

# **AGAIs Vol 5 INSTRUCTION 006 - RETIREMENT OR DISCHARGE ON GROUNDS OF CONSCIENCE**

[D/AG/M/66/02]

## **SCOPE**

1. This instruction applies to all members of the Regular, Territorial and Reserve Forces who submit pleas of conscientious objection to military service.

## **OFFICERS**

2. Regular Army Officers

a. A regular officer wishing to retire or resign his commission on the grounds of conscientious objection to military service may apply to his commanding officer (CO) to leave the Service prematurely. His application is to take the form of the normal application for premature voluntary retirement in accordance with Army General and Administrative Instructions, Volume 2, Chapter 38, Annex A.

b. In order that the Army Retirements Board (ARB) and/or Army Retirements Appeals Board (ARAB), on behalf of the Defence Council, is able to judge the genuineness of the case, the officer is to attach to his application such written evidence as he has to support his plea of conscience. This will generally take the form of a written submission by the officer, giving his reasons, together with statements from at least 2 referees who know the officer well (such as a minister of religion, solicitor or any other person the officer considers can support his plea).

c. The ARB will also require a written report from the officer's CO, unless the present CO has known the officer for less than 6 months, in which case a report from the previous CO should be supplied. In addition, the unit padre or chaplain (or a chaplain nominated by the appropriate HQ) is also to submit a report to the CO.

d. The CO's report, together with the report of the padre or chaplain, is to be forwarded with the officer's application and supporting evidence through the appropriate chain of command so that the comment and recommendations of senior commanders up to at least 2 star rank can be obtained. The application and supporting documents are then to be sent to the Manning and Career Management Division (MCM Div) of the officer concerned. After obtaining the views of its arm or service director, the MCM Div is to process the application to the Secretary of the ARB.

3. Territorial Army (TA) Officers. In peacetime, TA officers who wish to terminate their service for reasons of conscience should follow the procedure laid down in TA Regulations 1978 Chapter 4. Following mobilisation, TA officers will be dealt with in the same way as regular officers (see also para 14).

4. Members of the Regular Army Reserve of Officers (RARO) Regular Reserve. A member of RARO who wishes to submit a plea of conscientious objection to his military service obligation is to forward a written submission of his reasons, supported by at least 2 statements from referees who know him well (such as a minister of religion, solicitor or any other person he considers can support his plea). These documents will form the basis of the application for exemption from military

service, and should be sent to the TA & Res MCM Div APC, Glasgow. The TA & Res MCM Div APC is then to staff the application to the Secretary of the ARB.

5. ARB Action. The ARB, after considering an application submitted in accordance with the rules above, may either:

- a. Approve the application to resign or retire on grounds of conscience, or
- b. Reject the application and draw the individual's attention to the procedure for review by the ARB.

6. ARAB Action. The ARAB, after considering an application submitted in accordance with para 5b above, may either:

- a. Approve the application to resign or retire on grounds of conscience, or
- b. Reject the application and draw the individual's attention to Annex A to this Instruction, which sets out the procedure for bringing the case before the Advisory Committee on Conscientious Objectors (ACCO)

7. File Action (For Successful Applicants). Where applicable, the personal file of an officer permitted to retire on grounds of conscience is to be marked on the face as follows: 'Conscientious Objector. No recall liability - NOT TO BE RECALLED'.

## **SOLDIERS**

8. Form of Application. Regular soldiers who wish to leave the Army on grounds of conscientious objection to military service are to apply in writing to their CO. The paragraphs below amplify the procedure using AF B132A; the operative paragraph for discharge is The Queen's Regulations for the Army 1975 para 9.402. The unit is to forward a completed AF B132A to the appropriate MCM Div and then act on the AF B132 provided by him/her. In the case of Army Reservists, Long Term Reservists and Army Pensioners the application is to be made in writing to the TA & Res MCM Div APC which will arrange for the correct procedures to be initiated. In such cases the next higher authority will be the MOD (Manning(A)). In the case of TA soldiers, in peace, the normal method of release will be by giving the appropriate notice to terminate service under TA Regulations 1978 para 5.188. When called out for full time service, TA soldiers will be dealt with in the same way as Regular soldiers (see also para 14).

9. Evidence required. A plea of conscience by a soldier will need to be substantiated. This will generally take the form of statements attached to the AF B1 32A from those who know the soldier and are well placed to elaborate on matters of conscience, e.g. a minister of religion, solicitor or other professional person.

10. Discipline. If any matters of discipline exist or arise prior to a decision on discharge being taken, any offences are to be dealt with in the normal way, whether or not an offence is suspected of being in any way attributable to his pleas of conscience, e.g. refusing to wear uniform. The soldier is required to serve according to his terms and conditions of service until such time as his application for discharge is approved. The CO is to explain these facts to the soldier in the presence of a witness when he first interviews him regarding the submission for a discharge.

