

VOLUME 2 - CHAPTER 67 - ADMINISTRATIVE ACTION  
[D/DPS(A)/3/67/PS2(A)]

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<b>Gender</b>	Throughout the document the male gender is used to represent both male and female personnel
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## PART 1 - INTRODUCTION

**67.001** 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.”*

**67.002** 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 Service law, that is the Armed Forces Act 2006, in order to support their disciplinary role. The Manual of Military Law<sup>1</sup> clearly set 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 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."*

**67.003** 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 Service Criminal Justice System. Disciplinary Action is action taken (to uphold good order and military discipline) by commanders using their statutory powers. It encompasses Service custody, summary hearing, Court Martial and Appeal. The statutory *Service 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 Armed Forces Act 2006 makes any offence under civil law an offence under Service law. Disciplinary Action is a distinct and formal process, which is officially recorded and may result in individuals receiving criminal and prison records. Service 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>2</sup>. Evidence of a failure to comply with the Army's Values and Standards will always be considered when deciding whether or not the Service Test has been breached. Through the process of the Administrative Report sanctions may be applied to restore current operational

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<sup>1</sup> Although relating to the Army Act 1955 not the current Act the introduction remains clear and pertinent.

<sup>2</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 67.020.

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 Service criminal justice system. Administrative Action may result in a range of outcomes from a Censure (No Disc Entry) to, in the most serious cases, termination of service. It is taken in accordance with the procedures set out in this AGAI.

The Army's discipline system comprises; AFA 2006 (criminal law) and AGAI 67 (employment law). Any investigation, sanctions or punishments awarded without following the proper process set out in one or other of these components may be unlawful. Those who apply such unauthorised processes or award punishments outside the proper processes may themselves be subject to investigation to ascertain whether offences have been committed or the Service Test breached.

**67.004** Disciplinary Action and Administrative Action are both necessary and complementary to one another. Although their uses are entirely separate, their uses are not mutually exclusive: 'upholding good order and Service 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 Service law. On the other hand, Administrative Action – which is intended to set straight shortcomings which breach the Service Test – should only be used for matters that would amount to criminal conduct or to a disciplinary offence that has 'criminal' elements if this course is supported by both G1 and written legal advice. Such support will only be given in cases where the interests of justice do not require the Chain of Command to take disciplinary action. This might include where an offence dealt with by a civilian court has had an effect on operational effectiveness or where facts were revealed during a disciplinary investigation or trial which were not dealt with in the disciplinary process.

**67.005** 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>3</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.

**67.006** 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 and to the Court Martial Appeal Court. These are all statutory rights. Administrative Action includes review by a superior commander. A soldier also has a right of complaint under Section 334 of the Armed Forces Act 2006<sup>4</sup>. 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.

**67.007** Administrative Action is essentially a single Service matter thus an Officer from another Service may not be the Deciding Officer for Administrative Action other than Minor Administrative Action or the issue of a Formal Warning as the other Services apply different regimes. Where the Commanding Officer is RN or RAF then an Army Commanding Officer will be appointed as the Deciding Officer for the purposes of taking Administrative Action and the matter will follow his

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<sup>3</sup> As highlighted in the Aitken Report 25 Jan 08.

<sup>4</sup> Using JSP 831

disciplinary Chain of Command. In all matters relating to AGAI 67 the Chain of Command to be used is the Discipline Chain of Command issued by Army HQ.

## TYPES OF AND TERMS USED IN ADMINISTRATIVE ACTION

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

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

and two are purely administrative involving career management action:

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

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

- 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 to Part 1.
- d. **Intermediate Commander.** Any commander in the Chain of Command between the Originating Officer and the Deciding Officer.<sup>5</sup>
- e. **Authorised Commander.** A colonel authorised by the Defence Council to act as or on behalf of a 1\* commander.
- f. **Higher Authority.** Higher authority, in relation to a commanding officer, means any officer in the commanding officer's disciplinary chain of command who is superior in that chain of command to the commanding officer.
- 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 may have been breached. This AGAI, therefore, applies at all times to all Army personnel, both on and

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<sup>5</sup> Because the 3\* Officers in the Discipline Chain of Command are also Army Board Members they do not act as intermediate commanders between GOCs and the Army Board.

off duty and includes those on operations. It includes all members of the Regular 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. In Major Administrative action, Warnings and Removals, apart from when acting rank is held solely because a soldier selected for promotion has yet to pass CLM, Servicemen will be dealt with in their substantive rank. For Minor Administrative Action Servicemen 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 the balance of probabilities and it is the standard of proof used in civilian employment law cases. Only if the Deciding Officer is satisfied on the balance of probabilities the alleged conduct occurred does he then go on to consider whether or not the Service Test has been breached.

**67.012 RMP Evidence.** All information and material gathered by the chain of command for purposes other than administrative action, such as guard reports etc, is generally admissible as evidence in an administrative enquiry. However, care is required when using evidence gathered, usually by the RMP, during the course of a police led disciplinary or criminal investigation which may or may not have resulted in disciplinary or criminal proceedings being instituted. RMP evidence usually falls into two categories:

- a. **Witness statements.** Witness statements obtained by the RMP may be used in an administrative enquiry where the witness has consented to the use of the statement in such matters. Where an Initiating Officer wishes to use witness statements for administrative purposes, he should contact the investigating RMP unit to establish which witnesses have provided this consent. In the event that a witness has not consented, the witness may be approached by the Initiating Officer requesting his or her consent to the witness statement being used for the purposes of the administrative enquiry. Where the consent of a witness has been given, or is subsequently obtained, documentary and other evidence exhibited to the witness's statement may also be used for administrative purposes.
- b. **RMP interviews under caution (IUC).** These are confidential interviews between a person reasonably suspected of having committed an offence contrary to Armed Forces Act 2006 and the RMP. Therefore, they are not usually disclosable, except as part of potential disciplinary or criminal proceedings, unless the consent of the suspect is obtained. However, where the chain of command requires access to an IUC (and the suspect has not provided consent), in order to pursue an administrative enquiry, an application must be submitted to the RMP explaining why the IUC is required and how its disclosure would enable the chain of command to fulfil its function of properly considering whether or not the Service Test has been breached in a particular case. Where the chain of command is already in possession of an IUC (because the RMP have referred a disciplinary case to the chain of command) the RMP's authority for the use of the IUC for a non-policing purpose must still be obtained.

It is for the Initiating Officer, in conjunction with his or her Comd Legal, to formulate a request for disclosure, on behalf of the CoC which should be forwarded to the OC of the Service Police unit which conducted the investigation. If the AGAI Initiating Officer is not given the IUC he or she may still request a statement from the subject of the administrative enquiry. This may be more useful than an IUC, because the statement can be focussed on the alleged breach of the Service Test rather than being focussed on proving a discipline or criminal offence.

**67.013 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.

**67.014 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 CM Ops for officers or the appropriate Col MS Soldiers<sup>6</sup> for soldiers. Where the circumstances warrant, DPS (A), on behalf of AG, will direct that an Administrative Investigation should be carried out.

**67.015 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.

**67.016 Review.** Administrative Action includes review by a superior commander. In addition, both soldiers and officers have the right of complaint under Section 334 of the Armed Forces Act 2006.

**67.017 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 Annex I to Part 3 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.

## GROUNDINGS FOR ADMINISTRATIVE ACTION

**67.018 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, or may have been, adversely affected.

**67.019 Grounds.** The grounds for the Chain of Command taking 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 67.019b 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 or soldier 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.

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<sup>6</sup> Cols MS Sldrs (Combat), (Combat Support) or (Combat Service Support).

b. **Inefficiency.** Inefficiency is a failure to perform a given duty, task or function to the required standard 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 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 includes, but is not limited to, the following categories, which are explained below:

- (1) Personal.
- (2) Social.
- (3) Conviction by a court<sup>7</sup>.
- (4) Findings of other tribunal proceedings.
- (5) Matters exposed by other investigations<sup>8</sup>.

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

- (1) Discrimination.
- (2) Bullying and Harassment<sup>9</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

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<sup>7</sup> A sentence imposed by a criminal court outside England and Wales is to be treated as the sentence to which it most closely corresponds in the criminal justice system of England and Wales (see s.5(7)(f) ROA 74)

<sup>8</sup> Simple Police Cautions are spent immediately Rehabilitation of Offenders Act 1974 (ROA74) and are therefore not dealt with by AGAI action and normally the soldier does not need to inform the Chain of Command that they have received one. However, conditional cautions should be reported by RMP personnel and those trades which are subject to vetting may have to report cautions and AGAI action may follow. In these cases take legal advice.

<sup>9</sup> For the investigation of complaints of Harassment see JSP 763.

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 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 67.020. 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.
- (2) Consider that where there is a direct military connection; conduct which breaches the Service Test (including consensual behaviour) may be subject to Administrative Action due to its actual, or potential, adverse impact on the efficiency or operational effectiveness of the Service. Administrative Action is not taken to impose one person's morality on another: simple disapproval is not enough to justify Administrative Action; an Originating Officer must state and a Deciding Officer must be satisfied, on a balance of probabilities, of a real or potential impact on efficiency or operational effectiveness. The sanction for a breach of the Service Test may be different depending, among other factors, upon the rank of the serviceman against whom the Administrative Action is taken or any position of trust or responsibility which he holds. Divisional G1 and written Legal advice is to be obtained in all cases of alleged social misconduct.

f. **Misconduct – After Court Martial, Court Martial Appeal Court, Civil Criminal Court, Summary Appeal Court or Summary Hearing.** Administrative Action is always to be considered, (subject to the Service Test being breached) and legal advice sought in the circumstances outlined in this paragraph. In such cases:

- (1) A conviction<sup>10</sup> by a civil court is always to be recorded on the individual's Discipline Record immediately the unit becomes aware of the fact. This is not in itself Administrative Action but a simple recording of the facts of the conviction.
- (2) Administrative Action may only be taken on the basis of a civil conviction or other disposal (e.g. a conditional caution) if the Administrative Action will be completed before the conviction is spent.<sup>11</sup>
- (3) Before starting Major Administrative Action the Originating Officer must be satisfied that there is an apparent breach of the Service Test which, if found to be true, might merit a sanction of Termination of Service, Reduction In Rank or Forfeiture of Seniority. If after the initial interview or at any stage in the investigation the Originating Officer comes to the conclusion that the Service Test has been breached but in a manner that would not merit a Major Administrative Action sanction he may stop the investigation and deal with the misconduct using Minor Administrative Action.
- (4) It would not normally be appropriate for any Administrative Action to be based solely on the charges on which the accused has been convicted or acquitted

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<sup>10</sup> But not a Simple caution or a non judicial disposal.

<sup>11</sup> Legal advice should be sought as to this. See further 2014 DIN-01-054. Note that simple cautions are deemed to be spent immediately.

in the Court Martial proceedings, after Summary Appeal Court hearing or when charges have been found proved or dismissed at a Summary Hearing. At summary hearing a CO should have already considered the wider employment impact when deciding on sentence, including whether an accused should be reduced in rank for example, meaning that no further employment action under AGAI 67 is necessary. However matters not considered by the court or facts which have come to light as a result of the investigation or trial may have to be dealt with by Administrative Action. A CO can consider the cumulative impact of offending and following the guidance in AGAI 62 apply for discharge under QR 9.405 if the grounds for discharge are met

(5) On deciding sanctions for cases which arise from dealings in civil courts, commanders must consider the rank of the serviceman involved, the seriousness of the offence that the court has considered and the damage to Army reputation that this might involve. Commanders must also consider the effect that the punishment will have on the serviceman's employability. Both of these factors potentially impact on operational effectiveness. The tables at Annex L to Part 3 give commanders guidance on a starting point for consideration of sanctions that might be appropriate in some cases. Commanders will consider all of the factors and look initially at the most serious sanction. It remains the duty of the Deciding Officer to judge the proper sanction taking into account all of the relevant mitigating and aggravating factors of each case.

(6) Administrative Action following a civil conviction must be completed: that is have the Directed Letter signed by the Deciding Officer, within the rehabilitation period set down in ROA 74

g. **Misconduct - Other court or tribunal proceedings.** Administrative Action is always to be considered 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. Divisional G1 and Legal advice should be obtained in such cases.

h. **Misconduct - Investigation not resulting in criminal court proceedings.** The outcome of an inquiry or investigation (for example one undertaken in accordance with JSP 763, 831 or 832) may provide sufficient evidence for Administrative Action, even if it does not result in trial on a criminal charge by a civil court, Court Martial or summary hearing. Administrative Action must always be considered in cases of harassment, unlawful discrimination and bullying. Annex M to Part 3 sets out the Tri-Service Guidance for Deciding Officers on Awards following Upheld Complaints of Bullying, Harassment or Discrimination. Further, if Disciplinary Action is not taken then the Chain of Command must consider taking Administrative Action against a person who is alleged to have obstructed another from making either a formal or informal complaint of, as well as those who have committed acts of, bullying, harassment or discrimination. Divisional G1 and legal advice should be obtained in such cases.

i. **Gross Misconduct.** Some acts are so serious in themselves or have such serious consequences that, if proven, Termination of Service will be the start point for consideration of sanction for a first offence. These are listed in Annex L to Part 3. Whatever sanction is chosen the AGAI 67 process is to be followed. It should be noted that even when Administrative Action in accordance with this AGAI is taken for offences not listed in Annex L to Part 3, Termination of Service may yet be the resulting sanction.

## THE SERVICE TEST

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

*“Have the actions or behaviour of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness<sup>12</sup> of the Service?”*

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 decide whether 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’s ability to perform his duties appropriately or calls into question his integrity, honesty, commitment to the Army’s Values and Standards 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, or had the potential to result, 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.

## SANCTIONS

**67.021 Sanctions.** 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. Untruthfulness by a military policeman and fraud by a finance clerk are examples of the effect of employment on the seriousness of a breach in Values and Standards.

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<sup>12</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.”*

## CARE

**67.022** The CO's responsibilities<sup>13</sup> for the serviceman's welfare continue throughout the process. Service personnel under investigation for administrative action may find themselves under personal stress or even media pressure. Personnel under such pressure could be at risk of self-harm; it is therefore incumbent on the chain of command to ensure the welfare of such individuals is carefully considered. If appropriate a self harm assessment should be done in accordance with [AGAI 110](#). Where 'at risk registers' exist, personnel under investigation may require to be on such registers.

Annexes:

- A. Duties of an Assisting Officer
- B. Armed Forces' Code of Social Conduct

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<sup>13</sup> This is a command responsibility not amounting to a legal liability.

