

Discipline Policy

Navy Cadet Force

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NB The title Navy Cadet Force has been shortened throughout this document to (NCF) purely to reduce costs of printing, by saving ink and paper, and thus be more environmentally friendly. This document is for internal use only.

PURPOSE

This policy is produced to outline the discipline policy for the NCF, the behaviour that is expected of its members and the processes for dealing with conduct that does not meet such expectations.

APPLICATION

This Discipline Policy applies to all NCF officers, staff, cadets and members of a Unit Management Committee. All staff and cadets will assist in every way with any enquiry or investigation into alleged wrong doing by a member of the NCF. The NCF will act proportionately and reasonably in all cases.

It is the Policy of the NCF to have a fair and systematic approach that deals with and takes corrective action in circumstances where our expected standards of conduct, performance and behaviour are believed to be lacking, or a breach of conduct or the Standards of Behaviour is alleged to have occurred.

Standards of conduct and performance are required in any organisation to ensure order, the effective operation of the NCF and a safe and healthy environment. In the NCF, our expectations of conduct and standards are particularly high, and reasonably so as a consequence of the type of activities that we are engaged upon, and to ensure the integrity of the NCF and the uniform we wear.

It is reasonable for the NCF to expect that the standards of conduct, performance and behaviour are usually maintained through the normal relationships between all members of staff, cadets and members of the UMC. Good management practice should ensure that all staff are aware of acceptable standards of behaviour and conduct and that they receive appropriate support and are encouraged to ensure that these are maintained.

It is also reasonable for the NCF to expect that the minimum standard of behaviour is that everybody behaves in a manner that does not bring discredit on the NCF. The Standards of Behaviour are detailed on page 3.

STANDARDS OF BEHAVIOUR

NCF STAFF

The statements below define the expected behaviour of all members of the NCF.

1. Honesty and Integrity

All staff will be honest, act with integrity and do not compromise or abuse their position.

2. Authority, Respect and Courtesy

All staff will act with self-control and tolerance, treating members of the public, colleagues and cadets with respect and courtesy.

3. Equality and Diversity

All staff will act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

4. Instructions

All staff will only give and carry out reasonable instructions.

5. Work and Responsibilities

All staff will be diligent in the exercise of their work and responsibilities.

6. Confidentiality

All staff will treat personal data and information with respect and access or disclose it only in the proper course of their role within the organisation, and in line with Data Protection and Freedom of Information Act legislation.

7. Discreditable Conduct

All staff will behave in a manner which does not discredit the NCF or undermine public confidence in it, whether in uniform or not.

Staff shall report any conviction or caution against them for a criminal offence.

8. Challenging Improper Conduct

All staff whilst engaged on NCF activities of business will report, challenge or take action against the conduct of colleagues which has fallen below the Standards of Behaviour expected.

DEFINITIONS

For the purposes of this policy the phrases "member of the NCF", "staff member", "member of staff", "NCF personnel" shall include all officers, staff, cadets and member of a Unit Management Committee.

Misconduct

Misconduct is the carrying out of a wrongful, or improper, conduct, but is not grave enough to fall under Gross Misconduct. It can include a **minor** breach of the policies and procedures. It is expected that such misconduct will be dealt with at a local level.

Gross Misconduct

Conduct that is considered to be gross misconduct means that a serious breach of trust and confidence is alleged to have occurred. The following are examples of the type of conduct that may lead to summary dismissal, i.e. dismissal without notice. **The list is not exhaustive** and there may be other offences of a similar gravity that could constitute gross misconduct.

- a) Theft and other offences of dishonesty
- b) Falsification of expense claims, and other documents having a financial impact
- c) Falsification of records or documents
- d) Fighting, as the aggressor, or assault and/or battery on another person
- e) Inappropriate conduct towards others, including sexual or racial harassment, bullying, discrimination against those with disabilities, or victimisation of whistleblowers
- f) Malicious or deliberate damage to property belonging to the NCF
- g) Serious acts of insubordination
- h) Neglect, or deliberate action, leading to a serious breach of health and safety regulations, that may endanger oneself or others.
- i) Incapability whilst on NCF activities through the influence of alcohol or illegal drugs
- j) Conduct which would bring the NCF into serious discredit or disrepute
- k) Unauthorised access and/or release of information from computer systems this is a breach of the Data Protection Act
- I) Other criminal act not previously identified
- m) Repeated minor misconduct, having disregard to previous disciplinary warnings

Note that a), b), c), f) and k) are criminal offences, and d) and e) are likely to involve criminal offences.

