



HOME OFFICE
Queen Anne's Gate. LONDON SW1H 9AT
Direct line: 01-213
Switchboard: 01-213 3000

Our reference: FEP/86 85/182/1
Your reference: FIR/86 3/12/1
FIR/84 15/156/1
FEP/86 144/1500/1
CD/86 80/1000/3

LIBRARY
FIRE SERVICE COLLEGE
MORETON-IN-MARSH
GLOS. GL56 0PH
22 MAY 1991
84686

26 November 1986

The Chief Executive
The Clerk to the Joint Fire & Civil
Defence Authorities
The Chairman of the Residuary Body

Dear Sir

FIRE SERVICE CIRCULAR NO 8/1986

- A. VACANCIES AT THE FIRE SERVICE COLLEGE
 - B. FIRE SERVICES (DISCIPLINE) REGULATIONS 1985 ADDITIONAL GUIDANCE NO 1
 - C. ROOF MEMBRANES USING FLUORO-CARBON POLYMERS
 - D. TOXIC HAZARDS AND THE MEDICAL TREATMENT OF FIREFIGHTERS
 - E. VACANCIES ON SECONDMENT TO THE HOME OFFICE
1. The five subjects listed above, which are self-explanatory, are set out on separate pages to facilitate handling.
 2. An additional copy of this Circular is enclosed for the information of the Chief Fire Officer.
 3. Please note that the closing dates for applications for items A and E are 29 December 1986 and 17 December 1986 respectively.

Yours faithfully

L. M. Sutcliffe

M² J A HOWARD

FIRE SERVICE COLLEGE
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AS31
ASC

VACANCIES AT THE FIRE SERVICE COLLEGE

1. The following vacancies are likely to arise in the year commencing April 1987:-

Senior Course Director, Command Study Group (Senior Divisional Officer)
Course Director (Divisional Officer II)
Instructor (Assistant Divisional Officer)
Instructor, Operations Study Group (Station Officer)

A background note is attached.

2. Applications for College posts are invited from:-

a. Eligible serving officers for appointment on secondment who are of the appropriate rank, or whose fire authority is prepared to promote them to the appropriate rank on appointment.

b. Officers who are about to retire or who have recently retired from the fire service who wish to be considered for appointment on civil service (period appointment) terms [this does not apply to the Station Officer appointment].

c. Permanent serving officers and officers on civil service conditions who are currently serving at the Fire Service College and are eligible for promotion on their present conditions of service. [Applications to be submitted via the Commandant].

3. Candidates should use the application form appropriate to the type of appointment they seek, ie. secondment or civil service. Specimen application forms and information concerning the conditions of service are attached. Further copies are obtainable from Brigade Headquarters or the College, as appropriate. The closing date for receipt of applications is 29 December 1986.

4. All application forms should be sent direct to the Commandant, Staff Recruitment, Fire Service College, Moreton-in-Marsh, Gloucestershire, GL56 0RH.

5. Fire authorities are asked to bring this circular to the attention of recently retired officers.

File reference: FEP/86 85/182/1

Telephone number of contact: Moreton-in-Marsh 50831 ext 201.

FIRE SERVICE COLLEGE VACANCIES - BACKGROUND NOTE

INTRODUCTION

The College is organised into five Study Groups namely Command, Operations, Science and Engineering, Supervisory Studies and General Education, and Fire Prevention.

The work of the individual groups is described briefly below:

Note: Actual vacancies are not shown but the directing staff establishment of each group is indicated.

Senior Divisional Officer posts are confined to Command Group and all Station Officer posts are within Operations Group. Applicants for Divisional Officer and Assistant Divisional Officer posts should indicate their preference for Study Group although occasionally it may not be possible to offer appointments in accordance with stated preferences.

COMMAND STUDY GROUP

Group Head - Assistant Chief Officer
Directing Staff - Senior Divisional Officer (2); Divisional Officer II (2);
Senior Lecturer (1); Lecturer II (2)

The Command Study Group is responsible for training and development of the most senior students who are eligible and where appropriate have been selected to attend courses at the Fire Service College. The principal courses concerned are Brigade Command Course and Divisional Command Course. In addition, the Group has responsibility for Assistant Divisional Officer modular training and certain other specialist courses and seminars. The teaching is on a term basis, the style adopted is action learning and experiential in nature. Other work includes a substantial amount of course development and student appraisal/assessment, necessitating a wide range of service experience and maturity of judgement.

OPERATIONS STUDY GROUP

Group Head - Assistant Chief Officer
Directing Staff - Divisional Officer II (5); Assistant Divisional Officer (9);
Station Officer (11)

The Operations Study Group is totally staffed by uniformed personnel, mostly seconded from brigades. The Group is responsible for operational subjects taught on a wide range of courses including technical input and practical work.

The Study Group services five main references: (i) Breathing Apparatus in a large self-contained unit to include the staffing of the three week Specialist Instructors' Courses; (ii) Road Traffic Accident instruction in a self-contained unit with similar specialist course staffing; (iii) Hazardous Materials including staffing of the new Haz Mat Course and appropriate input to other operational courses; (iv) a shipping reference with specialist course staffing and (v) a section dealing with training for international students.

A proportion of the work of this large group is spent on the College fireground supervising Command and Control work including exercises and demonstrations.

The facilities available for such training are continuously being developed.

Subject matter and teaching methods are currently an important part of the Study Group's work.

SCIENCE AND ENGINEERING STUDY GROUP

Group Head - Head of Department III
Directing Staff - Divisional Officer II (1); Senior Lecturer (2); Assistant Divisional Officer (1); Lecturer II (5)

The Science and Engineering Study Group trains fire officers in those scientific principles and applications that are relevant to use operationally by the Fire Service. In order to meet this aim, the subject matter on courses is very wide ranging and includes thermal physics, electricity, telecommunications, mathematics, radiation, computing, materials science, bio-chemistry, hazardous substances, mechanical, electrical and hydraulic engineering, automatic fire detection and fixed installations.

The methods used to train in the above areas are a combination of lectures, team teaching, self questionnaires, tutorials, classroom demonstrations, fire-ground demonstrations (with the Operations Study Group), fireground exercises (with the Operations Study Group) and discussion sessions.

The Study Group has input to the whole range of courses at the College and in particular is responsible for training on the Hazardous Materials Course, the Civil Defence Courses and the Telecommunications Officers' Seminars.

The main training problem in the science area is the fact that the students have a very mixed science background and thus it is necessary to consider "mixed ability teaching methods", this is an active consideration in the Group at present.

SUPERVISORY STUDIES AND GENERAL EDUCATION STUDY GROUP

Group Head - Head of Department III
Directing Staff - Divisional Officer II (5); Senior Lecturer (1); Assistant Divisional Officer (3); Lecturer II (4)

The Supervisory Studies and General Education Group is responsible for training and development of junior officers and control room staff in leadership and management skills in preparation for their roles of Watch/Station Commanders or Control Room supervisors. The Group is also responsible for training of Brigade Instructors.

Study Group staff must be capable of working closely with students in participative and action centred training.

FIRE PREVENTION STUDY GROUP

Group Head - Assistant Chief Officer
Directing Staff - Divisional Officer II (4); Senior Lecturer (1); Assistant Divisional Officer (7); Lecturer II (2)

The Fire Prevention Study Group exists to provide training in fire prevention techniques ranging from uncomplicated situations included in the syllabus of the Junior Officer Course, to specialist training necessary for the officers

who are normally employed in meeting the wide ranging statutory requirements in fire safety and fire prevention placed on fire authorities. In addition to Fire Investigation Courses provided for officers who are involved in investigating causes of fire (particularly those involving arson and vandalism), the Group also provides a series of seminars aimed at providing senior officers with the latest information on fire prevention technology and changing methods of enforcement. Training is also provided on a modest basis, for MOD fire officers, hospital fire officers, architects and HSE Inspectors. Annually, two International Fire Prevention Courses are also provided.

SECONDMENT TERMS

1. The conditions of service, which are described more fully below, are designed to provide an avenue of promotion, and to ensure that in general a selected officer will receive the pay and allowance appropriate to his rank in his brigade with an additional out of pocket allowance; and that the officer will normally return to his brigade in his new rank.
2. The dates of appointment of officers selected for appointment will be determined by agreement between the Commandant of the College, the Chief Fire Officer and the successful officer.
3. The appointments will be made on secondment and a selected officer will remain a member of his brigade in the rank in which he is appointed during the period of his service. Unless he is promoted further in absentia (or secures a senior appointment elsewhere), he will return to his brigade in that rank when the period of secondment is completed. He will be deemed to be working a flexible duty 'look-alike' system for the period of his secondment only.
4. The secondment period is preferably for 3 years but consideration will be given to a shorter period. All appointments are subject to termination by one month's notice on either side.
5. An officer appointed on secondment under the terms of this circular will be free during his period of secondment and with the consent of his fire authority to apply for further promotion opportunities as they occur at the College for which applications are invited in future circulars.
6. If an officer who is appointed on promotion wishes during his original period of secondment in the new rank to return to his brigade for personal or domestic reasons, he may do so but retention of his rank cannot be guaranteed and he may be requested by his fire authority to revert to his former rank on rejoining his brigade.
7. If a seconded officer is promoted, or further promoted in absentia by the fire authority, he will be released from his duties to take up his new brigade appointment. For an officer employed at the College, it might be possible, if there is a vacancy at the College in the higher rank, for arrangements to be made with the consent of all concerned for him to complete the pre-arranged period of secondment, or such further period as may be agreed in the higher rank. A seconded officer will, in addition, be free to apply for any appointment on promotion during the latter half of his secondment. In the case of those officers appointed for less than 3 years such applications will only be supported during their last term.

PAY AND ADDITIONAL ALLOWANCES

8. The officer's salary will be paid by his fire authority as though he were still serving in his brigade, and he will be entitled to the one fifth of basic salary pensionable supplement, payable under the terms of the flexible duty system.
9. A non-pensionable allowance, currently £200 per annum, towards incidental out of pocket expenses is also payable.

PENSION

10. A seconded officer will remain pensionable under the Fireman's Pension Scheme throughout his period of service. During this period the position of an officer at the College will be regulated under Section 10 of the Fire Services Act 1959, which provides that his employment as a temporary instructor at a central training institution shall be deemed to be employment as a member of his brigade for all purposes except pension. The position of officers for all posts will be regulated by article 86 of the Firemen's Pension Scheme 1973, which applies the provision of the Scheme to them but makes the Secretary of State the responsible authority for pension purposes. An applicant who is now subject to the Fireman's Pension Scheme as modified by exercise of an option under Section 27 of the Fire Services Act 1947, or by an option under Article 60 of the Firemen's Pension Scheme 1956, will retain the benefit of his option on appointment.

ACCOMMODATION AND ALLOWANCES

11. For married officers there is normally official accommodation in 4-bedroomed centrally heated houses at the College. Occupation of this accommodation will be a condition of appointment unless an officer's family remain in the brigade area or exceptionally there are no vacant houses.

