



Ministry
of Defence

Guidance for Decision Makers for pre-1967 veterans

For the qualification of administrative
discharges & restoration of rank



12 December 2024
Version 1

Contents

About this guidance	2
Publication	2
Introduction	3
Background	3
Authority for Restorative Measures	4
The process	5
Receiving an application	5
Application form and administrative checks	5
Assessment	6
No action required	6
Unclear or insufficient evidence in record	6
Conditions for the qualification of administrative discharge	7
Conditions for the restoration of rank	8
The discharge/demotion of rank took place prior to 27 July 1967.	9
The demotion took place immediately prior to discharge/dismissal.	9
Any connected conviction or administrative action has been disregarded or qualified.	9
There is no evidence of other misconduct.	10
The grounds for discharge would not be lawful grounds today.	10
Final determination	10
Appeals and review process	11

About this guidance

1. This guidance advises Decision Makers within the single Services on how to assess applications for the qualification of administrative discharges and restoration of rank, against the conditions set out in the relevant policies.
2. The qualification of administrative discharge and restoration of rank apply to administrative discharges and reductions in rank made under historic law prior to 1967.
3. Guidance for applicants on applying for these and other restorative measures can be found at: [LGBT veterans: support and next steps - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/lgbt-veterans-support-and-next-steps)

Publication

4. This is version 1.0 of the guidance which was published on 12 December 2024.

Introduction

5. This section sets out the background to the restorative measures of qualifying past administrative discharges and restoring rank lost based on sexual orientation or gender identity.

Background

6. The Ministry of Defence and the Office for Veterans' Affairs co-commissioned the [LGBT Veterans Independent Review](#) in 2022 to better understand the experiences, impacts and implications of the 1967-2000 policy, which prohibited LGBT personnel from serving in HM Armed Forces.
7. The Review, published in July 2023, gave 49 recommendations to the Government, including 14 recommendations of non-financial restorative measures for those affected. The Government accepted the intent behind all 49 recommendations in its formal response, published in December 2023.
8. Included in the 14 recommendations of non-financial restorative measures were the recommendations for the qualification of past administrative discharges and the restoration of rank lost due to dismissal or discharge under the Ban. The Ministry of Defence has extended these restorative measures to veterans impacted by historic law surrounding same-sex sexual activity, prior to 1967, to which this guidance refers.
9. If an application for the qualification of an administrative discharge made prior to 1967 is successful, service records held by the Ministry of Defence will be amended or annotated to record the discharge reason as "Discharge was pursuant to a law which has now been abolished and is now considered unfair." However, it should be noted that these changes may not be made until May 2025.
10. If an application for restoration of rank is successful, service records held by the Ministry of Defence will be amended or annotated to record the applicant's rank as the restored rank, and any references to a reduction in rank will be removed or annotated.
11. The aim of these policies is to set-right the service records of veterans who were impacted by historic law surrounding same-sex sexual activity prior to 1967, and to restore veterans' pride in their service.

Authority for Restorative Measures

12. Implementation Order MOD/LGBTRestorativeAction/IO/001 provides the direction for the implementation of these Restorative Measures.
13. The Defence Council has directed the single Services to support and enable the implementation of these Restorative Measures and to take all necessary actions to give effect to their implementation, including making necessary amendments to Kings Regulations, Defence Council Regulations, Instructions and Service policy, as appropriate.
14. The single Services have additionally taken all necessary actions to ensure the exemption of applicants from any liability to call out or recall where this would arise as a result of the qualification of administrative discharge or restoration of rank.
15. The relevant changes can be found in the following single Service documents:

Army

- a. Qualification of administrative discharges, both prior to 1967 and under the Ban – QR(A) and SToS.
- b. Restoration of rank, both prior to 1967 and under the Ban – QR(A), SToS and ACR.
- c. Exempt liability for recall or call out – RLFR (Admt 7)

Royal Air Force

- a. Qualification of administrative discharges prior to 1967 – AP3393 (Vol 1) and KR (RAF).
- b. Qualification of administrative discharges under the Ban – AP3393 (Vol 1).
- c. Restoration of rank, both prior to 1967 and under the Ban – KR (RAF).
- d. Exempt liability for recall or call out – AP3392 (Vol 7)

Royal Navy and Royal Marines

- a. Qualification of administrative discharges, both prior to 1967 and under the Ban – BRd 3(1)
- b. Restoration of rank, both prior to 1967 and under the Ban – BRd 3(1)
- c. Exempt liability for recall or call out – BR3(2)

