragraphs 7 and 8 to the APC; or

- b. Initiate Administrative Action and copy the Formal Warning completed at paragraphs 7 and 8 to the APC.
- c. If an application for discharge of a LCpl or Pte is being made, complete paragraph 7 and an AFB 130A /130A(TA) is to be used.

## **IMPACT**

8.The immediate effects of a Formal Warning are:

- a. To stop a serviceman from being posted or attached for the duration of the Formal Warning although internal postings are permitted.
- b. To place a bar on, but not selection for, promotion for the duration of the Formal Warning. If the serviceman's performance is then deemed to be satisfactory and the Formal Warning is withdrawn, the serviceman may be promoted in accordance with the board selection.
- c. To attend a course normally only if the serviceman remains on the posted strength of the unit that issued the Formal Warning. Attendance is at the discretion of the CO.
- d. That for the duration of the Formal Warning, the serviceman may be considered by further service or training boards, conversion selection boards, officer extension boards, officer transfer boards and re-enlistment, re-engagement boards but the results will not be promulgated until such time as the serviceman is removed from warning.

9.Servicemen who are issued with a Formal Warning are to be informed of any action to be taken within 14 days of the expiry date of the warning. If not informed by this time the warning is deemed to have lapsed.

10.A Formal Warning is intended to be rehabilitative in nature. Nonetheless, the need to issue a Formal Warning must call a serviceman's suitability for promotion or continued service into question – at least in the short term and may be subject to comment in an AR/CR, although no direct reference to a Formal Warning may be made in any AR/CR. At the conclusion of the warning process, APC staff will place all the original documents on the serviceman's Personal File held in the Document Handling Centre.

Appendices:

- 1. Table Of Authorities.
- 2. Formal Warning Form.



**FORMAL WARNINGS - TABLE OF AUTHORITIES**

Rank of Subject	Minimum Rank of Warning Officer
(a)	(b)
1*	2*
Col	1*
Lt Col	Col
Maj	Lt Col
Capt & Lt	Lt Col
WO1	Maj (Note 1)
WO2	Maj
SSgt	Maj
Sgt	Maj
Cpl	Maj
LCpl	Maj
Pte	Maj

Note:

1. In the case of an RSM, the authorised officer will be the CO.





**FORMAL WARNING**

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**1. Serviceman's Details.**

Name & initials	Army / P / Number	Regt / Corps	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Commission or CEG/CEQ	Acting Rank	Substantive Rank	Date of Birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Date Assumed Appointment	Theatre/Country	Post and Unit	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

**2. Formal Warning issued on the grounds of:** (tick boxes as appropriate)

**Inefficiency**         **Misconduct**  

**3. Justification by Originating Officer.** (use additional sheet if required)

<i>Details of failings</i>
<i>Improvement or changes necessary</i>

**4. Review Date.**

a. This Formal Warning expires on: (insert date)

b. It will be reviewed prior to this date and no later than 14 working days after the expiry date.

If not done so, then it is to be considered as having been completed to my satisfaction and no further Administrative Action will be considered with respect to this Formal Warning.

**5. Originating Officer's Signature:**

Rank and name

Appointment and unit

Signature

Date of signature

**6. Serviceman's Acknowledgement:**

a. I acknowledge that I have today been warned by my Officer Commanding/Commanding Officer that if my performance and/or my overall standard of conduct do not improve then I may be subject of an AGAI 67 Action Report and I am aware of the range of sanctions I may be awarded should my failings not improve to an acceptable level.

b. I have submitted a written representation.

Signature

Date of signature

**7. Originating Officer's 3 Month Review.**

This Formal Warning has been served satisfactorily and therefore:

This Formal Warning has been served unsatisfactorily and therefore:

The Formal Warning should be lifted.  (tick box as required).

The warning is extended for a further 3 months.

Administrative Action will now be initiated.

AF 130B Action will now be initiated.



**8. Originating Officer's Final Assessment.**

Signature

Date

## PART 5 - REMOVAL FROM APPOINTMENT

### INTRODUCTION

**67.050** Formal removal from appointment may sometimes be the only appropriate course of action if it is considered that the individual is unable to remain in a particular appointment for reasons of unsuitability, inefficiency or misconduct. These categories are described in paragraph 67.018. Any decision to remove an officer or soldier from appointment is taken in the interests of the Service and the serviceman concerned. Commanders must remember that removal from appointment is not normally a sanction, but that it is an action that may be a necessary complement to, but may not take the place of any separate statutory Disciplinary or Administrative Action. Posting within unit, change of duties, suspension from duty or removal from appointment, do not amount to a pre-determination of a case but may be necessary in the interests of the Service and the serviceman. Removal must never be effected by informal or indirect means, such as an early re-assignment.