A subsidised rent will be payable by the officer for the College house he occupies. The current charge is £106.10 per month and is subject to annual review.

12. Single officers and married officers who are not joined by their families will be expected to live in at the College and will be provided with free board and accommodation.

VISITS HOME

13. During his period of secondment, a single officer living in College accommodation and a married officer who is not joined by his family will be allowed 3 free return journeys home each calendar month; alternatively his wife may be allowed the same number of journeys to visit him at the College. A visiting wife who stays at the College will be charged for board and accommodation. The cost of travel will be limited to first class rail fare, when travelling firstclass by rail, or to public transport mileage rate (currently 14.5p a mile) when travelling by private car. Duty visits to an officer's brigade will be subject to prior application to the Commandant. These latter journeys will, if approved, be treated as an official business and first class travel or when travelling by private car, mileage allowance in accordance with Civil Service Rules, will be allowed. The Rules provide for mileage allowance for journeys up to 120 miles per day of 31.8p per mile.

The normal rate for longer journeys is 14.5p a mile. Exceptionally, the Commandant may give prior approval for payment at the appropriate higher rate for journeys in excess of 120 miles where travel by car is in the Department's interest (eg, on grounds of economy or saving of official time).

When travelling by motor cycle the following rates apply:

Public Transport rate:

Engine capacity 150 cc or less	10.2p a mile
151 cc to 250 cc	14.3p a mile
251 cc and over	14.5p a mile

Standard rate:

Engine capacity 150 cc or less	10.2p a mile
151 cc to 250 cc	14.3p a mile
251 cc and over	19.6p a mile

REMOVAL EXPENSES

14. Removal expenses allowance as determined from time to time by the National Joint Council for Local Authorities' Fire Brigades will be paid on commencement and termination of service at the College.

MISCELLANEOUS

15. Annual and sick leave entitlements will be those applicable to officers of the same rank employed in brigades. Uniformed seconded staff are conditioned to a flexible duty 'look-alike' system which is used to determine the hours of duty. In common with other teaching establishments staff are expected to take leave during College breaks.

16. From time to time, officers at the College may be required by the Commandant to dine with the students, or take part in their social activities. In general, conditions of service not dealt with above will be the same as those applicable to officers of the same rank employed in a brigade, so far as they are appropriate having regard to the conditions prevailing at the establishment. The rates of the allowances quoted in paragraphs 13 and 14 will be revised as necessary throughout the period of secondment to reflect changes to the Scheme of Conditions of Service or the Civil Service Rules, as appropriate.

N.B. Applicants are advised to seek advice in general terms from their brigades about the range of conditions of service on which they are liable to be employed on return to their brigades at the end of their secondment. Successful officers are advised to obtain an amended contract of employment specifying the condition of service on which they are liable to be employed when they return to the brigade from secondment. In particular, it should not be assumed that allowances payable during secondment will continue on return to the brigade.

RETIRED OFFICER (CIVIL SERVANT) PERIOD APPOINTMENT

1. The conditions of service, which will apply to a retired officer who may be appointed as a civil servant, are described below.

2. The appointment will be for 4 years in the first instance with the possibility of one further extension of 12 months. It should be noted that in no circumstances may civil service period appointments exceed a total of 5 years. The appointment may be terminated by the officer giving one month's notice or by the Department giving 5 weeks' notice.

3. Salaries will be based on the following rates (as at 7 November 1985).

Senior Divisional Officer	£17,544	£18,027	£18,504
Divisional Officer	£14,757	£15,333	£15,933
Assistant Divisional Officer	£12,972	£13,368	£13,761

No other allowances are payable.

4. Officers appointed on civil service (period appointment) terms will be subject to the abatement rules applicable where a public service pensioner is re-employed in a different public service where the re-employment is by virtue of experience gained in the former public service.

5. A retired officer who has completed the full 5 years of his period appointment would qualify for a civil service pension and lump sum. For less than 5 years reckonable service but more than 2 years, he would qualify for a short service payment on the basis of 3/80th of pensionable pay multiplied by the length of his reckonable service. Alternatively his pensionable service could be transferred to another recognised pension scheme. An officer leaving the service after the age of 60 would be awarded a pension and lump sum, whether or not he has completed 5 years service. A death benefit would be payable to his legal personal representative should death occur at any time after he takes up duty. The civil service pension scheme is non-contributory except for the widow's pension for which contributions are at the rate of 1½% of salary.

6. A married officer will be eligible for a staff house at a rent to be agreed by the Department of the Environment. An officer who occupies single accommodation will be required to pay charges for accommodation at the rates laid down for Home Office residential establishments.

7. Removal expenses will not be payable.

8. Expenses incurred in consequence of a requirement to serve on detached duty elsewhere than at the College will be dealt with in accordance with the provisions of normal civil service regulations.

9. Annual and sick leave allowances and conditions of service will be those applicable to civil servants, except in relation to hours of duty (see paragraph below). The annual leave allowance will be 25 days for a Senior Divisional Officer and 22 days for a Divisional Officer II or Assistant Divisional Officer, plus public holidays.

10. Uniform will be provided on a scale of issue similar to that of London Fire Brigade.

11. An officer employed as a civil servant will be expected to work the same hours of duty as his colleagues who are serving officers. From time to time, an officer may be required by the Commandant to attend at the College to dine with the students or visitors or to take part in their social activities.

PART II

OBSERVATIONS BY CHIEF FIRE OFFICER

Please read notes overleaf before completing this form

SUITABILITY OF _____

FOR _____ POST

HIGHLY SUITABLE

SUITABLE

UNSUITABLE

Comments

IF SELECTED THIS AUTHORITY WOULD, UNDER THE TERMS AND CONDITIONS SPECIFIED OVERLEAF:-

- (A) BE PREPARED TO RELEASE THIS APPLICANT AND PROMOTE HIM TO THE SUBSTANTIVE RANK OF _____ ON APPOINTMENT AND THEREAFTER;
- (B) BE PREPARED TO RELEASE THIS APPLICANT AND PROMOTE HIM TO THE TEMPORARY RANK OF _____ ON APPOINTMENT. HIS SUBSTANTIVE RANK ON RETURN TO HIS BRIGADE WOULD BE AGREED AS _____
- (C) BE PREPARED TO RELEASE THIS APPLICANT FOR APPOINTMENT ONLY IN HIS SUBSTANTIVE RANK OF _____
- (D) NOT BE PREPARED TO RELEASE THIS APPLICANT.

DATE: _____ SIGNATURE: _____

CHIEF OFFICER OF: _____

2. PROFESSIONAL AND TECHNICAL QUALIFICATIONS:

3. EDUCATIONAL QUALIFICATIONS, AWARDS AND CERTIFICATES:

4. DETAILS INCLUDING DATES OF ANY COURSES ATTENDED AT THE FIRE SERVICE COLLEGE:

5. DETAILS OF SPECIAL QUALIFICATIONS, PARTICULARLY PREVIOUS EXPERIENCE IN GIVING OR SUPERVISING INSTRUCTION OR ANY OTHER RELEVANT COMMENTS:

6. DATES AND RESULTS OF PREVIOUS APPLICATIONS FOR INSTRUCTIONAL/STAFF OFFICER POSTS AT THE FIRE SERVICE COLLEGE:

I declare the information given above to be accurate to the best of my knowledge and belief.

SIGNATURE OF APPLICANT: _____

DATE: _____

NB. Original documents should not be sent in support of this application as their return cannot be guaranteed.

Should insufficient space be available for answers, additional information may be attached on a plain sheet of paper.

APPLICATION FORM FOR CIVIL SERVICE PERIOD APPOINTMENT AT
FIRE SERVICE COLLEGE

which should be sent to the
Commandant, (Staff Recruitment), Fire Service College, Moreton-in-Marsh, Gloucestershire, GL56 0RH

POST APPLIED FOR: _____

STUDY GROUP PREFERRED: _____
(DO II and ADO posts only)

SURNAME:

BRIGADE:

FORENAMES:

RANK:

DATE OF BIRTH:

APPOINTMENT:

MARRIED OR SINGLE:

PRESENT/LAST SALARY:

PRIVATE ADDRESS:

OFFICIAL ADDRESS:

TELEPHONE NO:

TELEPHONE NO:

1. DETAILS OF FIRE BRIGADE SERVICE IN DATE ORDER

<u>Brigade or Establishment</u>	<u>Dates</u>	<u>Rank(s)</u>	<u>Nature of Duties</u>
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2. PROFESSIONAL AND TECHNICAL QUALIFICATIONS:

3. EDUCATIONAL QUALIFICATIONS, AWARDS AND CERTIFICATES:

4. DETAILS INCLUDING DATES OF ANY COURSES ATTENDED AT THE FIRE SERVICE COLLEGE:

5. DETAILS OF SPECIAL QUALIFICATIONS, PARTICULARLY PREVIOUS EXPERIENCE IN GIVING OR SUPERVISING INSTRUCTION OR ANY OTHER RELEVANT COMMENTS:

6. DATES AND RESULTS OF PREVIOUS APPLICATIONS FOR INSTRUCTIONAL/STAFF OFFICER POSTS AT THE FIRE SERVICE COLLEGE:

7. THE NAME OF A PERSON TO WHOM REFERENCE CAN BE MADE FOR A TESTIMONIAL AS TO THE APPLICANT'S QUALIFICATIONS (This should normally be the applicant's Chief Fire Officer. In the case of a Chief Fire Officer being the applicant, the Chief Executive of his Fire Authority.):

I declare the information given above to be accurate to the best of my knowledge and belief.

SIGNATURE OF APPLICANT: _____

DATE: _____

NB. Original documents should not be sent in support of this application as their return cannot be guaranteed.

Should insufficient space be available for answers, additional information may be attached on a plain sheet of paper.

B. FIRE SERVICES (DISCIPLINE) REGULATIONS 1985
ADDITIONAL GUIDANCE No 1

GIVING OF REASONS IN APPEAL DECISIONS: GUIDANCE PARAGRAPHS 17-19
AND ANNEXES F AND G

The Secretary of State, after consultation with the constituent bodies of the National Joint Councils, has decided that he should give in writing the reasons for his decisions to both the appellant and the fire authority in all appeal cases which come to him under the Fire Service (Discipline) Regulations 1985. This practice will commence from the date of this circular. He has decided to do so on the grounds that it seems fair and reasonable that those whose employment rights are affected by his decisions should know the reasons on which they are founded.

2. It has also been agreed by the constituent bodies on the National Joint Councils that fire authorities should provide written reasons for their decisions in appeal cases under the Fire Services (Discipline) Regulations 1985. The Secretary of State welcomes this agreement and recommends that it should be put into practice by all fire authorities from the date of receipt of this circular.

3. This circular has no direct financial or manpower indications. It should be placed with Fire Service Circular No 6/1985 and accompanying documents and has been numbered as the first in a sequence of any such circulars supplementing or amending the original Guidance.

