

Defence Police Federation



Established by Act of Parliament

Protocol & Guidance Governing Internal DPF Investigations and Hearings

Version Control: April 2023

CONTENTS

	<u>Paragraphs</u>
1. Rule 31 (Offences & Appeals)	1 – 5
2. Federation Internal Investigation & Hearing Procedures	6 – 14
3. Constitution of the Tribunal	15 – 17
4. The Hearing Procedure	18 – 20
5. The Outcome	21
6. Appeal to Annual Conference	22 – 28
7. The Calling of a Special Meeting of Annual Conference	29
8. Procedures for Complaints Against National Officers	30
9. The Conference Arrangements & Standing Orders Committee	31
10. Appendix A	

Rule 31 (Offences and Appeals)

1. Rule 31 of the Defence Police Federation Rules & Constitution (2021 version) states:

RULE 31 OFFENCES AND APPEALS

- a. “No member shall conduct any activity, which is considered by the National Executive Committee, Annual Conference on appeal, to undermine the confidence of the members of the Federation or to bring the reputation of the Federation into disrepute. A member so acting or willfully acting contrary to these Rules or to the instructions of the National Executive Committee may be suspended from membership, removed from office or from membership of any committee or expelled by National Executive Committee.
 - b. A member so suspended or expelled shall forfeit all rights and titles to funds and properties of the Federation.
 - c. A member upon whom the penalty of suspension or expulsion has been imposed, or an officer or Committee member (including members of the National Executive Committee) who has been removed from office or membership of a Committee by the National Executive Committee shall, provided they have in the meantime respected the decision of the National Executive Committee, have the right to appeal to Annual Conference, against their suspension, expulsion or removal from office.
 - d. Procedures in respect of proceedings under this Rule may be issued by the National Executive Committee”.
2. This Protocol and Guidance is issued under Rule 31 (d) and, as required, under the authority of the National Executive Committee.
 3. (a) The Protocol should be regarded as providing guidelines with the overarching responsibility of the National Executive Committee Tribunal (hereinafter referred to as “the Tribunal”) being to ensure a fair Hearing.

(b) Procedural discrepancies should not lead to a dismissal of a case. The Tribunal should, where possible, rectify any such discrepancies in the interests of fairness. This may require an adjournment to allow such rectification. Only if a fair Hearing is impossible, as determined by the Tribunal, should a case be dismissed.
 4. It should further be noted that these procedures may be supplemented or amended in application to an individual case by a direction of the Tribunal in that case. The Tribunal will, in such cases, explain the need for such amendment to these guidelines to all parties.

5. For the avoidance of doubt, this Protocol shall apply to a case whether the alleged offence or incident occurs (or proceedings were commenced) before or after the date of this Protocol.

Federation Internal Investigation and Hearing Procedures

6. The National Chairman, on receipt of evidence indicating that an offence, falling within the definition of Rule 31, may have been committed by a member of the Defence Police Federation, will make the following initial determination:
 - (a) that the initial evidence provided is sufficient to proceed to the formal Hearing stage or
 - (b) will nominate one or more serving Federation member(s) (but excluding the National Vice Chairman, General Secretary and Area Secretary's) to carry out any such investigation as is deemed necessary and for the Investigator(s) thereafter to submit a full written report to the National Chairman.
7. If an investigation is deemed necessary, the National Chairman will then inform the accused member that an investigation is to be undertaken.

The National Chairman will:

- (a) give brief particulars of the allegation, informing the member of their right to be represented by a Federation member who is prepared to represent him/her
 - (b) specify who the Investigator(s) are
 - (c) give the accused member the opportunity to make a verbal or written statement to the National Chairman
 - (d) ensure that the accused member receives a copy of this Protocol
 - (e) will ask the member to inform the Investigator(s) of the name and contact details of any Federation member providing representation.
8. The Investigator(s) so directed will be authorised to carry out an internal investigation provided that it is not of a criminal nature. If, at any time during the investigation, it is identified that criminal elements are present, then the said Investigator(s), will immediately inform the National Chairman who, upon receipt of a written report outlining the possible criminal elements, will then in turn inform the Professional Standards Department.