**ANNEX A TO AGAI 67 PART 1****DUTIES OF AN ASSISTING OFFICER (AO)**

1. A serviceman suspended, subject to AGAI investigation, removed from appointment or subject to an Administrative Report is to be offered the services of an AO. The AO should be an officer/MSF RO/WO/SNCO of the serviceman's own reasonably exercised choosing. If he declines to choose an AO 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 AO is not to be an officer who would normally act as the Originating Officer, an Intermediate Commander or a Deciding Officer. The AO must not be an actual or potential witness in the case. An ALS officer is not permitted to act as an AO unless authorised by DGALS, but a serviceman may employ a civilian lawyer at his own expense to advise him.
2. The CO's responsibilities<sup>14</sup> for the serviceman's welfare continue throughout the process. The role of an AO is an important one. Careful selection of an AO 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 AO is to:
  - a. Help in the preparation of any written responses the serviceman subject to Administrative Action may make.
  - b. Liaise with other interested parties (e.g. formation G1 and 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. An AO should not be appointed if he has any involvement in the case, have a personal interest in the outcome, or if there is any likelihood that they may be involved in any subsequent or related investigation.
5. The AO is not to engage in correspondence or investigation on his own authority. Correspondence with the Chain of Command on the progress and dealing with the case should be signed by the subject soldier, although the AO may assist in its drafting. Should the AO become aware of a matter that he believes would be relevant and assist the subject but requires a statement to be taken from a witness; the AO can ask the originating officer to have it investigated. The investigating officer may not refuse a reasonable request.
6. Any conversation or correspondence between the serviceman and the AO is to be treated as confidential as between the serviceman and his AO and should not be disclosed to the Chain of Command unless the serviceman so consents. However, the serviceman is to be made aware that an AO is obliged to report any information which indicates there has been or may be:

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<sup>14</sup> This is a command responsibility not amounting to a legal liability.

- a. A breach of security or safety.
- b. A serious criminal act.

7. If a serviceman subject to an Administrative Report submits a complaint in accordance with section 334 of the Armed Forces Act 2006 relating to the Administrative Action, where possible the same AO should be appointed in respect of both procedures.

**ANNEX B TO AGAI 67 PART 1****THE ARMED FORCES CODE OF SOCIAL CONDUCT<sup>15</sup> - POLICY STATEMENT**

1. This 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 (including gender reassignment status), sexual orientation, race, religion, belief, ability, rank or status. The provisions apply equally to members of the Regular and the Reserve Forces. The Code of Social Conduct should be read in conjunction with the Ministry of Defence's Unified Diversity Strategy.
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 imposes a need for standards of social behaviour that are more demanding than those required by society at large. Such demands are equally necessary during peacetime and on operations. Examples of behaviour that 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. Misuse of rank and taking advantage of subordinates<sup>16</sup>;
  - c. Over-familiarity with the spouses, civil partners or partners of other Service personnel;
  - d. Displays of affection which might cause offence to others;
  - e. Behaviour which damages or puts at risk the marriage, civil partnership or personal relationships of Service personnel or civilian colleagues within the wider defence community;
  - f. Probing into a person's private life and relationships. It is important to acknowledge in the tightly knit military community a need for mutual respect and a requirement to avoid conduct which offends or causes distress to others. Each case will be judged on an individual basis.
3. It is not practicable to list every type of conduct that may constitute social misbehavior. The seriousness with which misconduct will be regarded will depend on the individual circumstances and the potential for adversely affecting operational effectiveness and team cohesion. 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:
  - a. Impact adversely on third parties; and/or
  - b. Impair the effectiveness of a Service individual or unit;
  - c. Result in damage to corporate image or reputation.
5. However, on occasion it may be appropriate to proceed directly to formal administrative or disciplinary action. Such action is always to be proportionate to the seriousness of the misconduct.

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<sup>15</sup> JSP 887. Defence Strategy And Social Conduct Code To Meet Public Sector Equality Duties Sep 2008

<sup>16</sup> This and unwelcome sexual attention may also be Service Offences and legal advice should be sought in considering whether disciplinary action may not be more appropriate.

It may constitute a formal warning, official censure, the re-assignment 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 social misconduct, formal disciplinary or administrative action may be taken, which might lead to termination of service.

### **The Service Test**

6. 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, Commanding Officers 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 of the Service?"

7. This Service Test lies at the heart of the Armed Forces' Code of Social Conduct; it is equally applicable to all forms of conduct, including behaviour while not on duty. In assessing whether to take action, Commanding Officers will consider a series of key criteria. This will establish the seriousness of the misconduct and its impact on operational effectiveness and thus the appropriate and proportionate level of sanction. Each of the Services has its own statement on values and standards.

### **Diversity Impact Assessment**

8. This policy does not discriminate on grounds of race, ethnic origin, religion, belief, sexual orientation or social background. Neither does it discriminate on grounds of gender, disability or age, insofar as the legislation applies to the Armed Forces. The Diversity Impact Assessment is held by the "Code of Social Conduct" Policy sponsor.

## PART 2 – MINOR ADMINISTRATIVE ACTION

**67.023 Minor Administrative Action in the Joint Environment.** The policies set out in this AGAI are applicable in units commanded by Army officers. They are compliant with JSP 833 but in joint units or when dealing with members of the other Services JSP 833 is to be used.

**67.024 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.

**67.025 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 Armed Forces Act 2006. 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.

**67.026 Procedure.** The procedure for Minor Administrative Action is at Annex A 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 (Deciding Officer) investigates the alleged failing, applies the 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 Reviewing 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 Reviewing Authority, if appropriate, approves and countersigns the form. The serviceman signs it in the presence of the Reviewing Officer.
- g. The serviceman receives a minor sanction if the review upholds the award.
- h. The Deciding Officer sends a copy of the Tear-Off Slip to the person who will supervise the sanction

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

- a. Report Back/Muster Parades.
- b. Extra Tasks or Duties.
- c. Extra Work.
- d. Informal Interview.
- e. Formal Interview.
- f. Returned to Unit. (It is Army policy that this sanction is not applied as a part of

Minor Admin Action. An individual should only be RTU'd for a training performance failing.)

g. NCOs and officers who supervise sanctions are to satisfy themselves that the personnel they are supervising have had a sanction allocated to them by the process laid down in this AGAI by inspection of the Tear-off Slip

**67.028 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.

**67.029 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 A 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.

Annexes:

- A. Minor Administrative Action Procedure
- B. Levels of Authority for Minor Admin Sanctions
- C. Minor Administrative Action Sanctions
- D. Record of Minor Sanctions Awarded
- E. Record of Formal Interview

**ANNEX A TO AGAI 67 PART 2****MINOR ADMINISTRATIVE ACTION PROCEDURE****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 not normally 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 Armed Forces Act 2006 should be taken.
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 Annex B 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 summary of the process is as follows:
  - a. A minor failing is identified. The person identifying the failing should apply a two-stage test:
    - (1) As soon as possible, investigate and decide whether, on the balance of probabilities, the alleged failing took place. If so;
    - (2) Apply the Service Test – have the actions or behaviour of the Service person adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the Service? If both stages of the test are met, consideration should be given as to whether minor administrative action is appropriate (see paragraphs 2.6 and 2.7 above).
  - b. If the result of the Service Test is positive and minor administrative action is considered appropriate, the appropriate sanction is selected and the failing Service person is informed verbally. The factors in paragraph 2.7 will be relevant, as well as the facts surrounding the incident, in selecting the appropriate sanction.
  - c. The person initiating the action completes the Record of Minor Sanction Awarded at Annex B and takes this and the Service person to the reviewing officer. 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.

- d. The reviewing officer is to confirm whether minor administrative action is the appropriate course in the circumstances (see paragraphs 2.6 and 2.7 above). This review, except in exceptional circumstances, should take place within 24 hours or on the next working day and in all cases, must be carried out before any element of the sanction is put into place.
- e. If the reviewing officer considers that the action proposed is not appropriate and that no action should be taken, the record will not be endorsed. The reviewing officer will then inform the individual of this and the matter is complete.
- f. If the reviewing officer considers that it is not appropriate because either major administrative action or disciplinary action should be taken, those steps that are necessary will be taken to have the particular matter dealt with and the individual informed.
- g. Once satisfied that minor administrative action is appropriate, the reviewing officer must ask the individual who is the subject of minor administrative action if a formal review is desired / requested.
- h. If the individual wishes a formal review, an opportunity must be provided, before the reviewing officer, to say why the finding is unfair or why the sanction should not be given. The reviewing officer is to consider the matter, taking into account what the individual has said and any other relevant factors. In conducting a review, the reviewing officer must, when deciding that minor administrative action is appropriate, ensure that:
  - (1) On the balance of probabilities the alleged incident took place; and
  - (2) The Service Test has been satisfied; and
  - (3) The sanction awarded is appropriate (i.e. within the permitted range), fair and proportionate.
- i. If the individual does not wish a formal review, the reviewing officer is still to consider the matter, taking into account any representations made by the subject of the sanction and any other relevant factors.
- j. Following a review, the reviewing officer may cancel the administrative action in which case the matter is complete. The reviewing officer may reduce the sanction applied or endorse the sanction awarded.
- k. The reviewing officer may reduce a sanction and change it to any other lower sanction, but may not increase the sanction originally awarded. 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.
- l. The Record of Minor Sanction Awarded at Annex B is completed and signed by the Service person in the presence of the reviewing officer.
- m. The Service person receives the minor sanction which must be completed in accordance with this JSP.

- n. The person awarding the sanction is to ensure that the appropriate person responsible for supervising the sanction is aware of the exact nature of the award. This may be done orally or by any other means authorised in the unit.
- o. The sanction is to be carried out as directed and the person who supervises the sanction being carried out is to sign and return the tear-off slip on the Record of Minor Sanction Awarded at Annex B.

### Process Detail

6. **Award of Sanction.** A Service person is to be informed orally, by the person who has initiated the action that he or she is to be subject to a sanction for failing to meet the standards of behaviour or performance required. The Service person will then be required to report to the reviewing officer to sign the Record of Minor Sanction Awarded, at Annex B, which will have been completed by the person who has initiated the minor administrative action. The completed Record of Minor Sanction Awarded will be inserted into the sub-unit minor sanctions folder. The sanction must be completed within 8 days of the date on which it was awarded or finally endorsed by the reviewing officer.
7. **Review.** The reviewing officer will ask in all cases whether the Service person wishes to contest the sanction (requests a formal review) and if so, this will be noted on the Record of Minor Sanction Awarded in the presence of the reviewing officer. The reviewing officer's options are to cancel the sanction or uphold or reduce the original award. The review is to be conducted as soon as practicable and in any event within 24 hours. In addition to this review and a formal review at the individual's request, it is important that regular inspections of the sub-unit minor sanctions folder are carried out by COs. A weekly inspection should be carried out within every unit by the head of department or officer commanding as appropriate; 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 at least 2 years and be available for inspection by higher authority at any time.
8. **Redress of Individual Grievance.** Any Service person who considers himself or herself to have been wronged by the application of a minor administrative action sanction may submit a Service complaint seeking redress of individual grievance under section 334 of the Armed Forces Act 2006, see JSP 831 and JSP 763. This will not delay the carrying out of any award. If a Service complaint is upheld, the person awarding redress will determine what remedy is appropriate.

### Sanctions Ingredients

9. Sanctions must be appropriate, proportionate and remedial in relation to the failing identified. Sanctions must not contain any of the following elements;
- a. Unreasonableness.
  - b. Public humiliation.
  - c. Sustained and oppressive treatment which 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 and the individual's rehabilitation.

### Authorised Sanctions

10. **Up to 5 Report Back Musters / Parades**<sup>17</sup> 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 are at a suitable standard of upkeep and maintenance.

- a. Each parade must be as long as necessary to correct the failing and never more than 45 minutes duration.
- b. Dress and equipment should be as directed by the person originating the award.
- c. Poor standard of turnout may result in an award of 'show again'. There may be a maximum of 2 'show agains' for each muster / parade awarded, after which disciplinary action should be considered. Failure to attend should attract disciplinary action. Where a matter is sent for disciplinary action, no further performance of the sanction awarded should be required of the individual.
- d. Skills training that is relevant to the failing, including appropriate physical training may be included if the Service person's failing warrants it, but must comply with paragraph 2.16 above. All training is to be conducted by an appropriately qualified instructor.

11. **Up to 5 Extra Tasks or Duties**<sup>18</sup>. An individual may be required to carry out tasks in addition to 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. For example, a failure on orderly sergeant duties could result in extra orderly sergeant duties, but a failure by a chef in normal kitchen duties could not result in extra orderly duties (but could require the performance of extra chef's tasks). Any extra duty should be of the same or lesser duration as the normal period for that duty and should not extend beyond 24 hours. Care must be taken to ensure that, together with the individual's normal duties, there is no requirement to work 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.

12. **Up to 3 Periods of Extra Work of a Maximum Duration of 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 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. Care must be taken to ensure that, together with the individual's normal duties, no requirement is made to work an unreasonable or unlawful number of hours. This sanction can be used subject to the following conditions:

- a. The work must be of a constructive nature for the benefit of the unit as whole.
- b. All work must be properly led, planned and risk assessed. It is to comply with health and safety regulations.
- c. Appropriate tools are to be provided.
- d. Each period of work may last no longer than 4 hours.
- e. 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.

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<sup>17</sup> In a joint unit personnel may award to an individual at any one time a maximum of 3 such sanctions.

<sup>18</sup> In a joint unit personnel may award to an individual at any one time a maximum of 3 such sanctions.

13. **Informal Interview.** Informal interview is not used in an Army context but may be awarded by a Joint Service Commander.

14. **Formal Interview.** A formal interview is intended to make clear to a Service person the shortcomings and to advise as to what must be done to rectify the behaviour. The formal interview is to contain constructive and specific advice on conduct and performance and this should be noted on the Record of Formal Interview form at Annex C. It should have the following elements:

- a. The Service person's detailed failings or weaknesses, with examples and dates wherever possible.
- b. Dates and types of any previous verbal warnings or rebukes.
- c. The standard of behaviour or performance required and direction on how it is to be achieved.
- d. The possible consequences of failing to improve performance within the timescales set, namely that major administrative or disciplinary action could be considered.
- e. A reservist should be warned each time a formal interview is awarded that further minor administrative action may result in his CO not awarding him his annual certificate of efficiency. The decision not to award the certificate of efficiency would prevent the annual training bounty being paid.

15. **Returned to Unit (RTU).** It is Army policy that this sanction is not applied as part of Minor Admin Action. An individual should only be RTU'd from a course for a training performance failing.

16. **Withdrawal of Unit Privileges.** Service personnel may be ordered not to purchase or consume alcoholic beverages from unit run clubs or bars for up to the next 5 consecutive days, or if a reservist up to the next 5 training days.

17. **Combinations of Sanctions.** Report back musters / parades, extra tasks and extra work cannot be awarded in combination with each other. Otherwise, any sanction may be combined with others.

### **Recording and Reporting of Sanctions**

18. **Retention of Records.** Records of minor administrative action should be retained for at least 3 years from the date of issue or until the posting of the subject, whichever is the earlier (see also paragraph 2.25 below) and be available for inspection at any time by higher authority. As minor administrative action does not constitute a punishment, no entry is to be made in an individual's conduct record and the issue of a minor administrative sanction should not, in itself, affect an individual's career or promotion prospects.