File reference : FIR/86 3/12/1

Telephone number of contact : 01 213 5083

C. ROOF MEMBRANES USING FLUORO-CARBON POLYMERS

1. A number of large scale building developments already exist and others are being planned in which fluoro-carbon/glass fibre materials are present in large quantities as roof membranes. The best known fluoro-carbon polymer is polytetra-fluoroethylene (PTFE). This material has been used in specialist building applications for a number of years and although there has been no evidence of unusually high toxicity from the fire products of the material when forming part of a mixed fire load, there have been indications in recent laboratory tests of unusually high toxicity from the products of PTFE when it is decomposed under certain conditions.

2. The nature and severity of these toxic products is still unknown and the Home Office has commissioned a programme of research which is being directed by the Fire Research Station of the Department of the Environment. It is hoped that this will provide information to enable advice to be given to fire authorities as to how they, in turn, should advise Building Control Authorities who have to consider proposals for future developments using large quantities of PTFE roofing membrane. The research is likely to take about eighteen months to complete. In the present state of knowledge, we are advised by the Department of the Environment that they would be unlikely to favour any proposal that might be put to them involving large scale use of PTFE as a roofing membrane. The reason for this is that even if the risk of the membrane decomposing is small the possible consequences from toxic fumes are unacceptable. This view could change in the light of further research work.

3. A PTFE roof membrane would have to reach a temperature of about 550°C before significant decomposition took place and engineering measures within a building development, such as sprinklers, might be suggested to mitigate the risk of this temperature being achieved. However, at the present time there are reservations about the practicalities of achieving an acceptable solution to the problem in this way, particularly in the light of current knowledge on the

behaviour of the PTFE membrane in a fire. It should also be borne in mind that alternative materials to fluoro-carbon polymers, including PVC coated polyester and silicon coated glass fibre, are available.

4. Whilst this research is being undertaken, any brigade presented with a proposal involving the use of roofing material containing a fluoro-carbon polymer should give careful consideration to the possible implications. Each proposal needs to be treated on an individual basis and in the light of the latest information available to the Fire Research Station.

5. Until the research is complete and more definitive advice is available, the Home Office wishes to be kept informed of any proposals for building development (including any temporary structures such as marquees or air-supported structures) which involve a significant use of fluoro-carbon polymers.

6. There are no additional cost or manpower implications arising from this part of the circular.

7. Copies of this advice are being sent to all Chief Fire Officers.

File reference: FIR/84 15/156/1

Telephone number of contact: 01-213 3037 or 4030

D TOXIC HAZARDS AND THE MEDICAL TREATMENT OF FIREFIGHTERS

1. The Home Office, the Department of Health and Social Security and the Employment Medical Advisory Service of the Health and Safety Executive have reviewed the procedures which the fire authority should be advised to follow in order to ensure that firefighters who suffer or are suspected to be suffering from the effects of exposure to toxic hazards receive appropriate medical treatment. Following consideration within the Central Fire Brigades Advisory Council, the Secretary of State takes the view that the guidance given below should assist the fire authority and their brigade to make fullest use of the available National Health Accident Services and such Occupational Health Services as have been set up in their area for the local brigade, not only for pre-employment assessments but for ongoing Health Surveillance, a viewpoint strongly advocated in the report on the Brightside Lane Warehouse Fire.

2. A firefighter affected by exposure to toxic hazards on the fireground or at the scene of an incident would normally be taken by ambulance for treatment to the nearest district general hospital with a major accident and emergency department. If the development of symptoms is delayed for a few hours, however, the firefighter should be taken to the accident and emergency department of the same hospital by the brigade, who should advise the hospital that the firefighter has been involved in dealing with an incident and may be suffering from the delayed effects of exposure to toxic hazard. The Area Health Authority for the fire authority's area will be able to advise on the location of these departments. It is desirable that the fire brigade should discuss these arrangements with the Area Health Authority so that any necessary pre-planning can be made.

3. The arrangements described in paragraph 2 apply only when the effects of toxic exposure are apparent at or shortly following an incident. Where these effects become apparent or are suspected some time afterwards, eg the next day or later, the firefighter should not be taken directly to hospital, but should report to the Brigade Occupational Physician who will then liaise closely with the firefighters own General Practitioner and the hospital services to arrange such treatment as is appropriate. In these circumstances the Brigade should inform the Occupational Physician of all the facts relevant to the case, who may then wish to seek the help of the Employment Medical Advisory Service. This help might consist of advising on the occupational cause of the illness, undertaking an investigation if necessary and/or recommending that further clinical investigations should be instituted by the patient's own doctor. The names and addresses of the doctors in the Employment Medical Advisory Service are set out in the Appendix to this Circular. It may be helpful for the chief fire officer to discuss these arrangements at an early opportunity with the Occupational Health Physician or the Employment Medical Adviser for his area.

4. It is important to stress that, when a firefighter is suspected of suffering from the effects of toxic hazards, fire brigades should give the medical authorities as much information as possible about the hazards to which the firefighter has been exposed. This is also a matter on which, in order to establish appropriate procedures before an incident arises, pre-planning with the Area Health Authority will be of value.

5. Arrangements are being made for copies of this Circular to be sent to Area Health Authorities and to the appropriate EMAS regional organisation. An additional copy of the Circular is enclosed for the information of the Chief Fire Officer.

6. Fire Service Circular No 26/1975 is now cancelled.

File reference: FEP/86 144/1500/1

Telephone number of contact: 01 213 5307

EJACANCIES ON SECONDMENT TO THE HOME OFFICE

1. Vacancies have arisen at the Civil Defence College, Easingwold and in the Fire Service Inspectorate for two officers to deal with work on emergency planning. Both posts will be filled by seconded officers at SDO rank as follows :-

a) The Civil Defence College, Easingwold

The Civil Defence College provides courses and seminars for elected members, Chief Executives, and senior officials of local authorities, and for senior and middle management from certain branches of commerce and industry; and for senior and middle rank officers of the other emergency services and of the police. The selected officer will be a member of the College tutorial staff and will be responsible to the Principal for conducting syndicate discussions and supervising exercises, carrying out research and lecturing on particular civil defence subjects, and carrying out external liaison duties. As the Fire Service tutor, the officer will have particular responsibility for advising the College on all aspects of Fire Service responsibility in peace and war.

b) The Fire Service Inspectorate

The selected officer will act as staff officer to HM Inspector of Fire Services with responsibility for emergency planning. These duties will include liaising with, and advising, the Emergency Planning Division, the Fire Service College, other Government Departments, local authorities and outside bodies on all emergency planning matters relating to the Fire Service; monitoring brigade war plans; attending various courses on behalf of the Fire Service Inspectorate; chairing various seminars and working groups; and preparing progress reports and briefings on civil defence matters for HM Inspector of Fire Services.

2. Applications for appointment on secondment terms to both posts are now invited from eligible serving officers who are of the appropriate rank, or whose fire authority is prepared to promote them to the appropriate rank on appointment.

3. The secondment terms, allowances, etc relating to the appointments remain on the same basis since these posts were last advertised and full details can be found in Fire Service Circular 1/1985. Application forms and further details on both posts are available from the Home Office (telephone 01-213 6198). Candidates applying for both posts should use separate application forms. The closing date for applications is

17 December 1986.

4. All completed application forms should be sent to the Home Office, F6 Division, Room 611, Queen Anne's Gate, London SW1E 9AT.

5. No new financial or resource implications for fire authorities arise from this circular.

File reference : CD/86 80/1000/3

Telephone number of contact 01-213 6198

EMPLOYMENT MEDICAL ADVISORY SERVICE
AREA OFFICES

<u>ADDRESS OF EMA</u>	<u>TEL. NO.</u>	<u>AREA COVERED</u>
<u>NORTHERN REGION</u>		
(SEMA) DR E M GILLANDERS		
(EMA) Vacant Arden House Regent Centre, Regent Farm Rd Gosforth, Newcastle-upon-Tyne NE3 3NW	091-284-8448	Durham (part) Chester-le-Street Derwentside Northumberland Tyne and Wear
Dr C ASHBY Vincent House Darlington DL3 7L	0325-56148	Cleveland Durham(part) Easington Sedgefield Teesdale Wear Valley
<u>NORTHERN EASTERN REGION</u>		
(SEMA) DR D A SCARISBRICK 8 St Paul's Street Leeds Yorkshire LS1 2LE	0532 446191	South Yorkshire Derbyshire Humberside Lincolnshire Nottinghamshire
DR A M LEACH Address as above	0532 446191	North and West Yorkshire
Dr J MORLEY Birkbeck House Trinity Square Nottingham NG1 4AU	0602 470712	Lincolnshire, Nottinghamshir
Dr J D DORNAN Sovereign House 40 Silver Street Sheffield S1 2ES	0742 739081	Derbyshire South Yorkshire
<u>EASTERN AND SE MIDLANDS REGION</u>		
(SEMA) Vacant		
Dr I M CALDER 14 Cardiff Road Luton Beds LU1 1PP	0582 34121	Bedfordshire Buckinghamshire Hertfordshire Cambridgeshire
Dr M J S COE 39 Baddow Road Chelmsford CM2 0HL	0245 84661	Essex Suffolk, excluding Waveney & Forest Heath Districts

ADDRESS OF EMATEL NO.AREA COVEREDEASTERN AND SE MIDLANDS REGION (Cont.)

