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XXXXX XXXXX  
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11 October 2019

Dear XXX XXXXXX,

Thank you for your email of 11 September in which you asked the Ministry of Defence a number of questions in relation to the Army Cadet Force (ACF) and Reserve Forces and Cadet Associations (RFCA) under the Freedom of Information act (FOIA) 2000.

Within your letter are policy extracts: I can confirm they are correct and remain current but am unable to comment on them further. A search to answer the remaining questions in your letter has been completed within the Ministry of Defence, and I have inserted the answers within your request below.

**Role of Designated Cadet Safeguarding Officer (DCSO):**

*MOD/ACF/RFCA Policy including what training the Cadet Executive Officer (CEO) receive to carry out their role as Designated Cadet Safeguarding Officer DCSO in relation to the following:*

*1. Dealing with allegations, complaints or concern raised against Adult Instructors.*

All CEOs complete Designated Safeguarding Leader (DSL) training with the NSPCC, this covers managing allegations, complaints and concerns. They then also complete a session with RFCA Director of Children and Young People to assist in applying the overarching legislation on safeguarding and child protection to the specific context of the ACF.

*2. Record and log keeping specific to safeguarding incidents, investigations, reporting incidents, allegations or concerns to Police and Children Services, Local Area Designated Officer (LADO).*

2.2.2.4.2. ACF Regulations - All incidents no matter how minor should be recorded in the copy of MOD Form 315 – Occurrence Book that must be kept at that location.

2.2.2.4.3. ACF Regulations - Records must be kept of any concerns relating to accidents, any injury that requires medical treatment, any concern relating to a

child's welfare or wellbeing, disclosures made by a cadet, information shared from statutory agencies regarding the welfare of a cadet, concerns shared from external parties regarding the wellbeing of a Cadet (this may be a concern shared from another child, a report from an external individual, school, family member etc. that is likely to require awareness by the ACF to ensure appropriate safeguards are put in place whilst in the care of the ACF), of any allegations made either by cadets, or against adults of the ACF. All such incidents must be recorded on (Annex A to LFSO 3202C) and forwarded to XXXXX@mod.gov.uk.

3. *Reporting safeguarding incidents to Police Service and or LADO, what must the DCSO do, what must they record and log who must they inform within the Military chain of command.*

2.2.2.2.1. ACF Regulations - All incidents and concerns of a safeguarding nature must be reported or recorded. Dependant on severity of the issue, below are guidelines for managing such incidents and concerns.

a. If there is an immediate threat of harm to a Cadet or adult, or harm has been caused to a Cadet or adult, the emergency services must be contacted immediately.

b. If there is an allegation of a crime, or a crime has been witnessed, the police must be contacted immediately.

c. If a cadet discloses something that causes concern - if the concern relates to an immediate threat, the emergency services must be contacted. If the concern is regarding on-going behaviour towards the cadet (for example, at home or at school) the concern must be forwarded to the DSL who must forward concerns to the local safeguarding board or children's services.

d. If an incident results in an external case review or a serious case review then the findings of this review (as authorised by the LADO or police) should immediately be reported to SO2 Safeguarding at RC HQ Cadets Branch.

e. If a cadet discloses something that causes concern but does not highlight a specific risk, the concern must be recorded locally to enable monitoring of the cadet's wellbeing and must also be reported to the DSL to make them aware that there is a potential concern and to allow them to link concerns with any additional information that they may be privy to.

4. *When would the CEO/DCSO not be required to report an alleged criminal offence to the Police/LADO?*

There is no policy which specifies when an alleged offence does not need to be reported. However, ACF policy states that:

The CEO would be required to report to the police if there was concern of criminality.

The CEO would be required to involve the LADO if there was concern or allegation of any of the following-

- a. A member of staff or volunteer has behaved in a way that has harmed a child, or may have harmed a child, or
- b. Possibly committed a criminal offence against or related to a child, or
- c. Behaved towards a child or children in a way that indicates s/he may pose a risk of harm to children.

5. *When would CEO/DCSO not be required to make, maintain or keep records and logs when dealing with a safeguarding incident, allegation or concern brought to their attention?*

As per question two above.

6. *When conducting investigations - must records be kept of an investigation by the CEO/DCSO.*

Records should be kept of all investigations.

7. *When the CEO/DCSO would carry out their own investigation of an alleged criminal incident involving an Adult Instructor against an Army Cadet, not be required to report the incident to the Police/LADO.*

2.2.2.4.5. ACF Regulations - Investigations are to be conducted by the appropriate authorities. If no further action is taken by the appropriate authorities after an investigation has been completed, the Cadet or adult whom the complaint names is to remain suspended pending an investigation by the ACF into the balance of probability of the complaint's grounding and whether it warrants administrative action or dismissal from the ACF. (In order to prosecute an individual, the crown prosecution service must be satisfied that there is sufficient evidence to prove the case beyond reasonable doubt. Where the authorities decide not to prosecute an individual may still be in breach of the service test for which the proof required is a simple balance of probabilities. Where allegations have been made against an individual the commandant must assess whether the individual is in breach of the service test and therefore subject to an appropriate sanction).