19. **Interviews.** If a Service person is posted within 3 months of having been subject to an informal or formal interview, the losing unit CO should consider whether the receiving unit should be made aware of the circumstances, to enable any assistance being received to continue.

20. **Annual Appraisals.** As the minor administrative action principles are designed as a means of rehabilitation and influencing behaviour, the issue of a minor administrative action sanction should not normally, in itself, warrant specific mention in annual appraisal reports. However, a period of sustained failure to meet acceptable standards of behaviour or performance, or a failure to heed the rehabilitation process, would need to be reflected in the appraisal process. Any single Service guidance on the writing of annual reports must be followed and appropriate advice should

be taken when writing reports.

### **SERVICE COMPLAINT**

21. Any serviceman who considers himself to have been wronged by the application of a minor administrative sanction may submit a service complaint under section 334 of the Armed Forces Act 2006<sup>19</sup>. This will not delay the carrying out of any sanction. If a service complaint is subsequently upheld then the authority dealing with the complaint will determine the appropriate redress.

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<sup>19</sup> Using JSP 831.

## ANNEX B TO AGAI 67 PART 2

## 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. In Army units this is normally to be the CSM/SSM.

Rank or Rate of Subject	NATO Code	Minimum Rank or Rate of Deciding Officer	NATO Code	Minimum Rank or rate of Reviewing Officer	NATO Code	Sanctions available
UT or AB <b>Pte</b> <b>Officer</b> <b>Cadets</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
LH <b>Cpl</b>	OR 4	PO/Sgt/ Sgt (RAF)	OR5 OR6	CPO <b>SSgt</b> Chf Tech or FS	OR7	<u>Except</u> show parades/ musters
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	Extra work awarded <u>must</u> take into account and be suited to the rank or rate of the subject.
CPO <b>SSgt</b> Chf Tech or FS	OR7	WO2 <b>WO2</b> WO(RAF)	OR8 OR9	Lt <sup>20</sup> <b>Capt</b> Flt Lt	OF 2	
WO2 <b>WO2</b>	OR8	WO1 <b>WO1</b> WO (RAF)	OR9	Lt Cdr <b>Major</b> Sqn Ldr	OF3	
WO1 <b>WO1</b> WO (RAF)	OR9	Lt Cdr <b>Major</b> Sqn Ldr <sup>21</sup>	OF3	Cdr <b>Lt Col</b> Wg Cdr	OF4	Informal or

<sup>20</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.

<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>
Officers up to (and including) rank of Lt <b>Capt</b> (Army) Flt Lt	OF1-2	Lt Cdr <b>Major</b> Sqdn Ldr <sup>22</sup>	OF3	Cdr <b>Lt Col</b> Wg Cdr	OF4	Formal Interview  Extra tasks
Lt Cdr <b>Maj</b> Sqdn Ldr	OF3	Cdr <b>Lt Col</b> Wg Cdr <sup>23</sup>	OF4	Capt <b>Col</b> Gp Capt	OF5	Informal or Formal Interview
Cdr <b>Lt Col</b> Wg Cdr	OF4	Capt <b>Col</b> Gp Capt	OF5	Cdre <b>Brig</b> Air Cdre	OF6	

Unauthorised Absence: Cases of Unauthorised Absence for a period over 48 hours may NOT 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.

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<sup>21</sup> Except that an OC of the rank of Lt/Capt/Flt Lt may award sanctions at this level.

<sup>22</sup> Except that an 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.

<sup>23</sup> Except that a CO of the rank of Lt Cdr/Maj/Sqdn Ldr may award sanctions at this level.

## ANNEX C TO AGAI 67 PART 2

### 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>24</sup> per failing<sup>25</sup>**. 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 agains' for each muster/parade awarded, after which Disciplinary Action should be considered. Failure to attend should attract Disciplinary Action under AFA 06. 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. Specifically, periods of physical training may be given as a sanction for soldiers who display a lack of physical effort or application to their duties; drill lessons may be given for soldiers who lack esprit de corps or alertness

b. **Extra Tasks or Duties - no more than 5 per failing<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

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<sup>24</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>25</sup> The limit of 5 parades applies to the number awarded for a failing; they are normally done one per day.

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

individual within the unit. However it must still be relevant to the 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 work an unreasonable or unlawful number of hours<sup>27</sup>.

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 Annex E. 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.

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<sup>27</sup> Commanders should be aware that the Armed Forces are subject to Working Time Regulations 1998

f. **Returned to Unit (RTU).** It is Army policy that this sanction is not applied as a part of Minor Admin Action. An individual should only be RTU'd for a training performance failing.

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.

**OFFICIAL SENSITIVE- PERSONAL** (When completed)**ANNEX D TO AGAI 67 PART 2****Record of Minor Sanction Awarded**

1. Name &amp; initials

2. Rank/Rate

3. Number

4. **Proposed Sanction(s)**<sup>28</sup> (Completed by awarding officer<sup>29</sup>)

5. Reason for award

6. **Review** (Completed by the reviewing officer)

Minor Administrative Action **is/is not** appropriate. (taking into account, as appropriate, the requirements under Chapter 3, paragraphs 7 – 17)

Was the individual asked if he/she wished to have a formal review? **Yes/No** (the individual should be offered a formal review in all cases)

Did the individual request a formal review? **Yes/No**

Details of formal review if requested (enter details of individual's representation against the award of MAA and/or sanction)

Minor Administrative Action **Endorsed/Cancelled**

Sanction **Upheld/ Reduced**

<sup>28</sup> The sanctions available depend on the rank of the subject. Consult Annex A for details.

<sup>29</sup> Consult Annex A for the levels of authority for minor administrative action. The awarding officer must be at least 1 rank above the subject and, in the case of WO1 and commissioned officers, the rank separation may be greater

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

7. Details of authorised sanction if different from box 4:

8. Date of Award

9. Date of Interview (if awarded)

10. Date(s) sanction(s) to be completed

11. Date of satisfactory completion (must be no later than 8 days after awarded)

<b>Awarding Officer</b>	
Name	Rank
Signature	
<b>Reviewing Officer</b>	
Name	Rank
Signature	
<b>Individual against whom award is made</b>	
Signature	

**For Absence up to 48hrs Only**

Leave Account Regularised:    1 Day           2 Days   

**Place in sub-unit file, enter details in the index (to be retained for at least 2 years)**

----- Tear off Slip -----  
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**OFFICIAL SENSITIVE- PERSONAL** (When completed)

<b><u>RECORD OF SANCTION</u> (To be given to the person supervising the sanction)</b>			
Subject Person			
Sanction Awarded:			
Awarding Officer Signature:		Supervising Officer Signature:	
Date:		Date Completed:	

ANNEX E TO AGAI 67 PART 2

**Record of Formal Interview**

1. Name & initials

2. Rank

3. Number

4. Date of Interview

5. Reasons for Interview

6. Remedial Action Required

7. Review date:

Interviewing  
Officer

Witness  
(if present)

Signed:

Signed:

Name:

Name:

Rank / Rate:

Rank /

Rate:

Appt:

Appt:

Date:

Date:

8. I acknowledge receipt of this record of interview.

Signed:

Name:

Rank/Rate:

Appt:

Date:

Copy to: Personal File

**To be removed from file on posting**

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### PART 3 – MAJOR ADMINISTRATIVE ACTION

**67.030 Major Administrative Action.** Major Administrative Action, taken for more serious failings, is usually originated by an OC (Maj) or CO (Lt Col) or Higher Authority (HA)<sup>30</sup>. It requires the initiation of an Administrative Report and may be accompanied by a Formal Warning. 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 Discipline Entry.

**67.031 Procedure.** The procedure for Major Administrative Action is at Annex A and is to be carefully studied before taking action. In outline the procedure is: A suspected serious failing is identified.

- a. On receipt of notification of a civilian conviction the CO is to order the conviction to be recorded as a Discipline Entry. The CO is to forward the details of the conviction to the APC using the form at Annex O. The Annex is to be found on the Discipline-Army OBIEE dashboard under the flag Career Management Report. Instructions on how to run the report are contained on the front page.
- b. The Originating Officer makes an initial assessment and categorises the type of failing and should:
  - (1) Take advice from Formation G1 staff, Div Legal or Provost if necessary. (Now or later in the preparation of the Administrative Report if necessary.)
  - (2) Appoint an Assisting Officer. Guidance is at Annex A to Part 1.
  - (3) Conduct an initial interview.
  - (4) Determine whether to proceed to a full investigation. Having carried out the initial interview the Originating Officer is to consider the misconduct. Administrative Action should be taken if :
    - (a) There are sufficient grounds to justify an investigation and,
    - (b) The misconduct, if it has arisen from a civil conviction and were it to be proved, could justify reduction in rank, forfeiture of seniority or termination of service and,
    - (c) If the misconduct has been the subject of a civil conviction, the conviction is not legally 'spent', nor will it become spent before the conclusion of the Administrative Action.<sup>31</sup>
  - (5) Originate Administrative Report.
  - (6) Conduct an investigation.

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<sup>30</sup> However see the notes to Annex B to this Section.

<sup>31</sup> 2014 DIN-01-054 refers but the position can be complex, so legal advice should be sought immediately where there is any doubt.

- (7) Take legal advice.
  - (8) Disclose the file to the serviceman.
  - (9) Interview the serviceman and receive his representation.
- c. The Deciding Officer should:
- (1) Interview the serviceman
  - (2) Decide, on the balance of probability whether the alleged misconduct occurred.
  - (3) Apply the Service Test.
  - (4) Award and promulgate the Sanction.
  - (5) For Major Administrative Action when the action at sub paragraph a. above has not been carried out The CO is to forward the details of the Administrative Action to the APC using the form at Annex O. The Annex is to be found on the Discipline-Army OBIEE dashboard under the flag Career Management Report. Instructions on how to run the report are contained on the front page.
  - (6) DO decides whether or not the case has exposed the need for the serviceman to be directed to undertake remedial training.
- d. The Case may be reviewed at the request of the serviceman or on the direction of a Higher Authority

At any stage, Major Administrative Action can be reverted to Minor Administrative Action. Should criminal matters be disclosed the administrative action should be stayed until the disciplinary process is complete. Legal advice should be sought in these circumstances.

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

**67.033 Discontinuance of Major Administrative Action** It may become apparent that Major Administrative Action is not an appropriate way to deal with the case. It may be that no further action should be taken or Major Administrative Action should be replaced by Minor Administrative Action<sup>32</sup> or that the facts disclosed make disciplinary action more appropriate. If at any stage during the procedure it is decided that no further Major Administrative 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. He should complete Annex C up to paragraph 2 inform the serviceman that Major Administrative Action has been stopped and record his reasons in the JPA record. If the investigation was carried out on the instructions of DPS (A), PS2 (A) should be consulted before closing the case. If necessary the case may be re-opened but legal advice must be sought before taking this step. Under no circumstances are cases to be left open, they are to be submitted to be closed by PS2(A) Post Trial Section.

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<sup>32</sup> This is different from when Major Administrative Action is completed resulting in a minor sanction.

**67.034 Sanctions.** Normally 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. A Deciding Officer may also award a sanction and a removal of Acting Rank. The sanctions available following the decision that the Service Test has been breached in a Major Administrative Action case are:

- a. Censure (No Discipline Entry).
- b. Any of the other sanctions available under Minor Admin Action.
- c. Censure (Discipline Entry).
- d. Reduction in Rank (NCOs and WOs).
- e. Forfeiture of Seniority (Officers).
- f. Removal from Appointment<sup>33</sup> by the Army Board.
- g. Termination of Service (Dismissal, Retirement or Resignation).

**67.035 Discipline Entries<sup>34</sup> Following Administrative Action.** In cases where Major Administrative Action finds that a breach of the Service Test has taken place, a Discipline Entry will normally be made. For Administrative Action arising from a criminal conviction the rehabilitation period is laid down in 2014 DIN01-054. For Administrative Action arising from facts other than a criminal conviction the matter will not normally be used for employment purposes later than 1 year from the date of the Directed Letter.

- a. The visibility to Career Management boards of Discipline Entries arising from Major Administrative Action, Court Martials and summary hearing is to be consistent. Administrative and Disciplinary Action will be brought to the attention of career management boards only prior to the rehabilitation date. The Military Secretary will manage this process to bring the matter to the attention of boards.

**67.036 Career Effects of an Ongoing Investigation.** Whilst under investigation for Major Administrative Action, a serviceman should not normally be posted or promoted (if previously selected) or have any acting rank substantiated<sup>35</sup>. Each case must be decided on its own merits. Similarly, whilst he may be considered by boards<sup>36</sup> for promotion, command, extension of commission, change of commission, re-enlistment, re-engagement and commissioning, the results may not be promulgated but are held in suspension until the conclusion of the Major Administrative Action. 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.

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<sup>33</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 Annex D.

<sup>34</sup> A Disciplinary Entry is one made in the JPA Personal Discipline Record.

<sup>35</sup> See AGAI 62 for a fuller explanation of career deferment.

<sup>36</sup> MS Boards are not to be informed of any such investigations.

**67.037 Date of Award.** Any sanction awarded comes into effect on the date that the deciding authority signs the directed letter. Reviewing Authorities should date the sanction from their directed letter except where they consider that it would be to the serviceman's disadvantage for the effective date to remain at the date of the Deciding Officer's directed letter.

**67.038 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 JPA. The operational Chain of Command is also to be kept informed of the progress of Major Administrative Action cases. Once entered on to JPA it is the responsibility of the unit to ensure that the records relevant to the case are maintained on JPA, including findings and sanction.

**67.039 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.

**67.040 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.

**67.041 Completion.** On completion of the Administrative Action, the original file is to be sent to PS2 (A) OSC(A) Post Trial Section (PTS). The PTS copy will be archived. A copy of the file should be retained by the Deciding Officer for 1 year in case the matter needs to be re-considered later, after which it is destroyed. No copy should remain beyond 1 year at the unit or APC or anywhere that it might be used for an employment purpose.

Annexes:

- A. Major Administrative Action Procedure
- B. Table of Authorities
- C. Administrative Report
- D. Major Administrative Action Sanctions
- E. Guidelines for the Award of Sanctions
- F. Effects of Sanctions
- G. Financial and Career Implications
- H. Directed Letter – Administrative Sanction
- I. Target Times for Completion
- J. Checklist for Completion of Casework
- K. Officers Sentenced to Imprisonment by Civil Courts
- L. Determining the Starting Point for Consideration of Sanctions Consequent upon Civil Convictions
- M. Tri-Service Guidance for Deciding Officers on Awards Following Upheld Complaints
- N. Oral Hearing Procedures
- O. Conviction Report Form.