Dr J A HUCKBODY
St Andrews House
48 Princess Road East
Leicester LE1 7DQ

0533 542169

Leicestershire
Warwickshire
Oxfordshire

Dr D A RANDELL
5th Floor
Belgrave House
1 Greyfriars
Northampton, NN1 2LQ

0604 21233

Northamptonshire

Dr A WRIGHT
Kiln House
Pottergate
Norwich NR2 1DA

0603 615711

Norfolk
Suffolk
Waveney and Forest Heath Distric

LONDON NORTH REGION

(SEMA) Vacant

Dr M G PETERS & DR A M SAMUEL
Maritime House
1 Linton Road
Barking
Essex IG11 8HF

01 594 5522

Greater London Borough of Barkin
City of London Corporation
Boroughs of Hackney, Haringey,
Havering, Islington, Newham,
Redbridge, Tower Hamlets,
Waltham Forest

Dr G M COORAY
Dr C LYDON
Chancel House
Heasden Lane
London NW10 2UD

01 459 8855

City of London Corporation
Boroughs of Barnet, Brent,
Camden, Ealing, Enfield,
Hammersmith, Fulham, Harrow,
Hillingdon, Kensington, Chelsea
City of Westminster

LONDON SOUTH AND SOUTH
EASTERN REGION

(SEMA) DR W F PARROTT

DR W A CROSBIE
DR E L M WALLACE
DR R K STANLEY
1 Long Lane
LONDON SE1 4PG

01 407 8911

Boroughs of Bexley, Bromley,
Croydon, Greenwich, Kingston-upo
Thames, Lambeth, Merton, Richmoc
-upon-Thames, Southwark, Sutton
Wandsworth

Dr A R L CLARK
International House
Dover Place
Ashford
Kent

0233 20632

Kent (other than Greater London
Borough Councils)

ADDRESS OF EMATEL NO.AREA COVEREDLONDON SOUTH AND SOUTH EASTERN (cont)

DR D P WINTER 3 East Grinstead House East Grinstead West Sussex RH19 1RR	0342 26922	Surrey (other than Greater London Borough Councils) East Sussex, West Sussex
--	------------	--

SOUTH WESTERN REGION

(SEMA) DR C B THOMSON

DR C E DAVISON DR J D THOMAS OBE DR G C GOODMAN 2nd Floor Intercity House Mitchell Lane Bristol, BS1 6AN	0272 290681	Avon, Gloucester, North Wiltshire part Thamesdown, Somerset, Dorset
--	-------------	--

DR I. C. JOHNSON DR D LEITCH Westley House Priestley Road Basingstoke, Hants RG24 9NW	0256 473181	Berkshire, Hampshire, Isle of Wight Wiltshire (part) Salisbury
--	-------------	---

DR F P ROBERTS 6th Floor Phoenix House Notte Street Plymouth Devon PL1 2RD	0752 668481	Cornwall, Devon
---	-------------	-----------------

WALES REGION

(SEMA) DR C M BISHOP

DR R JACOBS DR J B WILLIAMSON 13th Floor Daniel House 2 Fitzalan Road Cardiff CF2 1SH	0222 497777	Gwent, South Glamorgan, Mid Glamorgan (part), viz Taff E Merthyr Tydfil and Rhymney Valley Powys - Brecknock and Radnor
--	-------------	--

DR P T VALE 24/25 Castle Street Swansea SA1 1HY	0792 51898/9	Dyfed, West Glamorgan, Mid Glamorgan - Cynon Valley, Ogwr and Rhondda
--	--------------	---

DR D SHAW 31 Chester Street Wrexham Clwyd LL13 8AN	0978 358830	Clwyd, Gwynedd, Powys - Montgome
---	-------------	----------------------------------

WEST MIDLANDS REGION

(SEMA) Vacant

DR A D ARCHER DR D C L BURGESS DR P P KEITH DR G KRISHNAN	(address see p. 4)	
--	--------------------	--

ADDRESS OF EMATEL NOAREA COVEREDWEST MIDLANDS REGION (cont)

McLaren Building
2 Masshouse Circus
Queensway
Birmingham B4 7NP

021 236 5080

Metropolitan County of West
Midlands

DR A D ARCHER (also Birmingham office)

Dr P A BARTLETT
The Marches House
Midway
Newcastle-under-Lyme
Staffs, ST5 1DT

0782 610181

County of Staffordshire,
County of Salop - North Shropshir
Oswestry, Shrewsbury, Atcham

Dr D M SMITH
Haswell House
St Nicholas Street
Worcester WR1 1UW

0905 24406

County of Hereford and Worcester
County of Salop - Bridgnorth,
South Shropshire, The WrekinWESTERN REGION

(SEMA) DR J E JOLLEY

DR A D CLARKE
DR A DOCKER
DR D L HERBERT
DR G H FLETCHER
Quay House
Quay Street
Manchester M3 3JE

061 831 711

Greater Manchester

Dr D M MARSH
EMA Vacant
The Triad
NE Wing, 19th Floor
Stanley Road,
Bootle, Merseyside L20 3PG

051 922 7211

Merseyside, Cheshire

DR D C BELL
2 Victoria Place
Carlisle
Cumbria CA1 1ER

0228 39321

Cumbria

DR R T S HENDERSON
DR D J F MUNRO
Victoria House
Ormskirk Road
Preston, Lancs PR1 1HH

0722 59321

Lancashire

SCOTLAND REGION

(SEMA) DR J MORRISON

DR F M KENNEDY
DR T W MANSON
Belford House
59 Belford Road
Edinburgh EH4 3UE

031 225 1313

Borders: Fife - Dunfermline,
Kirkaldy, Lothian - Midlothian
East Lothian

ADDRESS OF EMATEL NOAREA COVEREDSCOTLAND REGION (cont)

DR E M BOTHEROYD
34 Albyn Place
Aberdeen AB1 1YN

0224 56363

Grampian, Highland, Orkney,
Shetland

DR C W IDE
Overgate House
121 Marketgait
Dundee DD1 1TY

0382 26544/7

Fife - North East Fife, Tayside

DR A D SCOTT
DR W J C SCOTT
DR F W C SURGENER
DR A D WATT
314 St Vincent Street
Glasgow G3 8XG

041 204 2646

Central: Dumfries and Galloway
Lothian - West Lothian,
Strathclyde, Western Isles

B. FIRE SERVICES (DISCIPLINE) REGULATIONS 1985
ADDITIONAL GUIDANCE No 1

GIVING OF REASONS IN APPEAL DECISIONS: GUIDANCE PARAGRAPHS 17-19
AND ANNEXES F AND G

The Secretary of State, after consultation with the constituent bodies of the National Joint Councils, has decided that he should give in writing the reasons for his decisions to both the appellant and the fire authority in all appeal cases which come to him under the Fire Service (Discipline) Regulations 1985. This practice will commence from the date of this circular. He has decided to do so on the grounds that it seems fair and reasonable that those whose employment rights are affected by his decisions should know the reasons on which they are founded.

2. It has also been agreed by the constituent bodies on the National Joint Councils that fire authorities should provide written reasons for their decisions in appeal cases under the Fire Services (Discipline) Regulations 1985. The Secretary of State welcomes this agreement and recommends that it should be put into practice by all fire authorities from the date of receipt of this circular.

3. This circular has no direct financial or manpower indications. It should be placed with Fire Service Circular No 6/1985 and accompanying documents and has been numbered as the first in a sequence of any such circulars supplementing or amending the original Guidance.

File reference : FIR/86 3/12/1

Telephone number of contact : 01 213 5083

GUIDANCE
ON THE
Fire Services (Discipline)
Regulations 1985

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GUIDANCE ON THE FIRE SERVICES (DISCIPLINE) REGULATIONS 1985

Introduction

1. The Fire Services (Discipline) Regulations 1985 replace the 1948 Regulations previously in force. They contain several major changes from the previous Regulations which are explained in this Guidance. The Guidance is also intended to ensure a consistency of practice and understanding throughout the fire service over the procedures to be followed which can then be adapted to the individual needs of brigades. The Regulations and accompanying Guidance are intended to cover the whole framework for discipline in the fire service at both fire authority and brigade level, from the most serious offences including gross misconduct to those of a lesser nature. Minor misconduct should be dealt with by informal action outside the Regulations themselves. Any publications used for reference purposes which are not based on the new provisions should not therefore be relied upon. It should be noted that although, unlike the Regulations, the Guidance has no statutory force, it represents the agreed procedure for discipline matters in the fire service and sets out how it is considered that natural justice can best be achieved appropriately to the needs and traditions of the fire service. Any substantial departure from its provisions which could detract from natural justice could therefore form part of cases which subsequently came on appeal before the Secretary of State under Regulation 15 of the new Regulations or before the industrial courts.

2. Before considering the detailed provisions of the new Regulations it is important to set them in the context of the work of the fire service as a whole. A member of a fire brigade shares in the normal obligations of employment to exercise reasonable care, judgement and skill in the performance of his services, to serve his employer honestly and faithfully, and to co-operate in fulfilling his employer's lawful and reasonable orders. But the nature of a fireman's work, with the risks inherent to his own safety and his responsibilities for the safety of others, entails a more rigorous discipline than is necessary in most occupations. The fire service is a uniformed service where automatic obedience to orders in times of danger and stress is necessary for the fulfilment of its purpose of preserving life and property. It is a service which should command respect for its work and its integrity. In particular, it has a right of entry to private property in almost unique circumstances. This position necessitates a high standard of conduct and discipline which is reflected in the precise and detailed list of offences. But since a member of a brigade is expected to conform to a more rigorous discipline than is common in many employments, the procedures under which the Discipline Code operates also reflect a more rigorous and formal approach.

The scope and application of the Discipline Regulations

3. Application of the Regulations. The application of the Regulations is set out in Regulation 3 and broadly covers all members of brigades liable to engage in fire-fighting and all fire control staff. Fire authority employees who are not members of the brigade for the purpose of the Regulations (eg, junior firemen, workshop, administrative and clerical staff) will be covered instead by whatever conditions of service apply in their case. In the case of some staff outside the Regulations, such as the uniformed non-operational staff in some brigades, it may be considered that they would appropriately be covered by the same provisions as in the Regulations. If this is so, it is open to include them through their conditions of service arrived at by the normal local procedures although this would be an administrative arrangement which could not include the right of appeal to the Secretary of State.

4. Capability. Questions of the capability of a member of a brigade to do his job efficiently are not part of the disciplinary process and fall instead to be dealt with as conditions of service, negotiated by the National Joint Councils for Local Authorities' Fire Brigades. The Employment Appeal Tribunal has, however, given guidance on the need to distinguish whether incapacity is unavoidable or blameworthy and has stated that 'cases where a person has not come up to standard through his own carelessness, negligence or may be idleness are much more appropriately dealt with as cases of conduct or misconduct'.* This distinction should be borne in mind for cases of this type.

5. Suspension arrangements. The question of suspension pending the investigation of an allegation of misconduct is a conditions of service matter and is therefore covered by the NJC scheme of conditions of service.

6. Informal disciplinary action. The application of the Regulations should not be seen as a process separate from normal managerial responsibility and the Discipline Regulations should therefore never be regarded as the sole or even the principal means of maintaining discipline. Experience in the past has shown that it is rarely necessary to take the formal action contained in the Code, but rather for minor misdemeanours or disciplinary problems to be dealt with by day to day counselling and informal action. Where appropriate, informal oral cautions should be used for the purpose of advising offending members that repetition or continuation of such misconduct will result in action being taken under the Discipline Regulations.

The stages of the formal disciplinary process

7. Natural Justice: investigation and hearings. Employment law lays down 3 basic requirements of natural justice which have to be complied with in disciplinary proceedings:

- i. That the person should know of the nature of the accusation against him;
- ii. That he should be given the opportunity to state his case; and
- iii. The disciplinary tribunal should act in good faith

In order for these requirements to be fulfilled, the investigating officer and the subsequent disciplinary body are not bound by strict laws of evidence or court procedures. It is, however, important that the investigation and hearings should be just and should be clearly seen to be just, and the highest degree of fairness should therefore be the aim. The disciplinary body should be quite satisfied that the case has been fully and fairly proved against the member concerned before deciding against him, and the investigating officer should be confident of the source and reliability of all the evidence on which the case is based before proceeding to a charge.

