



OFFICIAL

Office of the Secretary

Australian Government
Department of Defence



EC21-002675

Ms Kate Jenkins
Sex Discrimination Commissioner
Australian Human Rights Commission



Sydney NSW 2000

Dear Ms Jenkins,

Thank you for your correspondence of 1 July, inviting the Department of Defence to contribute to the Independent Review into Commonwealth Parliamentary Workplaces led by the Australian Human Rights Commission.

Defence is committed to creating a safe environment where individuals have access to support services and feel safe to report unacceptable behaviour, including workplace bullying, sexual harassment and sexual assault, knowing that incidents will be addressed.

I note Greg Moriarty wrote to you on 19 July in response to a request for a confidential interview as part of the Review process. Ahead of that interview, please find attached Defence's response to the Review which highlights the organisation's examples of policies, processes, practices and approaches that support the prevention and handling of workplace bullying, sexual harassment and sexual assault (Enclosure 1).

Should you require more information, my point of contact is Assistant Secretary Culture and People Development, [REDACTED] can be reached at [REDACTED]

Yours sincerely

Katherine Jones

A/Secretary

29 July 2021

Enclosure:

1. Defence policies and practices against workplace bullying, sexual harassment and sexual assault

OFFICIAL

"Defending Australia and its National Interest"

**DEFENCE POLICIES AND PRACTICES AGAINST WORKPLACE BULLYING,
SEXUAL HARASSMENT AND SEXUAL ASSAULT**

Defence Values and Behaviours

Defence's commitment to ongoing cultural reform is reiterated through the [Defence Transformation Strategy](#) and is aligned with Defence's cultural intent under Pathway to Change 2017-22. A copy of Pathway to Change is available at Attachment A.

Defence's cultural reform efforts are focussed on embedding positive workplace norms, behaviours and accountabilities across the enterprise, encouraging people to report their concerns, and raising awareness of issues.

The [Defence Values and Behaviours](#) outline how we must treat each other and work together to achieve our cultural and strategic challenges.

The Defence Values of Service, Courage, Respect, Integrity and Excellence embody what Australians expect of Defence personnel, and what Defence personnel should expect of themselves and each other.

The Defence Behaviours (dot pointed below) demonstrate our commitment to the Defence Values through business-as-usual activities.

- Act with purpose for Defence and the nation
- Be adaptable, innovative and agile
- Collaborate and be team-focused
- Be accountable and trustworthy
- Reflect, learn and improve
- Be inclusive and value others

All Defence personnel, regardless of service, rank or level, are expected to uphold and demonstrate the Defence Values and Behaviours.

Complaints and Alternative Resolutions Manual

The Complaints and Alternative Resolution Manual (CARM) is Defence's defining policy and provides guidance on managing and resolving unacceptable behaviour.

The specific types of unacceptable behaviour addressed in the CARM are:

- Harassment
- Workplace bullying
- Any form of sexual misconduct

- Discrimination (in all its forms)
- Abuse of power
- Conflict of interest and inappropriate workplace relationships
- Violent behaviour

The CARM came into effect in November 2013 with a staged release of individual chapters. Defence Instruction General Personnel 35-3 – Management and Reporting of Unacceptable Behaviour was active until November 2017 and superseded in August 2019 by Defence Instruction - Administrative Policy PPL7 – Required Behaviours in Defence.

Defence has adopted a continuous improvement culture to ensure policies and practices are enhancing capability and supporting its people at every level. Reform of the CARM is currently underway to deliver an interactive, digitised policy guidance supported by a ‘hub’ of tools, resources and micro-bite learning videos to build sustainable complaint management capability.

A copy of the CARM Chapter 3 Responding to Unacceptable Behaviour and Chapter 9 Responding to Sexual Misconduct has been provided at Attachment B.

Information regarding the management and reporting of unacceptable behaviour is also available on the [Defence website](#).

Complaints Handling Trial

Defence trialled a new Complaint and Resolution service in 2021, designed to improve complaint handling by providing real-time, front-line advice and services to assist Commanders, Managers and Supervisors in the management of complaints, and to support individuals experiencing interpersonal conflict.