## ANNEX A TO AGAI 67 PART 3

### MAJOR ADMINISTRATIVE ACTION PROCEDURE

#### 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 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 unless this course is supported by both Divisional G1 and written legal advice. Matters which amount to criminal conduct and when there is no legal and G1 advice supporting Major Administrative Action must be referred up the Chain of Command for Disciplinary Action under the Armed Forces Act 2006.
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 or efficiency 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 Annex B 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.** After a suspected failing is identified, an allegation is made, or the unit is notified of a conviction the Originating Officer will assess whether the failing is likely to result in Disciplinary or Administrative Action and, if the latter, whether that action is Minor or Major. If it is to be dealt with by way of Major Administrative Action the Originating Officer will also 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 Service Complaints Investigations Team (SCIT). 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. The Originating Officer has an important role in the process and, therefore, a person who is the sole witness to the facts relevant to determining whether or not there has been a breach of the Service Test should not be an Originating Officer. In such cases the disciplinary Chain of Command will have to appoint an alternative Originating Officer. Legal advice should be obtained in such cases. If there is a notification of a civil conviction then the CO is to direct that it is recorded as a Discipline Entry.
5. **G1 Advice.** The Originating Officer should initially get his advice from the local formation G1 staff. The staff have wide experience of cases and can give valuable non technical advice.

6. **Legal Advice.** Legal advice is always available to the CO from the appropriate Formation Legal Advisory Branch. 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.
7. **RMP and SCIT 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 SCIT. The SCIT is tasked by the Service Complaints Wing.
8. **Appoint an Assisting Officer.** As soon as it becomes apparent that there is evidence of inefficiency or misconduct or unsuitability, 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 to Part 1. Originating officers are to record the appointment on their report. The Assisting Officer should usually be appointed before the initial interview.
9. **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 informed of the allegation. He is to be given an opportunity to comment on it and provide an explanation. There is no requirement for the serviceman to answer questions that would result in the admission of misconduct or inefficiency and he should not be ordered to do so. 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 already have been offered the services of an Assisting Officer if, exceptionally, one has not already been appointed. 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 Major Administrative Action should be carried out. Alternatively it may be appropriate to award a minor sanction, impose a Formal Warning and/or deal with the matter in another approved way such as training or through the MS reporting system.
10. **First Decision.** Having carried out the initial interview the Originating Officer is to consider the misconduct. Administrative Action should be taken if :
  - a. There are sufficient grounds to justify an investigation and,
  - b. The misconduct, if it has arisen from a civil conviction and were it to be proved, could justify reduction in rank, forfeiture of seniority or termination of service (and the

conviction is not legally spent, nor will be by the time the Administrative Action is completed<sup>37</sup>).

11. **Suspension or Removal.** Initially, and throughout the process, the Originating Officer must keep under review the serviceman's position and whether his retention in post 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 post internally, suspend or apply for removal from appointment without prejudice<sup>38</sup>. 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 suspension and removal from appointment are contained in Part 5.

12. **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 execution. It is not necessary to follow the strict rules of evidence used by the criminal 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 and dated by them. However, every effort must be made to obtain reliable, preferably direct, evidence. If hearsay is to be used it should be treated with caution and where appropriate supporting evidence sought. Anonymous allegations should be treated with great caution unless supporting evidence exists. Commanders must take Divisional G1 and Legal advice.

13. **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 done by applying the Service Test: *"Have the actions or behaviour of a serviceman impacted adversely 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.
- e. If appropriate, complete Annex C up to and including Paragraph 5 and tell the serviceman that on the facts available to him there has been no breach of the Service Test and the Administrative Action will be discontinued.

14. **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

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<sup>37</sup> Legal advice should be sought as to this (see also 2014 DIN 01-054).

<sup>38</sup> See page 67-5-2 para 67.055

failing and its effect on operational effectiveness and efficiency. As a guide he may consult Annex L. Having identified the recommended range of sanctions he will consider the facts of the case. Full, frank and early admissions of misconduct or inefficiency by the serviceman should be treated as mitigation. However, a failure to make admissions should not be treated as an aggravating factor. Lies by the serviceman will usually be treated as an aggravating factor. Finally, the Originating Officer must consider the effect of the possible sanctions on the serviceman bearing in mind the serviceman's personal, financial and career circumstances as supplied by the pay and career staffs. At certain stages of a career, sanctions may have a more profound effect on career prospects or have a particularly serious financial impact. These profound impacts are not in themselves a reason not to award the sanction, but the Deciding Officer must be particularly careful to mention in his finding that he has considered the impact and still found the sanction appropriate. If his recommended sanction is different to those recommended in Annex L, he should explain his reasons in the text of the Report.

15. **Timing of Administrative Action.** Administrative Action should normally be completed within 1 year of the misconduct coming to light or of the conclusion of any court or tribunal proceedings (regardless of the result of such proceedings). In any event, it must be completed within the rehabilitation period if it is as a result of a conviction (i.e. before the conviction becomes spent). Administrative Action that has not been completed within the time allowed is to be paused and a report made to the 2\* Higher Authority who will direct after taking legal advice what action is to be taken. This will normally be that the Administrative Action is ceased. This time limitation puts an obligation on the unit and the individual to expedite matters. Any attempt to delay the process to time the investigation out may be treated as a breach of the Service Test itself.

## THE REPORT

16. **Prepare the Report.**<sup>39</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 electronic version with all the key documents on it is to be in a pocket on the cover of this file.
- b. **Flag A.** This is Annex C. The Originating Officer's part should be at Side Flag 1 and subsequent authorities' reports should be inserted using this Annex 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.
  - (2) The facts of the case.<sup>40</sup>

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<sup>39</sup> The report is to be made on the form at Annex C. Where the discharge of a WO or below is recommended the report must also be accompanied by a completed AFB 130A/130A(TA).

<sup>40</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 Offenders' 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.

- (3) Any aggravating or mitigating factors considered
- (4) Comments on the serviceman's character and performance.
- (5) Comments and judgement on the application of the Service Test. This should include comment on each of the sub paragraph headings in the form at Annex C.
- (6) Recommendation on sanction, which are listed at Annex D with guidelines at E.
- (7) Confirmation that an Assisting Officer has been appointed.
- (8) Confirmation that any conviction has been made a Discipline Entry.

c. **Flag B.** Copy of Initial and all subsequent Interviews by Originating Officer, Deciding Officer and Reviewing 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 SCIT if they have assisted in any investigation. It also should include any subsequent evidence used by the Deciding Officer or Reviewing Officer.

e. **Flag D.** Guidance on the effects of sanctions and their Financial and Career Implications.

(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 or JPA Formal Discipline Record.

g. **Flag F.** The subject's 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 H.** Written record, email or letter, of authorisation from HA when required.

j. **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 disclosed to the serviceman.

17. **Disclose the Report.** In every case the serviceman being reported must be shown all the papers, less Legal advice (advice should be sought on disclosure of RMP and medical material),

which will be submitted to the Deciding Authority or a subsequent Reviewing Officer. In practice this means that the Serviceman should see, and be given a copy of the (thus far) completed case file before his final interview with the Originating Officer and later any additional information or advice which will be seen by the Deciding Officer, before his final interview with him. Originating Officers, Intermediate Commanders and supporting staff must be careful not to make "off file" comments or anything other than neutral briefs to the Deciding Officer.

18. **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.

19. **Final Interview with 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>41</sup>.

b. Inform the serviceman that:

(1) He may, within a reasonable period<sup>42</sup> submit a written representation in response to the contents of the report.<sup>43</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, the serviceman will be offered an interview with the Deciding Officer (this includes cases being dealt with by 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 or forward the report, with any representation, up the Chain of Command.

20. **Forward the Report.** The Administrative Report is to be forwarded up the Chain of Command to the appropriate Deciding Officer. Intermediate Commander(s)<sup>44</sup> may comment on

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<sup>41</sup> This includes any other material, less legal and RMP advice that will be forwarded up the Chain of Command.

<sup>42</sup> Normally within 14 calendar days.

<sup>43</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 Deciding Officer and serviceman will be so informed.

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

## DECISION

21. **Interview by Deciding Officer.** The serviceman being reported will, in every case<sup>45</sup>, 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. Guidance on holding an Oral hearing is at Annex N. When deciding whether or not to permit legal representation, the Deciding Officer should consider the seriousness of the allegations and their potential impact on the serviceman. Deciding Officers will generally allow legal representation of the serviceman in cases involving significant factual disputes and where the likely sanction if the Service Test is found to have been breached will result in termination of service. If a legal representative is instructed by a serviceman the MOD will not be liable to pay for, or reimburse the serviceman for any of the expenses or fees incurred thereby. Where an individual seeks to invoke a right to legal representation the Deciding Officer should seek legal advice. If a serviceman is permitted to have a legal representative at an interview an ALS officer will, if the Deciding Officer wishes, attend as well. Servicemen are entitled to be accompanied by their Assisting Officer. Cases where permission has been granted for a legal representative to attend will normally have or be forwarded to a 1\* officer or above as a Deciding Officer.

22. **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 – Annex B.
- b. **Investigation.** That there has been a thorough and fair investigation into the case.

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<sup>44</sup> Because the 3\* Officers in the Discipline Chain of Command are also Army Board Members they do not act as intermediate commanders between GOCs and the Army Board.

<sup>45</sup> Clearly, it will not be necessary for the Deciding Officer to offer a serviceman an interview in a case where the report recommends "No Breach No Sanction" and the Deciding Offer chooses to follow the recommendation. However, in cases where such a recommendation is made and the Deciding Officer's preliminary view is that there may have been a breach of the Service Test then he is to write to the serviceman informing him of such (setting out the reasons why his preliminary view differs from that of the Originating Officer) and giving the serviceman an opportunity to submit written representations before the interview with the Deciding Officer.

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 alleged 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 by APC staff have 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 Annex E.

e. **Previous Conduct and Unspent Convictions.** That previous conduct and behaviour, if relevant has been taken into consideration when deciding a case. Recent Formal Warnings are particularly relevant. Convictions, and other civilian disposals such as cautions, which are spent under the Rehabilitation of Offenders Act 1974 should not be taken into account in Administrative Action cases. If it is considered necessary, in the interests of justice, that a spent conviction 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 Deciding Officer 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 Termination of Service unless the Deciding Officer is authorised to order a Termination of Service as a sanction.

23. **Finding By Deciding Officer.** Taking all of the facts into consideration the Deciding Officer must decide:

a. Whether, on the balance of probabilities, some or all of the alleged conduct and/or omissions occurred.

b. Whether the Service Test was breached by the conduct and /or omissions found to have occurred.

c. The appropriate sanction for the breach(es) of the Service Test taking into account all the relevant facts of the case. This will include:

(1) The entry point for the sanction. Found in Annexes E, L (civil convictions) and M (bullying, harassment and discrimination) of this section of the AGAI.

(2) Any mitigating and aggravating factors. These can be found in Table 1 to Annex L. Although Annex L generally deals with criminal conduct the factors in Table 1 can be applied more widely.

(3) The Deciding Officer's military judgement of the seriousness of the failing.

24. 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. Where the Deciding Officer feels that the failing should be addressed by additional training he may also order the serviceman to attend remedial training. This will be particularly important in cases of bullying,

discrimination or harassment. Training may include Equality and Diversity, Document Security or other courses generally available. This additional training is not part of a sanction and must not be seen as such. It is intended to rectify aspects of the serviceman's training that the misconduct has shown to be lacking. A commander may not order a soldier to undergo a medical or psychiatric treatment such as anger management or alcohol counselling, however, he may at any time :

- a. Consult with the medical officer about his concerns.
- b. Order the soldier to attend the medical centre (although the soldier can choose not to discuss the matter with the medical officer).
- c. Complete an F Med 1041 (Occupational Health Report).

25. **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. He must 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, the reasons for the decision, and its effective date should be communicated to the serviceman as a matter of urgency.

26. **Directed Letter.** The directed letter based on the format at Annex H, will confirm whether the Deciding Officer found the factual allegation proved and that they amounted to a breach of the Service Test. It should give the serviceman the reasons for the decision and the choice of sanction. In more complex cases the reasons for decision and sanction may become a separate letter. Where a Deciding Officer (or a Reviewing Officer) wish to expand beyond the most basic facts he should take legal advice.

27. **Date of Award.** Any sanction awarded comes into effect on the date that the deciding authority signs the directed letter.

28. **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 to APC CM Ops and PS2 (A) for officers; the respective Col MS Soldiers, DM (A) and PS2 (A) for soldiers. The report should be promulgated as follows:

- a. A copy file and the completed conduct sheet sent to PS2 (A).
- b. Copies of the report and directed letter less supporting evidence are sent to the Deciding Officer's HA, the APC CM Ops 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 Formal Discipline Record.
- e. The unit is properly to record the outcome on JPA.

29. **Target Times and Checklist.** A list of target times to be met for the completion of Major Administrative Action is at Annex I with a checklist at Annex J.

## CIVIL CONVICTIONS

30. **Recording Civil Convictions.** A CO who has become aware of a soldier receiving a civil conviction should direct that the conviction be recorded on the soldier's Formal Discipline Record. The Formal Discipline Record is not normally to be disclosed to Career Managers

31. Administrative Action may only be taken on the basis of a civil conviction or other disposal (e.g. a conditional caution) if the Administrative Action will be completed before the conviction is spent.<sup>46</sup>

32. Discipline Entries recording civil convictions should list the offence for which the soldier was convicted, the civil court punishment and, where appropriate, the AGAI 67 sanction awarded.

## REVIEW

33. 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. A Higher Authority who has previously granted permission for a Deciding Officer to reduce a serviceman in rank may not subsequently review the case. Advice should be sought from the next higher authority who should nominate another officer who has no connection with the case to review the case. The options available to the Reviewing Officer include:

- a. Quash the proceedings.
- b. Revoke the sanction.
- c. Uphold the sanction.
- d. Substitute a less severe sanction.
- e. Refer the case back to the Deciding Officer for reconsideration with specific direction for investigation. In this case the Reviewing Officer may allow the Deciding Officer to make a fresh determination (subject to the sanction being no greater) or he may reserve the case for his own decision.

34. The serviceman 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 in which case 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 Reviewing Officer should adopt the same approach as the Deciding Officer (see paragraph 19 above) when deciding whether to not to permit legal representation at this interview

35. 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:

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<sup>46</sup> Legal advice should be sought as to this. See further 2014 DIN-01-054. Note that simple cautions are deemed to be spent immediately.

- a. That there has been an adequate investigation. (He may call for a new one if necessary.)
- 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.
- d. That the sanction imposed by the Deciding Officer was reasonable and proportionate

36. The review of Major Admin Action is a fresh assessment of the facts by the Reviewing Officer and not simply a staff check of the Deciding Officer's conclusion. The Reviewing Officer must receive legal advice from the Commander Legal of the 2\* Headquarters' Advisory Branch. In complex or high profile cases the Reviewing Officer should also consult PS2(A) SL/WS. Once the review of the case has been conducted the Reviewing Officer's page of the Administrative Report, as found in Annex C, is completed. The results of a review are to be recorded and promulgated as a further Directed Letter as in Annex H.