<u>Inefficiency</u>

Not producing the desired level of performance. This is a breach of Standard 5 of the Standards of Behaviour.

Unsuitability

The individual is identified as being unsuitable to be a member of the NCF. Examples would be a breach of Standards of Professional Behaviour.

Failure to carry out duties for which appointed

Fails, either by intention, design, negligence or inability, to carry out the duties for which they have been appointed to the NCF. This would be a breach of Standard 5 of the Standards of Behaviour.

No suitable appointment

There is no suitable appointment for the individual.

BREACHES OF THE STANDARDS OF BEHAVIOUR

Minor breaches of conduct can be dealt with successfully in an informal way, at a local level, e.g. within the unit for unit issues; the region for regional issues etc; and will remind the staff member of the standards of conduct and behaviour that are expected. Early intervention and action are essential to avoid matters escalating.

If a member of staff does not respond to informal action, or there is a more serious allegation of misconduct, then it may be necessary to use the formal disciplinary procedure. In order to promote fairness and proportionality in the treatment of individuals and in the general conduct of staff relations, disciplinary rules are necessary. They assist the NCF to operate effectively by setting standards of behaviour; the procedures help to ensure that these standards are adhered to and provide a fair and consistent method of dealing with them.

This policy has been written to ensure that if our expected standards of conduct, performance and behaviour are believed to be lacking, or a breach of conduct is alleged to have occurred, there is a fair and systematic approach to investigating such matters and taking the appropriate corrective action.

It is vital that individuals who are responsible for invoking disciplinary action clearly understand that on occasions where the sanction is dismissal, they can justify that on the basis of the circumstances they were presented with they acted fairly and reasonably in reaching a decision to dismiss.

If any individual becomes aware of any staff or members of the NCF who may be in breach of this policy, they should refer the matter to their Commanding Officer or a Staff Officer.

ABOUT THE PROCESS

Roles Within The Process

Colonel of the NCF

Discipline within the NCF is delegated by the Colonel of the NCF to the XO. The reason this function is delegated is because the Colonel of the NCF will be responsible for hearing any stage two appeals against sanction or termination of appointment.

The XO

The XO has the responsibility for co-ordinating, overseeing, monitoring, and providing advice and assistance on all complaints and disciplinary matters. Suspending Officers and Investigating Officers will keep the XO informed of progress at all times and will provide the XO with a copy of any Investigation Report as well as it being submitted to the relevant Staff Officers to ensure it is complete

First Disciplinary Panel

The members of a disciplinary panel will consist of an appointed Staff Officer/ Staff Officer as appropriate and two other officers of the appropriate division of the NCF according to the division the respondent is a part of. The members of the panel must have had no part of any actions relating to the matter before them.

The duties of the Staff Officers include deciding to endorse a suspension decision. The officer making the suspension decision will provide the Staff Officer with the facts in writing, as they are known at that time, and the rationale for suspension.

The Staff Officer will either endorse the suspension or decide on an alternative course of action. Their decision will be made in writing and include the rationale for that decision.

Staff Officers

Staff Officers will carry out investigations into matters of Gross Misconduct, and make suspension decisions where these are required. They will then seek endorsement from the National Management Committee as outlined above.

Unit Commanding Officers

Unit Commanding Officers will make the initial decision with regards to whether the matter presented to them is suitable for Swift Resolution or necessitates a Formal Investigation. If they decide the matter does not require a Formal Investigation they will carry out a Swift Resolution as detailed below.

Where the matter is Gross Misconduct or could result in the staff member's termination of appointment the Commanding Officer can make the suspension decision. As soon as this has been done they must then advise a Staff Officer.

DISCIPLINARY PROCESSES

There will be two processes:

Swift Resolution

This can be used for minor breaches of the Standards of Behaviour, and where the outcome would not be likely to lead to dismissal from the NCF or other serious disciplinary sanction.

