



Ministry of Defence

Air Command Secretariat
Spitfire Block
Headquarters Air Command
Royal Air Force
High Wycombe
Buckinghamshire
HP14 4UE

Ref: 2017/07960

[Redacted]

7 September 2017

Dear [Redacted]

Thank you for your clarification email of 9 August requesting the following information:

'I sorry the initial request was so wide; am interested in looking at in particular -

- 1. The Service Law part of the academic syllabus officer cadets will receive during their training at RAF College Cranwell and*
- 2. The Service Law element of the training which experienced officers will receive at, e.g., CLMT - Command Leadership Management Training [or equivalent] to prepare them for command posts, or otherwise if not in any formal syllabus, the content of any lectures [e.g., power-point presentations] they may attend on the same subject.'*

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence (MOD), and I can confirm that information in scope of your request is held. However, some of the information requested falls entirely within scope of the absolute exemption provided for at section 40 (Personal Data) of the FOIA.

The information you have requested can be found attached in the two separate PDFs. Please see attached the most recent presentation on Service Law delivered to Royal Air Force officer cadets at Initial Officer Training and the most recent presentation on Service Law delivered to personnel at the Future Commanders' Study Period.

Section 40(2) has been applied to some of the information in order to protect personal information as governed by the Data Protection Act 1998. Section 40 is an absolute exemption and there is no requirement to consider the public interest in making a decision to withhold the information.

Under section 16 of the FOIA (Advice and Assistance), you may wish to be aware, the presentation delivered at the Future Commanders' Study Period is not always presented by the same Officer. Therefore, the content may vary slightly each time it is delivered.

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

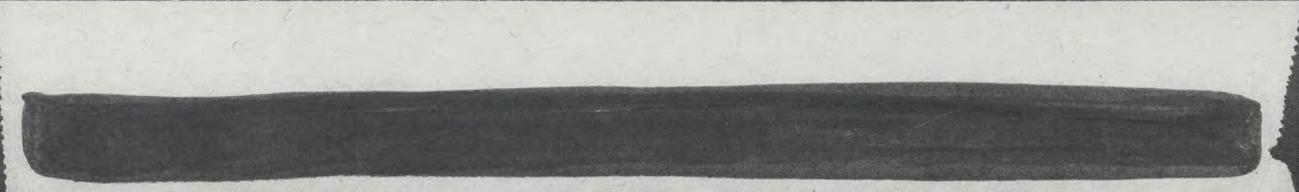
If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely,

[Original Signed]

Air Director Resources Secretariat

FUTURE
COMMANDERS'
STUDY PERIOD


DLS (RAF)
GP CAPT RLO & ADVISORY

 ROYAL
AIR FORCE

WHAT YOU ARE GOING TO HEAR ABOUT FROM ME

- **YOUR TOPICS!**
- Your Legal Branch and the RLO concept
- Understanding Personal Legal Liability
- Discipline
- Victims Code
- Service complaints
- Admin Action
- Service Inquiries
- Negligence
- Top Tips

DLS(RAF) LOCATIONS

- HQ Air Command
 - JFAC
- RLO(N) RAF Lossiemouth
- RLO(C) RAF Coningsby
- RLO(S) RAF Brize Norton
- RAF Legal Services (Northern Germany)
- HQ BF Cyprus
- Ramstein
- Brunssum
- Naples
- Pentagon Washington
- RAF SIB Honington
- Head Office London
- Air Warfare Centre
- PJHQ
- DCDC
- MAA
- GCHQ
- Service Prosecuting Authority
 - Independent of Chain of Command
 - DSP 1 Jan 09

Deployed Operations - Enduring

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LIABILITY

- Executive Liability
 - Civil – Vicarious Liability
 - MOD as employer is liable for acts or omissions of its employees
 - “On a frolic of his own”
 - HSWA - Crown Censure
 - Corporate Manslaughter
 - Personal Liability
 - Criminal Acts
 - AFA & Civil
 - ICC