**67.051** The process for directing that officers and soldiers be removed from appointment lies jointly with the chain of command and the Military Secretary. In the APC, for less senior officers authority may be exercised on his behalf by DMS, and for soldiers by the Col of the respective MS Soldiers Branch. The application to remove from appointment is staffed up the chain of command to the officer listed in Appendix 1 to Annex F who will then pass it to the Military Secretary with the chain of command recommendation. Both the chain of command Deciding Officer and MS (or his delegated authority) will see the written representation of the service person. The chain of command is to consult and agree with MS (or his delegated authority) the decision on removal from appointment. No removal will take place unless the chain of command Deciding Officer and MS (or his delegated representative) agree that removal is necessary. The chain of command Deciding Officer will in every case offer an interview to the service person representing the chain of command and MS.

### REMOVAL

**67.052** **Suspension.** When considering removal from appointment, where the serviceman's position has become untenable the CO should consider suspension until the facts of the case have been investigated.

**67.053** **Types of Removal.** Removal from appointment will be one of three types:

a. **Non-Blameworthy.** Where a serviceman has to be removed from appointment prematurely under circumstances that do not involve any misconduct or inefficiency, e.g. where the serviceman was unsuitable for the appointment. If a Major Administrative Action investigation has taken place the Deciding Officer must have found that no breach of the Service Test has occurred.

b. **Without Prejudice.** It will be unusual to remove a serviceman from appointment before the finding of a court-martial or Major Administrative Action. Normally a serviceman who is untenable in post should be suspended until the allegation is proved or otherwise. However, in some circumstances:

(1) It may be necessary to remove the serviceman before a finding, if the investigation is complex and the post is a key one for which a replacement is urgently required.

(2) It may be that the removal from appointment will go ahead irrespective of the finding of the Administrative Action, for example where there is intrusive press interest.

In such unusual circumstances the Military Secretary may be asked to authorise a removal without prejudice. Where removal without prejudice is initially authorised, once the Administrative Action is complete the Deciding Officer should inform the Military Secretary whether the Service Test was breached. The Military Secretary will then decide whether the removal was Blameworthy or Non-Blameworthy.

c. **Blameworthy.** Blameworthy removal may occur after the Deciding Officer of a Major Administrative Action has decided that a breach of the Service Test has occurred or a court-martial or summary dealing has made a finding of guilty. Removal on the grounds of inefficiency will normally follow a period of warning and where no improvement has taken place. It may be that the inefficiency, or its effect, is so great that in the deciding officer's view no period of warning would be sufficient to correct it. In that case an application for removal from appointment might, unusually, be made at the end of an Administrative Action process but without a period of warning.

**67.054 Procedure.** The procedure for removal and suspension from appointment and the relevant report is described in detail at Annex F.

**67.055 Army Board.** Exceptionally, the Army Board, when acting as a Deciding Officer, can order removal from appointment as part of the determination of a case and under this exception, and only this, removal from appointment can be ordered as a sanction.

**67.056 Internal Reorganisation.** A serviceman may need to be removed from his immediate environment before, during or after an investigation of an allegation, or of any matter which appears to reflect adversely on that person's character or conduct. Normally a reallocation of duties within the same establishment is not a removal from appointment. Removal from a command (other than platoon or troop command) or other key appointment should be considered as a removal from appointment.

**67.057 Removal from an Operational Theatre.** Where a CO wishes to remove a serviceman from the operational element of his command to his rear party, this is not normally considered to be a removal from appointment; however, removal from a command (other than platoon or troop command) or other key appointment falls outside this general rule. If the need arises to remove a serviceman immediately from appointment prior to deployment or on operations then the CO must complete Appendix 2 to Annex F. In this way he will seek the support of his higher authority who may submit his request directly to APC, MS Assurance, SO1 (MSF) Appraisal for officers, or Col MS Soldiers for other ranks, detailing his intentions by the most expeditious means (by email or fax). For officers SO1 (MSF) Appraisal will obtain a verbal decision from MS. For other ranks Col MS Soldiers will respond. Thereafter, the removal from appointment report must be submitted retrospectively, as soon as possible. If the situation permits, the text of the written application should be shown to the serviceman. In these circumstances, time will be of the essence and therefore the procedures relating to warning, interview and right of response may, out of necessity, be waived.