The enquiry should involve all parties and quickly establish the facts in order to deal with the matter or decide whether there is a need to proceed with formal disciplinary action.

Where there is no need to proceed with formal disciplinary action the aim is to carry out a swift and proportionate enquiry into the matter and come to a conclusion based on the balance of probabilities. It is expected that this will be the norm for the vast majority of issues, and that this action will generally be carried out by the Commanding Officer of a unit.

At camps and other joint training events then the Commanding Officer of the event will identify a suitable person to deal with such matters as they arise.

OUTCOMES

Outcomes from a Swift Resolution:

- No Action in the case where the matter is not proven based on balance of probabilities
- Words of advice
- Admonishment carried out by CO
- Formal warning

A record will be kept of the matter and steps taken in resolving it.

Formal Investigation

This will be used for all cases of Gross Misconduct and those issues that are not deemed to be fit to be dealt with under the Swift Resolution Process. The following procedure details the steps that must be taken when implementing the disciplinary procedure. It covers the fact-finding process, suspension if applicable, the hearing, sanctions and the appeal procedure.

The purpose of the investigation is to establish the facts and to provide the panel with sufficient information upon which to reach a fair and reasonable decision. An investigation must include:

- Collecting all relevant documents, facts and other materials
- Getting experts to complete relevant audits
- Interviewing the person who is the subject of the disciplinary action and any complainant
- Where necessary, formally interviewing witnesses

Except for acts of gross misconduct, for which the penalty will be dismissal no member of staff should be dismissed for a first breach of discipline.

Privacy and confidentiality shall be observed in all actions taken under this procedure. This will extend to the publication, as appropriate, of data relating to disciplinary sanctions.

At all stages the staff member shall be kept fully informed of the allegations made against him/her and will have adequate opportunity to provide an explanation or rebuttal.

This is a formal procedure that must be strictly observed by all parties. Failure to do so may invalidate the proceedings. The staff member facing the allegations must be informed in writing of the nature of the allegation(s).

If a staff member is charged with, or convicted of, a criminal offence not related to work within the NCF, this is not in itself a reason for disciplinary action. The NCF will establish the facts of the case and consider whether the matter is serious enough to warrant starting the disciplinary procedure.

If no formal disciplinary action is to be taken then the Investigating Officer must formally advise the staff member and no correspondence connected with the investigation should be kept on the staff member's personal file, unless this is relevant to support any Swift Resolution.

Interview

Where an interview is required, the staff member must be given 10 days notice in writing, and be advised that they have the right to be accompanied by a fellow staff member, (who has no involvement in the matter,) who can act as their "friend". The Investigating Officer will confirm the arrangements for the interview in writing, making it clear that this is part of the investigation to gather information and not a hearing under the disciplinary procedure, and that any representative attending with the staff member will not be allowed to answer questions on behalf of the staff member under investigation. The staff member may be required to attend more than one interview in connection with the investigation, dependent upon the individual circumstances of the case.

On completion of the investigation the person carrying out the investigation, the Investigating Officer, will submit the investigation file and a summary report to the Staff Officer or the ("the Deciding Officer") as appropriate to the side of ship concerned (copying in the XO) making recommendation as to whether or not the matter should proceed to a formal disciplinary hearing. The decision reached by the Deciding Officer will primarily be based on whether the Investigating Officer considers there to be sufficient evidence, **on the balance of probability**, to indicate that the concern is substantiated. The Staff Officer as appropriate must be informed immediately where allegations of gross misconduct are made against a member of staff or suspension is considered.

Suspension

When allegations are made against an individual or misconduct occurs which may lead to termination, the Officer or Instructor concerned is to be suspended pending further action or investigation. The Officer in Charge **may** authorise the suspension of Unit personnel. They must then advise a Staff Officer.

The Staff Officer will decide whether to endorse the suspension or not. In the case of a Officer in Charge being the staff member alleged to have committed the action then the suspension will be made by a Staff Officer and the endorsement decision made by another Staff Officer.

If the allegation is made against any of the Staff Officers then the decision to suspend will be made by the XO.

If the allegation is made against the XO then the decision to suspend will be made by the Colonel of the NCF.