CRIMINAL LIABILITY

- Armed Forces Act/Civil Criminal Offence
 - Disciplinary Offence (negligent performance of a duty)
 - Civil – (ABH)
- Health and Safety
 - HSE prosecutes
 - Crown exempt from prosecution but not individual members
- International Criminal Court
 - State unable/unwilling to investigate/prosecute offender
 - High degree of criminality - genocide/crimes against humanity/war crimes/aggression
 - Importance of compliance with ROE/targeting directives

CIVIL LIABILITY

- When is the MOD liable?
 - Negligence
 - Vicarious liability – course of employment
 - Authorised by MOD or unauthorised manner of doing authorised act
- When are you liable?
 - Negligence – “frolic of your own”
 - E.g. unauthorised use of MT vehicle

SERVICE DISCIPLINE

- Service Prosecuting Auth (SPA)
- Schedule 2 offences
- CO otherwise at heart of Service discip
- Realistic prospect of conviction – charge
- Refer to SPA
- Summary dealing-“Beyond Reasonable Doubt
- Service (public) Interest
- Appeal
- Delay

VICTIMS CODE

- Armed Forces Code of Practice for Victims of the Crime (“ the Code”)
- In force from 16 Nov 15
- Outlines how Service Providers in the Service Justice System (SJS) should discharge their obligations under the Code and support victims in cases progressing through the SJS
- Service Provider?
 - CO, RAFP, SPA
 - CO must provide services to a victim of crime committed by a suspect under their command

VICTIMS CODE

- Includes
 - Provision of certain information and needs assessment at first meeting with victim
 - Appointment of a Victim Liaison Officer to keep victim informed of various events as case progresses through SJS
 - Right to review scheme (ie. review of decisions)
 - Right to complain (failure to inform or to provide entitlements under Code)

REGIONAL LEGAL OFFICES (C)

- SEPTEMBER 2009 TO SEPTEMBER 2010
- QR1027 – 69
- SERVICE COMPLAINTS – **36**

- SEPTEMBER 2010 TO SEPTEMBER 2011
- QR1027 – 130
- SERVICE COMPLAINT – **103**

- CI – 195 (09-10)
219 (10-11)

SERVICE COMPLAINTS

- Redress – Service Complaint
 - Statutory Right
 - Statutory Duty to Investigate
 - Service Person been Wronged?
- 3 month time limit (Annex F)
- 3 levels of appeal
- Jan 2016 new system
- 2 levels (1 decision then right to appeal)
- Creation of Service Complaints Ombudsman
- Powers to investigate merits and/or maladministration
- Delay – 26 weeks to achieve resolution
- Informal resolution, empathy, understanding!

ADMIN ACTION

- QR 1027 – (Drugs)
- One system for officers and airmen
- Power of Stn Cdr (Gp Capt) to discharge airmen
- Air Force Board discharge of Officers
- Responsibilities of decision maker
- Evidence
 - Cogent, compelling, relevant
- Standard of Proof
 - On the balance of probabilities
 - Is it more likely than not?
- Proportionate response

DRUGS CASES

- Zero Tolerance policy to drug misuse
- Illegality of blanket policies
- Excuse- sports supplements used are contaminated/spiking drinks
- Cannot assume guilt because test is positive
- Knowingly, recklessly, intentionally consumed drugs
- Exceptional circumstances to retain
- Overriding DISCRETION to retain
- Full note of the reasons for your decision

THE SERVICE TEST

- Where?
 - AP 1 Ethos, Core Values and Standards of the RAF
- Why?
 - Human Rights Act 1998 - Art 8 ECHR:
 - “Everyone has the right to respect for his private and family life...in which there shall be no interference except as in accordance with the law and is necessary ...in the interests of national security...”