## REMOVAL FROM APPOINTMENT AND SUSPENSION

### INTRODUCTION

1. The 3 principal grounds for requesting removal from appointment are unsuitability, inefficiency and misconduct. Every potentially blameworthy removal from appointment must be supported by Major Administrative Action to decide on grounds and culpability. The process of removing a serviceman from appointment should not concern itself with blame but confine itself to whether the serviceman has become untenable in his post. A removal may be found subsequently to be blameworthy but that issue will be decided by the Administrative Action investigation, not the removal process.
2. A commanding officer may suspend<sup>55</sup> an officer, warrant officer, NCO or private soldier from duty during the investigation of an alleged offence or of any matter, if, following an initial investigation, he considers that such action is necessary in the interests of the service or the individual.

### SUSPENSION

3. When considering removal from appointment, where the serviceman's position has become untenable the CO should consider suspension until the facts of the case have been investigated. When a commanding officer suspends an officer, warrant officer, NCO or private soldier, he is to appoint an Assisting Officer for that person immediately upon suspension. The Assisting Officer, if necessary, provides a channel of communication between the CO and serviceman and, if required, helps prepare his representation.
4. If an officer, warrant officer, NCO or private soldier is suspended from duty he is not permitted to visit his place of work or barracks, nor is he allowed to attend military social functions. Commanding officers must also consider the living arrangements of living-in personnel, whether married unaccompanied or single so as to best judge where suspended personnel may be best accommodated during the suspension period.
5. If the circumstances so require and with the sanction of the commander not below the rank of brigadier (under whose command he is serving), he may be permitted to go to an agreed civilian address other than one at which he would normally reside for work, at public expense to await further orders. When such permission is granted, the circumstances are to be reported immediately, through the next superior headquarters, to the Ministry of Defence (PS 2(Army)) in the case of an officer and to the appropriate Manning and Career Management Division, in the case of a warrant officer, NCO or private.

### REMOVAL FROM APPOINTMENT

6. There are 3 types of removal from appointment:
  - a. **Non-Blameworthy Removal.** If clearly Non-Blameworthy from the outset, then the serviceman may be posted and resume his career without further detriment. This might be on compassionate grounds for example. In such cases the serviceman may endorse the removal form that he is content that the matter be dealt with speedily between his CO and the APC without the involvement of a higher authority. However, the default is that the removal from appointment procedure in

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<sup>55</sup> QR 6.015.

this Annex, including the completion of the form at Appendix 2, is followed in all cases although in these, clearly Non-Blameworthy cases, no Administrative Report is required. This ensures that the reasons for his removal from appointment are considered in judging his suitability for future employment.

b. **Removal Without Prejudice.** Whilst an officer or soldier is suspended he continues to fill his line serial number and cannot be replaced. In a small number of cases, where the post is a key one and the gap is likely to be lengthy, the Originating Officer may decide on a Removal Without Prejudice straight away. At the end of the Administrative Action investigation the Deciding Officer will inform the APC of the findings and recommend whether the removal should be recorded as Blameworthy or Non-Blameworthy. No case can be closed as "Without Prejudice".

c. **Blameworthy Removal.** Blameworthy removal may occur after the Deciding Officer of a Major Administrative Action has decided that a breach of the Service Test has occurred or a court-martial or summary dealing has made a finding of guilty. Removal on the grounds of inefficiency will normally follow a period of warning and where no improvement has taken place. It may be that the inefficiency, or its effect, is so great that in the deciding officer's view no period of warning would be sufficient to correct it. In that case an application for removal from appointment might, unusually, be made at the end of an Administrative Action process but without a period of warning.

7. **Returned to Unit (RTU).** Should a serviceman fail to meet prescribed standards of performance at the start of or during a career course<sup>56</sup> then returning a serviceman to his parent unit may be an appropriate course of action and is therefore not regulated by the procedure set out in this chapter. If the serviceman's performance is deemed to be unacceptable on the grounds of inefficiency, misconduct, or unsuitability, then the training establishment must instigate the procedure to remove the serviceman from post and subsequently raise an Administrative Report.