The process

Receiving an application

16. This section explains the process that should be followed when an application for the qualification of administrative discharge and/or rank restoration is received by the Ministry of Defence.
17. The Ministry of Defence can only consider applications submitted using the relevant application form at [LGBT veterans: support and next steps - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/lgbt-veterans-support-and-next-steps). If an application is submitted in any other way, the Defence LGBT Restorative Action team will advise the applicant to resubmit using the specified form. The applicant's details will not be passed onto single Services at this stage.
18. However, if it is already clear from the information that the applicant has provided that a qualification or rank restoration cannot be granted the Defence LGBT Restorative Action team will advise the applicant that they are not eligible for the restorative measures and will explain the reason why.

Application form and administrative checks

19. Upon receipt of an application, the Defence LGBT Restorative Action team will review it and ensure that all personal and contact information has been provided in full and that the applicant served prior to 1967. The application will then be passed to the relevant Service for processing.
20. If the applicant has not completed all mandatory sections of the application form or something they have stated requires clarification, the Defence LGBT Restorative Action team will contact the applicant via the preferred method of contact indicated in the application form requesting this information before proceeding with the application.
21. The Service point of contact will then call for all relevant service records for the applicant and will complete initial eligibility checks, confirming that the details on the application form match those in records, and that the applicant served prior to 1967. Service records will be sought from physical storage sites on the Defence estate as well as historic electronic databases which may still hold relevant records.
22. Once initial eligibility checks have been completed, the service point of contact will gather all relevant information from service records to make a recommendation on the application for qualification of administrative discharge and/or rank restoration.

Assessment

23. Once all relevant service records for the applicant have been obtained, the Service point of contact should review the records to determine whether the conditions for each restorative measure have been met. This recommendation should then be shared with the decision maker, alongside any relevant evidence, for final agreement.
24. Decision Makers for each Service shall be the Naval Secretary, Air Secretary and Director of Personnel (or their delegates) for applicants/deceased veterans of OF6 rank and below. For applications for veterans above OF6, the Defence Council shall be the Decision Maker who may delegate the decision-making function to the Admiralty Board, Air Force Board or Army Board.
25. In the assessment of these restorative measures, a reverse burden of proof will apply. This means that the burden of proof will lie with Defence rather than the applicant to determine whether a fact or matter occurred. Unless Defence finds evidence to contradict the reported events or facts stated by the applicant, Defence will accept that the facts or experiences reported took place if on a balance of probabilities, they are more likely to have occurred than not.

No action required

26. If records show that the applicant left service through a method other than administrative discharge, or that there was no reduction in rank, there is no action required. In these circumstances, the Service point of contact should send an 'update letter' to the applicant, explaining clearly why their application will not be processed.

Unclear or insufficient evidence in record

27. Though records should exist, they are likely to vary in the level of detail that they provide. They may not include information which directly states sexual orientation/gender identity as the reason for discharge/reduction in rank. Each application must be considered on its own merits, taking into account all of the information that is available, on a balance of probabilities approach, to enable you to decide whether it appears that the conditions are met.

Conditions for the qualification of administrative discharge

28. A person may apply for qualification of their administrative discharge if they meet all of the following criteria:
- a. The person was discharged from HM Armed Forces as a consequence of administrative action on the grounds of:
 - i. Sexual orientation, or
 - ii. Gender identity.
 - b. The discharge took place prior to 27 July 1967,
 - c. There is no evidence of other misconduct which wholly or partly constituted grounds for the administrative discharge, i.e. it is clearly based solely on the applicant's sexual orientation or gender identity.
 - d. The grounds for discharge, if occurring at the time the decision on the application is made, would not be lawful grounds for discharge.
29. This can be applied to officers instructed to resign if there is evidence of the resignation following an administrative procedure based on sexual orientation. If a resignation is recorded as the reason for discharge and there is no evidence of an administrative procedure, or the administrative procedure was not based on sexual orientation, the applicant should be given the opportunity to provide supporting evidence; in the absence of this, the application should be rejected.

Conditions for the restoration of rank

30. A person may apply for restoration of rank and/or commission if the following qualifying criteria are met:

- a. The demotion of rank or termination of commission was a consequence of administrative action or dismissal on the ground of:
 1. sexual orientation, or
 2. gender identity.
- b. The demotion took place prior to 27 July 1967.
- c. The demotion took place immediately prior to discharge or dismissal.
- d. Any connected conviction or administrative action has been disregarded or qualified.
- e. There is no evidence of other misconduct which may have warranted demotion, i.e., it is based solely on perceived sexual orientation or gender identity.