37. 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 (but not to assess whether they agree with the finding or sanction). Should such scrutiny disclose a procedural error the case should be referred back to the Deciding Officer or Reviewing Officer as appropriate. That officer should correct the procedural error and the case should be reconsidered utilising the correct procedure. The subject Service person is to be kept informed of any procedural correction and the outcome of the reconsideration of the case. The Service person is not to be subject to a greater sanction than was originally awarded on account only of a correction of a procedural error.

## SERVICE COMPLAINT

38. Notwithstanding the right of review above, a serviceman has a right to submit a Service Complaint under s334 Armed Forces Act 2006 if he thinks himself wronged in any matter relating to his service. 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 make a Service Complaint.

## TERMINATION OF SERVICE

39. **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 (but see paragraph 67.019 I. for matters of Gross Misconduct). 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 Annex B. The authority for soldier discharge under QR 9.414 is DM (A). The general principles set out in paragraphs 67.011, 67.013 and 67.017 and the right to make a Service Complaint under section 334 of the Armed Forces Act 2006 will be applicable.

40. **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 Annex B. 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 Termination of Service 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.

41. **Officer – Compulsory Retirement, Resignation**<sup>47</sup>. Officers whose conduct is found to be Gross Misconduct (See Annex L) 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 Army Headquarters PS2(A) who will in turn schedule the brief for Army Board consideration. Compulsory retirement or resignation for inefficiency will normally 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.

42. **Resigning.** In accordance with the provisions of the Promotions and Appointments Warrant 2009 and Territorial Army Regulations 1978, Regular Army, Territorial and Officers serving on the Regular Army Reserve of Officers, who have been directed by the Defence Council to resign their commission will cease to hold a commission in Her Majesty's Land Forces and therefore may not transfer from one part of Her Majesty's Land Forces to another. Those officers removed under these provisions must declare the Defence Council direction should they seek a commission in another part of Her Majesty's Armed Forces, service with the Combined Cadet or Army Cadet Forces, service with a Commonwealth force or employment in a government department or agency. They must also declare the Defence Council direction should they apply to enter Her Majesty's Naval, Military or Air Forces as an other rank. The formal, premature, removal of a commission under these circumstances negates the right of an individual to be addressed in accordance with the provisions of Para 02.297 of Part 2, Section 5, of the Army Dress Regulations.

43. **Retiring.** An officer who, in accordance with the above provisions, has been directed by the Defence Council to retire may only apply to re-activate their commission by submitting a mitigating appeal to the Army Commissions Board outlining the exceptional circumstances as to why the officer should be allowed to return to either the active list or be allowed to re-enter the Regular Army Reserve of Officers. Each submission will be considered on its merits on a case by case basis. Those officers removed under these provisions must declare the Defence Council direction should they seek a commission in another part of Her Majesty's Armed Forces, service with the Combined Cadet or Army Cadet Forces, service with a Commonwealth force or employment in a government department or agency. They must also declare the Defence Council direction should they apply to enter Her Majesty's Naval, Military or Air Forces as an other rank.

44. Notification, and the appropriate Defence Council direction, is to be included in the Army Board's directed letter formally notifying the officer of the outcome.

## HIGHER AUTHORITIES

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<sup>47</sup> Promotion and Appointments Warrant 2009, articles 190 and 192.

45. **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>48</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>49</sup>.
  - (3) If he is an Intermediate Commander, dismiss the case after consultation with Division.
  - (4) Decide<sup>50</sup> the case (where authorised to do so – see Annex B).
- 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) If he is an Intermediate Commander, dismiss the case after consultation with Army HQ.
  - (4) Decide the case (where authorised to do so – see Annex B).
- c. **The Army Board** may:
  - (1) Refer the case back to the Chain of Command for further investigation and representation.
  - (2) Decide the case.
  - (3) The Army Board, acting on behalf of the Defence Council, may call upon an officer to resign his commission or to retire<sup>51</sup>, or award any other sanction it deems appropriate. In exceptional circumstances the Army Board may award Removal from Appointment.

46. **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 serviceman an interview before deciding the case, but may offer an interview at any other stage.

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<sup>48</sup> Includes Colonels authorised as Higher Authority and designated within the discipline CoC.

<sup>49</sup> BFFI, Gibraltar and other overseas detachments direct to HQ LONDIST.

<sup>50</sup> This includes a decision to dismiss the case

<sup>51</sup> The Promotions and Appointments Warrant 2009, Article 192.

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

- (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) If he is an Intermediate Commander, 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 Chain of Command for further investigation and representation.
- (2) Decide the case.

## **SERVICEMEN NO LONGER SERVING**

47. 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.

48. Notwithstanding his changed status, an ex-serviceman having Administrative Action taken against him 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.
- d. Be informed of the decision of the Deciding Officer.

- e. Have the right to request a Review.

49. Deciding Officers may award any of the sanctions listed in Annex D, 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.

## ANNEX B TO AGAI 67 PART 3

## MAJOR ADMINISTRATIVE ACTION SANCTION TABLE OF AUTHORITIES

Subject	Originating Officer	Deciding Officer		
		Censure (No Disc Entry)/ Censure (Disc Entry)/ (See Note 5)	Reduction in Rank./Forfeiture of Seniority, FTRS Contract Termination	Termination of Service (See Notes 6 and 7)
3*	4* Preferably a non Army Board Member	Army Board	Army Board	Army Board
2*	3*	Army Board (Note 11)	Army Board	Army Board (Note 10)
1*	2*	3*	3*	Army Board (Note 10)
Col	1*	2*	2*	Army Board (Note 10)
Lt Col	1* (Note 8)	2*	2*	Army Board (Note 10)

Subject	Originating Officer	Deciding Officer			
		Censure (No Disc Entry)/ Censure (Disc Entry)/ (See Note 5)	Reduction in Rank./Forfeiture of Seniority, FTRS Contract Termination	Termination of Service (See Notes 6 and 7)	
Maj	CO	1* (Note 8)	See Annex D (Para 1 l – k)	Army Board (Note 10)	
Capt & Lt	OC	CO	See Annex D (Para 1 l – k)	Army Board (Note 10)	
				QR 9.404, 9.405 Res Regs 5.200	QR 9.414  (Note 6)
WO1	OC	CO	See Annex D (Para 1e & 1l)	2*	DM(A) on the recommendation of a 2*
WO2	OC	CO	See Annex D (Para 1e & 1l)	1* (Note 9)	DM(A)
SSgt	OC	CO	See Annex D (Para 1e & 1l)	1* (Note 9)	DM(A)
Sgt	OC	CO	See Annex D (Para 1e & 1l)	1* (Note 9)	DM(A)

Subject	Originating Officer	Deciding Officer			
		Censure (No Disc Entry)/ Censure (Disc Entry)/ (See Note 5)	Reduction in Rank./Forfeiture of Seniority, FTRS Contract Termination	Termination of Service (See Notes 6 and 7)	
Cpl	OC	CO	See Annex D (Para1e &1l)	1* (Note 9)	DM(A)
LCpl	OC	CO	CO (See Para 1l)	1* (Note 9)	DM(A)
Pte	OC	CO	N/A (See Para1l)	1* (Note 9)	DM(A)

General Notes to be read in conjunction with this table:

1. Censure (Disc Entry) for 3\* will be dealt with directly by the Army Board where the same principles laid out in this AGAI will apply.
2. CO – as defined in the Armed Forces (Meaning of Commanding Officer) Regulations 2009 (i.e. the officer in command of a unit) or an officer appointed by 1\* or above or PS2 (A) to be CO.
3. OC – an officer commanding a sub-unit with powers of subordinate commander or the 2IC of an Independent Sub Unit or an officer holding an appropriate delegation from the CO (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. A reduction in rank for soldiers of Cpl and above must be applied for and approved by the Deciding Officer's HA unless the Deciding Officer is a 2\* officer. Officers cannot be reduced in rank.

6. DM(A) is the authority for discharge 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. See Annex D Paragraph 1l and m.
8. Includes Colonels designated as an HA within the discipline CoC.
9. Brigade Commander or any brigadier or colonel commanding any garrison or force superior in command to the CO.
10. In order that they are available to deal with the case if the serviceman subsequently submits a Service Complaint, 4\* officers should not be members of any panel of the Army Board dealing with AGAI 67 cases.

**OFFICIAL SENSITIVE PERSONAL** (When completed)

**ANNEX C TO AGAI 67 PART 3**

**ADMINISTRATIVE REPORT**

	<b>JPA SR Number</b>	
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**1. Serviceman's Details.**

<b>Name &amp; initials</b>	<b>Army / P / Number</b>	<b>Regt / Corps</b>

<b>Commission or CEG/CEQ</b>	<b>Acting Rank</b>	<b>Substantive Rank</b>	<b>Date of Birth</b>

<b>Date Assumed Appointment</b>	<b>Theatre/Country</b>	<b>Post and Unit</b>

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

**Inefficiency** 
                 
 **Misconduct** 
                 
 **Discontinue major administrative action**

**OFFICIAL SENSITIVE PERSONAL** (When completed)

**ADMINISTRATIVE REPORT – ORIGINATING OFFICER**

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**3. Justification by Originating Officer.**

(expand as required and cover the headings in para 14b of Annex A as well as those below)

**Comments:**

*Reasons for raising the report.*

*The facts of the case.*

*Aggravating and Mitigating factors*

*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.*

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

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

b. 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?

c. Have command or management relationships been damaged?

d. Have the marriage or personal relationships of others within the immediate defence community

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**OFFICIAL SENSITIVE PERSONAL** (When completed)

that supports them been damaged or put at risk?

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

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

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

Minor Sanction  Censure(No Disc Entry)

Censure(Disc Entry)  Termination of FTRS Commitment

Reduction in Rank  To the rank of

Forfeiture of Seniority  By 1/2/3 Years

Termination of Service

No breach; no sanction

**5. Originating Officer's Declaration and Signature.**

**OFFICIAL SENSITIVE PERSONAL** (When completed)

I have given the serviceman a copy of this AGAI and a copy of the report and:

a. Informed the serviceman that:

(1) He may, within a reasonable period (normally 14 days) 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.

Or

b. Informed the serviceman that, on the evidence available, in my opinion there has been no breach of the service Test.

Rank and name

Appointment and unit

Signature

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 14 days.

Signature

Date of signature

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**OFFICIAL SENSITIVE PERSONAL** (When completed)

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

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**OFFICIAL SENSITIVE PERSONAL** (When completed)

**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).

**OFFICIAL SENSITIVE PERSONAL** (When completed)

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 and reminded of the potential implications that this may have on my future employment and overall career.

Signature

Date of signature

**OFFICIAL SENSITIVE PERSONAL** (When completed)

**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.
- refer the case back to initiating officer for further directed investigation as detailed below.
- decide the case and, if applicable award a sanction of

c. **Comment.**

As Deciding Officer I have examined the full financial, career and future employability

**OFFICIAL SENSITIVE PERSONAL** (When completed)

implications for this serviceman and consider this sanction to be fair and appropriate.

Rank and name

Appointment and unit

Signature

Date of signature

**10. Serviceman's Acknowledgement:**

a. I acknowledge that I have today been interviewed and informed of the result of the Administrative Report that has been raised against me and 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 submit a written request for a review of this finding.

Signature

Date of signature

**OFFICIAL SENSITIVE PERSONAL** (When completed)

**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)

- Quash the finding.
- Confirm the finding of the Deciding Officer.
- Reduce the sanction to one of
- Refer the case back to the Deciding Officer for reconsideration.
- Require this case to be returned to me following further investigation.

c. **Comment.**

**OFFICIAL SENSITIVE PERSONAL** (When completed)

Rank and name

Appointment and unit

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 interviewed today and informed of the review of the Administrative Report that was raised against me.

Signature

Date of signature

**OFFICIAL SENSITIVE PERSONAL** (When completed)

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**ANNEX D TO AGAI 67 PART 3****MAJOR ADMINISTRATIVE ACTION SANCTIONS**

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

a. **Discipline Entry Only.** The Discipline Entry made on notification of an offence is not a sanction; its purpose is to record the conviction to inform the discipline process when appropriate.

b. **Minor Admin Action Sanctions.** Any of the sanctions listed in Annex C to Part 2 in the numbers and within the limits set out therein.

c. **A Censure (No Discipline Entry).** A Censure (No Discipline Entry) is intended to make a serviceman aware of the fact that his behaviour has breached the Service Test and fallen below acceptable standards but without the matter being reported to career boards. The "censure" referred to is the Directed Letter from the Deciding Officer in which the Chain of Command's disapproval of the Serviceman's conduct is expressed. The fact that the interview has taken place is recorded on the Directed Letter (Annex H) only. A Censure (No Discipline Entry) cannot be awarded as a result of a criminal conviction.

d. **Censure (Discipline Entry).** A Censure (Discipline Entry) is a more serious sanction than a Censure (No Discipline Entry). The "censure" referred to is the Directed Letter from the Deciding Officer in which the Chain of Command's disapproval of the Serviceman's conduct is expressed. The Censure (Discipline Entry) is recorded by a Discipline Entry that remains on record for the remainder of the rehabilitation period or for 12 months if not based on a conviction.

e. **Reduction in Rank.** The ordering of a reduction in rank is made under the authority of s.332 of the Armed Forces Act 2006 as amended by s.19 of the Armed Forces Act 2011. The rules applicable to reduction in rank apply irrespective of whether the rank is substantive or acting. Removal of local rank does not count as reduction in rank and can be ordered at any time by the CO. Reduction in rank is always ordered by the CO:

(1) A CO may reduce a LCpl to Pte without seeking HA permission.

(2) A CO may reduce a warrant officer or NCO by 1 or more ranks with the permission of his Higher Authority.