## PROCEDURE

8. **Non-Blameworthy.** The procedure for removal is listed below. The Originating Officer will:

a. Decide whether the serviceman has become untenable in post because of circumstances that do not reflect any potential discredit on him.

b. Complete a draft Appendix 2 of this Annex completed up to paragraph 5 and send it to APC, MS Assurance, SO1 (MSF) Appraisal for officers, the appropriate Col MS Soldiers for other ranks and the chain of command. The Originating Officer will agree the grounds for removal and the category with DMS' delegated officer.

c. Appoint an Assisting Officer. The duties of an Assisting Officer are at Annex A to this AGAI.

d. Provide notice to the serviceman at interview, in the form of paragraphs 1 to 5 of Appendix 2 to this Annex, that he intends to apply for his removal from appointment. The Serviceman may endorse the form that he is happy for the removal to proceed without further reference to the chain of command.

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<sup>56</sup> A career course is one that is required for further promotion.



- e. If the serviceman is not content for the removal to proceed immediately, before deciding on the case the Originating Officer will offer the serviceman the right of reply by making a representation within 10 working days of the interview.
- f. Inform the serviceman, at interview if practicable, of his final decision to reject the case or proceed with it and provide him with a copy of the appropriate form.
- g. Send a copy of Appendix 2 to this Annex to APC MS (AR) via the chain of command.

9. **Without Prejudice.** If the serviceman has become untenable in post and his post is one which is so vital that it cannot be left unfilled for the period of the investigation then apply for removal from appointment without prejudice. The procedure to for removal without prejudice is:

- a. Complete a draft Appendix 2 of this Annex completed up to paragraph 5 and send it to APC, MS Assurance, SO1 (MSF) Appraisal for officers, the appropriate Col MS Soldiers for other ranks and the chain of command. He will agree the grounds for removal and the category with DMS and the chain of command.
- b. An Assisting Officer is appointed. The duties of an Assisting Officer are at Annex A to this AGAI.
- c. The Originating Officer will provide notice to the serviceman at interview, in the form of paragraphs 1 to 5 of Appendix 2 to this Annex that he intends to apply for his removal from appointment. Before deciding on the case he will offer the serviceman the right of reply by making a representation within 10 working days of the interview.
- d. The Originating Officer will send draft copies of Appendix 2 to this Annex to SO1 AR Wg, MS Assurance and up the chain of command. He will obtain outline agreement that the removal and its proposed category are appropriate.
- e. At the end of the 10 days from the interview the Originating Officer will inform the serviceman at a subsequent interview of the final decision to reject the case or proceed with it, and provide him with a copy of the appropriate form. The Originating Officer will send the completed form via the chain of command to the MS.
- f. The Deciding Officer will offer the service person an interview.
- g. Once both the Deciding Officer and MS (or his delegated authority) have seen the application and the subject officer's representation, they will agree whether a removal is justified.
- h. At the end of a Major Administrative Action the Originating Officer will confirm the Blameworthy or Non-Blameworthy nature of the removal carried out earlier and inform the APC accordingly.

10. **Blameworthy.** The procedure for removal is completed after it is has been found that the Service Test has been breached is set out below. The process may be started at any time in the process of investigating or deciding a Major Administrative Action but cannot be completed before that action is completed:

- a. As a first step, the CO must decide whether the serviceman has become untenable in post and suspend him immediately if necessary. The CO must continually review the need for suspension as the situation changes.
- b. The Originating Officer should complete a draft Appendix 2 of this Annex completed up to paragraph 5 giving details of the allegation and send it to SO1 AR Wg, MS Assurance and the chain of command. Agree with DMS and the chain of command that removal from appointment is justified or would be if the allegation were proved.
- c. An Assisting Officer is appointed if this has not already happened in connection with the Administrative Report. The duties of an Assisting Officer are at Annex A to this AGAI.
- d. The Originating Officer will provide notice to the serviceman at interview, in the form of paragraphs 1 to 5 of Appendix 2 to this Annex, that subject to the allegation being proved, that he intends to apply for his removal from appointment. He will offer the serviceman the right of reply by making a representation within 10 working days of the interview before deciding on the case. This will often be done at the Administrative Action Originating Officer's main interview with the serviceman. (Annex D Paragraph 16).
- e. After the 10 days the Originating Officer will inform the serviceman of his final decision to reject the case or proceed with it and provide him with a copy of the appropriate form.
- f. The Originating Officer will send a copy of Appendix 2 to this Annex up the chain of command, with the Administrative Report if possible, or on its own if the case has already been decided.
- g. At the end of a Major Administrative Action the Deciding Officer will confirm that the Service Test has been breached and submit the application for removal to the APC for execution.
- h. Once both the Deciding Officer and MS (or his delegated authority) have seen the application and the subject officer's representation, they will agree whether a removal is justified.
- i. On some occasions even where no application for removal accompanied an Administrative Report the Deciding Officer may decide that the serviceman is untenable in post and direct that an application for removal is to be initiated by the Originating Officer.