Early results suggest a positive experience for affected personnel; however, there was a low uptake of the service due to a small number of participating areas attributed to external factors such as COVID-19, which prevented an effective assessment of the new process. A six-month extension of the trial is being considered for commencement in mid-2022. This will provide time to increase the pool of participating areas for a more extensive assessment to the effectiveness of the new approach.

Mandatory Workplace Behaviour Awareness Program

Defence require all Defence personnel, contractors, consultants and external service providers to complete mandatory Workplace Behaviour Awareness training on an annual basis. The program covers expected workplace behaviours, resolution options, reporting requirements and avenues for assistance or support.

The Workplace Behaviour Awareness Program is reviewed annually and a new course is developed approximately every two years to ensure the material is current and to provide an engaging and interactive training format. Defence’s Workplace Behaviour Awareness Program is currently being re-developed in preparation for launch in 2022, supported by additional, voluntary learning modules to reinforce key learnings and to build sustainable Defence capability.

Unacceptable behaviour videos

Defence personnel now have access to a series of bite size 'how to' videos designed to embed awareness and understanding of unacceptable behaviour including what it is, and how to respond appropriately. The videos and scripts are available on Defence's intranet site and these have proved popular with individuals and complaint managers alike, with many views since publication on 30 September 2020.

Improved data collection and extraction of unacceptable behaviour

At present, there are a number of Defence databases which collect and store unacceptable behaviour incident information. Reform is currently underway to build an interface which will automate data collection and extraction from these databases. This will enable a faster and more accurate analysis of data. The information will be used for quarterly reporting which will improve the identification of trends to inform remediation activities. The interface is expected to be trialed in the first quarter of 2021/22 with a view to implementation by the end of the second quarter.

Workplace Behaviour Adviser Network training

A network of Workplace Behaviour Advisers (WBAs) is available to individuals in Defence to assist with identifying unacceptable behaviour; resolving issues at the lowest appropriate level; and managing and reporting unacceptable behaviour incidents.

Workplace Behaviour Adviser training is currently conducted face-to-face over two days in an instructor-led training environment. Reform is currently underway toward developing a virtual training product, creating a virtual classroom experience for WBA competency development. This virtual training will also provide professional development opportunities for WBAs to refresh their knowledge and practice their interviewing and communication skills as required. Evaluation of the course will be through an online survey. It is anticipated that this training will be available by November 2021.

Incident Reporting and Management Manual

The Incident Reporting and Management Manual provides guidance to all Defence Personnel on what constitutes an incident and how those incidents are to be reported. The manual also provides guidance to managers and commanders on recording and managing reported incidents to ensure an effective centralised incident recording system is maintained for accurate, efficient and timely reporting of incidents within Defence and externally, where appropriate.

All Defence Personnel who have a reasonable suspicion that an incident has occurred, or who have received credible and/or believable information about any matter that might be categorised as an incident must, as soon as practicable, but within 24 hours of commencement of duty, report the incident to their Manager or Commander. Where there are compelling reasons to not report to their Manager or Commander, the report can be made directly to a Defence Investigative Authority. If the incident involves one or more youths – which includes anyone aged under 18 years – immediate reporting requirements are specified in the Youth Policy Manual.

Defence recognises that in some circumstances, it may be appropriate for Defence Personnel to report a Notifiable Incident directly to civilian police, such as sexual assault. Reporting protocols in the manual do not limit, or prevent Defence Personnel from reporting any suspected criminal offences directly to civilian police. Where a Notifiable Incident is reported to civilian police, and where consistent with Defence policy, Defence will also expect its personnel to report the Notifiable Incident to their Manager or Commander and/or a Defence Investigative Authority.

The Defence Policing and Security Management System (DPSMS) is a corporate case management application mandated for use in Incident Reporting and Management Manual. The DPSMS was initially developed in 1999 for the management of investigations, the collection of data, and the preparation of statutory reports to Parliament and the Attorney General on notifiable incidents occurring within Defence.

A copy of the Incident Reporting and Management Manual is available at Attachment C.