8. Investigation. Except in the case of principal officers where responsibility for disciplinary proceedings lies directly with the fire authority, the responsibility for all disciplinary matters within a fire brigade lies with the chief fire officer. Regulation 3(4) and 3(5) provide a definition of the chief fire officer for these purposes. But because the chief fire officer usually has the direct responsibility for the first hearing of any charges, the actual process of investigation is delegated to another Brigade Officer called the investigating officer. Except in the case of principal officers or where informal action is appropriate, all reports of misconduct

* Sutton and Gates (Luton) Limited v Boxall EAT 95/78

should therefore be sent without delay through the usual chain of command to this officer rather than the chief officer himself, and he will be in sole charge of the case until it reaches the stage of hearing. Details regarding the rank of the investigating officer and the procedure he should follow in his investigation and in formulating charges are set out in Annex B which also deals with the question of who should investigate charges against principal officers.

9. The investigating officer is responsible for the formulation of charges and for supplying the documents required to the parties concerned. In addition he is responsible for deciding whether the hearing should be under the summary procedure for minor infringements of discipline, or the full procedure for more serious offences.

10. Representation. Representation by a colleague of the same fire brigade should be allowed throughout the investigation provided the representative is of a rank junior to that of the officer carrying out the investigation. Representation by a member of the same or any other fire brigade is allowed at all hearings with the same proviso on rank in relation to the officer conducting the hearing. In cases of gross misconduct, however, it will be important to ensure no unnecessary delay is caused. Where the case goes before the fire authority in the first instance or on appeal, representation from outside the fire service is allowed.

11. Fire Service trade union or staff organisation officials. To take account of standard employment practice, it is recommended that action under the Discipline Regulations should not be taken in respect of fire service trade union or staff organisation officials of brigade level or above until the case has been notified to the appropriate trade union or staff organisation senior representative or full time official. Thereafter, officials should be treated under the Regulations in the same way as other members of the brigade, whom it is alleged have committed an act of misconduct. The question of who should appropriately be notified is a matter for local nomination by the trade union or staff organisation in individual brigades.

12. Gross misconduct. In extreme cases of blatant misconduct action under Regulation 6 for gross misconduct may be appropriate. The nature of such misconduct and the procedure to be used are outlined at Annex A.

13. Summary hearing. When the investigating officer decides that a summary hearing is appropriate, he should so inform the chief fire officer to enable him to nominate an officer to hear a case. The officer should normally be of a rank at least as senior as that of officers in command of Divisions in the brigade. This procedure is not available in cases concerning principal officers. A model procedure for a summary hearing is shown at Annex C.

14. Full hearing. Model procedures for full disciplinary hearings by either the chief fire officer or a tribunal of the fire authority are outlined in Annex D. Such procedures are appropriate for all serious cases and for all cases concerning principal officers, except in instances of gross misconduct.

Disciplinary awards under the Regulations

15. The disciplinary awards available under the Regulations are set out in Regulation 11. Only the awards prescribed in the Regulations may be imposed, and care should be taken to ensure that the limitations imposed by the provisos are observed. Questions of detail on the disciplinary awards under the Regulations are to be found at Annex E. This Annex also deals with the effective date of awards and the considerations which should be taken into account before an award is made.

16. It is recommended that where appropriate any caution imposed should be expunged from the member's record after one year of uninterrupted good conduct and any reprimand after two years. Any stoppage of pay would appropriately be removed after 5 years of uninterrupted good conduct and a reduction in rank after 10 years. It is suggested that these guidelines should also be applied to records of existing awards under the Fire Services (Discipline) Regulations 1948. Where the misconduct has been of such a nature that it should always remain on the member's record, taking into account the conditions of award of the Fire Brigade Long Service and Good Conduct medal*, reference to this should be included in the notification in writing following the hearing under the Regulations. A member should also be informed in writing when an award is spent. Where a final warning is given it should be removed from the record at the same time as the award it originally accompanied.

The Appeal Procedure

17. The Regulations provide a right of appeal against any disciplinary award except a reprimand and caution. Where the first hearing has been before the chief officer, the appeal lies to the disciplinary tribunal of the fire authority; and where the first hearing has been before the disciplinary tribunal of the fire authority the appeal lies to the appeal committee of the fire authority. It should be stressed that an appeal only lies to the appeal committee where the first hearing has been before the disciplinary tribunal or a case has been remitted to the disciplinary tribunal before completion by the chief fire officer.

18. Detailed provisions for submitting appeals and the procedure to be followed are set out in Annex F.

19. Appeal to Secretary of State. Where an award of dismissal, requirement to resign or reduction in rank, has been made, and has been confirmed on appeal or one of the same three awards substituted, an appeal lies to the Secretary of State. The detailed provisions for making such an appeal are set out in Annex G.

* Fire Service Circular no 40/1969 gives advice on the award of the Long Service and Good Conduct medal in such circumstances.

ANNEX A

SCHEDULE OF OFFENCES: THE CODE OF DISCIPLINE

This Annex discusses some of the issues involved in the use of the offences in the Schedule. It also includes the definition of, and procedure for dealing with, a report of gross misconduct.

Gross misconduct

2. In cases of serious and blatant misconduct which is admitted, or where the evidence of guilt is clear, action under Regulation 6 for gross misconduct is appropriate. These are cases which could be said to strike at the "root of the contract" or to show conduct such as to make the member's continued presence in the brigade unacceptable. They should be distinguished from other serious offences by the presence of two elements: they should clearly breach an essential element of discipline; and although proper investigation is required, they should be open to no doubt that they were committed. Examples might be where a member of the brigade is caught red-handed stealing money from his colleagues or wilfully disobeys a direct and lawful order of substance on the fire ground in the presence of other members of the brigade. In such cases, the investigating officer should inform the member concerned of his position under the Discipline Regulations and, if he wishes to say anything at this stage, of his right to remain silent. He should then pass the papers as soon as his investigation is complete to the chief fire officer. Where a principal officer is concerned, the chief executive or equivalent officer who has been nominated as investigating officer should pass the report as soon as possible to the full disciplinary tribunal of the fire authority. The member against whom the report of gross misconduct is made should be invited formally to be present, together with his representative, to give his explanation for his conduct, after which the chief fire officer or fire authority will decide if summary dismissal is appropriate. The member so dismissed would have the same rights of appeal as if dismissed after a full hearing under the Regulations. Such cases will be exceptional and it must be stressed that although the circumstances of the case permit swifter decision than in the normal run of cases, no necessary element of investigation or representation should be omitted.

3. If, on first receiving the papers from the investigating officer or after hearing the member's explanation, the chief fire officer or disciplinary tribunal should consider action under Regulation 6 for gross misconduct is not warranted, they should return the papers to the investigating officer to be processed in the normal way, prior to a full hearing if appropriate under Regulation 9.

Other misconduct

4. Serious offences. The Code of Discipline does not distinguish between offences which are serious and those which would only merit a severe penalty if they were repeated several times. This is because such differentiation is not possible without knowing the circumstances of the offence. As a general rule, however, certain categories of offence could merit severe penalties even if only committed on one occasion, for example:

- a. Any offences involving theft, even minor theft, in view of the need for a member of a brigade to be seen to be trustworthy at all times.
- b. Any offences directly contributing to a failure of the brigade to carry out its operational duty, for example deliberate neglect of duty in circumstances which involved risk to life or property.
- c. Any offence undermining the discipline of the brigade, for example disobedience to orders or insubordination.
- d. Any offence which may render a member of the brigade unfit for operational duties or a risk to himself or colleagues or the public, for example unfit for duty through alcohol or drug abuse.

Such a list is not intended to be exhaustive. Each alleged offence, and each offender, should be considered separately, taking into account all the circumstances, including any extenuating circumstances, of the case.

5. Offences committed while off-duty. Although disciplinary offences can be committed while a member of a brigade is off duty, clearly extreme care must be taken before any charges are preferred, especially if the member concerned was not in uniform at the relevant time. It should be possible in such cases to demonstrate that the member's action or behaviour has had or could have had an adverse effect on his work as a member of the brigade, or on the reputation of the brigade, or on the maintenance of discipline in the brigade by the undermining of the general standards of personal conduct expected within it.

6. New offence of criminal conduct. A major change to the Schedule of Offences is the new offence of criminal conduct and the consequent replacement of the offence of discreditable conduct by more limited offences. The offence of criminal conduct is sub-divided into three categories which are intended to limit its use to conduct which could have relevance to the offender's fitness for service in a fire brigade. Criminal offences may occur on or off duty and different considerations will be relevant in each case.

a. Criminal convictions off duty. Where a criminal charge is brought for conduct not connected with a member's work, any disciplinary proceedings should await the outcome of the criminal case when a charge of criminal conduct can be brought if appropriate. If necessary, the member should be suspended (for example, if the alleged offence involved theft). When the case has finished before the courts the investigating officer should consider if it has a bearing on the member's service in the fire brigade, and only if he considers that it has, should prefer a charge of criminal conduct. Such a charge should never be a 'retrial' of the original offence since the conviction has already been established.

b. Criminal actions on duty or in connection with the fire service. Where an offence is blatant (for example, theft witnessed from a house entered in the course of duty, or an offender caught with stolen goods in his locker) consideration should be given to action for gross misconduct under the relevant offence in the schedule. Where, however, the case is less clear cut and the police are involved, consideration should be given to allowing disciplinary proceedings to await the outcome of any charges, especially if the disciplinary charge is likely to be in essence the same as that brought by the police.

7. It is suggested that those brigades which do not at present have instructions requiring a member to report the initiation of criminal proceeding against him should include these in their standing orders and should bring their inclusion to the notice of all members of the brigade.

8. Improper disclosure of information. This offence is limited to the improper disclosure of information given to a member of a brigade acting in that capacity. It is not intended that it should inhibit accredited representatives acting in their capacity as such in the proper discharge of their duties.

9. Loss of, or damage to fire authority property. This offence is not intended normally to be used in cases which would fall more appropriately to be dealt with under tenancy agreements in force between members of brigades and fire authorities over fire service accommodation.

ANNEX B

INVESTIGATION

Rank and function of investigating officer

1. The investigating officer has delegated to him the powers of the chief fire officer for investigation of reports and consequent charges in order to allow the chief fire officer to approach the hearing of cases without prejudice. The chief fire officer therefore does not participate in the initial stages of any case. This does not, however, in any way remove from the chief officer responsibility for overall brigade policy on discipline and he should maintain close contact with the investigating officer on general questions which arise. He should also be kept informed by seeing all the papers of cases which do not come before him for hearing (whether because the investigating officer decides the case should not be proceeded with or where the hearing does not take place before the chief fire officer) when the case is finished.
2. As a general rule, an officer should serve as investigating officer for a substantial period with a view to establishing some brigade expertise in the disciplinary procedures, and the brigade's practice. This should help to ensure a consistency of approach in matters such as the formulation of charges, and judgement on whether misconduct should initially be dealt with under the summary or the full procedure. The investigating officer should not be lower than a third tier brigade officer in view of the responsibilities involved, but the investigation itself could be undertaken with the assistance of one of his staff of divisional or assistant divisional officer rank not connected with the particular case. In the case of the absence of the normal investigating officer, it is envisaged that another brigade officer, either the officer undertaking his other duties or another third tier officer would be in the best position to undertake this role.
3. In the case of allegations involving principal officers, reports should go, via the chief officer, to the chief executive or equivalent officer of the fire authority who should invite a principal officer of comparable or senior rank to that of the member against whom the allegation is made from another brigade to undertake the actual investigation and report the outcome and his decision to him for action or otherwise under the Regulations.