(3) A CO who is himself a 2\* officer may reduce a warrant officer or NCO any number of ranks without seeking further permission.

f. **Process.** A Deciding Officer (of, or below, the rank of Brigadier) who considers that he may wish to impose the sanction of reduction in rank should pass the file through the Chain of Command to the appropriate Higher Authority with a written request to authorise a sanction of reduction in rank. He should state the minimum rank to which he may seek to reduce the subject. The Higher Authority will, if he supports the request, pass the file back to the Deciding Officer with a written permission to reduce the subject in rank. In so doing he should state also the minimum rank to which he authorises the Deciding Officer to reduce the subject. The application can be made by the Deciding Officer at any time after he has received the file from the Originating Officer and before he announces his sanction.

g. **Safeguards.** The following safeguards are to be observed:

- (1) There may be no reduction in rank unless the same has been authorised in advance by the HA.
- (2) A Deciding Officer can choose not to award reduction in rank and need not apply for authority, even if the Originating Officer recommends it.
- (3) A Deciding Officer who has obtained authority to impose such a sanction is not obliged to do so. As a matter of courtesy he should inform the HA if he has not used the full authority once granted.
- (4) A Deciding Officer who is not himself the CO will direct the CO that he has awarded a sanction of reduction in rank and the CO will order the reduction as directed.
- (5) A HA who has previously granted permission for a Deciding Officer to reduce a serviceman in rank may not subsequently review the case. Advice should be sought from the next HA who should nominate another, independent, officer to review the case.
- (6) The reduction of rank can only be awarded to soldiers, not officers.

h. **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.

i. **Forfeiture of Seniority.** In Administrative Action this sanction can be applied to officers only. Forfeiture will reset the officer's Seniority Date and Incremental Base Date. The effect is that the officer's seniority for both pay and seniority will be set back. Forfeiture is expressed in whole years for 1, 2 or 3 years. An award of "all seniority" can be given to an officer who has less than 3 years seniority in rank.

j. **Process.** A Deciding Officer (of, or below, the rank of Brigadier) who considers that he may wish to impose the sanction Forfeiture Of Seniority should pass the file through the Chain of Command to the appropriate Higher Authority with a written request to authorise a sanction of Forfeiture. He should state the number of years (1, 2 or 3) he may seek to apply. The Higher Authority will, if he supports the request, pass the file back to the Deciding Officer with a written permission to apply the forfeiture. In so doing he should state also the number of years which he authorises the Deciding Officer to forfeit. The application can be made by the Deciding Officer at any time after he has received the file from the Originating Officer and before he announces his sanction.

k. **Safeguards.** The following safeguards are to be observed:

- (1) There may be no Forfeiture of Seniority unless the same has been authorised in advance by the HA.
- (2) A Deciding Officer can choose not to award Forfeiture of Seniority and need not apply for authority, even if the Originating Officer recommends it.
- (3) A Deciding Officer who has obtained authority to impose such a sanction is not obliged to do so. As a matter of courtesy he should inform the HA if he has not used the full authority once granted.
- (4) A HA who has previously granted permission for a Deciding Officer to award forfeiture of seniority may not subsequently review the case. Advice should be sought from the next HA who should nominate another officer to review the case.

(5) In Administrative action Forfeiture of Seniority can only be awarded to, officers not soldiers.

**l. Premature Termination of an FTRS Commitment.** A Reservist serving on a FTRS commitment who has shown himself to be guilty of misconduct or to be inefficient, during the period of his FTRS commitment, may be awarded a sanction of Termination of FTRS Commitment. In this sanction the Deciding officer orders that FTRS Commitment is to be terminated 28 days from the date that the Directed Letter is signed. The Reservist will be returned to the strength of the unit on which he was prior to the FTRS post. A Deciding Officer (of, or below, the rank of Colonel) who considers that he may wish to impose the sanction Termination of FTRS Commitment should pass the file through the Chain of Command to the appropriate Higher Authority with a written request to authorise a sanction of Termination of FTRS Commitment. The Higher Authority will, if he supports the request, pass the file back to the Deciding Officer with a written permission to apply the sanction. The application can be made by the Deciding Officer at any time after he has received the file from the Originating Officer and before he announces his sanction. The sanctioned Reservist is not prevented from applying for another FTRS post at any time.

**m. Termination of Service (Conduct).** In common with modern employment practice the Army will terminate the service 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. In those circumstances loss of an immediate pension, for instance, although hard, would not bar the DO from awarding the sanction. The DO must evidence the fact that he considered the implications of his sanction in his finding. This upholds the principle of proportionality of Major Administrative Action. Examples of those failings that are regarded as Gross Misconduct and guidelines for the award of sanctions in Administrative Action cases are at Annex E. In most cases the sanction of Termination of Service is awarded because of the seriousness of the misconduct being considered but in some cases a sentence from a court could have such an effect on employability that it could be grounds to terminate service; See Annex L Table 3. For termination of service on the grounds of misconduct<sup>52</sup> the last day of Service will be 28 days from the date that the Directed Letter from the Deciding Officer/Army Board is signed. A decision to retain an officer sentenced to imprisonment, found guilty of a drugs offence or who has failed a CDT test should not be taken by an officer below 2\* rank.

**n. 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 ensure 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. For termination of service on the grounds of inefficiency<sup>53</sup> the last date of Service will be after a period of one week for every year of service from the date that the Directed Letter from the Deciding Officer/Army Board is signed. However, discharge will not be earlier than 28 days and no later than 12 weeks from that date<sup>54</sup>.

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<sup>52</sup> Under Articles 192 and 222 of the Promotion and Appointments Warrant 2009 or QR 9.404 or 9.414.

<sup>53</sup> Under Articles 190 and 220 of the Promotion and Appointments Warrant 2009 or QR 9.405 or 9.414.

<sup>54</sup> This period equates to that granted to civilians under section 86 of the Employment Rights Act 1996.

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 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 role appropriate to his original employment or be reclassified in an employment on a role appropriate to the circumstances of the case<sup>55</sup>.

b. An officer or soldier who has been provisionally selected for promotion, a posting or commissioning but has not yet been confirmed in that rank or appointment may, if an unspent conviction or administrative report exists, have an additional report raised to notify the APC of a change of circumstances. It would then be for the appropriate APC staff to decide whether the selecting board should be re-briefed in order to cancel or confirm their original decision.

c. It may be appropriate to inform the APC of a change of circumstances (and withdrawal of recommendation) for an officer or soldier selected for promotion, but not yet made substantive. However, a Deciding Officer must be aware of the cumulative career effect of the sanction and the reporting action. The Deciding Officer must make the career implications clear to his Higher Authority when seeking authority to apply the sanction. A Commanding Officer should not normally continue with a recommendation for promotion for an officer or NCO selected for promotion whilst at the same time awarding or recommending a sanction of forfeiture of seniority or reduction in rank.

3. **Directed Letter.** In addition, in all cases, a Directed Letter will be issued and retained on the copy of the file sent to PS2 (A) PTS.

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<sup>55</sup> QR (A) 9.181

## ANNEX E TO AGAI 67 PART 3

## 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 own facts. The reasons for the finding and sanction awarded must be recorded in the determination of the case. Specific guidance relating to sanctions following upheld complaints of bullying, harassment or discrimination are at Annex M. JSP 440 Part 3 Chapter 7 gives guidance on indicative sanctions for security breaches.
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: aggravating and mitigating factors (see Annex L to Part 3) 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 Deciding Officer may award a formal warning as to future conduct if appropriate.

Level of Failure of Performance or Behaviour	Breach of Values and Standards	Sanction Entry Points
<p style="text-align: center;"><b>1</b></p> <p style="text-align: center;"><b>LOW</b></p> <p style="text-align: center;">(Less Serious)</p>	<ul style="list-style-type: none"> <li>a. Failure properly to supervise Service funds.</li> <li>b. Failure properly to supervise training (where a criminal charge of negligence is inappropriate).</li> <li>c. Lack of integrity in Service matters if not prosecuted as an offence of dishonesty (e.g. misuse of Service postal services or Service telephones).</li> <li>d. Minor failing to supervise SHEF standards.</li> <li>e. Minor social misconduct (e.g. over-familiarity).</li> <li>f. Minor Inefficiency.</li> </ul>	<p style="text-align: center;"><b>Censure (Disc Entry)</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)</p>	<ul style="list-style-type: none"> <li>a. Failing to supervise SHEF standards after a warning or adverse safety report.</li> <li>b. Social misconduct, for example - inappropriate intimate relationships.</li> <li>c. Continued inefficiency after a warning.</li> <li>d. Failing to deal with other Service personnel in an</li> </ul>	<p style="text-align: center;"><b>Censure(Disc Entry)</b></p>

<p>Misconduct)</p>	<p>honest and open manner.                  e. Obstructing a person who wishes to make either a formal or informal complaint of harassment, discrimination or bullying.</p>	
<p><b>3</b>  <b>HIGH</b>  (Very Serious Misconduct)</p>	<p>a. Cases involving harassment, discrimination and/or bullying.                  b. Continued inefficiency after warnings.                  c. Serious failure to supervise SHEF standards                  d. Cases referred to in level 4 below where there are significant mitigating circumstances.                  e. Serious social misconduct (e.g. inappropriate intimate relationships which adversely affect other established relationships or attract adverse press coverage).</p>	<p><b>Censure(Disc Entry) or Reduction in Rank/Forfeiture of Seniority</b></p>

<b>4</b>  <b>GROSS</b> (Gross Misconduct)	<p><b>Behaviour or performance which involves any or a combination of the following failings deserving of Termination of Service.<sup>56</sup></b></p> <p>a. Threatening behaviour or obscene acts.</p> <p>b. Unacceptable inefficiency.</p> <p>c. Serious cases involving harassment, bullying or discrimination.</p> <p>d. Unspent convictions listed in Table 2 of Annex L to Part 3</p> <p>e. Unacceptable social misconduct with serious or multiple aggravating features (e.g. coercion, violence, taking advantage of age, rank or appointment, or linked to operational considerations).</p> <p>f. Any other conduct that merits the most serious sanction of Termination of Service<sup>57</sup>.</p>	<b>Termination of Service</b>

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<sup>56</sup> After consideration of all the circumstances only conduct which is wholly deserving termination of service should result in that sanction (i.e. no other sanction is appropriate).

<sup>57</sup> Reserved

## ANNEX F TO AGAI 67 PART 3

## MAJOR ADMINISTRATIVE ACTION - EFFECTS OF SANCTIONS

Sanction	Impact	Effective Date of Sanction
Minor Sanctions	No Record	Date of directed letter by deciding authority.
Censure (No Disc Entry)	No Record	Date of directed letter by deciding authority.
Censure (Disc Entry)	The Discipline Entry is retained for 1 year or remainder of the rehabilitation period on AR/CR book. Discipline entry made on JPA HR.	Date of directed letter by deciding authority.
Reduction in Rank -	Reduction in Rank Discipline entry made on JPA HR.	Date of directed letter by deciding authority.
Forfeiture of Seniority	Refer to APC career advice Discipline entry made on JPA HR.	Date of directed letter by deciding authority.
Premature termination of an FTRS commitment	FTRS commitment ends Discipline entry made on JPA HR	Date of directed letter by deciding authority. See Annex D for the last date of FTRS Service.
Termination of Service	Discharge Discipline entry made on JPA HR.	Date of directed letter by deciding authority. See Annex D for the last date of Service.

**ANNEX G TO AGAI 67 PART 3****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. If the case is one which involves the loss of a driving licence then the CO should take into account the effect of action which may be taken under AGAI 51.
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 and Forfeiture of Seniority.** Quantitative analysis should be provided on the loss of potential earnings caused due to reduction in rank or Forfeiture of Seniority. 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>58</sup>.
5. **Chaplains and other PQOs.** Career advice for Professionally Qualified Officers will be provided by the SO1 AR Wg, APC CM Ops 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>58</sup> But see rules in AFPS 05.

**OFFICIAL-SENSITIVE-PERSONAL** (When completed)

**ANNEX H TO AGAI 67 PART 3**

**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

Signed

for (Comd)

**OFFICIAL-SENSITIVE-PERSONAL** (When completed)

Enclosures:

1. Completed Report by Deciding Authority.
2. Copy of Memorandum of Conviction (as appropriate).

Distribution:

Subject Officer. - less enclosures.

PTS PS2 (A) – with all enclosures.

APC SO1 AR Wg, APC CM Ops (officers). - less }  
enclosures. } (Delete as appropriate)

Appropriate Col MS Soldiers (soldiers). - less }  
enclosures. }

Intermediate Commander - less enclosures.

Originating Officer - less enclosures.

DBS (G)

## ANNEX I TO AGAI 67 PART 3

## 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 SCIT 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 calendar days	Remarks
Originating Officer	42	Subject to any other specialist investigations being required. Includes 14 days for the serviceman to comment.
Col/1 <sup>*59</sup>	28	If the case is being decided at this level.
	14	If the case is to be passed to the next HA without change to its content or recommendation.
	42	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*	28	If the case is being decided at this level.
	14	If the case is to be passed to the next HA without change to its content or recommendation.
	42	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*	28	If the case is being decided within Army HQ.
	14	If the case is to be passed to the Army Board 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.

<sup>59</sup> This applies equally to Commanding Officers when acting as Intermediate Commander.

PS2 (A)	10	Preparation of case to Army Board.
DGALS	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 headquarters 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, 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.

**ANNEX J  
TO AGAI 67 PART 3**

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

1. Initial Assessment.	Consider consulting Div Legal or G1 staff Record any civil conviction
2. Appoint an Assisting Officer.	
3. Initial Interview.	Record in Flag B Decide whether Major Administrative Action appropriate.
4. Suspension or Removal.	Discuss with APC, G1 staff & CoC
5. Investigating the facts.	Delegate as necessary
6. Concluding the Investigation.	Have all aspects been looked at is the evidence sufficient
7. Apply the Service Test.	Complete part 3 of Annex C to Part 3
8. Category of Failing.	Complete part 2 of Annex C to Part 3
9. Consider sanction to be awarded	Range of options to be considered
10. Take Advice	RAO on financial implications of potential sanctions.
11. Prepare the Report.	Submit to Div Legal for advice
12. Take External Advice. .	From Div Legal.
13. Disclose the Report.	Having amended it in line with legal advice
14. Interview the serviceman.	Record and add to Flag B
15. Include serviceman's written representation	Consider implications on sanction recommendation and whether further legal advice is required
16. Forward The Report.	
17. Interview by Deciding Officer.	

18. 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>
19. Finding By Deciding Officer.	
20. Soldier Discharge.	If necessary add 130A at Flag G (not for Officers)
21. Promulgation.	Directed letter issued
22. Review.	<p>Issue casework to HA. Reviewing Officer to consider actions required based on serviceman's request for review. If further evidence required disclosure will need to take place and further submissions may need to be considered, an interview will be required before deciding the case with appropriate legal advice before issuing the directed letter.</p>

**ANNEX K TO AGAI 67 PART 3****ANNEX K TO PART 3 TO CHAPTER 67  
OFFICERS AND SOLDIERS SENTENCED TO IMPRISONMENT BY CIVIL COURTS****Officers**

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 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 192 and 193 of the **Promotion and Appointments Warrant 2009**. As with any conviction, any action taken following the imposition of a custodial sentence must be completed before the conviction is spent.

2. The procedure for dealing with cases where officers are sentenced to imprisonment 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 Termination of Service, 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 PS2(A), with a copy to his brigade headquarters for the Chain of Command. 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 Courts and has been discharged from the Army, the date of discharge shall be the date of conviction.