If the allegation is made against the Colonel of the NCF then the decision to suspend will be made by one of the Trustees

The person suspended must be clearly notified in writing of the reason for the suspension. In normal circumstances, the suspension of a member of staff is to be from their Unit and all NCF activities.

Whatever the circumstances of a suspension, it is always to be considered a neutral act, which does not imply guilt.

Length of Suspension

Periods of suspension are to be kept as short as possible, subject to a proper investigation being carried out. The suspension is to be lifted on completion of an investigation. If at the end of the investigation a decision is made that the member of staff remains in the NCF, then consideration must be given as to whether the individual returns to their parent Unit or whether a transfer is considered necessary to the benefit of the individual or Unit.

If the allegations involve gross misconduct, or where a continued presence in the unit/NCF may prejudice an investigation or harm the interests of the staff member, other personnel or the NCF, or where there may be a risk to the integrity of the organisation and/or its personnel, suspension may be considered and imposed.

Suspension will normally be effective immediately. However, if the staff member is not suspended initially, but during the course of the investigation the officer conducting the investigation becomes aware of additional information that leads him/her to the conclusion that they should now be suspended; this may be actioned at that time in accordance with this regulation.

A staff member may be suspended in any situation where gross misconduct is suspected or alleged. Suspension is a precautionary measure to enable management to carry out a full investigation and should not be regarded as implying the matter has been prejudged in any way, or as a means of punishment.

Suspension may also be implemented in very exceptional circumstances such as where the alleged or suspected misconduct is not gross but the continued presence of the staff member at a unit or serving in the NCF is considered likely to impede an effective

investigation. An example of this could be a situation in which witnesses feel intimidated from co-operating with an investigation if the staff member remains there.

Suspension must be regarded as a last resort, and therefore in every case consideration will be given as to whether an alternative action to suspension is appropriate and available.

The staff member does have a right to be accompanied at a suspension interview. Although the staff member will be offered this support, the suspension meeting will not be postponed if a representative is not available. The suspending officer will confirm to the staff member any decision to suspend in writing within 7 days of the decision to suspend, stating the reasons for suspension, giving advice on their entitlements and confirming the conditions of suspension.

Suspension Review

During the investigation, the decision to suspend will be reviewed by the investigating officer in liaison with the Endorsing Officer on at least a fortnightly basis. However, where new facts not available at the time of suspension or last review arise such a review will take place immediately.

Attendance at NCF premises

Suspended staff should not attend NCF premises whilst suspended, unless asked to do so by the investigating officer, or their Commanding Officer.

Investigation updates

The investigating officer will provide these to suspended employees and their representative (if requested) at fortnightly intervals.

Support facilities

Suspended staff will have unrestricted access to their representative/friend.

In addition, depending on the circumstances, regular contact may be maintained through visits from their Commanding Officer, where appropriate, and/or colleagues. These visits are to ensure the well being of suspended person and to update them on NCF issues.

Identity card

Suspended staff members must surrender all such cards to their Commanding Officer. Should the suspended staff member be a Commanding Officer the identity card must be surrendered to a Staff Officer. In the case of a Staff Officer being suspended the identity card must be surrendered to the XO. They will be returned when/if the suspension is lifted.

Sickness reporting

Sickness absence does not excuse suspended personnel from attending a disciplinary hearing. Any suspended staff member who is sick should report this to the Suspending Officer.

Details of allegations

The Suspending Officer will convey initial details of the allegation, and the decision to suspend, to the suspended staff member within the written confirmation of the precautionary suspension.

Disciplinary Panel Hearing

Should the Investigating Officer decide that there is a case to answer, the matter will be referred to a disciplinary panel for hearing, it will be heard by:

The Staff Officer depending on the Department the respondent is in, or in the case of a Staff Officer being subject to the hearing, the XO, or in the case of the XO themselves, the Colonel of the NCF.

The hearing should be arranged, wherever practicable, at a suitable location that does not require too much travelling for the staff member, representatives or the panel members.

The disciplinary hearing should be arranged as soon as practicable, normally within a month of the decision to proceed with formal action, unless there are exceptional circumstances. All parties will receive a minimum of 14 calendar days' notice of the disciplinary hearing, although it is acknowledged that in complex cases, more time may be required.