11. Level of decisions. The CO is to forward the application to the appropriate superior headquarters, together with its accompanying statement(s) and his own recommendation. The follow procedure is to apply:

- a. Where the division or district commander is satisfied that the soldier should be discharged he is to authorise it and instruct the CO accordingly. MOD (Manning(A)) is simply to be notified that this authority has been given on grounds of conscience.
- b. Where the division or district commander is not prepared to authorise discharge he is to instruct the CO to interview the soldier and explain the reason(s) why discharge has not been authorised, and that if the soldier does not accept this decision he has the right to ask for his application to be forward through normal channels to MOD (Manning(A)) for consideration by the ACCO whose decision is final: for the procedure to be adopted see Annex A to this Instruction.
- c. Exceptionally, all cases which involve a Ministerial Inquiry are to be considered within MOD by Manning(A) as are any cases which arise in an isolated location where authority for discharge of soldiers on compassionate grounds may not have been delegated.

12. Method of discharge. In all cases where discharge is authorised, by whatever authority, it is to be speedily effected under The Queen's Regulations for the Army 1975 para 9.402. If the ACCO has ruled to the effect that discharge is appropriate, MOD (Manning(A)) will at once inform the CO, with copies to intervening headquarters, and provide him with the authority to effect discharge.

13. Reserve service. Any soldier discharged on grounds of conscience is to be relegated to the Long Term Reserve (if applicable), and his documents are to be annotated 'Conscientious Objector - NOT TO BE RECALLED.

## **OFFICERS AND SOLDIERS**

14. Cases arising overseas. Under normal peacetime conditions the procedure given above is to apply. Any applicant whose plea of conscience has been rejected and who has then applied to appear before the ACCO is to be returned to the United Kingdom once the date of the hearing is known. Manning(A), in the case of officers or soldiers respectively, will advise everyone concerned and provide the necessary travel authority. Manning(A) will also notify all concerned of the outcome of the hearing, and will decide if the individual is to return to the overseas location and provide the necessary authority. However, anyone whose plea is upheld would not normally expect to be returned to the overseas location and arrangements made prior to the departure to the United Kingdom should take this into account.

15. Special circumstances. If an officer or soldier pleads conscientious objection to military service whilst serving on operations, during transition to war or other period of tension, or when warned for duty overseas, the CO must decide in the short term whether the plea is genuine or not. In either case, and providing that the operational situation permits, the procedure outlined above is to apply. In all cases the CO will retain the right, prior to any final decision being made in the chain of command or by the ACCO, to:

- a. Employ the person on operations.

- b. Give lawful commands and take disciplinary action if such commands are disobeyed.
- c. Take the person with the rest of the unit overseas providing the date of the ACCO hearing has not been notified or is not considered imminent.

**ANNEX A TO INSTRUCTION NO 6  
APPEARANCE BEFORE THE ADVISORY COMMITTEE ON  
CONSCIENTIOUSOBJECTORS (ACCO)**

(paras 5 and 10 refer)

**GENERAL**

1. The ACCO is an independent committee appointed by the Lord Chancellor. It consists of a chairman and deputy chairman, both of whom are QCs, and 4 lay members. The quorum for a meeting is the chairman or deputy chairman and 2 ordinary members. The hearings of the ACCO are held in public, the procedure is informal. The applicant is not informed of the committee's decision on the day of the hearing as their advice must first be formally accepted by the Secretary of State's representative.
2. Within the MOD the department of Personnel and Logistics (Legal and Safety) are responsible for the ACCO and provide its Secretariat when it meets. They are responsible for making the arrangements, through M1(A) for officers and Manning(A) for soldiers, for the attendance of applicants at ACCO hearings, and for notifying Manning(A) of the outcome by telephone and by confirmatory letter.
3. An applicant who has appeared before the ACCO is not to be posted overseas until the committee's decision is known, and then only if the appeal has not been upheld.
4. Travel and other expenses.
  - a. The applicant is to be conveyed to and from the ACCO at public expense.
  - b. Witnesses, but not representatives, may make a claim for travelling expenses and subsistence, but not for loss of earnings.
  - c. Where the applicant arranges to be represented at the hearing, the expenses of his representative are to be met by the applicant and not from public funds.
5. COs are to ensure that applicants fully understand the rules concerning expenses.

**METHOD OF APPLICATION**

6. The applicant, hereinafter called the appellant, is to complete 2 copies of the form at Appendix 1 to this Annex and attach such written evidence as he has to support his plea of conscience. (In the case of an officer this will generally be the same as that submitted to the ARB and/or ARAB). It should also include statements by at least 2 referees who know the appellant well. The application and supporting statements are to be passed to the appellant's CO.
7. The CO is to complete 2 copies of the form at Appendix 2 to this Annex. An officer from the unit is normally to be appointed to attend the hearing before the ACCO in order to answer questions about the appellant. The officer's name, or the reason why an officer cannot be appointed, is to be entered in para 22 of Appendix 2.
8. The CO is then to forward copies of Appendices 1 and 2 together with his report (and in the case of an officer the chaplain's report, which was previously submitted to

the ARB and/or ARAB) to the appropriate command or district headquarters for forwarding to MOD (Manning(A)).

9. Special conditions. Applications to appear before the ACCO are not to be submitted by an appellant who is:

- a. Absent without leave or a deserter, or
- b. The subject of pending disciplinary action, or
- c. Undergoing a sentence of imprisonment or detention, until such time as he/she has returned to his/her unit, any outstanding disciplinary action has been taken, and he/she has completed any sentence imposed.