### **AGAI67 Administrative Action (AA):**

Under Section 16 of the Freedom of Information Act (Advice and Assistance) you may find it helpful to note that the Cadet Force Commission, introduced 01 December 2017, means all Cadet Force Adult Volunteer (CFAV) discipline procedures are dealt with in line with ACF Regulations rather than AGAI67. Unless AGAI67 action had already been initiated, in this case it would continue until those cases are closed. Therefore; there is no ACF Policy on the implementation of AGAI67.

1. *MOD/ACF Policy if the Originating Officer, (OO) Investigating Officer (IO) does not follow the AGAI67 AA Process when initiating and conducting an investigation. When their chain of command is informed of this what action should be initiated against those individuals, how is this recorded.*

This is a matter for the Chain of Command, depending on the seriousness of the failing of the OO in terms of breach/failure in process.

2. *Can an Officer be investigated for the same incident twice under AGAI67 AA by two different OO/IO? Does double jeopardy apply to AGAI67 AA process?*

An officer cannot be investigated by two different OOs for the same incident. An incident could be looked into again if new evidence is presented.

3. *MOD/ACF Policy to report AGAI67 AA Investigation to Disclosure Barring Service, Police Service and Children Services. (example - civilian firing blank ammunition without a weapon handling test).*

AGAI 62 directs that certain professional bodies (eg for Chaplains, Legal Services, Medical professionals etc) must be notified of a conviction for misconduct.

### **MOD/ACF Policy - Suspension of Adult Instructor:**

1. *MOD/ACF Policy which states an adult instructor who is a Police Officer will be suspended from the ACF when a complaint is made against the Police Officer by a member of the public, who is employed by RFCA.*

ACF policy is adhered to regardless of an adult instructors' civilian role.

2.3.8.7.1. ACF Regulations - CFAVs may be suspended without prejudice by the Cadet Commandant within an ACF County. For national roles, regional roles and Cadet Commandants, the suspension will be made by Deputy Commander Cadets or the respective RPoC Commander. All such suspensions are without prejudice to the outcome of any investigation.

2. *MOD/RFCA Policy a crown servant employed by RFCA has the authority to pass personal details and information of an Adult Instructor (Commissioned Officer) obtained from RFCA/ACF Databases and files to the Police Service when making a complaint against a Police Officer as a **member of the public**.*

The Army's Cadet Forces "Protection of Personal Information SOP", "Disclosure to Third Parties" section states:

8. Specific statutes may either mandate, or provide a legal gateway for, disclosure.

9. The most common example is a "section 29" disclosure to police forces, for the purposes of detecting or preventing crime, which disclosure must have a valid condition for processing. 18 The MOD is responsible for making the decision to disclose or withhold the information, and all such requests must be escalated to Cadets Branch.

## Public interest

10. In exceptional cases, there may be an overwhelming public interest in disclosure which outweighs the individual rights and freedoms of the data subject.

11. Disclosures in the public interest are generally limited to those necessary to prevent a serious and imminent threat to public health, national security, an individual's life, or to prevent and detect serious crime. The protection of other adults and children from serious harm, including abuse, will usually satisfy the public interest test.

12. The public interest test is exceptional and must not be relied upon for routine disclosures. Disclosure must be both necessary (i.e. likely to make an effective contribution to preventing the harm), and proportional in respect of the balance of interests in the particular case.

3. *What action should be taken by RFCA when they are informed a crown servant employed by RFCA in their complaint to a Police Force, stating they are a **member of the public** pass personal information and details relating to an ACF Officer who is also a Police Officer obtained from ACF/RFCA Data Bases and Files which relate specifically to the role of the individual in the ACF not in their role as a Police Officer.*

All RFCA employees are required to conform with the Code of Conduct for RFCA Staff as set out in Staff Regulations (Annex 1J) and as stated in their Terms and Conditions of Employment. Should any employee of an RFCA be found to have deliberately breached DPA rules, then they would be subject to investigation and possible disciplinary action in accordance with the RFCA Staff Regulations Chapter 7 (previous version dated 2010 and now updated to 2019). Disciplinary action would depend on the investigation and circumstances but in the extreme case if the action was considered to be Gross Misconduct then this could lead to dismissal. Copy of the Staff Regulation can be provided if necessary.

4. *MOD/ACF Policy how frequently must a suspension be reviewed. Is there a requirement to keep the suspended Adult Instructor updated on their status why the suspension remains in effect?*

The suspension may stay in place for the duration of Admin Action or may be stopped by the Commandant (if there is no perceived risk) there is no requirement to review it though. They are to be updated once a week.

2.3.8.7.6. ACF Regulations - The CEO is to ensure a plan is put in place for a senior member of the ACF to contact any CFAV under suspension weekly, as a duty of care, until the investigation and Administrative Action are complete.

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

X XXXXXX  
Manning Team  
Army Secretariat