If a hearing is to take place, evidence will then be prepared and exchanged with the staff member and their representative on the basis of what is fair and reasonable in each individual case.

The letter notifying the staff member of the hearing (which will be hand delivered, sent by email, or sent by post to the address last notified by the individual) must: -

- State the time, date and location of the hearing;
- Notify the staff member of their right to be accompanied
- State the alleged disciplinary offence committed and also the basis on which disciplinary action is being taken. In serious cases, the staff member will be advised that if the case is proven, they may be dismissed
- Notify the staff member that they must confirm the names of any witnesses they
 intend to call to the hearing and the nature of the evidence they will provide at
 least 7 days before the hearing
- Include all supporting documents (e.g. witness statements, audits, relevant papers, correspondence, etc)

Where the staff member indicates that they or their representative cannot attend at the specified time then, <u>provided that the explanation is reasonable</u>, alternative arrangements may be made. In accordance with the Employment Relations Act 1999, an alternative date must be offered by the staff member and be within seven working days of the original hearing date. If the staff member, or their representative, fails to attend; or does not give a reasonable explanation, the hearing may take place in their absence.

Sickness does not excuse a staff member from attending a disciplinary hearing, which may proceed without the staff member in attendance if no medical evidence is offered supporting the sickness.

The Investigating Officer will present the evidence to a panel comprising a Staff Officer Chair and two members of the National Management Committee representing the respondents side of the NCF. None of the panel should where at all possible have had prior involvement in the investigation.

The staff member shall be given an opportunity to make statements, call witnesses, and question as appropriate. The hearing will then adjourn for the panel to consider the evidence presented and make a decision.

The Chair's decision must be based on the 'balance of probabilities' and does not require a standard of proof that is beyond reasonable doubt.

Actions in respect of a GUILTY PLEA.

Where the individual who has been complained about accepts that their conduct amounted to Misconduct or Gross Misconduct and provides any written submission then the matter can be decided by the panel members without the need for a Disciplinary Hearing.

Actions in respect of no defence being offered

Where no defence is offered, the matter will be decided by the panel members on the basis of the written evidence available to them only.

OUTCOMES

A range of outcomes that the panel may choose to take are as follows: -

Not Proven

The panel decide that there is insufficient evidence to prove the alleged misconduct.

Written Warning

Where staff member is found guilty of <u>misconduct</u> they will be issued with a written warning setting out the nature of the misconduct and the change in behaviour required. They will be informed that the warning is part of the formal disciplinary procedure and what the consequences of a failure to change behaviour will be, e.g. final written warning and, ultimately, dismissal.

A record of a written warning will be kept on the personal file for 12 months

Final Written Warning

Where there is a failure to improve or change behaviour in the time scale set at the verbal or first written warning stage, or where the offence is considered sufficiently serious, the staff member may be issued with a final written warning which will warn them that failure to improve or modify behaviour will lead to dismissal.

A record of a final written warning will be kept on the personal file for 18 months.

Reduction in Rank

Where a staff member's performance, conduct or behaviour falls short of the standards expected of the rank that they hold then they can be reduced in rank.

Dismissal

If a staff member's conduct or performance still fails to improve, or where the offence is considered to be so serious as to have irreparably breached the trust and confidence of the NCF, or where it involves gross misconduct the sanction will be dismissal.

A letter confirming the outcome of the hearing will be issued by the Chair of the hearing to the staff member within 7 days of the hearing taking place and a copy placed on the staff member's personal file for the appropriate period. Once this period has expired, all correspondence relating to the discipline will be removed from the personal file and destroyed.

If no misconduct is evidenced, a letter confirming the findings and a copy of the notes of the hearing will be sent to the staff member within 7 days of the hearing taking place. No correspondence relating to the disciplinary matter shall be placed on the staff member's personal file. However, the disciplinary file will be kept confidentially for audit and monitoring purposes for a period of two years, after which the file will be destroyed.

Termination of Appointments

Only the Staff Officers may terminate the appointments of NCF Officers or Staff in the first instance, or where the Staff Officer are concerned, the XO or Colonel of the NCF, or where the XO or Colonel of the NCF is concerned, a Trustee. In making their decisions they will be guided by the recommendations of Unit Chairman, and Commanding Officer the reports of any investigations which may have been carried out. Grounds for termination from the NCF are:

- Misconduct.
- Inefficiency.
- Unsuitability.
- Failure to carry out the duties for which appointed.
- No suitable appointment.