11. **The Report.** The format of the report is at Appendix 2 to this Annex. In the first instance the Originating Officer is to seek advice from his higher authority. It is vital that the Originating Officer also informs and takes advice from the MS chain and the APC from the outset, taking particular care not to overlook the MS chain where this function differs from the normal chain of command (eg MOD, DPA or DLO). In raising the report, the Originating Officer is to:

- a. Provide notice to the serviceman at interview, in the form of paras 1-5 of Appendix 2, that he intends to apply for his removal from appointment. This will normally be done at the same time as the Major Administrative Action Originating Officer's interview. In addition to explaining the grounds for the removal, he must

explain the principles of Administrative Action and offer the opportunity to comment on the case. A record of interview is to be retained.

b. Appoint an Assisting Officer unless the serviceman declines one at paragraph 6 of Appendix 2 of this Annex. The duties of an Assisting Officer are at Annex A to this AGAI.

c. Offer the serviceman the right of reply by making a representation within 10 working days of the interview before deciding to proceed with the application.

d. Inform the serviceman at a subsequent interview of his final decision to stop the application for removal or proceed with it and provide him with a copy of the appropriate form.

e. If proceeding, send his recommendation to HA, at the end of the 10 days from this interview.

12. **Legal Advice.** The serviceman has the right to take legal advice at any stage throughout the procedure at his own expense. No legal representative is permitted to attend any interview with either the Originating Officer or HA.

13. **Intermediate Commander(s) and Deciding Officer.** At each level commanders must be satisfied that:

a. There has been a thorough and fair investigation into the case. If not, the case should be referred back to the CO for further representation or explanation.

b. The relevant MS Chain has been kept informed and consulted from the outset.

c. On the evidence contained in the report and taking into account the representations (if any) of the serviceman concerned, the circumstances of the case justify removal from appointment, if that is the recommendation.

14. **Interview.** The application for removal from appointment is staffed to the Deciding Officer<sup>57</sup> listed in Appendix 1 of this Annex. Intermediate commanders seeing the request should sign it and make comment if they consider it necessary. The completed form is then sent by the fastest available means to APC Glasgow.

15. **Warnings.** In the case of Removal from Appointment on the grounds of inefficiency, a serviceman will normally have been placed on a Formal Warning<sup>58</sup>. This may not be applicable in all cases. Advice should always be sought from APC, MS Assurance, SO1 (MSF) Appraisal for officers and the appropriate Col MS Soldiers before proceeding to seek removal without prior warning.

## **MS/MCM DIVISION ACTION**

16. MS or his delegated representative representative (DMS in the case of less senior officers or the appropriate Colonel MS Soldiers in the case of soldiers) will act as the final authority on whether to support the removal from appointment. This will be the culmination of a process initiated and staffed by the chain of command, but with the close co-operation

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<sup>57</sup> Deciding Officer is something of a misnomer as the officer is actually only making a recommendation to MS on behalf of the chain of command. It is MS who has the final say on whether the serviceman is removed from appointment.

<sup>58</sup> See Part 4 and Annex E,

of the MS chain, including the APC, throughout. In blameworthy cases the completed Appendix 2 to this Annex will be placed on the AR/CR book for 5 years (3 years, if the Major Administrative Action results in a Letter of Censure limited to 3 years or a Formal Interview). Thereafter it will be moved to the P File. MS will direct the need for a review report (AD5 AR/CR). In non-blameworthy cases the completed Appendix 2 to this Annex will be placed on the P File.