9. At the conclusion of the investigation a full written report will be submitted to the National Chairman with a recommendation as to whether or not there is a case to answer.
10. The National Chairman will, after due consideration, but within 14 calendar days of receipt of the Investigator(s) report, make a determination as to whether or not there is a case to answer. The National Chairman is not bound by the recommendation(s) of the Investigator(s) report.
11. Where no investigation was deemed necessary, the National Chairman will decide whether or not there is a case to answer on receipt of the evidence indicating that an offence may have been committed. This will be when it was decided that no investigation was deemed necessary.
12. The National Chairman will then write to the accused member informing him/her of the decision.
 - (a) If the matter is proceeding to a formal Hearing, the National Chairman shall inform the accused member of:
 - (i) the Hearing date (which will be a minimum of 28 calendar days in advance) having been informed of the date by the General Secretary in accordance with paragraph 16
 - (ii) the location, nature/mode (see paragraph 18 below) and time of the Hearing
 - (iii) shall also enclose the Investigator's report, if any, and any documents appended to it. Where there is no Investigator's report, it shall include the evidence initially received by the National Chairman and
 - (iv) the alleged misconduct and specify which of the Rule 31 offences is said to apply.
 - (b) In cases of urgency this 28 calendar day period and the other time periods referred to in the next two paragraphs may be shortened by the National Chairman who shall then notify the accused member and the General Secretary who shall inform the Tribunal. Any objection to this shall be dealt with by the Tribunal at the Hearing.
13. At least 14 calendar days before the Hearing, the accused member shall notify the National Chairman whether he/she intends to admit or contest the allegation(s). The accused member shall also submit a brief summary of their defence including any mitigation and shall confirm the contact details of any representative who will be a Federation member.
14. Any evidence the accused member intends to produce must be produced to the Tribunal at least 14 calendar days before the Hearing. Where he/she is calling

any witnesses (including the accused member himself/herself) statements and contact details of such witnesses shall be included.

Constitution of the Tribunal

15. (a) Where the National Chairman determines that the matter is to proceed to a Hearing, the General Secretary shall be informed and shall constitute the Tribunal consisting of himself/herself as Chair, and two other members of the National Executive Committee nominated by the General Secretary.

(b) The General Secretary may not nominate the National Chairman, the National Vice Chairman, the Area Secretary's (save as provided below in paragraph 30), the Investigator(s) or any witnesses to serve on the Tribunal.

(c) The decision of the Tribunal shall be the decision of the National Executive Committee.
16. The General Secretary shall inform the National Chairman of the Hearing date and the National Chairman shall inform the accused member as set out in paragraph 12 above.
17. (a) Where a member of the Tribunal is absent due to illness or otherwise and the absence has lasted or is likely to last over 28 days and delay the proceedings, the remaining members of the Tribunal may adjourn the matter or appoint a substitute from eligible members of the National Executive Committee.

(b) If they appoint a substitute and the absent member is the General Secretary, they shall at the same time appoint one of their number to carry out the functions of the General Secretary on the Tribunal. In the absence of agreement on these matters, the decision of the General Secretary shall prevail or, if he/she is the absent member, the matter shall be referred to the National Executive Committee.

The Hearing Procedure

18. The National Chairman will determine the nature and mode of the Hearing. That is, whether the Hearing shall be held in person or by "virtual" means or a "hybrid" of both. The General Secretary as Chair of the Tribunal, the accused and/or his/her representative may make representations on this matter but the decision of the National Chairman shall be final and binding.
19. At the Hearing, the Tribunal shall decide upon the procedures to be followed and may issue any procedural directions or guidelines in respect of any aspect of the case which may depart from this Protocol. This includes, but is not limited to, hearing objections to any shortened pre-Hearing timetable determined by the

National Chairman as above and taking such steps as it considers appropriate in respect of the Hearing and/or timetable. It must be remembered that the overriding objective in respect of procedures in this Protocol shall be fairness and impartiality to all concerned.

20. (a) Ordinarily, there will be two questions to answer at the Hearing. The first being one of innocence or guilt of the accused. The second, if the member is found to be guilty, is the level of sanction to be imposed, if any.
- (b) The allegation(s) shall be presented by the National Chairman as Presenting Officer or such other member (who may be the Investigator or one of them) as nominated by the National Chairman.
- (c) The National Vice Chairman will not act as the Presenting Officer other than for the limited circumstances of paragraph 30.