Process of investigation

4. The investigating officer should collect and document facts and take statements, including statements from members of the public where they have either been a source of the allegation or have been involved in or witnessed the act of misconduct. He should at all times in an investigation make it clear that he is acting in his official capacity as investigating officer and before taking a statement should administer a caution that anything said could be used in evidence. It is important that the member of the brigade against whom the report or allegation has been made should have an early opportunity of commenting on it and the Regulations therefore provide for the investigating officer to inform him in writing as soon as possible of the report and invite him to admit or deny the allegation and to make a statement. He should however make it clear to him that he is not obliged to say anything at this stage and that if he does so it may later form part of the case against him. The member under investigation should be invited to have a colleague or representative from his own brigade present if he so desires at all stages of the investigation.

Action on completion of investigation

5. Upon completion of the investigation the investigating officer should decide whether any disciplinary action should be proceeded with. Where he feels such action is appropriate he should proceed to charge the member. The exact form and wording of the charge sheet is a matter for individual brigades but the basic elements it should contain are set out in the Model at the end of this Annex which should be amplified as necessary to comply with individual administrative procedures. It is important to ensure that the offence itself is set out correctly, first by its title, for example "disobedience to orders", and then with full particulars, including the time, date and place of the alleged offence. The wording of the charge should follow that of the offence in the schedule, with the correct alternatives selected where appropriate. Only one offence in the schedule should form the charge for any single act of misconduct. A copy of this part of the form should be given to the member to retain. The second part of the form, or separate form, should be returned to the investigating officer when completed to enable the attendance of the member's representative and any witnesses he might wish to call to be secured.

6. When the member has been charged with an offence the investigating officer should arrange for him to be supplied, as soon as possible, with copies of:

- a. Any report, allegation or document on which the charge is founded (or so much of them as relate to the accused) and of any reports on them made to the investigating officer;
- b. Any statement he may have made;
- c. Any statement relating to the charge made by any person to the investigating officer irrespective of whether he is later to be called as a witness in support of the charge.

It should be noted that this requirement covers all items relating to the member charged but does not extend to items not relating to the member. The only exception is any subjective report or document produced by the investigating officer for the presenting officer's use which need not be supplied to the member since it could have no evidential value.

7. The investigating officer also has responsibility for deciding how seriously any offence should be viewed. This will depend on the circumstances of the offence and it is not possible to categorise offences in advance. The investigating officer should not consult the member's personal record. If the offence appears to be of a less serious nature such as would generally seem to merit a reprimand as the maximum disciplinary award, the investigating officer should inform the chief officer to allow him to nominate a more junior officer to hear the case. This means the case can be dealt with quickly at a comparatively low managerial level. In all cases involving principal officers and in other cases where the investigating officer considers the alleged misconduct could justify a disciplinary award higher than a reprimand, the case should be submitted for a full hearing. The chief fire officer should not participate in the decision in any particular case, but the general question of how different types of offences should be treated is one of brigade policy on which he should maintain close contact with the investigating officer.

Personal involvement in allegations

8. If the investigating officer receives a report or allegation of a matter in which he has been involved or against a member of a brigade with whom he has some personal connection so that he cannot be seen to investigate the matter

impartially, he should so inform the chief officer who should appoint another officer, as near as possible in rank, to take his place. If necessary, another fire authority should be requested to provide the services of its brigade's investigating officer.

Gross misconduct

9. Where cases of blatant and severe misconduct are reported to him, the investigating officer may consider that the offence should be considered under the summary dismissal procedure (see Annex A, paragraph 2). In such cases he should inform the member concerned of the position, tell him of his right to be accompanied by another member of a brigade, and as soon as is compatible with a proper collection of the facts, present the case to the chief officer (or in the case of a principal officer, the fire authority) under Regulation 6.

Trivial allegations

10. Where a report received by the investigating officer is clearly trivial or irrelevant to the discipline code, the investigating officer may decide that no full investigation is required and the matter should not proceed further. He should, however, report to the chief officer that an allegation has been made and his decision. It would then be open to the chief officer to refer the matter to the appropriate managerial level for informal action where he feels this is desirable.

FIRE SERVICES (DISCIPLINE) REGULATIONS 1985

MODEL DISCIPLINE FORM

PART I

DETAILS OF CHARGE

Full name of accused

Number, rank and station

Age, rate of pay, and date of appointment. Age Pay per week/per month

Appointed

Under the Code of Offences against Discipline contained in the Schedule to the Fire Services (Discipline) Regulations 1985 you are charged as follows:-

1. Under paragraph () with:

i. Title of alleged offence

ii. Particulars of alleged offence including time, date and place

.....
.....

iii. Names and addresses of witnesses in support of charge

.....

2. Under paragraph () with:

i. Title of alleged offence

ii. Particulars of alleged offence including time, date and place

.....
.....

iii. Names and addresses of witnesses in support of charge

.....
.....

Date

Signature of Investigating Officer

Signature of Member Charged

PART II

QUESTIONS TO BE ANSWERED BY MEMBER CHARGED

Admission or denial of charges

1. Do you admit or deny the charge(s) against you? If you admit the charge, write "Admit" opposite the number of the charge. If you deny it, write "Deny".

1 the charge No 1.

1 the charge No 2.

You may submit an explanation in writing. If you wish to do so, write it below.

Representation

2. Do you wish to select a member of the fire brigade or a member of any other fire brigades to assist you in presenting your case?

YES/NO

If so, please give his name and address
.....

*If not, do you wish to be represented by counsel, a solicitor or any other person?

YES/NO

If so, please give his name and address
.....

Witnesses

3. Do you wish to call any witnesses on your behalf, including character witnesses? You may call witnesses even if you admit the charge.

YES/NO

If so, please give their names and addresses
.....

Date

Signature of Investigating Officer

Signature of Member Charged

*Delete if case is not to be heard by the disciplinary tribunal of the fire authority.

ANNEX C

SUMMARY HEARING BY OFFICER NOMINATED BY CHIEF OFFICER

1. A summary disciplinary hearing should not be conducted with the same degree of formality as a full hearing although when appropriate it should follow the same guidelines. The officer nominated by the chief fire officer should allow as much free discussion of the allegation between himself and the member as is conducive to the seriousness of the need to bring a disciplinary case under the Regulations. The general tone of the hearing should be more of an interview than a procedural hearing.

2. Where the case is not disputed the officer nominated to hear the case may use his discretion over whether an officer is required to present the case. Where, however, the case is disputed in any way, it is advisable for the nominated officer to appoint a presenting officer to help him to bring out both sides of the case fairly. The member against whom the allegation is being heard should be ordered to attend. He should always be permitted to be accompanied by a colleague who should be a member of a fire brigade of a rank junior to that of the nominated officer. Either the member himself or his representative should be permitted to respond to the allegations and to individual points as seem best to them at the time.

Procedure prior to hearing

3. The member charged with misconduct should be given not less than 10 days notice of the arrangements for the hearing. Arrangements for the notification of witnesses should follow those set out in paragraph 7 of Annex D and the procedure to be adopted if the member is absent should follow that in paragraphs 10-11 of the same Annex.

Procedure during the hearing

4. The procedure during the hearing should be sufficiently flexible to allow a free and frank exchange of information, views and opinions. The hearing should comprise three broad stages:

- i. At the beginning of the case, the nominated officer should ask the member if he admits or denies the charge, and should remind him of his duty to speak the truth.
- ii. Where the charge or any part of it is disputed, the brigade's case should then be presented and supported by documents, reports, and statements plus relevant information given by other members of the brigade. This should be followed by the member and/or his representative asking questions of any of those present in order to seek clarification of the information.
- iii. The member and/or his representative should then be permitted to respond to the allegations supported by documents, reports, statements and relevant information given by other members of the brigade. This should be followed by questions from the brigade's presenting officer and the presiding officer in order to seek clarification of the information.

Any witnesses called for whatever reason should be formally reminded of their duty to speak the truth.

5. The officer nominated to hear the case should consider all the information provided during the hearing if necessary in private and if he considers the alleged misconduct to be substantiated he should then, but not before, take account of the member's service record, character evidence and any plea in mitigation which the member should have been given the opportunity to make earlier or at this stage before reaching a decision on the appropriate disciplinary award(s) to impose. This decision must be his own and he should not consult with any other officers, for example, the presenting officer, before he reaches it.

6. The officer nominated to hear the case should announce his decision in the presence of the member at the hearing and this should be confirmed in writing within 2 working days of the decision being announced.

7. The nominated officer may remit the case to the chief officer for hearing or re-hearing if:

- a. It becomes apparent during the hearing that he cannot conduct an impartial hearing for some reason or that the case subsequently proves more serious than can be dealt with under his limited powers; or
- b. At the end of the hearing after consulting the member's record, he considers that his powers of award are too limited or that further misconduct could merit dismissal.

No reason should be given for the remission since this could prejudice the subsequent hearing; and the rehearing should always be a complete rehearing without any reference to statements made or evidence adduced before the nominated officer. Such remission of a case should however be exceptional. Normally, once the nominated officer has begun the hearing, he should proceed to deal fully with it as described in the preceding paragraphs.

ANNEX D

FULL HEARING

1. A full hearing before the chief fire officer or Fire Authority should be conducted with a degree of formality and dignity suitable for allegations of serious offences against members of a uniformed and disciplined service.

Notice of hearing

2. The member should be ordered to attend the hearing of the charge against him. The member should be given not less than 21 days' notice of the time, place and arrangements for the hearing. This time should be extended to not less than 28 days' notice if a case before a disciplinary tribunal of the Fire Authority is to be presented otherwise than by a member of the brigade (for example, by counsel or a solicitor).

Assessors

3. Under regulation 9(4), provision is made for the appointment of assessors at the hearing. An assessor is appointed solely to give any technical advice or guidance which the disciplinary body may require during the hearing. A person should not be appointed to act as an assessor if he has acted as investigating officer or has been otherwise concerned with the investigation of the case. In addition, only serving chief fire officers should serve as assessors in cases concerning principal officers; and only officers of a higher rank than the member charged with the offence should serve as assessors in other cases. No inspector or chief inspector of fire services appointed under section 24 of the Fire Services Act 1947 should act as assessor since this might prejudice the fairness of the procedures if the case should later come on appeal to the Secretary of State.

4. It should be noted that where a disciplinary body finds it necessary to obtain the views of an assessor on a matter directly relating to the case, this should be done with the accused present so that he or his representative have the opportunity to comment.