17. **Promulgation of the Decision.** MS or his delegated representative will promulgate the final decision by letter. The Originating Officer is responsible for informing the subject of this decision.

## **EXCEPTIONAL CIRCUMSTANCES**

18. **Units Preparing For Or On Operations.** The Originating Officer should complete Appendix 2 to Annex F, and submit it to the chain of command. The Deciding Officer may submit his request directly to the APC detailing his intentions by the most expeditious means (by telephone, email or fax). Col MS Assurance will obtain a verbal decision from MS or his delegated representative and respond. In these circumstances the serviceman must be warned and interviewed but his right of response and subsequent procedures must be completed after he has returned to his unit. The responsibilities for completing the removal from appointment procedures and subsequent Administrative Report remain with the unit and their rear party.

19. **Exceptions.** Exceptionally there will be non-blameworthy cases where circumstances indicate that the formal process of removal is unnecessary. These are likely to be initiated by formal request for a move from a serviceman to the chain of command or the APC, towards the end of a serviceman's original tour, where commanders are content and where the interests of the Service are at worst, not compromised and may, at best even be enhanced by such a move. Each case will be considered on its merits and, when authorised by APC, MS Assurance, SO1 (MSF) Appraisal for officers and the appropriate Col MS Soldiers for other ranks, the short tour move will be carried out without recourse to the formal provisions of this AGAI.

### Appendices:

1. Table Of Authorities.
2. Removal From Appointment Form.

**APPENDIX 1 TO  
ANNEX F TO AGAI 67**

**REMOVAL FROM APPOINTMENT - TABLE OF AUTHORITIES**

Subject Rank	Initiated by	Non-Blameworthy Recommendation from Chain of Command by	Blameworthy or Without Prejudice Recommendation from Chain of Command by	Final Authority
(a)	(b)	(c)	(e)	(f)
1*	2*	2*	3*	MS
Col	1*	2*	3*	MS
Lt Col	1*	2*	2*	MS
Maj	CO	1*	2*	DMS
Capt & Lt	CO	CO at RD Col	1*	DMS
WO1	CO	CO at RD or Col	2*	Col MS Soldiers Cbt,CS or CSS
WO2	CO	CO at RD or Col	1*	Col MS Soldiers Cbt,CS or CSS
SSgt	OC	CO at RD or Col	CO	Col MS Soldiers Cbt,CS or CSS
Sgt	OC	CO at RD or Col	CO	Col MS Soldiers Cbt,CS or CSS
Cpl	OC	CO at RD or Col	CO	Col MS Soldiers Cbt,CS or CSS
LCpl	OC	CO at RD or Col	CO	Col MS Soldiers Cbt,CS or CSS
Pte	OC	CO at RD or Col	CO	Col MS Soldiers Cbt,CS or CSS



**REMOVAL FROM APPOINTMENT**

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**1. Serviceman's Details.**

Name & initials	Army / P /Number	Regt / Corps	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Commission or CEG/CEQ	Acting Rank	Substantive Rank	Date of Birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Date Assumed Post	Theatre/Country	Post and Unit	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

2. The above named serviceman should be removed from appointment on the grounds of alleged:

**Inefficiency**       **Misconduct**       **Unsuitability**

3. The grounds have been deemed to be:

**Blameworthy**       **Non-Blameworthy**       **Without Prejudice**

4. The serviceman has been in post for  months and under my command for  months.

5. **Reasons for Removal** (use additional sheet if required).

Rank and Name

Appointment and Unit

Signature

Date of Signature

Serviceman's Initials and Date

**6. Serviceman's Statement:**

**Non Blameworthy Removal Only:**

I am content that this removal proceeds without reference to higher authority.

(Tick box as required).

**All Removals:**

I do wish to have an officer nominated to assist me.

I do not wish to have an officer nominated to assist me.

I have been made aware of my right to submit a written response with this report, within 10 working days.

My written response is attached.

My written response is not attached.

Signature

Date of Signature



**7. Intermediate Commander/Deciding Officer:** (Delete as appropriate)(Attach further sheets at each level of authority)

a. Have you interviewed the serviceman?    **Yes**               **No**  

b. Do you support the request at Page 1?    **Yes**               **No**  

c. **Remarks:**

Rank and Name

Appointment and Unit

Signature

Date of Signature