THE SERVICE TEST

- What?
 - Have the actions or behaviour of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the RAF?
- When?
 - Private life only
 - Not professional failings
 - Not convictions

SERVICE INQUIRIES

- ~~Boards of Inquiry – Service Inquiry~~
 - SI (Criminal/disciplinary offence)
 - Both?
 - JSP 832 Reg 18 – character/reputation affected
- Legal advice is always mandated for SI
- Defence Safety Authority “ All safety related serious accidents and incidents which result in death or serious injury of a SP” 1 Apr 15
- Non Statutory Inquiries/OSIs

NEGLIGENCE

- Legal duty of care in all our human activities
- Everyone is a potential duty holder
- Haddon Cave introduced DH construct
- “Tactical event and strategic consequence”
- Flt Lt Cunningham Coroner’s Inquest
“19 opportunities to check the ejection seat firing handle”

Risk Assessments deal with foreseeable risks

TOP TIPS

- Proper appropriate investigation
- Everyone is a DH
- Risk assessments – manage the risk
- Full note of decision
- Audit trails of decisions
- Avoid delay
- Fairness
- Walk in the SP shoes (empathy)
- Seek legal advice

QUESTIONS?

- Directorate of Legal Services

- [REDACTED]

- [REDACTED]

- [REDACTED] Gp Capt Air & Ops/ [REDACTED] Wg Cdr Air & Ops

- [REDACTED]

- [REDACTED] Wg Cdr Advisory

- RLO(C) – RAF Coningsby

- [REDACTED]

- [REDACTED]

- [REDACTED] Gp Capt RLO & Advisory/ [REDACTED] Wg Cdr
SO1 Leg Cswk

- RLO(N) – RAF Lossiemouth

- [REDACTED]

- RLO(S) – RAF BZN

- [REDACTED]

SERVICE LAW

XXXXX

S03 - Legal Officer

RAF Coningsby – RLO (C)



 ROYAL
AIR FORCE
Legal Services

SCOPE

- Why Service Law
- Who is subject to Service Law
- Jurisdiction and time limits
- Your role as an officer in Service Law
- Your disciplinary powers as an officer
- Service Law and your Branch
- Armed Forces Act 2006
- Civil and Military Courts
- Charging procedure
- Summary Hearing
- Punishments
- Administrative Action
- Case Study
- Legal Officers
- Questions



WHY DO YOU NEED TO KNOW ABOUT SERVICE LAW?

- You are subject to Service Law
- It is used to maintain Operational effectiveness:
 - Maintenance of good order and discipline
 - QR 989 – Acquaintance with AFA06, QRs, etc
 - QR 996 – Officers' responsibilities for good order and discipline
- Art 43 Additional Protocol 1 to Geneva Convention:
 - Armed forces – Internal disciplinary system



WHO IS SUBJECT TO SERVICE LAW AND WHEN?

- Officers – commissioning
- Airmen – enlistment
- Reserves at certain times
- Civilians accompanying UK Armed Forces overseas
BUT....
- Remain subject to civilian criminal jurisdiction
- Time limit – 6 months from discharge



JURISDICTION

- Concurrent jurisdiction – civil authorities
- Handling of cases depends on the case.
 - Only Service Personnel – usually RAFP
 - Offences involving civilians – usually Civil Police BUT RAFP can investigate
 - Traffic offences off station - Civilian police
- Outside the UK – MoU or SOFA
- Civilians on RAF bases – civilian authorities unless 'designated area'



YOUR ROLE IN SERVICE LAW

- Flight commander – dealing with discipline/welfare
- You may be the Orderly Officer on station
- Discipline:
 - Ensure discipline of subordinates
 - You may act as the Subordinate Commander
 - You could become a CO's Investigator
- Court Martial – Assisting Officer or on the Panel
- Airman – civil court accompanying officer
- Service or Non-Statutory Inquiry
- Service Complaints – Assisting Officer, Harassment Investigating Officer
- Additional Duties – legal obligations, funds, etc