Sexual Misconduct Prevention and Response Office

Defence established the Sexual Misconduct Prevention and Response Office ([SeMPRO](#)) in July 2013 to provide support and advice to victims, friends, bystanders and the chain of command using a trauma-informed approach. SeMPRO is a confidential, person centred, service that provides a 24 hour, seven days a week response service to all Defence personnel.

SeMPRO services include research, prevention, evaluation and educational components to ensure evidence-based, trauma-informed practice; and targeted adult learning within the Defence environment. SeMPRO proactively raises awareness of the issue of sexual misconduct within Defence and has been running an awareness and education program on the impacts of sexual misconduct since 2014.

SeMPRO has developed sexual misconduct response and incident management workshops for personnel with different decision making responsibilities in Defence. The workshops are interactive and scenario based products that emphasise collaborative learning principles. The Incident Management Workshop for commanders and managers focuses on responding to and managing sexual misconduct incidents in Defence workplaces using Defence policy and trauma informed approaches. This workshop is delivered on pre-command and command courses for the Services. The second workshop in the suite was designed for other Defence personnel, who by virtue of their rank or position are likely to receive a disclosure of sexual misconduct. This Incident Response Workshop builds additional capability for supporting personnel through an incident. Both the Incident Management and Incident Response Workshops are available for virtual and face-to-face delivery.

1800 SeMPRO is a 24/7 Defence-provided telephone service offering immediate and confidential client services to personnel directly impacted by sexual misconduct, assisting commanders and managers with incident response and management advice, and debriefing personnel working in sensitive areas. SeMPRO client services are available to all current and ex-serving Defence personnel and their families, contractors and Australian Public Service employees, Australian Defence Force Cadets and their families, and Instructors and Officers of Cadets. 1800 SeMPRO services are accessible without making a report to Defence, the military police, or civilian police. Support services without reporting an incident is called 'restricted disclosure', but the same confidential service is provided to all clients. SeMPRO is not an investigation service but can guide and support clients through reporting, investigation,

and legal proceedings. Defence personnel who need assistance are encouraged to access SeMPRO, Defence medical and mental health services, chaplaincy, Defence Member and Family Support, or external services if they prefer.

Defence personnel impacted by any form of sexual misconduct may report incidents through:

- Their chain of command or immediate supervisor
- Joint Military Policing Unit
- The Inspector-General of the Australian Defence Force
- Defence People Group – Directorate of Conduct and Performance and Directorate of Privacy, Complaints and Resolution in HR Services
- The Commonwealth (Defence Force) Ombudsman
- The Australian Human Rights Commissioner
- State or Territory Civilian Police

Defence Member and Family Support

The Defence Member and Family Support ([DMFS](#)) provides a range of practical and emotional support programs for families facing emergency or crisis, including assistance in times of illness, injury, domestic crisis or bereavement. In addition, it provides preventive services including psychosocial educational materials and presentations.

The [Defence Family and Domestic Violence Strategy 2017-22](#) vision is for a Defence community that is safe and free from violence, and committed and ready to respond effectively to support those affected by violence whether they are people subjected to violence, people using violence or bystanders. The objectives of the strategy are to:

- ensure the safety of those subjected to or affected by the use of family and domestic violence
- provide those subjected to or affected by family and domestic violence with appropriate immediate supports and referral to professional services
- provide Defence personnel with the skills, knowledge and confidence to identify people subjected to and affected by family and domestic violence and respond effectively to their needs
- promote accurate understanding of family and domestic violence and its impact on the workplace

DMFS support programs include:

- 24/7 access to Defence's Defence Family Helpline
- 24/7 access to crisis intervention and support from human service professionals including case management from regionally based Defence Social Workers
- Proactive contact of families in isolation for welfare checks
- Expansion of the Partner Employment Assistance Program, noting that financial stress can be a contributing factor to family and domestic violence
- Continued consultation and liaison with specialist external family and domestic violence organisations
- Contributing to the training needs of Defence Chaplaincy
- Provision of online educational resources and guides on responding to family and domestic violence
- Provision of resources and webinars on healthy relationships covering:
 - Major considerations for ADF families
 - What does a healthy relationship look like