The Outcome

21. (a) The outcome of the Tribunal, including any sanction if one is imposed will be recorded at DPF HQ.
- (b) If any decision is contested the right to appeal will be direct to Annual Conference as per Rule 31 and the procedural paragraphs below.

Appeal to Annual Conference

22. (a) An Application for Appeal shall be made in writing to the National Vice Chairman and must include the grounds of appeal.
- (b) The application should be received by the National Vice Chairman at DPF HQ within 28 calendar days of a decision being made by the Tribunal (or of a decision being pronounced in cases where the decision is reserved).
- (c) Late applications to lodge an Appeal will be considered by Annual Conference but such decision will be at the absolute discretion of Annual Conference.
23. Rule 27 of the Defence Police Federation Rules & Constitution (2021 version) states:

RULE 27 ANNUAL CONFERENCE

“(a) (i) The Annual Conference shall be held at such times and places as the National Executive Committee shall decide. This will include the power to call a special meeting of Annual Conference during the year.

- (ii) For the avoidance of doubt, Annual Conference (or any special meeting of Annual Conference) may, by direction of the National Executive Committee, be held by means of an exclusively “virtual” meeting or a “hybrid” mixture comprising both the physical attendance of delegates and the “virtual” attendance of other delegates.
 - (iii) The National Executive Committee, or by delegated authority, the Conference Arrangements & Standing Orders Committee shall have the power to determine all the rules of conduct for Annual Conference in whatever form it is constituted.
 - (iv) All business conducted at a “virtual” or “hybrid” Annual Conference will be treated as if the Annual Conference had been held by the physical attendance of delegates”.
 - (b) Any Appeal to Annual Conference made by virtue of Rule 31 will be held in the same format as that of Annual Conference.
 - (c) The National Vice Chairman (as the Chair of the Appeal Hearing) may make special directions as to the conduct of the Appeal in such circumstances. Representations may be made to the National Vice Chairman in this capacity by the National Chairman/Presenting Officer, the accused person and/or his/her representative. The decision of the National Vice Chairman in this capacity will be final and binding on all parties.
24. (a) The Appeal Hearing at Annual Conference will be chaired by the National Vice Chairman.
- (b) If the National Vice Chairman is a witness, CASOC will nominate the Chair.
- (c) The Hearing shall be in closed session and any delegates who have been investigators, witnesses, representatives or Tribunal members in the case shall be excluded.
- (d) The National Vice Chairman (as the Chair of the Appeal Hearing) may make special directions as to the conduct of the delegates to Annual Conference with particular regard to their conduct both prior to, during and following the Annual Conference itself. This would be especially relevant to the receipt and handling of documents required for the Appeal Hearing.
25. At that Appeal Hearing the only evidence placed before Annual Conference will be the Appeal request, the detailed record of the Tribunal Hearing together with the documentary evidence and written submissions at that Hearing.
26. (a) Both the member appealing and the National Chairman or the Presenting Officer at the Tribunal (if not the National Chairman) may make written and/or oral submissions to Annual Conference, subject always to the discretion of the Appeal

Chair to restrict the length of any written submission and/or the time available for oral submissions.

(b) New evidence may be permitted at the Appeal Hearing only at the discretion of the Chair.

27. The Appeal Hearing Chair shall determine all procedural questions arising subject to any successful challenge under Annual Conference Standing Orders.

28. (a) Only one submission may be made to Annual Conference by the National Chairman/Presenting Officer and by the member/his/her representative. The National Vice Chairman will then move straight to a vote.

(b) The vote will be decided by a simple and not qualified majority. In the event of the votes being equal, the National Vice Chairman, in his capacity as Appeal Hearing Chair, will have the casting vote.

(c) Annual Conference may only uphold, rescind or vary the decision of the Tribunal. Annual Conference may not increase the sanction imposed by the Tribunal.

(d) The decision of Annual Conference shall be final and binding.

The Calling of a Special Meeting of Annual Conference

29. (a) If an Appeal is lodged against the decision made by the Tribunal and/or the sanction imposed by the Tribunal and there is, in the opinion of the accused party, a disproportionate period of time between the decision of the Tribunal and the next scheduled Annual Conference for the Appeal to be heard, an application may be made by the accused for a Special Meeting of Annual Conference to be held.