YOUR POWERS AS A JUNIOR OFFICER

- Powers of arrest:
 - Officers and WO rank and below
- No powers of 'detention'
 - Escort to RAFP or call RAFP
- You will not be able to 'bring a charge' against the accused unless appointed as a subordinate commander
- Administrative Action – take advice



SERVICE LAW AND YOUR BRANCH (non-exhaustive)

- Aircrew
 - Gp Air Safety Orders; flying complaints; LOAC
- Engineers
 - Engineering standards; recklessness with ac
- Admin spt
 - PSF, P1, Accounts
- RAF Regt
 - Discipline; treatment of trainees/detainees
- RAFP
 - Arrest, search, seizure, investigation, evidence
- Logistics
 - Ac load safety; jurisdiction overseas
- All others - LOAC



ARMED FORCES ACT 2006

- Unified Tri-Service disciplinary system
- Commanding Officer (CO) is central
- RAFP investigation
- Depending on offence:
 - Summary Hearing (Orderly Room)
 - Court Martial
 - Administrative Action
 - Dismiss charges
- Service Prosecuting Authority (SPA)



CIVIL COURTS

- What are the 2 main courts in the civil system?
 - Magistrates Court – minor offences
 - Crown Court – serious offences



HIERARCHY OF MILITARY COURTS

- Summary Hearing
- Summary Appeal Court
- Court Martial
- Court Martial (Appeal Court)
- Service Civilian Court



CHARGING PROCEDURE

- What is a charge?
- Written on F252 (if a CO's investigation)
- Investigated by RAFP if more serious
- The charge will be framed against a specific section of the Armed Forces Act 2006.
- P1 Section to complete the paperwork and brief the accused on their rights
- Charge not confirmed until signed by/on behalf of CO



POST CHARGE PROCEDURE

- Once the accused is charged & paperwork completed, the correct level of court must be decided
- Level of court depends on rank of accused and nature of offence
- Accused must be given copy of his rights (pamphlet form)
- Briefed by P1 on his rights
- Given copies of all paperwork pertaining to the charge



SUMMARY HEARING

- CO is the judge and will have read the papers
- Assisting officer represents the accused if requested
- Admit or deny; the accused can call evidence and speak for him/herself
- No legal representation
- Right to trial by CM
- Can appeal the decision and/or sentence to the Summary Appeal Court
- Sentenced straight away in Summary Hearing



