

BRIEFING NOTE FOR THE MINISTERS

SUBJECT: CANADIAN FORCES POLICY ON SEXUAL MISCONDUCT

ISSUE

1. A new Canadian Forces Administrative Order (CFAO) has been prepared to promulgate CF career policy on sexual misconduct.

BACKGROUND

2. It is expected that the CF policy on homosexual conduct will be revoked. When that happens, CFAO 19-20 "Homosexuality - Sexual Abnormality Investigation, Medical Examination and Disposal" will be cancelled. Although an immediate replacement for that CFAO is not essential, it is desirable to issue a new order that addresses the overall subject of sexual misconduct. The new order is identified as CFAO 19-36 "Sexual Misconduct".

MAIN FEATURES OF THE NEW CFAO

3. The new CFAO prescribes CF career policy and procedures applicable to cases of sexual misconduct. The order is directed at all sexual misconduct, whether heterosexual or homosexual. It does not deal with disciplinary procedures as these are sufficiently covered in existing regulations and orders.

4. In the new order, "sexual misconduct" is defined as:

"a. an act which has a sexual purpose or is of a sexual or indecent nature and which constitutes an offence under the Criminal Code or the Code of Service Discipline; and

b. an act of sexual harassment contrary to CFAO  
19-39."

5. The CF policy contained in the order is as  
follows:

"It is CF policy that sexual misconduct is  
unacceptable and will not be tolerated. A CF member  
who engages in sexual misconduct is liable to  
disciplinary and administrative action, including  
release if appropriate. An applicant for enrolment  
who has engaged in sexual misconduct may be refused  
enrolment."

6. The CFAO describes the obligations of a  
commanding Officer when there is an allegation of sexual  
misconduct, outlines the type of investigation that must  
be conducted, and provides guidance on the types of cases  
that may be handled at the unit level and those that must  
be referred to NDHQ for a decision. In general, cases  
where there is a victim will normally be referred to NDHQ.

7. Within the order, there is extensive provision  
for procedural fairness. In general, individuals will  
know what allegations have been made, will have access to  
the evidence on which an administrative decision is based,  
and will have an opportunity to make written  
representations on their own behalf.

8. The order, when promulgated, will apply equally  
to the Regular Force and the Reserve Force.

9. In summary, the order reflects CF non-tolerance  
of sexual misconduct and establishes consistent  
investigative and administrative procedures to deal with  
sexual misconduct regardless of whether it is heterosexual  
or homosexual in nature.

CURRENT STATUS

10. The order is in the final stages of preparation. It is anticipated that the order will be issued by the CDS shortly after the present CF policy on sexual orientation is revoked.

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