



# What happens if I'm in trouble with the Army?

A Soldier's Guide



# Introduction

**T**his document is an outline of military discipline. It is not a comprehensive list of rights and responsibilities in the discipline system. These are fully explained in AGAI 67, JSP 831 and the Manual of Service Law (JSP 830).

From time to time some soldiers' performance or conduct falls below an acceptable standard. The more serious the misconduct, the more seriously the Army will deal with it. Misconduct can be dealt with by:

- Verbal Correction
- Minor Administrative Action.
- Major Administrative Action
- Service Justice System
  - Summary Hearing.
- Service Justice System
  - Court Martial

**In all situations the soldier has the right to be treated fairly and to have his views heard.**



## Verbal Correction



At the lowest level you can be given a telling off by an officer or NCO. Usually this is done to improve your performance and iron out minor matters. You should pay attention to what you are being told and do your best to correct your shortcoming.

Being told off can be embarrassing and uncomfortable but done properly is not harassment or bullying.

However if you think the correction is unfair or amounts to bullying because of its frequency or nature then you should report it to another NCO or officer. If you are still unhappy about what has happened, you may make a Service Complaint by writing to your CO or to the Service Complaints Commissioner (SCC).

More information is in SCC leaflet *"How to Complain"* <http://armedforcescomplaints.independent.gov.uk/howtocomplain.htm>

# Administrative Action [AGAI 67]

If your chain of command thinks that your poor performance or misconduct has breached the Service Test<sup>1</sup>, you can be given a sanction as part of Admin Action.

## Minor Admin Action [AGAI 67 Part 2]

Minor Admin Action can be taken by any officer or NCO senior to you.

The kinds of things that Minor Admin Action covers are:

- Lateness.
- Poor work.
- Poor turnout.
- Absence under 48 hours.
- The officer/ NCO must tell you what you have done wrong and that you must report to where the sanction will be recorded. (Usually the Sergeant Major's office.)
- In the Sergeant Major's office you will be given an opportunity to put your version of events, and
- You may ask for the matter to be formally reviewed by the Sergeant Major.

- You can be awarded
  - o Up to 5 extra parades of up to 45 mins each.
  - o Up to 5 extra duties.
  - o Or up to 3 sessions of additional work of no more than 4 hours each.
- The unit keep a record for 5 years but no entry is made on your Discipline Record.
- If you do not think you have been treated fairly you can complain to the CO or the SCC.



<sup>1</sup> The 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?"

## Major Administrative Action

[AGAI 67 Part 3.]

If your OC thinks you have seriously breached the service test he may raise a Major Admin Report.

The kinds of things that Major Admin Action covers are:

- Serious inefficiency.
- Social misconduct.
- Religious, racial or sexual harassment.
- Bullying and harassment.
- Dishonesty or deceit.
- Substance misuse.
- Irresponsible indebtedness.
- Unauthorised contact with the media.
- Bringing the Army into disrepute.
- Following civil or military conviction.
- Any other serious breach of Values and Standards.



### What will happen:

- The OC will tell you what his concern is and will ask you if you have anything to say at that stage.
- He will offer you an Assisting Officer or ask you who you would like to do that job. Choose someone you trust and can talk to.
- An investigation will then take place. If you hear nothing in a couple of weeks ask your Assisting Officer to get you a progress report.
- Your OC will give you the report to read and then interview you. Your Assisting Officer will go with you to the interview.
- You can have your say at the interview but more importantly you can submit your written comments within 14 days.
- Once your comments are submitted, the CO will arrange to interview you and he will consider the report he got from the OC, your reply and his legal advice.
- The CO will tell you whether he thinks you have breached Values and Standards and if necessary what sanction you will face.
- Sanctions range from a Formal Interview, to a Reduction in Rank or even Discharge.

- An entry will be made on your Discipline Record except when you are awarded a Formal Interview
- If you are not happy with the outcome of the hearing with the CO, you can ask for a review by the Brigade Commander.
- If you do not think you have been treated fairly you can complain to the CO or the SCC.



## Service Justice System

[Manual of Service Law JSP 830]

**R**egular soldiers are subject to Service Law at all times and TA soldiers are subject when they are on operations or training. Service law applies all over the world in addition to civilian law.