Representation and presentation of case

5. In proceedings before a disciplinary tribunal, the case against the member should be presented by either counsel, a solicitor, a member of staff of the Fire Authority or a member of the fire brigade. The member may conduct his own defence or be represented by counsel, a solicitor, or by any other person.

6. In proceedings before a chief officer, the case against the member should be presented by a uniformed member of the fire brigade and the member may conduct his own defence or be represented by a member of a fire brigade selected by him of a rank junior to that of the officer hearing the case.

Notice of Witnesses

7. If not less than 7 days before the date fixed for the hearing the presenting officer or the member informs the disciplinary body of the names and addresses of any witnesses to relevant facts, whom he may desire should give evidence:

- a. Any such witness who is a member of a fire brigade (including a junior fireman) should be ordered or instructed in writing to attend the hearing and should be required to appear in uniform;
- b. Any other such witness including employees of the fire authority should be given written notice of the time and place of the hearing and invited to attend;

The disciplinary body may, however, waive the requirement for 7 days' notice in any particular case.

Conduct of proceedings

8. The proceedings should be conducted as a formal hearing but the detail is a matter for the person or persons conducting the hearing to determine. In order to ensure the principles of natural justice are maintained, the following rules should be followed:
- a. There should be no opportunity for the disciplinary body to confer with either party in advance or during the proceedings and care should therefore be taken that both parties enter the room set aside for the hearing together, either before or after the disciplinary body. If the disciplinary body wishes to confer in private, it should exclude both parties from the room. Any advice (for example from another officer to explain the meaning of an order which was given or the implications of an award) should only be given in the presence of both parties so they are able if they wish to comment on it.*
 - b. At the beginning of the hearing the presiding officer should correctly identify the member and read the charge(s). At this point, he should ask the member if he admits or denies the charge(s) and should remind him of his duty to tell the truth. The member is free to deny a charge even if he has previously admitted it and a separate plea should be entered in respect of each charge.
 - c. The brigade's case should be presented first and the proper opportunity must be given to the member or his representative to question the brigade witnesses who may then be re-examined in turn. After this the member or his representative should put the case in reply and call their own witnesses, who can in turn be questioned by the presenting officer and re-examined by the member or his representative. The opportunity to call witnesses should be given to the member if he wishes it even if he admits the charge (for example, to demonstrate mitigating circumstances). In a disputed case, a plea of "no case to answer" is open to the member or his representative after the presenting officer has finished his presentation of the case if he feels that the facts even without any evidence on his part could not constitute the alleged offence. If this is upheld, the case should be dismissed.
 - d. If it becomes clear at any stage that the correct procedure has not been followed and that this could have some effect on the case, the case should be adjourned (for example if the member has not received all the papers to which he is entitled) for the mistake to be rectified.

*The High Court of Justice, Queen's Bench Division (Divisional Court) in a judgement given on 23 November 1978 found that the presence of the chief fire officer alone with the disciplinary tribunal to discuss the consequences of various punishments which it was open to them to impose when they had retired to consider their award had been a denial of natural justice, because there had been a breach of the principle that not only must justice be done, but that it must manifestly be seen to be done. Accordingly, the court quashed the punishment awarded by the Fire Authority (Fire Service Circular No 8 - 1979. R v The Leicestershire Fire Authority ex p. Thompson [1979] I.R.L.R. 166, DC).

- e. It should be noted that the proceedings should not be conducted in a manner more appropriate to the criminal courts. It is the duty of the presenting officer only to bring out the facts whether for or against the member, not to seek to secure an adverse decision against him at all costs.
- f. If witnesses are called they should be reminded that it is their duty to tell the truth before they give their evidence.

Adjournment

9. In exceptional circumstances proceedings against a member may be adjourned for a specified period at the discretion of the presiding officer, but such an adjournment must be in respect of all the charges brought.

Absence of the member charged

10. If the member does not attend the hearing of the case, the hearing may be proceeded with and concluded in his absence, but the presiding officer should be satisfied either that the notice of the hearing has been served on the member or that this is impossible. If, however, it is decided to make an award after a hearing which was concluded in the absence of the member the award should not take effect for 21 days. This gives the member or his representative an opportunity to make representations and if the disciplinary body is satisfied that there was a good reason for the member's absence arrangements should be made for a new hearing of the case. In this event the original decision will have no effect.

11. Where the member has nominated a representative he may attend in the member's absence to assist the tribunal.

Remission of case

12. If during the course of a hearing the chief fire officer decides that he has some direct involvement in the case and cannot therefore conduct an impartial hearing he should remit the case to the disciplinary tribunal of the fire authority.

Decisions

13. At the conclusion of the hearing of the case the disciplinary body must either dismiss the charge or, if they find it to be proven, impose one of the awards set out in Regulation 11. Before making an award, they should invite official evidence of character from the appropriate senior officers of the member and should take into account the member's service record and any plea in mitigation which the member should have been given the opportunity to make earlier or at this stage. As soon as possible after the decision on the charge and any award, the accused should be notified personally in writing of the outcome.

Record of proceedings

14. Although there is no requirement for a verbatim record to be made of the proceedings, it may prove helpful if one is available, for example if an appeal is made against the severity of an award alone (see Annex F paragraph 2). There would appear to be no objection to an initial use of tape recorders for any subsequent record.

ANNEX E

DISCIPLINARY AWARDS

1. Dismissal Dismissal should always be with contractual notice except in cases of gross misconduct.
2. Requirement to resign from the brigade at such date as may be specified in the decision It should be noted that this award is a dismissal for the purpose of employment law and carries the same rights of appeal. If a member fails to resign on the given date he is automatically dismissed - there is no need for further formal dismissal to take place. The precise date on which this dismissal will take place if he fails to resign should be made clear to the member when the award is made.
3. Reduction in rank This award is available where the presiding officer considers that the offender is unfit for the responsibilities of his rank as a result of his offence.
4. Stoppage of pay Stoppage of pay in respect of any one offence must not continue after the expiration of 13 weeks from the date on which the imposition of this punishment took effect; and the amount of stoppage (whether in respect of one or more offences) must not exceed in the aggregate in any week or month one seventh of the gross weekly or monthly pay of the offender as determined in relation to his rank. In the case of part time retained members the stoppage is calculated as a proportion of the retaining fee. It is to be noted that this award is intended as a punishment and should not be seen as a means of reimbursing a Fire Authority where Fire Authority property has been lost or damaged.*
5. Reprimand and caution These are available for less serious acts of misconduct and carry no right of appeal.

Related Matters

6. Summary hearing The only awards available after a summary hearing before a nominated officer are reprimand or caution. If it appears to the nominated officer at any stage that higher disciplinary awards or a warning about dismissal (see paragraph 7) are required, he should remit the case to the chief fire officer.
7. Final warning. In accordance with standard employment practice, where the disciplinary body considers on making any award greater than a caution that further misconduct could merit dismissal it should make this clear in making the award and should include reference to this in the written notification. Where this is done on the award of a reprimand, the member has the right to appeal against the element of the final warning although not against the reprimand itself. A final warning cannot be given by a nominated officer after a summary hearing.

*In certain circumstances a voluntary offer to repay costs of minor loss or damage to Fire Authority property may obviate disciplinary proceedings under the Regulations depending on the way the loss or damage occurred. However, in more serious cases, it may be appropriate to invoke the Discipline Regulations notwithstanding such an offer, for example in a case of wilful damage even of a trivial nature or a second or subsequent case of loss or damage involving the same member.

8. Effective date of award Apart from cautions and reprimands where no right of appeal exists, no award may become effective until it has been confirmed on appeal at local level or, where no appeal is made, the date for registering an appeal has passed. Where the disciplinary tribunal or appeal committee varies an award on appeal, the award may become effective from that date. A later date may be specified in an award. (See Annex D paragraph 10 for awards imposed in the absence of the member charged).

9. Considerations in making disciplinary awards In considering the question of what award is appropriate, but not before, the disciplinary body should have regard to the member's record of service as a member of a fire brigade as shown on his personal record.

10. The disciplinary body before making an award should also have regard to any oral evidence about the accused's character and circumstances given at the hearing, including any mitigating circumstances.

ANNEX F

INTERNAL APPEAL

1. An internal appeal may be made against all awards other than reprimands or cautions, but only one stage of appeal is available in each case. The notice of appeal should be submitted to the chief officer where the first hearing has been before the chief officer. Where the case has been heard in the first instance by the disciplinary tribunal of the fire authority, notice of appeal should be submitted to the disciplinary tribunal. In each case the notice of appeal should be submitted within 7 days of the notification of the decision.
2. In all appeals against the finding of the first hearing, the appeal hearing should be by way of a re-hearing and should follow the guidelines for a full hearing set out in Annex D. It follows therefore that the presiding officer from the first hearing should play no part in the appeal. Where only the severity of the award is in dispute, a transcript of the first hearing may be used if available and acceptable to both parties in the case. If a transcript is to be used, a copy of it should be given to the member concerned at least 14 days before the appeal hearing.
3. There are no limitations on representation at appeals. If the appellant chooses to be legally represented however, he should give the disciplinary tribunal or appeal tribunal at least 7 days notice so that they may also avail themselves of legal advice. If the fire authority wishes to use a legally qualified presenting officer, 7 days notice of this should likewise be given to the appellant so that he may also, if he wishes, seek legal advice.
4. A verbatim record of any appeal hearing should always be taken in case of a subsequent appeal to the Secretary of State. If such an appeal is made, a transcript of the record should be made as soon as the copy of the notice of appeal is received (see Annex G paragraph 3).
5. The appeal body may allow an appeal, dismiss an appeal or substitute a different award from that originally made. The decision should be notified in writing to the member who made the appeal.

ANNEX G

APPEAL TO SECRETARY OF STATE

Right of appeal

1. Under Regulation 15 a member of a fire brigade has the right to appeal to the Secretary of State following the completion of the appeal process at the fire authority level, if the disciplinary award given is dismissal, requirement to resign instead of dismissal or reduction in rank. Because of delays in processing appeals under the previous Regulations, strict time limits have been put on the submission of appeals and every effort will be made to deal with the appeal as soon as it has been received. It is not possible to put an exact time limit on the determination of an appeal, but in normal circumstances unless an inquiry is to be held the decision of the Secretary of State should be given within 10 weeks of the receipt of all the papers, including the verbatim transcript of the proceedings, in the Home Office. Where this is not possible the Home Office will provide a report on the progress of the appeal to the fire authority and the appellant at this stage.

Notice of appeal

2. The appellant must give to the Secretary of State written notice of his appeal within 14 days of his receiving written confirmation of the result of the hearing of his appeal at fire authority level. The Secretary of State, if he is satisfied that because of the special circumstances of the case it is just and right so to do, may, exceptionally, extend the time during which notice of an appeal may be submitted. At this stage the appellant need only provide notice of the appeal - no further statements or documents are required. He should also notify the fire authority of the appeal as soon as it is made.