- Maintaining healthy relationships under stress
- Communication in a healthy relationship
- When and where to seek help
- Delivery of psychoeducation materials on balancing care and home schooling while working from home

Joint Military Police Unit

Sexual assault matters are civilian criminal offences. Defence – through the [Joint Military Police Unit \(JMPU\)](#) – assist victims in making an informed decision on what course of action to take. This process is aligned with the victim centric approach, detailed in the Complaints and Resolution Manual. Victims are supported in their decision process around having their complaint referred to the relevant State or Territory Police, or have the Military Police investigate the matter, or, specifically at their own request, unit management.

Sexual Offences are Notifiable Incidents in accordance with the Incident Response and Management Manual. Commanders and Managers are required to determine whether an incident is a Notifiable Incident, as soon as possible after becoming aware of the issue. Notifiable Incidents require certain actions within short timeframes (such as preserving and securing the site) and therefore trigger a requirement for the Commander, or Manager, to make an immediate report to JMPU.

Defence established the Sexual Offence Response Team (SORT) within the JMPU, as a trial capability in November 2019, in order to improve the levels of Military Police support provided to victims of sexual offences. SORT is a multi-disciplinary investigative capability that comprises qualified and experienced sexual assault Australian Defence Force Investigators that operate in conjunction with Defence Social Workers. SORT aims to empower the victim, to make informed choices and decisions that will have a positive impact on their recovery process.

Military Personnel Policy Manual

The Military Personnel Policy Manual (MILPERSMAN) is the primary source of non-financial personnel policy for Defence members. The MILPERSMAN details the disciplinary and administrative action options available to Commanders and Managers to deal with unacceptable behaviour, including the roles and responsibilities of all involved.

MILPERSMAN policy is used in conjunction with policy guidance from the Complaints and Resolution Manual and Incident Reporting and Management Manual, along with delegated authorities from the *Defence Act 1903*, *Defence Force Discipline Act 1982 (DFDA)*, and Defence Regulation 2016 to provide a holistic framework to manage and prevent unacceptable behaviour.

MILPERSMAN includes policy guidance on:

- **Inherent Requirements of Service.** This policy articulates the expectations with regards to the activities of Defence members in their work and personal lives. At its core is the requirement to adhere to Defence Values at all times.
- **Suspension from Duty.** The policy can be used to remove a Defence member from the workplace prior to their termination of service as a result of unacceptable behaviour.

- **Formal Warnings and Censures.** Outlines the administrative sanctions which may be applied to Defence members whose conduct, performance and standards are unsatisfactory.
- **Protection Orders.** Details how to respond appropriately to orders issued either against or in support of Defence members. Further, MILPERSMAN also provides guidance on managing Defence members subject to Weapons Prohibition Orders.
- **Reporting, recording and dealing with civil offences, service and civil convictions and Diversionary Programs.** Outlines the reporting and recording requirements associated with any civil offences, service and civil convictions and diversionary programs imposed on Defence members. It also details reporting requirements for applicants for appointment or enlistment, and the impact it may have on their suitability to join the ADF.
- **Conduct Reporting and Tracking.** The Conduct Reporting and Tracking System (CRTS) policy establishes a regime for the electronic recording and retrieval of conduct related information on Defence members:
 - from the time an alleged offence under the DFDA is first reported, through the investigation and action until the case is closed
 - in relation to adverse administrative action
 - on the outcome of civil convictions
 - on the details of Protection Orders
- **Termination of Service in the Australian Defence Force.** Outlines the procedures for the separation of Defence members when their retention is no longer in the interests of their Service and the Defence Force.

A copy of MILPERSMAN Part 9 - Discipline and Unacceptable Behaviour has been provided at Attachment D.

Army Incident Management System

Army have an Army Incident Management System (AIMS). AIMS is an IBM Notes database centralising all Army reportable incident information since 2008. AIMS is Army's primary tool for reporting, recording, tracking, management and analysis of reportable incidents. It is a command support tool, providing a record of incidents, Commander's assessments, decisions and implementation of measures associated with the resolution of incidents.