SUMMARY HEARING

**Commander/
Subordinate Commander**

DESK

SNCO

Witness

Escort

Accused

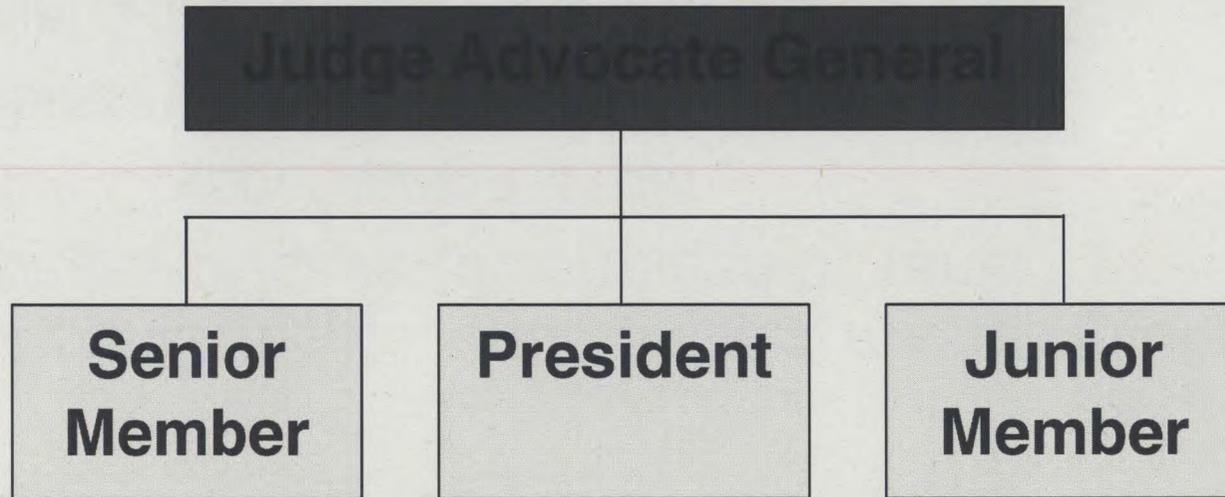


COURT MARTIAL v SUMMARY HEARING

- The accused can have legal representation in Court Martial
- There is a Judge (Judge Advocate General) in Court Martial proceedings
- Court Martial has greater powers of punishment



COURT MARTIAL



POTENTIAL PUNISHMENTS

- Detention – Cpl and below; not officers
- Service Supervision and Punishment order (SSPO) – airman only
- Forfeiture of seniority – officers only
- Reduction in rank (WO and NCO only)
- Fine
- Minor punishments – admonition; restriction of privileges; stoppages of leave (determined by rank)
- Service Compensation Order
- Combinations of punishments are limited
- Manual Service Law - Flowcharts



HOW IS SENTENCE DECIDED?

- Sentence – guidelines provided in MSL
 - Mitigating factors
 - Offence committed in training environment
 - Momentary lapse
 - Lack of supervision
 - Limited training on weapon
 - Very inexperienced airman
 - Extreme fatigue
 - Poor conditions
 - Genuine remorse
 - No harm caused
 - Aggravating factors
 - On duty
 - In uniform
 - Harm or damage caused
 - Ignoring procedures



ADMINISTRATIVE ACTION

- Personal and professional failings
- Minor (MAA)
 - Extra Duties, Parades, Musters, Informal Interview, Formal Interview, Return to Unit
- Major (QR 1027)
 - Formal Warning, Reduction in rank, posting, re-mustering and discharge.
- Balance of Probabilities
- Apply the Service Test



WHEN IS MAA APPROPRIATE?

- Not for criminal or serious disciplinary offences
- 'Minor professional failings'
- Examples - poor standards of dress, unprofessional conduct not constituting a criminal offence, poor quality of work, lateness for work (disciplinary offence if repeated) and failure of RAFFT
- Sanctions – Up to 3 'report back musters/parades, up to 3 extra tasks, up to 3 periods of extra work to maximum of 4 hours, informal interview, formal interview, return to unit



WHAT IS MAJOR ADMIN ACTION?

- Serious instances of professional or personal failings
- QR 1027 – Formal Warnings (FWs) and Administrative Reports (ARs) including discharge
- Commonly, a civilian conviction leads to FW or discharge
- Continued failure to display the correct attitude to health and fitness
- Failure of CDT
- ARs also deal with postings in the Service interests, reduction in rank and re-mustering/re-branching



CASE STUDY – SAC SMITH

- SAC Smith enters your office wearing an ear ring!
- What will you do?
- Where will you find the rules concerning this?
- What will you do if he refuses to remove it?



TYPE OF PUNISHMENT

- Does this warrant punishment under Service Law?
- If in doubt ask P1
- Probably not at this stage
- What about Minor Administrative Action?



WHAT DOES A LEGAL OFFICER DO?

- Approximately 48 all over the world
- Solicitors and Barristers
- Administrative function
 - discipline, administrative action, general legal advice, briefing on Service law, advise to RAFP
- Operations
 - advising on LOAC, ROE, targeting, detention and interrogation, intelligence ops
- Air safety management – Haddon-Cave Inquiry



LEGAL CASEWORK

- Discipline
 - Pure Service Offences
 - Low flying
 - AWOL/Desertion
 - Contravention of Standing Orders
 - Misconduct towards a superior officer
 - Conduct prejudicial to good order and discipline
 - Civil Offences
 - Theft Offences and Fraud – JPA
 - Criminal Damage
 - Offences Against the Person
 - Possession of Child Pornography
 - Sexual Offences