### **ATTENDANCE BEFORE ACCO**

10. The time, date and place of the hearing before ACCO will be notified by MOD(Manning(A)) to the appellant's unit and to the command or district headquarters in sufficient time for the appellant to arrange for attendance at the hearing of any representative(s) and witness(es).

11. Where the unit is overseas, the overseas headquarters is to return the appellant to the United Kingdom as required on receipt of the signal, which will contain the authority for them to do so. If an officer of the appellant's unit has been nominated to testify, the signal will also contain the authority for that officer's return to the United Kingdom.

12. On arrival in the United Kingdom from an overseas command, the appellant and the testifying officer (if one has been nominated) are to be attached to and administered by their corps depot or equivalent unit. The depot or equivalent unit commander is for the time being to be their CO.

13. The CO is to arrange for the appellant to attend the ACCO's hearing in uniform at the time appointed. If the appellant requests to be allowed to wear civilian clothes he may do so.

14. The following officers will also attend the hearing in uniform and be prepared to be questioned:

- a. The CO or his representative.
- b. A staff officer from MOD (Manning(A)), as appropriate to the case, who has detailed knowledge of the case and the appellant's record of service.

### **NOTIFICATION OF ACCO DECISION**

15. MOD (Manning(A)) is to send a copy of the ACCO's decision to the appellant's unit, or to the corps depot or equivalent unit if the appellant is from a unit overseas, for immediate transmission to the appellant from whom a receipt in duplicate is to be obtained. One copy of the receipt is to be forwarded to the originating MOD branch, the other copy being retained by the unit together with the appellant's personal documents.

16. Where the ACCO has upheld the plea of conscience:

- a. In the case of officers, Manning(A) will inform the personnel branch concerned and the Secretary of the ARB who will arrange for the officer to retire or resign without any recall liability and with any time bar or other restriction (less financial) being waived. The officer is to be notified of ARB approval in the normal way.
- b. In the case of soldiers, Manning(A) will inform the appropriate headquarters concerned and forward the case papers to them for authorisation of the soldier's discharge.

17. Where the ACCO has rejected the appellant's plea of conscience:

- a. In the case of officers, Manning(A) will inform the personnel branch and unit of the decision.
- b. In the case of soldiers, Manning(A) will return the case papers direct to the unit and send a copy of the covering letter to the appropriate headquarters. In the case of an appellant from an overseas unit, an additional copy of the covering letter will be sent to the corps depot or equivalent unit with instructions regarding the appellant's return to his/her unit or otherwise.
- c. Both officer and soldier appellants are to be interviewed by their CO as soon as possible after the ACCO's decision has been given. The appellant is to be informed that:
  - (1). He/she must continue to serve in the Army under the same conditions as applied before the ACCO heard his/her case, until (if an officer) he/she is retired or otherwise free to resign, or (if a soldier) he/she is discharged on completion of his/her Colour service or is allowed to purchase his/her release;
  - (2). Should he/she subsequently commit an offence against military discipline he/she will be liable to normal disciplinary action.

**APPENDIX 1 TO ANNEX A TO INSTRUCTION NO 6  
APPLICATION TO THE ADVISORY COMMITTEE ON  
CONSCIENTIOUS OBJECTORS**

(see para 5 of Annex A/6)

1. Surname:

Christian/Forenames:

Number:      Rank:

Unit:

2. I declare that I have a conscientious objection to performing military service and hereby apply to have my case considered by the Advisory Committee on Conscientious Objectors. I understand that the Committee's decision is final.

Signature:

Date:

3. Do you intend to be represented before the Committee?

If so, state the name, address,

Profession and/or relationship to

You of the representative

4. Do you intend to be accompanied by a witness?

If so, state the name, address and

Relationship to you of the witness

5. Statements in support of this application are attached at:

Date:

Signed:

**APPENDIX 2 TO ANNEX A TO INSTRUCTION NO 6  
DETAILS OF APPELLANT - STATEMENT BY COMMANDING  
OFFICER FOR INFORMATION OF THE ADVISORY COMMITTEE**

(see para 6 of Annex A/6)

1. Number:

2. Rank:

3. Surname (block letters):

Christian/Forenames:

4. Unit:

5. Date of Birth:

6. Date of enlistment/joining current engagement/commission:

7. Corps:

8. Nature of commission/engagement and date of completion:

9. Amount of service on previous engagements (if any):

10. Length of service in present unit and where stationed:

11. If warned for overseas service, when due to depart and destination:

12. Date of arrival overseas on current tour:

13. Civil occupation:

14. Home address before enlistment:

15.

Present home address:

16.

Married or single:

17.

If married, date of marriage:

18.

If married with children, state ages and sex and give details of any other relatives living at appellant's present home:

19.

Military conduct assessment of the appellant:

20.

Brief particulars of relevant past offences and punishments awarded:

21.

A brief summary of the facts of the case:

22.

Any further information which the commanding officer considers should be brought to the notice of the Committee:

Date:

Signature:

Rank and appointment