Defence Reparation Scheme

The Defence Reparation Scheme (DRS) was established in 2017 to provide a safe and sensitive, trauma-informed, independent and external framework within which people can report historic abuse. The DRS includes reparation payments to victims and provides the opportunity for victims to speak with senior members of the ADF about their experience of abuse. Reparation payments recognise that what happened was wrong and acknowledge that in some cases Defence did not respond to the report of abuse in an appropriate manner.

The DRS provides the framework for the Commonwealth Ombudsman to recommend to Defence that a reparation payment be made in response to a report of the 'most serious forms of abuse'. Not all reports of abuse will meet this threshold.

The 'most serious forms of abuse' will ordinarily involve abuse amounting to a campaign of targeted behaviour, by either an individual or multiple perpetrators or by higher ranking

members, and/or resulting in serious physical injury. It may also include a single incident of very serious abuse or sexual assault, or multiple incidents of abuse that, while individually may not meet the threshold, may collectively be assessed as constituting the most serious forms of abuse.

Factors that may influence the assessment of the seriousness of the abuse include the age of the complainant at the time of the abuse, the position held by the alleged abuser, the duration of the alleged abuse and the gravity of the alleged conduct.

Under the DRS, Defence makes approved payments directly to the reportee or their appointed representative, in accordance with the reportee's wishes.

A reparation payment from the Scheme may include a sum of up to:

- \$45,000 for the 'most serious cases of abuse' or
- \$20,000 for 'unlawful interference with the complainant accompanied by some element of indecency'
- An additional \$5,000 where Defence is determined to have mismanaged the abuse.

The DRS is open to individuals who suffered serious abuse on or before 30 June 2014:

- The 30 June 2014 date marks the first anniversary of the Sexual Misconduct Prevention and Response Office (SeMPRO) and is representative of the significant steps that have been taken to reform and embed a culture in Defence that does not tolerate abuse and that facilitates and encourages reporting of incidents.

The timeframe to register an intent to lodge a complaint of abuse has been extended until 30 June 2022, with final lodgement of completed applications to be made by 30 June 2023. This decision reflects the importance Defence places on ensuring as many individuals as possible who have experienced serious abuse are provided an opportunity to submit a report.

The DRS provides the mechanism for reparation, restorative engagement and, where an alleged abuser remains serving in the Australian Defence Force (ADF), Defence requests consent from the reportee to refer the matter to Service Headquarters for assessment for disciplinary or administrative action.

As at 31 March 2021, the Defence Force Ombudsman has received 2,276 reports of abuse. Of these, Defence has:

- received 1014 recommendations for reparation payment from the Defence Force Ombudsman (DFO)
- made reparation payments to the value of \$39.2 million to 935 reportees
- received 171 requests for Restorative Engagement conferences
- completed 155 Restorative Engagement conferences, with 10 currently active and being managed around COVID-19 and Defence travel restrictions

Defence and the Commonwealth Ombudsman monitor the outcomes of the DRS to contribute to cultural change reform and continue to monitor closely contemporary reports of abuse that have occurred since 30 June 2014.

The Commonwealth Ombudsman has advised that between the relatively low figures of reports describing incidents of abuse occurring since 1 July 2014, and the dispersed locations reported, there is no evidence from the data of particular trends or patterns or hot-spots where

serious abuse is still occurring on a systemic basis. There is also no evidence from the data of Defence mismanagement of complaints of serious abuse.

Workplace Behaviours Research Program

The Workplace Behaviours Research Program takes a behaviours-based approach to measuring unacceptable behaviour. Members from the Australian Defence Force Academy, military induction and initial employment training establishments, and a sample of ADF personnel and Defence APS employees across the Whole of Defence are invited to participate in the Workplace Behaviours Survey.

The Workplace Behaviours Survey is the main research tool to measure unacceptable behaviours in Defence. The survey collects information online and in person about behavioural experiences, experiences of the complaint management process, bystander experience, and overall assessment of the psychosocial safety climate in Defence.