REFERENCES

- AP 3392 Vol 5
 - Leaflet 128 – Minor admin action
 - Leaflet 129 – Formal Warnings
 - Leaflet 130 – Administrative Reports
 - Leaflet 136 – Inappropriate attitude to personal fitness
- QRs(RAF) – Chapter 15
- JSP 830 – Manual of Service Law



WHO TO GO TO FOR ADVICE

- P1 personnel in PSF
- Police Flight
- Your own CoC
- Your RLO

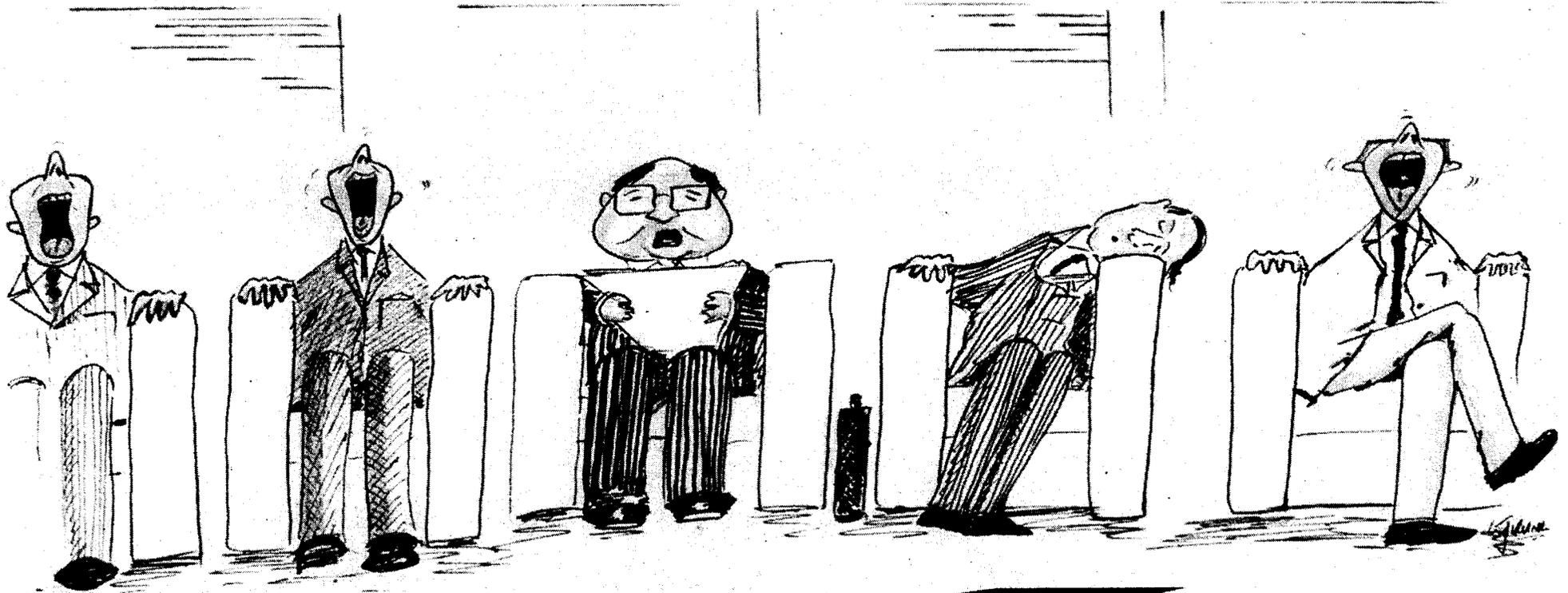


RLO CONTACTS

- RLO (Central) RAF Coningsby
- [REDACTED]
- RLO (Northern) RAF Lossiemouth
- [REDACTED]
- RLO (Southern) RAF Brize Norton
- [REDACTED]



QUESTIONS



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