(b) Such application for a Special Meeting of Annual Conference must be made to the National Vice Chairman at the same time as the application for Appeal. The application must outline the reasons why the Appeal cannot wait until the next scheduled Annual Conference giving details of any anticipated substantial and serious risk of loss and/or any substantial and serious damage to reputation.

(c) The National Vice Chairman will, after due consideration, place the application before the National Executive Committee with a recommendation as to whether to call such a Special Meeting of Annual Conference or not. The National Executive Committee will not be bound by this recommendation.

(d) If in the exercise of their discretion the National Executive Committee agree to calling a Special Meeting of Annual Conference under Rule 27, this will

be for the sole purpose of Hearing the Appeal against the finding and/or sanction imposed by the Tribunal.

(e) Without fettering or limiting the discretionary powers of the National Executive Committee, the holding of a Special Meeting of Annual Conference should only be sanctioned in exceptional circumstances and taking each case on its merits. The National Executive Committee may request additional information from the accused and may also receive representations from other interested parties eg. the National Chairman.

(f) All the procedural matters detailed in paragraphs 22 – 28 above will apply at the Special Meeting of Annual Conference.

Procedures For Complaints Against National Officers

30. In the event of a complaint against either the National Chairman, the National Vice Chairman or the General Secretary then the following procedure is to be followed.

(a) National Chairman

If there is a complaint against the National Chairman then:

(i) The role that the National Chairman would have taken by virtue of the above paragraphs 1 – 29 will be taken over by the National Vice Chairman

(ii) The role that the National Vice Chairman would have taken by virtue of the above paragraphs 1 – 29 will be taken over by one of the Area Secretary's.

(iii) In the event that an Appeal is lodged, the Area Secretary to Chair the Appeal at Annual Conference will come from the Area where the complaint did not originate.

(iv) The Chair of CASOC will make the necessary choice of Area Secretary if the complaints originate in both Areas.

(v) The role of the General Secretary in these circumstances is unchanged.

(b) National Vice Chairman

If there is a complaint against the National Vice Chairman then:

(i) The role of the National Chairman in these circumstances is unchanged.

- (ii) The role of the General Secretary in these circumstances is unchanged.
- (iii) The role that the National Vice Chairman would have taken by virtue of the above paragraphs 1 – 29 will be taken over by one of the Area Secretary's.
- (iv) In the event that an Appeal is lodged, the Area Secretary to Chair the Appeal at Annual Conference will come from the Area where the complaint did not originate.
- (v) The Chair of CASOC will make the necessary choice of Area Secretary if the complaints originate in both Areas.

(c) General Secretary

If there is a complaint against the General Secretary then:

- (i) The role of the National Chairman in these circumstances remains unchanged.
- (ii) The role of the National Vice Chairman in these circumstances remains unchanged
- (iii) The role that the General Secretary would have taken by virtue of the above paragraphs 1 – 29 will be taken over by one of the Area Secretary's.
- (iv) In the event that the National Chairman determines that a formal Hearing is required, an Area Secretary will Chair the Tribunal. The Area Secretary will come from the Area where the complaint did not originate.
- (v) The Chair of CASOC will make the necessary choice of Area Secretary if the complaints originate in both Areas.

(d) Area Secretary's

If there is a complaint against an Area Secretary the roles of the National Chairman, National Vice Chairman and General Secretary are unaffected and their roles as described in paragraphs 1 – 29 remain as they are.

31. (a) Save for the very specific role that CASOC will undertake as outlined in paragraphs 24 and 30 of this Protocol, CASOC will undertake no role in any part of the Protocol as outlined in paragraphs 1 – 30.
- (b) CASOC's role will, as always, be strictly neutral. CASOC will provide advice and guidance on the Protocol document and such advice and guidance will be available to all parties including the accused and his/her representative.

APPENDIX "A"

AVAILABLE SANCTIONS

- **Expulsion from the Defence Police Federation (Life)**
- **Expulsion from the Defence Police Federation (Limited Period)**
- **Removal from Office or from Committee membership (to include acting as a Branch Representative)**
- **No formal sanction imposed.**

Sanctions are not obligatory where breach of Rule 31 (a) is established. In some cases where the accused member makes an apology and gives undertakings to the Tribunal/Annual Conference, it may be determined that no sanction is required. Alternatively, formal advice may be issued which shall not be a sanction.

Eamon Keating

**Eamon Keating
National Chairman
Defence Police Federation**