The discharge/demotion of rank was on the grounds of sexual orientation or gender identity

31. The administrative discharge and/or reduction in rank must have been based solely on perceived or actual sexual orientation or gender identity. This may not be explicit in records but can be determined by the absence of another reason for discharge/reduction in rank and good conduct ratings prior to the discharge/reduction in rank.

The discharge/demotion of rank took place prior to 27 July 1967.

32. The administrative discharge and/or reduction in rank must have taken place prior to 1967, when same-sex sexual activity was prohibited by criminal law.
33. Administrative discharges which took place prior to 1967 will be qualified with the wording “discharge was pursuant to a law which has now been abolished and is now considered unfair.” However, it should be noted that these changes may not be made until May 2025.

The demotion took place immediately prior to discharge/dismissal.

34. Since the policy in place prior to 2000 directed that LGBT personnel were dismissed or discharged from Service, reductions in rank based on sexual orientation /gender identity would only have taken place as part of a discharge or dismissal. Therefore, only rank which was reduced as part of, or immediately prior to, discharge or dismissal can be restored.

Any connected conviction or administrative action has been disregarded or qualified.

35. Rank reductions will have been made as a result of a conviction or administrative discharge. Any convictions must have been disregarded by the Home Secretary through the Disregard and Pardon scheme prior to rank being restored. Please note that the Disregard and Pardon scheme is owned and managed by the Home Office and therefore Defence cannot influence the timescale of Disregard application outcomes.
36. Applications for the qualification of administrative discharge can be made at the same time as applications for restoration of rank, through the same application form. If the administrative discharge cannot be qualified, due to the presence of another reason for discharge, the Ministry of Defence cannot be sure that a reduction in rank would not have occurred and therefore it cannot be restored.

There is no evidence of other misconduct.

37. For the decision to be made to qualify an administrative discharge or restore a rank lost under historic law prior to 1967, there must be no evidence of other misconduct which may have contributed to an administrative discharge and/or reduction in rank, in whole or in part. Misconduct, which was addressed separately, and prior to the discharge/dismissal to which the reduction in rank is connected should not be taken into account.

The grounds for discharge would not be lawful grounds today.

38. Administrative discharges for behaviour that is still grounds for discharge today cannot be qualified. For example, sexual activity with recruits remains grounds for discharge, regardless of the sex of the individuals involved. If there is doubt as to whether behaviour would constitute grounds for discharge today, the service point of contact should seek guidance from Service lawyers and include the advice in their recommendation to decision makers. Decision makers may wish to seek further advice if appropriate.

Final determination

39. Once all available and relevant records have been reviewed, the Service point of contact should produce a recommendation for the decision maker, seeking advice from Service lawyers when appropriate and including this in the submission to the decision maker. The decision maker should come to a determination as to whether the qualification of administrative discharge and/or rank restoration can be granted and inform the Service point of contact.
40. If the application is granted, the Service point of contact will send requests for amendments or annotations to data controllers and an outcome letter to the applicant. Records held electronically on the Data Preservation Repository system will be amended, while physical records will be annotated in the most suitable method available. An annotation slip will also be added to physical records to permanently supersede any references to the former rank and/or discharge reason.
41. If it does not appear that the conditions for a qualification and/or rank restoration are met, the application/s should be rejected and an outcome letter to this effect sent.

Appeals and review process

42. An applicant is able to request that their application is reconsidered if it meets the appeal criteria. In such cases, the Ministry of Defence will convene an Appeal Board which consists of at least one member of the Defence Restorative Action team; at least one member of the relevant Service, who was not involved in the original decision; at least one lawyer from the relevant Service and at least one Senior Civil Servant, who will act as Chair. The Appeal Board will review any evidence available, including any new evidence provided by the applicant, and come to a decision. The applicant will be informed of the outcome in writing.
43. An appeal will be considered on one or more of the following grounds:
- a. That there was a material error of fact within the original decision on the application.
 - b. That there was a material procedural error in the processing of the application.
 - c. That there is new evidence that was not considered as part of the original application, and it is likely that the outcome of the application would have been materially different if the new evidence had been available in making the decision on the application