### **Soldiers**

5. When a soldier is sentenced to imprisonment the misconduct that led to the sentence and the fact of the sentence itself will normally be inconsistent with continued service. The procedure for dealing with cases where soldiers are sentenced to imprisonment is as follows:

a. An Originating Officer, on learning that a soldier 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 Termination of Service, prepared by the unit RAO.
- (3) Sufficient facts about the case to allow the Deciding Officer to evaluate the soldier's conduct.
- (4) Any other details the Originating Officer believes relevant.

b. He should prepare an AGAI 67 file signed by him but not by the soldier at this stage. The file should contain a draft **AF B 130A**.

c. The Originating Officer will send a copy of the file to the soldier, informing him that the Deciding Officer will consider his case and there will be a serious possibility that he will be discharged. He will be informed that:

- (1) He may, within 28 days, submit a written representation to the Deciding Officer.
- (2) The Deciding Officer will consider his case on a given day.
- (3) 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 Deciding Officer.
- (4) He may request to attend the Deciding Officer's consideration personally if he is at liberty or by VTC at the discretion of the prison authorities. The decision whether to allow this attendance will lie with the Deciding Officer; taking into account factors which include the practical difficulties of such an appearance.
- (5) He may ask to be legally represented, at his own expense, at the Deciding Officer's consideration.
- (6) The soldier is to be informed that his discharge will not be prevented or delayed if he fails to sign the documents sent to him.
- (7) There is no need, in a case of a soldier sentenced to imprisonment, to carry out the complete AGAI 67 action against the soldier. The Deciding Officer may exceptionally not discharge the soldier immediately but ask for a full Administrative

Report to be prepared.

6. In the case of a soldier 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.

**ANNEX L TO AGAI 67 PART 3****DETERMINING THE STARTING POINT FOR CONSIDERATION OF SANCTIONS CONSEQUENT UPON CIVIL CONVICTIONS**

1. A DO should consider the guidance set out in the tables below in order to ascertain the starting point (i.e. prior to considering individual circumstances of the respondent to the AGAI action and the offence).
2. Once the starting point has been established, the DO will move on to considering the facts of the case, thus mitigation or aggravation may result in lower or higher sanctions than the starting points set out in Tables 2 and 2A. A mitigation may make a misconduct listed in Table 2 suitable for a sanction other than Termination of Service. Aggravation of a misconduct listed in Table 2A may make discharge an appropriate sanction, in that case AGAI action is still taken but an AFB 130A will be included in the file.
3. Mitigating and aggravating factors may include:

**Table 1 - Mitigating and Aggravating Factors****Mitigating Factors**

Particularly minor example of the category of offence.

Very low impact on operational effectiveness.

A junior rank or inexperienced soldier.

Wholly out of character.

Early frank admission.

**Aggravating Factors**

Particularly serious example of the category of offence.

Very high impact on operational effectiveness.

A senior rank or experienced soldier influencing others.

Previous warnings or failings.

Command or Representative appointment.

Damage to wider Army reputation.

Commissioned Service.

Warrant Rank.

In a trade or appointment where a higher standard of professional conduct is required

Use of Alcohol

**Table 2 – Offences**

<b>Gross Misconduct</b>	<p>Conviction in a civil court or the Court Martial for:</p> <p>Homicide, serious assault (excluding common assault, battery and ABH).</p> <p>Racially, sexual alignment, or gender aggravated offences.</p> <p>Serious<sup>60</sup> sexual offences.</p> <p>Firearms and explosive offences.</p> <p>Offences of serious dishonesty.</p> <p>Road traffic offences involving death.</p> <p>Arson and other instances of serious criminal damage.</p> <p>Serious public order offences (riot, violent disorder).</p> <p>Cultivation, importation, possession and supply of drugs.</p>
<b>All Ranks, Sanction Start Point</b>	<b>Discharge using AGAI 67 process for Officers and AGAI 67 enclosing an AFB 130 A for Other Ranks if the recommendation is Discharge.</b>

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<sup>60</sup> Seriousness is a matter of military judgement informed by legal opinion – this footnote should apply to all use of the word serious in the table above?.

**Table 2A –Other Misconducts<sup>61</sup>**

<b>Other Misconduct</b>	Less serious offences of dishonesty.  ABH.  Affray.  Drink Driving.	Battery.  Common Assault.  Less serious public order offences.  Less serious criminal damage.  Less serious sexual offences.	Minor offences e.g. failure to have a TV licence or road tax .  Minor traffic offences resulting in disqualification from driving.
<b>All Ranks, Sanction Start Point</b>	<b>Reduction in Rank/Forfeiture of Seniority</b>	<b>Censure (Disc Entry)</b>	<b>No action</b>

3. In addition to responding to the breach of the Service test in relation to the offence there are some punishments which in themselves have an effect on operational effectiveness and should they be awarded the Deciding Officer must consider the sanctions in Table 3.

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<sup>61</sup> Sanctions not involving discharge are subject to an assessment by the MS division that the serviceman can be employed for a full career.

**Table 3 - Sentences**

<b>Ranks</b>	<b>Community Sentence</b>	<b>Custodial Sentence or the activation of a suspended custodial sentence</b>	<b>Sentence involving being placed on the Sex Offender's Register</b>
<b>Officers Sanction Start Point</b>	Discharge	Discharge	Discharge
<b>Warrant Officers Sanction Start Point</b>	Reduction/Discharge		
<b>Other ranks Sanction Start Point</b>	As for Table 2A provided the subject can fulfil his military duties.		

## ANNEX M TO AGAI 67 PART 3

**TRI-SERVICE<sup>62</sup> GUIDANCE FOR DECIDING OFFICERS ON AWARDS FOLLOWING UPHELD COMPLAINTS OF BULLYING, HARASSMENT OR DISCRIMINATION<sup>63</sup>**

Ser	Misconduct	Entry Point Sanction
(a)	(b)	(d)
Lower Level		
1.	Behaviour that might be considered to be at the lower end of the spectrum include:  (a) 'Environmental' (as opposed to 'targeted') harassment such as sexual/racial/religious banter, jokes and innuendoes.  (b) Displaying, downloading, circulating, reading or watching offensive material or images in an environment shared by other personnel.	Censure (Disc Entry)
Higher Level		
2.	At the higher end of the spectrum are more deliberate, usually targeted behaviours. Examples include the following (if not dealt with as a criminal matter):  (a) sexist/racist/homophobic and anti religious language/action directed at an individual;  (b) pestering someone for a relationship after being asked to stop;  (c) inappropriate comments about someone's appearance/anatomy or sex life;  (d) needless and invasive questions about someone's private life;  (e) name-calling/taunts or jibes (especially about	<b>Reduction in Rank/Forfeiture of Seniority</b>

<sup>62</sup> This guidance is a reproduction (less entries relevant to the RN and RAF) of a table contained in the Tri-Service Guidance Paper by DCDS(Pers) Diversity Team.

<sup>63</sup> If there has not been an oral hearing in the Service Complaint and there are disputes of fact then legal advice should be taken before utilising the finding of the SC. Even if there has been an oral hearing in a SC, if there are still disputes of fact then an oral hearing may still be required as part of the administrative action.

Ser	Misconduct	Entry Point Sanction
(a)	(b)	(d)
	<p>someone’s gender, sexual orientation, colour, race, ethnic or national origin, religion or belief);</p> <p>(f) ridiculing someone because of the way they look, speak or dress;</p> <p>(g) obscene gestures or derogatory remarks; victimisation; unwarranted physical contact;</p> <p>(h) undermining or trivialisation of someone’s job performance by a superior (in rank or grade) causing deliberate or unwarranted humiliation of a subordinate.</p>	
<b>Gross Misconduct</b>		
3.	<p>Behaviour at this level includes misconduct that may constitute a Criminal or Service disciplinary offence:</p> <p>(a) Sexual assault or other assaults, nuisance/obscene phone calls.</p> <p>(b) Threatening behaviour; obscene acts; etc.</p> <p>Such behaviour may be dealt with either through Administrative procedures, Service Discipline procedures or both. Legal advice must always be sought before considering or taking action in such cases.</p>	Termination of Service

**ANNEX N TO AGAI 67 PART 3****AGAI 67 REPORTS ORAL HEARING PROCEDURES****GENERAL**

1. After reading the case papers and the legal advice provided, the DO will decide whether or not an oral hearing is necessary. If an oral hearing is deemed necessary, it will replace the interview offered to the individual earlier in the process. An Oral hearing is a more formal procedure than the normal interview by a DO. When the deciding authority is the Army Board it will follow its own Oral Hearing Procedures
2. In straightforward cases, involving no substantial conflicts of evidence on any material issue or difficult points of law, no oral hearing will normally be required nor will there be any need for a legal advisor to be in attendance when the DO meets the subject. The case can be determined on the basis of the evidence contained in the case papers and, if an interview takes place, on the oral evidence then obtained.
3. The DO may also consider holding an oral hearing, as opposed to an interview, on the application of the individual concerned or his representative. The DO may decide to reject the application or direct that the hearing will examine all or any part of the case.
4. The DO may also decide of his own volition to conduct an oral hearing, giving such directions as it considers necessary at the time.

**FUNCTIONS OF THE LEGAL ADVISOR**

5. The DO may conduct oral hearings and interviews with or without the presence of a legal advisor. The legal advisor is not involved in making the decision but will, at his request, sit with the DO at all (or any) stages of the process in order to provide such legal advice as the DO considers necessary.
6. When sitting with the DO, the legal advisor's functions include:
  - a. Giving advice on questions of law and procedure.
  - b. Advising on and if necessary drafting the DO's determinations under his direction.
  - c. At the DO's request, conducting the oral hearing on his behalf, including the questioning of witnesses.

**ATTENDANCE**

7. If the DO decides to hold an oral hearing, the individual concerned will be entitled to attend in person, accompanied, if he wishes, by an assisting officer and, at the discretion of the DO, by a legal or other representative.
8. The DO's administrative staff and a verbatim recorder may also be present throughout, except when the DO retires to a closed session, for example to take legal advice.
9. The DO may also require or request the presence of such other parties as he wishes, for all or any part of the proceedings. He may also allow other members of staff to sit in on hearings for instructional purposes.

**PROCEDURE**

10. **Introductions.** All those present will be identified by name and appointment:
  - a. The DO.
  - b. Legal Advisor.
  - c. The individual concerned.
  - d. The individual's AO.
  - e. Other parties and their advisors.
  - f. G1 Staff.
  - g. Verbatim recorder.
11. **Preliminary Matters.** Before proceeding further with the hearing, the DO must be satisfied that:
  - a. All relevant documents have been disclosed to the individual concerned and any other parties concerned.
  - b. The individual concerned and any other parties have had sufficient preparation time prior to the hearing and, in particular, the opportunity to produce evidence and obtain witnesses on their behalf.
  - c. He has dealt with any preliminary matters that the individual concerned and other parties wish to raise at this stage.
12. **Procedural Matters.** The DO, or the DO's legal advisor if requested, will then outline the following:
  - a. The purpose of the hearing, including a brief description of the allegation.
  - b. The functions of the DO.
  - c. The functions of the legal advisor.
  - d. The burden and standard of proof.
  - e. The procedure to be followed at the hearing.

## HEARING EVIDENCE

13. **Calling Witnesses.** The DO will consider all oral evidence from witnesses (if any). Service witnesses should be given a verbal order by the DO to tell the truth. Civilian witnesses will be requested to tell the truth. Evidence is not taken on oath. Either the DO or, if requested, his legal advisor will question each witness and if the legal advisor questions the witness, the DO may ask further questions. After each witness has been questioned in this manner, the individual concerned or his representative may then question the witness and the DO and his legal advisor may ask further questions.
14. **Documentary Evidence.** The DO will consider any relevant documentary evidence as well as oral evidence. Written statements from witnesses may be also considered.
15. **Evidence from the Individual Concerned.** Before any evidence is called, the individual concerned or his representative may address the DO. He may then submit documentary evidence, including witness statements, and produce witnesses to give oral evidence and give evidence

himself. He, or his representative, may question each witness and both the DO and his legal advisor may also question that witness.

16. **Addresses to the DO.** After all the evidence has been given, the individual concerned or his representative may address the DO on the evidence and the issues involved in the case.

17. **Other Parties.** If the DO has invited other parties to be present, where relevant to the issues affecting each party it will allow him or his representative to submit documentary and oral evidence and to question witnesses. The DO may also allow each party or his representative to address it on the issues that affect that party.

## FINDINGS OF FACT

18. After hearing all the evidence, the DO will retire with (if present) his legal advisor in attendance, to consider the evidence and make findings of fact. The DO will endeavour to announce these verbally during the hearing or interview, confirming them later in writing. However, in complex cases the DO may reserve its decisions on the facts and provide them in writing at a later date. In such cases it will inform the individual concerned when and how the announcement will be made.

19. In making findings of fact, the DO will take account of all relevant evidence. He will disregard irrelevant information, including speculation and unsupported suspicion<sup>64</sup>. He is not bound by the strict rules of evidence applicable in courts of law, but hearsay evidence will be given less weight than first-hand evidence. Evidence supported by other reliable evidence, either from witnesses or documents, is likely to carry greater weight than unsupported evidence. When considering oral evidence the DO will take account of the demeanour of the witness, the consistency of his evidence and any other factors which may make his evidence more or less reliable.

20. Findings of fact will be based on the evidence. In cases of misconduct, the decision whether the Service Test has been satisfied (and therefore whether or not the serviceman is guilty of misconduct) will be based on the facts.

## SANCTIONS

21. If the DO determines that the allegations have, on the balance of probabilities, been proven, he will go on to consider whether there has been a breach of the Service Test. If he determines that there has then he will consider what sanction, if any, should be imposed. Before doing so the individual concerned or his representative will be given the opportunity to address the DO on the subject of sanction and to call evidence, or give evidence himself, if he so wishes.

22. When considering the appropriate sanction, the DO will pay particular attention to the factors set out in Part 3 of AGAI 67. He will also consider any financial effect of the sanction, any adverse impact it may have on the individual's career and any other mitigating or aggravating factors.

23. The DO will endeavour to announce the sanction during the hearing or interview, confirming it later in writing. Exceptionally, the decision on sanction may be reserved and confirmed in writing at a later date. In such cases, the DO will inform the individual concerned of when and how he will be informed of the sanction.

## ADJOURNMENTS

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<sup>64</sup> If the only evidence is two conflicting versions of events then this is not unsupported suspicion.

24. The DO may adjourn an oral hearing at his discretion, for as long as he deems necessary.

**RECORD OF PROCEEDINGS**

25. If a verbatim record is required and the proceedings are recorded they may, if necessary, be later transcribed. The transcription will be made available to the individual and any other parties concerned, usually in hard copy, on request.



## Service Person Discipline and Administrative Sanction Career Report

ANNEX O TO  
AGAI 67 PART 3

Service Number	Last Name	Branch Arm Group	Capbadge

JPA SR Number	Rehab Offenders Act End Date

JPA SR Number	Rank When Awarded	Charge Reference	Plea (Not applicable for WS)	Court Verdict(SL)/Appear on Formal Discipline Record (WS)	Authority	Punishment Type	Punishment Value	Punishment Unit	Punishment

JPA SR Number	Date of Verdict(SL)/Date of Decision/Award (WS)	Rehab Offenders Act End Date	Charge Description	Charge Particulars

## PART 4 - FORMAL WARNING

**67.043** 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.

**67.044** 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. In addition to a Minor or Major Administrative Action sanction.
- c. After Disciplinary Action.