There are 2 groups of service offences:

- **Criminal conduct offences** (things that are crimes in England and Wales), and
- **Non-Criminal Conduct offences** (disciplinary offences that only servicemen/ women can commit).

There are rules about who can search you or your property and who can arrest or authorise for you to be kept in custody during an investigation. The rules are similar to those used by the civilian police. They are in Chapters 4 and 5 of the Manual of Service Law. If you want to know more you can read them yourself, you can access them on DII(F) or Google "Manual of Service Law". Alternatively you can ask your OC or Sergeant Major to explain them.

# Summary Hearing

[Manual of Service Law JSP 830]

If your chain of command believe that you have committed a Service offence then the CO or someone acting on his behalf will “bring a charge”. That means he will give you a copy of a form telling you what law he thinks you have broken. He must then:

- Prepare a summary of the evidence and give you a copy.
- Inform you:
  - That you can choose to be judged by the CO or OC at Summary Hearing or decide to be judged by the Court Martial.
  - That if you choose to be judged by the Court Martial the court cannot give you a more severe punishment than the CO could.
  - That you will have an Assisting Officer to help you.
  - That you can give evidence yourself, provide evidence from witnesses and question witnesses whose evidence is requested by the CO.
  - When your hearing will be.

At Summary Hearing there are no lawyers present. The CO or OC decides on the facts and, if he thinks the case is proven, decides on the punishment.

The CO has a wide variety of punishments available to him which include:

- Detention for up to 90 days.
- A fine of up to 28 days' pay.
- A Service supervision and punishment order.
- Reprimands
- Minor Punishments like Restriction of Privileges or Stoppage of Leave.

If the charge is found to be proven an entry will be made on your Service Discipline Record and if it is a criminal conduct offence a record will be made on the civilian Police National Computer, a criminal record.

If you think that the finding or the punishment were not fair you have 14 days to submit an appeal to the Summary Appeal Court (SAC), so tell your Adjutant as soon as possible. The SAC is a court with a judge and you can be represented by a lawyer. The SAC can only confirm, reduce or quash the CO's finding, it cannot give you a more severe punishment.

You are not allowed to make a Service complaint about a Summary Hearing or the SAC.

# Court Martial

[Manual of Service Law JSP 830]

**Y**our CO may bring a charge and tell you that he is going to refer the charge to an independent lawyer called the Director of Service Prosecutions to see if he will prosecute your case in the Court Martial. If this happens you should speak to a criminal defence lawyer - your unit can help you find a lawyer. The costs of hiring a lawyer will depend on how much you earn.

The Court Martial is presided over by a civilian Judge Advocate and evidence is judged by a board of 3 or 5 officers and warrant officers.

You will have an assisting officer to help you, but he cannot represent you in Court so you must either hire a lawyer or represent yourself.

If you are found guilty, the Court Martial has very wide ranging powers of punishment including dismissal, imprisonment, detention, large fines as well as the minor punishments available to the CO at Summary Hearing. Remember the very serious punishments are only available to the Court if the RMP or the CO sends the case to them. If you decide to go to Court Martial because you do not want the CO to hear your case the Court Martial is limited to the punishments the CO could have given you.

If you are found guilty of the charge an entry will be made on your Service Discipline Record and, if it is a criminal conduct offence or a recordable service offence, a record will be made on the civilian Police National Computer, a criminal record.

If you think that the finding or the punishment were not fair you can appeal to the Court Martial Appeal Court. This is a part of the Appeal Court in London and your case will be heard by 3 senior civilian judges. Your lawyer can advise you about this. You are not allowed to make a Service complaint about a Court Martial.

If you go to Court Martial it is in your best interest to engage a lawyer. You will be able to apply for Legal Aid to help you pay for this. You may have to pay an amount up-front or agree to have this amount deducted from your salary, depending on your own personal and financial circumstances, but this is nowhere near the real cost of paying privately for a lawyer. About 50% of applicants will not have to make any contributions, and those who do have to pay, can rely upon the Minimum Drawing Rate regulations (when paying via JPA) to reduce the monthly payment. Your up-front fee is refunded in full, plus interest, if you are found not guilty.



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