Appeals

Staff members have a right of appeal against all outcomes imposed under this procedure. There will be a maximum of two stages to the appeal process.

First Appeal

A First Appeal hearing will determine whether the decision taken by management at the time was fair and reasonable.

Disciplinary outcomes will remain in force pending the outcome of an appeal.

Notification of the intention to appeal against any outcome from a Disciplinary Panel, including dismissal, must be submitted in writing to the XO within 7 days of receipt of the written confirmation of the outcome.

Within 15 days of their notification to appeal, the staff member must submit a written statement outlining the grounds of the appeal to the XO. This must state whether they are appealing against the finding of misconduct, the severity of the outcome or an abuse of procedure.

The XO will then convene a further panel, consisting of senior officers, made up initially where possible of heads of department not already involved in the process, to hear the appeal. They will only consider facts as presented at the discipline hearing, and must not re-investigate or take into account any fresh evidence, basing their decision only on the facts available to the disciplinary panel at the time of the original decision.

The staff member shall have a right to attend the appeal hearing, accompanied by a staff "friend".

The decision of the first appeal must be notified to the appellant within 7 days of the first appeal hearing taking place and a copy placed on the staff member's personal file for the appropriate period. Once this period has expired, all correspondence relating to the discipline will be removed from the personal file and destroyed.

The outcomes available to at the First appeal are:

- 1) To uphold the decision of the Disciplinary Panel
- 2) To quash the decision of the Disciplinary Panel
- 3) To remit the matter back to the Disciplinary Panel for further consideration, setting out the specific areas of the matter which require further thought.

Second Appeal

Following the outcome of the first appeal being notified to the appellant, the appellant will have a period of 7 days within which to notify the Colonel of the NCF, should they wish to pursue a second appeal. The staff member must submit a written statement outlining the grounds to the Colonel of the NCF with the notice of intention to request a second appeal. This must state whether they are appealing against the finding of misconduct, the severity of the outcome or an abuse of procedure.

The Colonel of the NCF will then convene a further appeal hearing between himself and the Appellant. They will only consider facts as presented at the discipline hearing, and to the First Appeal panel, and must not re-investigate or take into account any fresh evidence, basing their decision only on the facts available to the disciplinary panel at the time of the original decision.

The outcomes available to at the second appeal are:

- 1) To uphold the decision of the First Appeal Panel
- 2) To overturn the decision of the First Appeal Panel

Documentation

In the interests of both the NCF and the staff member, written records and documents of the discillnary procedure will be kept.

Records and documents will include: -

- The complaint/allegations against the staff member
- The staff member's defence
- Witness evidence
- Relevant audits undertaken (e.g. computer, financial, etc)
- The investigating officer's report
- The findings made and actions taken
- The rationale for the action taken
- Whether an appeal was lodged
- The outcome of the appeal
- Any complaint raised during the disciplinary procedure

Records and documents will be treated as confidential and will be kept by the NCF in accordance with the Data Protection Act 1998, which gives employees the right to request and have access to certain personal data. It is expected that everybody within the NCF will work for the good of the NCF, its cadets and staff and towards our aims and values, thus making the use of this policy an uncommon occurrence.

In drafting this policy the NCF has taken into consideration:

The Human Rights Act 1998, particularly:

Article 3	Protection from torture and inhuman or degrading treatment or punishment
Article 5	The right to liberty and security of person
Article 6	The right to a fair trial
Article 8	The protection of private and family life
Article 9	Freedom of thought, conscience and religion
Article 10	Freedom of expression
Article 14	Freedom from discrimination

Disability Discrimination Act 2005 Race Relation Act 1976 Health and Safety at Work Act 1974 Employee Relations Act 1999 The Responsibility of this Policy falls to the Colonel of the Navy Cadet Force.

Signed: Date: January 2023

Print: Colonel Terry Fitzgerald

This Policy has been approved for distribution by the Chairman of the Navy Cadet Force.

Signed: Date: January 2023

Print: Luke Giles