**67.045** 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.

**67.046** A Formal Warning may be issued for one or both of:

- a. Inefficiency.
- b. Misconduct.

**67.047** **Outline Procedure.** The outline procedure for the initiation of a Formal Warning is at Annex A 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 two working days of the date of interview.
- c. Confirm his decision in writing to the serviceman after considering the facts including the serviceman's representation.

**67.048** **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 time to focus on addressing those matters that led to the Formal Warning being given. Should a commander wish, in exceptional cases to extend a warning beyond 6 months he should seek the authority of PS2 (A).

**67.049** **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.

**67.050 Misconduct during the Warning Period.** The purpose of a Formal Warning is to allow the subject to rehabilitate and return to useful service. Even if there is no immediate sign of improvement a soldier should not normally be discharged until the end of the Formal Warning period. However, if the subject is found to have been inefficient or been of poor conduct of such seriousness that the CO would have considered termination of service in any case then an application for his discharge can be made and his discharge proceeded with.

Annexes:

- A. Formal Warnings Procedure
- B. Table of Authorities
- C. Formal Warning Form

**ANNEX A TO AGAI 67 PART 4****FORMAL WARNINGS POLICY****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, APC CM Ops for officers; appropriate Col MS Soldiers for soldiers), the original Formal Warning is processed by APC staff to be placed 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, APC CM Ops) 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 or inefficiency; Service and civil convictions; 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. A formal Warning is not to be issued in relation to a spent conviction or police caution.

3. The appropriate authorities to issue Formal Warnings are as detailed at Annex B.

**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>65</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 Annex C, paragraphs 1-6. 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.

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<sup>65</sup> That is 2 working days.

- 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 and placed on the serviceman's Personal File 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.

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, APC CM Ops for officers; appropriate Col MS Soldiers for soldiers is to be informed at all stages of all outcomes. For administrative effectiveness a unit may start the end of warning action up to 14 days before the last day of the warning. The end of warning action should be started no more than 14 days after the end of the warning. Where it is impossible to start the end of warning action within the proper period the soldier should be written to, within the proper period to explain why there has been a delay and when he will be told of what action the CO intends to take. Within 14 days before or 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 record formally 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 included in a Major Administrative Action file.

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 either to:

- 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 included in a Major Administrative Action file.

d. In exceptional circumstances an application can be made to extend a Formal Warning for a further 3 months. Authority is to be sought from PS2 (A) and APC.

## **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 prevent the serviceman attending a course; normally only ordered if the serviceman remains on the posted strength of the unit that issued the Formal Warning.

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 the failing 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.

## ANNEX B TO AGAI 67 PART 4

## FORMAL WARNINGS - TABLE OF AUTHORITIES

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

## Note:

1. A Capt acting as a CO such as a rear party CO may issue a Formal Warning to all non commissioned ranks as can a Capt with powers of subordinate commander.
2. In the case of an RSM, the authorised officer will be the CO.

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

**ANNEX C TO AGAI 67 PART 4**

**FORMAL WARNING**

**1. Serviceman's Details.**

Name & initials	Army / P / Number	Regt / Corps	
Commission or CEG/CEQ	Acting Rank	Substantive Rank	Date of Birth
Date Assumed Appointment	Theatre/Country	Post and Unit	

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

**Inefficiency**       **Misconduct**

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

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

<p><i>Details of failings</i></p>  <p><i>Improvement or changes necessary</i></p>
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**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 calendar 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

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

**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 the Formal Warning is lifted.

This Formal Warning has been served unsatisfactorily and therefore:

**Either**

The warning is extended for a further 3 months.

**Or**

Administrative Action will now be initiated.

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

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**OFFICIAL SENSITIVE- PERSONAL** (When completed)

Signature

Date

## PART 5 – SUSPENSION AND REMOVAL FROM APPOINTMENT

### INTRODUCTION

**67.052** 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 67.019. 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 and 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.

**67.053** 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 Annex B 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) agrees 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. Formation G1 and Legal advice should always be obtained in cases where removal from appointment of NRPS personnel is being considered.

### SUSPENSION AND REMOVAL

**67.054** **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. See paragraph 6.015 of The Queens Regulations for the Army 1975 and Annex A below.

**67.055** **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 it has become apparent that the serviceman was unsuitable for the appointment or, for any other non-blameworthy reason, their position has become untenable. 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 the 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 and inform the Originating Officer of the Removal.

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 the Court Martial or summary hearing 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.

**67.056 Advice and Procedure.** Formation G1 and Legal advice should be obtained in all cases where removal from appointment is being considered. Early consultation with APC is also advisable. The procedure for removal and suspension from appointment and the relevant report is described in detail at Annex A.

**67.057 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.

**67.058 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.

**67.059 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 Annex C to Part 5. In this way he will seek the support of his Higher Authority who may submit his request directly to APC CM Ops, 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.

Annexes:

- A. Suspension and Removal from Appointment Procedure
- B. Table of Authorities
- C. Removal from Appointment Form

**ANNEX A TO AGAI 67 PART 5****REMOVAL FROM APPOINTMENT AND SUSPENSION PROCEDURE****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 or Disciplinary 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>66</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. Suspension should only be initiated if there is a genuine requirement to exclude the serviceman from current duties and in circumstances where the suspension is a proportionate response to the allegations and relevant surrounding circumstances. A CO must have reasonable grounds for any suspicion prior to ordering that a serviceman be suspended. However, suspension (albeit pending completion of a thorough investigation) must not be based solely on vague, second-hand or unattributed accusations. Preliminary enquiries falling short of a thorough investigation will be necessary before a CO can order suspension where the accusations do not provide reasonable grounds for suspicion.

a. Suspension is not an assumption of guilt and it should not be seen as any form of punishment, or disciplinary or administrative sanction.

b. The ability to suspend personnel is available to all three Services. The needs of the Service but also those of the individual should be carefully considered in each case, especially if the individual is vulnerable in any way.

c. Suspension should be a reasonable and proportionate reaction to the allegation and the circumstances, taking suitable account of the relevant rank, grade, assignment or appointment of the individual involved.

d. There should be a genuine requirement to exclude an individual from current duties. Where there is just cause, consideration should be given to whether suspension can be avoided by using alternative arrangements such as a temporary change to the individual's duties or posting within a unit.

e. A Commanding Officer is not to send a Service Person to work outside his command in as an alternative to suspension.

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<sup>66</sup> QR 6.015.

f. Any period of suspension should be as short as possible and kept under regular review. The suspension should be lifted immediately if the circumstances of the case no longer justify it.

4. When a CO 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.

5. 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 judge where suspended personnel may be best accommodated during the suspension period. In cases where a suspended person living in SLA is not to be permitted to go back to the SLA legal advice must be sought. Entitlement to pay and appropriate allowances continues for Regular personnel and Reserve personnel on a full time commitment. G1 Advice should be taken in the case of Reserve officers and soldiers who are on any other duty commitment.

6. If the circumstances so require and with the approval 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 PS2 (A) 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.

7. When a CO suspends an officer, warrant officer NCO or private soldier he should tell the Service Person orally and in writing:

- a. Why he is being suspended.
- b. What the terms of the suspension are.
- c. Who his assisting officer is to be.
- d. When the suspension will next (and subsequently) be reviewed and how the Service Person will be told of the result of the review.
- e. How and to whom the Service Person may make a complaint about the suspension.

## REMOVAL FROM APPOINTMENT

8. 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 to the effect that he is content with the matter being dealt with speedily between his CO and the APC without the involvement of a Higher Authority (see paragraph 20 below). However, the default is that the removal from appointment procedure in this Annex, including the completion of the form at Annex C, 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. MS will inform the Originating Officer of the removal how it is to be recorded. 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 the Court Martial or summary hearing 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.

9. **Returned to Unit (RTU).** Should a serviceman fail to meet prescribed standards of performance at the start of or during a course 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 a person misconducts themselves or is inefficient on a course at an establishment to which they are posted it is for the school to take Administrative Action to address that failing. If they misconduct themselves on a course while they are still on the strength of their parent unit it is for their CO, in conjunction the commandant of the school, to order the person to return to the unit.

## PROCEDURE

10. **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 Annex C completed up to paragraph 5 and send it to APC CM Ops, 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 Part 1.
  - d. Provide notice to the serviceman at interview, using a copy of paragraphs 1 to 5 of Annex C, 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. The Originating Officer may then sign Part 7.
  - e. If the serviceman is not content for the removal to proceed immediately, before deciding to proceed the Originating Officer will offer the serviceman the right of reply by making a representation within 14 calendar days of the interview. If the form is changed after the serviceman is given this copy he is to be provided with the revised version and allowed another 14 days to respond.

- f. Inform the serviceman, at interview if practicable, of his final decision to stop the removal or proceed with it and provide him with a copy of the appropriate form.
- g. Send a copy of Annex C to APC MS (AR) via the Chain of Command.

11. **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 apply for removal without prejudice is:

- a. Complete a draft Annex C completed up to paragraph 5 and send it to APC, APC CM Ops, 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 Part 1.
- c. The Originating Officer will provide notice to the serviceman at interview, using a copy of paragraphs 1 to 5 of Annex C 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 14 calendar days of the interview. The serviceman should sign a copy of the form at the end of section 6.
- d. At the end of the 14 calendar 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. If the form is changed after the serviceman was given this copy he is to be provided with the revised version and allowed another 14 days to respond.
- e. The Deciding Officer will offer the service person an interview.
- f. 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.
- g. At the end of a Major Administrative Action MS will inform the Originating Officer of the removal the Blameworthy or Non-Blameworthy nature of the removal carried out earlier. The Originating Officer will inform the service person accordingly.
- h. Where a serviceman is removed from appointment "without prejudice" during the process of an AGAI 67 investigation and posted to another unit, the CO of the affected unit (or the appropriate superior officer in his Chain of Command) under whom the investigation was initiated remains the Deciding Officer for the case. If, for geographic reasons this is impractical, advice should be sought from Army HQ PS2(A) (Casework)

11. **Blameworthy.** The procedure for removal after it has been found that the Service Test has been breached is set out below. :

- 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 Annex C up to paragraph 5 giving details of the allegation and send it to APC CM Ops, for officers or the appropriate Col MS Soldiers and the Chain of Command. Agree with DMS and the Chain of Command that removal from appointment is justified.
- 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 Part 1
- d. The Originating Officer will provide notice to the serviceman at interview, using a copy of paragraphs 1 to 5 of Annex C that, subject to the allegation being proved, he intends to apply for his removal from appointment. He will offer the serviceman the right of reply by making a representation within 14 calendar 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 A to Part 3 Paragraph 17). If the form is changed after the service person is given this copy he is to be provided with the revised version and allowed another 14 days to respond.
- e. After the 14 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 Annex C 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.
- 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.

12. **The Report.** The format of the report is at Annex C. In the first instance the Originating Officer is to seek advice from his HA. 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 (e.g. 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 Annex C, 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 Annex C. The duties of an Assisting Officer are at Annex A to Part 1.
- c. Offer the serviceman the right of reply by making a representation within 14 calendar 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 14 days from this interview.

13. **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.

14. **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.

15. **Interview.** The application for removal from appointment is staffed to the Deciding Officer<sup>67</sup> listed in Annex B. Intermediate commanders seeing the request should sign it and make comment if they consider it necessary. The Deciding Officer has a duty to make an objective assessment of the merits of application and, if he considers that the justification for the removal application is inadequate, he should either return it to the Originating Officer directing the latter to re-write Annex C (and give the serviceman a further opportunity to make representations on it) or reject the application. The completed form is then sent by the fastest available means to APC Glasgow.

16. **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>68</sup>. This may not be applicable in all cases. Advice should always be sought from APC CM Ops, for officers and the appropriate Col MS Soldiers before proceeding to seek removal without prior warning.

## MS ACTION

17. 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 authorise the application for 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 of the MS chain, including the APC, throughout. The decision will be based upon the material contained in the applicable Annex C. In blameworthy cases the completed Annex C will be placed on the AR/CR book for the period that the disciplinary or administrative action is unspent. MS will direct the need for a review report (AD5 AR/CR). In non-blameworthy cases the completed Annex C will be placed on the P File.

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<sup>67</sup> The Deciding Officer is the officer who, after careful consideration of an application, decides whether or not to make a recommendation to MS on behalf of the Chain of Command. However, it is MS who makes the decision whether or not the serviceman is removed from appointment.

<sup>68</sup> See Part 4.

18. **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**

19. **Units Preparing For Or On Operations.** The Originating Officer should complete Annex C, 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). APC CM Ops, 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. In view of the abbreviated nature of this process, particular care must be taken to ensure that Annex C is thorough and accurate.

20. **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 CM Ops, 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.

## ANNEX B TO AGAI 67 PART 5

## REMOVAL FROM APPOINTMENT - TABLE OF AUTHORITIES

Subject Rank	Originating Officer	Deciding Officer - Non-Blameworthy Removal Recommendation(However See Paragraph 9d)	Deciding Officer Without Prejudice Recommendation	Final Authority
(a)	(b)	(c)	(e)	(f)
1*	2*	2*	3*	MS
Col	1*	2*	2*	MS
Lt Col	1*	2*	2*	MS
Maj	CO	1*	1*	DMS
Capt & Lt	OC	CO	CO	DMS
WO1	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS
WO2	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS
SSgt	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS
Sgt	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS
Cpl	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS

Subject Rank	Originating Officer	Deciding Officer - Non-Blameworthy Removal Recommendation(However See Paragraph 9d)	Deciding Officer Without Prejudice Recommendation	Final Authority
LCpl	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS
Pte	OC	CO	CO	Col MS Soldiers Cbt,CS or CSS

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

**ANNEX C TO AGAI 67 PART 5**

**REMOVAL FROM APPOINTMENT**

**1. Serviceman's Details.**

Name & initials		Army / P /Number	Regt / Corps
<input style="width: 100%; height: 50px;" type="text"/>		<input style="width: 50%; height: 50px;" type="text"/>	<input style="width: 100%; height: 50px;" type="text"/>
Commission or CEG/CEQ	Acting Rank	Substantive Rank	Date of Birth
<input style="width: 100%; height: 30px;" type="text"/>			
Date Assumed Post	Theatre/Country	Post and Unit	
<input style="width: 100%; height: 50px;" type="text"/>	<input style="width: 100%; height: 50px;" type="text"/>	<input style="width: 100%; height: 50px;" 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).

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

Rank and Name

Appointment and Unit

Signature

Date of Signature

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**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.

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

I have been made aware of my right to submit a written response with this report, within 14 calendar days.

My written response is attached.

I will not be making a written response.

Serviceman's 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:**

**OFFICIAL SENSITIVE- PERSONAL** (When completed)

**Chain of Command Recommendation**

Rank and Name

Appointment and Unit

Signature

Date of Signature

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**APC Authority**

Rank and Name

Appointment and Unit

Signature

Date of Signature