Documents to be supplied by Fire Authority and appellant

3. Transcript of records of proceedings. As soon as the fire authority have been notified of the appeal, they should make a transcript of the verbatim record of the appeal proceedings and should supply a copy of this transcript to the appellant and the Secretary of State within a period of 14 days from the date of notification of the appeal. Any parts of a transcript of the first hearing which have been referred to in the appeal hearing should also be supplied but otherwise such a transcript, even if available, is not required.

4. Documents to be supplied by appellant. The appellant has 50 days from the date of the written notification of the result of his appeal at fire authority level in which to complete his full appeal statement (as set out in the model at the end of this Annex) with the required statements and documents attached. If he fails to comply with this limit, the Secretary of State may treat the notice of appeal as having been withdrawn and no further action in connection with it need be taken. The Secretary of State would normally consider 21 days a reasonable time for the appellant to study the transcript(s) of the hearing.

5. The appellant should provide a copy to the fire authority of his full statement and any statements and documents annexed to it as soon as they have been sent to the Secretary of State.

6. Documents to be supplied by the Fire Authority. The fire authority should send to the Secretary of State, within a period of 14 days from receiving the copy of the full appeal statement from the appellant:

- a. a written statement on the grounds of appeal including any observations on the case (without introducing new evidence) that may assist the Secretary of State in his determination of the appeal
- b. a copy of the appellant's personal record.

7. The fire authority should also send to the appellant a copy of the statement sent to the Secretary of State together with copies of any documents accompanying that statement, unless they have been given to him previously.

Withdrawal of appeal

8. The appellant may withdraw his notice of appeal by written application to the Secretary of State. If he does so, he should send a copy of the written application to the fire authority.

Inquiries

9. Under Regulation 16, the Secretary of State is empowered to order an inquiry into any case which comes before him on appeal and is required to order an inquiry if it appears to him that the case cannot properly be determined without hearing the evidence. For this purpose he may appoint one or more persons to inquire into the case and report to him.

10. The Secretary of State may also appoint not more than 2 persons to act as assessors at the inquiry.

11. The Secretary of State may require the persons conducting the inquiry to deal in their report with any particular matter specified by him.

12. Where the Secretary of State decides to hold an inquiry he should as soon as practicable give notice of his decision to the appellant and the fire authority.

13. The Secretary of State may decide that an oral hearing of the case under inquiry is necessary. Where he makes no such direction, the persons holding the inquiry may themselves decide that an oral hearing is necessary. If however they consider the case would be satisfied by receiving evidence or representations in writing they should allow the appellant and the fire authority, or their representatives, an opportunity to make representations, either in writing or orally, as to whether or not there should be a hearing. Where there is to be a hearing, not less than 21 days notice in writing of the time and place of the hearing should be given to the appellant and the fire authority.

14. Subject to any directions given by the Secretary of State, the procedure at an oral hearing is for the persons holding the inquiry to determine, but it should normally be by way of a full re-hearing of the case unless only the severity of the award is in question. The inquiry may be held in private.

15. There are no limitations on representation for inquiries.

Power to remit a case

16. The Secretary of State may instruct the fire authority's disciplinary tribunal or committee to reconsider a case, or, if there has been an inquiry, he may ask the person(s) who held the inquiry to carry out further investigations.

Decisions on appeal

17. The decision of the Secretary of State, after considering the notice of appeal and any other documents submitted to him by the appellant or the fire authority and the report of any inquiry or of any further consideration or investigation should be:

- a. to allow the appeal; or
- b. to dismiss the appeal; or
- c. to vary the award by the imposition of some award which appears to him to be less severe.

18. If the Secretary of State allows the appeal or varies the award, his decision shall take effect by way of substitution for the decision appealed against, and as from the date on which the decision imposing the award took effect.

19. The decision of the Secretary of State should be notified in writing to the appellant and fire authority as soon as possible after it has been taken. Where an inquiry has been held, a copy of the report submitted to the Secretary of State should be sent to the appellant and the fire authority as soon as it is available.

MODEL STATEMENT OF APPEAL

FORM OF STATEMENT OF APPEAL TO THE SECRETARY OF STATE

I [here insert name]

on the day of, 19...

while holding the [rank] [post] of

in the fire brigade was found to have

committed the following disciplinary offence(s), that is to say [here insert charge or charges found to be proved]

and was awarded therefor [here insert particulars of award in respect of each charge]

On appeal before the [disciplinary tribunal] [appeal committee] this award was [confirmed] [varied to from the date

I was notified in writing of the decision on

[I desire to appeal against the finding and award.]

[I do not desire to appeal against the finding but desire to appeal against the award.]

I [desire] [do not desire] to submit additional evidence not taken into consideration at the hearing of the charge(s) against me.

I annex -

- 1. a concise statement (marked A) of the ground(s) on which I desire to appeal
- 2. a list (marked B) of the documents, if any (other than documents produced at the hearing) which I desire to submit copies of which I enclose;
- 3. a list (marked C) of the names and addresses of witnesses I desire to call, if the Secretary of State decides to hold an inquiry, with a concise statement of the material facts which each such witness will prove.

At the date on which I received the award I was in receipt of pay at the rate of £..... a year.

I declare that a copy of this notice of appeal and of each document annexed hereto has been sent to the fire authority by whom I am employed.

Signed

Address

Date 19

ANNEX H

SUMMARY OF MAIN CHANGES FROM FIRE SERVICES (DISCIPLINE) REGULATIONS 1948

This annex summaries the main areas of change from the 1948 Regulations as provided in the new Regulations and the accompanying Guidance. Some of the provisions previously in statutory form have now been transferred to the Guidance which sets out the details of the new procedures.

Application and Interpretation of Regulations

(Regulation 3 and Guidance paragraph 3)

1. The application of the Regulations is specified for the first time.
2. The terms "disciplinary tribunal" and "disciplinary body" are redefined.
3. Specific separate provision is made for principal officers under the Regulations and the term is defined.
4. Provision has been made for the chief fire officer to delegate his disciplinary powers under the Regulations to an officer not below the rank of assistant chief officer.

Investigation

(Regulations 5, 7, 8 and 9(3) and Guidance paragraphs 8-9 and Annex B)

5. Where a report or allegation of misconduct is received it now goes directly to the investigating officer appointed by the chief fire officer (or, for principal officers, the fire authority) and this officer has the delegated responsibility for the whole investigation, including the formulation of charges and the decision over the procedure to be used for the hearing. The investigating officer is also responsible for supplying the documents required to the various parties.

Gross misconduct

(Regulation 6 and Guidance paragraph 12 and Annex A paragraphs 2-3)

6. New provision is made for cases of serious and blatant misconduct to be heard under an accelerated procedure culminating in summary dismissal. This procedure includes provisions for representation and appeals.

Summary hearing

(Regulation 9 (3) and (6) and Guidance paragraph 13 and Annex C)

7. The chief fire officer no longer has the power to delegate his authority to a "tribunal" of more junior officers. Instead the investigating officer can decide that one officer should be nominated by the chief fire officer to hear minor cases under a less formal procedure. This procedure is not available for charges against principal officers. Awards made after such a hearing are limited to reprimand or caution, and cases may, exceptionally, be remitted by the nominated officer to the chief fire officer to be recommenced if he feels his powers are insufficient.

Full hearing

(Regulation 9 (1), (2), (4) and (5) and Guidance paragraphs 14 and Annex D)

8. A full hearing should take place before the chief fire officer or disciplinary tribunal of the fire authority. Cases concerning principal officers must go before a disciplinary tribunal. Assessors can be appointed by both bodies. Cases can be remitted by the chief fire officer to the disciplinary tribunal.

9. Arrangement has been made for a stay of award and possible rehearing where proceedings take place in the absence of the member charged.

10. Guidance on the procedure prior to the hearing (including notification of witnesses) and during the hearing is set out in the Guidance.

Disciplinary Awards

(Regulation 11 and Guidance paragraphs 15-16 and Annex E)

11. Provision has been made for a written final warning to be given with any award higher than a caution after a full hearing. The award of requirement to resign has been specifically defined as a form of dismissal. The Guidance sets out time limits for expunging awards from a member's record.

Confirmation of awards and effective date of awards

(Regulation 11 (6), (7) and (8) and Annex E paragraph 8)

12. The confirmation procedure in the 1948 Regulation has been abolished. Awards (other than caution and reprimand where no right of appeal exists) do not take effect until confirmed on appeal at local level or, where no appeal is made, until the date for registering such an appeal has passed. Where an award is varied on appeal, it may become effective from that date. A later date may be specified in an award.

Internal appeal procedure

(Regulations 12 and 13 and Guidance paragraphs 17-18 and Annex F)

13. No appeal now lies against a reprimand or caution, although where a final warning has been given with the award of reprimand, appeal may be made against the final warning alone. Notice of appeal against all other awards has been increased to 7 days, to be given to the body which held the original hearing. If both parties agree and a transcript of the first hearing is available, a full rehearing is not required where an appeal is against the award alone.

14. Where the first hearing has been before the disciplinary tribunal of the fire authority, an appeal is now provided to an appeal committee of the same authority composed of different members.

15. A transcript should be taken of all appeal hearings.

Representation

(Regulation 14 and Guidance paragraph 10)

16. Representation by a member of another brigade for hearings at summary level or before the chief fire officer is now automatic, not dependent on the permission of the fire authority. Representation by a member of the same fire brigade is specifically allowed during the investigation.

Appeal to Secretary of State

(Regulations 15-18 and Guidance paragraph 19 and Annex G)

17. The length of time for notice of appeal has been increased to 14 days from the date of the receipt of the written notification of the decision of the appeal at fire authority level and the appeal now goes direct to the Secretary of State with a copy to the fire authority. The grounds of appeal must be submitted by the appellant within a period of 50 days from the same date, again with a copy to the fire authority. If this is not done, the Secretary of State can treat the notice of appeal as withdrawn. In both cases an extension to the time limit can be granted by the Secretary of State. The fire authority should supply a copy of the transcript of the appeal proceedings to the Secretary of State within 14 days of receiving a copy of the notice of appeal; and should reply to the grounds of appeal again within 14 days of receipt of a copy of these from the appellant. The fire authority should send a copy of the transcript and, subsequently, of their reply to the grounds of appeal with any supporting documents to the appellant. The fire authority should also send a copy of the appellant's personal record to the Secretary of State. If the Secretary of State has not reached a decision within 10 weeks of receipt of all the documents in the Home Office a report will be sent on the appeal to the fire authority and the appellant.

18. The Secretary of State may appoint 2 assessors to act at an inquiry. Procedural details for inquiries are now contained in the Guidance.

19. The Secretary of State no longer has the power to increase an award on appeal.

Offences

(Schedule to the Regulations and Guidance Annex A)

20. The major change to the Schedule is the introduction of a new offence of criminal conduct and the consequent replacement of the offence of discreditable conduct by more limited offences. There are also minor changes in many offences (for example, abuse of authority) and some have been rearranged (for example, neglect of duty). Separate offences of misconduct in relation to official documents and untidiness have been created.