The Workplace Behaviours Survey plays a key role in supporting the Defence Transformation Strategy by evaluating the experience of unacceptable behaviour in Defence. Survey results are used in a variety of reports distributed to Defence senior decision makers and relevant areas in Defence to inform policies and programs, with the aim to positively influence working life in the Australian Defence Force and Department of Defence.

The Workplace Behaviour Survey is an opportunity for Defence personnel to inform senior decision makers about unacceptable behaviour they have witnessed or experienced in the workplace, using a confidential and non-attributable method.

Internal reporting and survey data, supported by the Commonwealth Ombudsman's 2019 review into the reporting of abuse in Defence, found that the appropriate policies and procedures are in place for Defence personnel to report and manage abuse.

Attachments

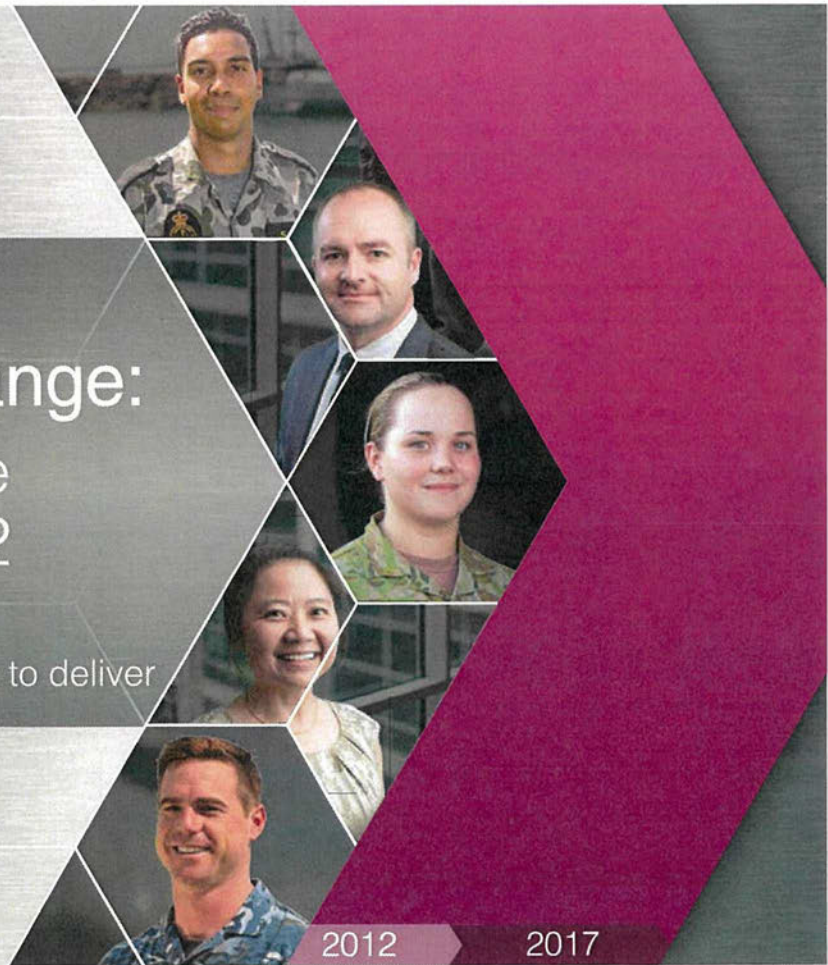
- A. Pathway to Change 2017-22
- B. CARM Chapter 3 Responding to Unacceptable Behaviour and Chapter 9 Responding to Sexual Misconduct
- C. Incident Reporting and Management Manual
- D. MILPERSMAN Part 9 Discipline and Unacceptable Behaviour



Australian Government
Department of Defence

Pathway to Change: Evolving Defence Culture 2017–22

Respectful, trusted and proven to deliver



2012

2017

Defending Australia and its National Interests
www.defence.gov.au



How our culture has evolved

In 2012 Defence embarked on a major program of cultural change called Pathway to Change: Evolving Defence Culture. Pathway to Change embraced all aspects of how Defence works and how it acts, at the individual level and as a whole.

The purpose of Pathway to Change was for Defence to renew its commitment to its core values and to build trust with the Government, the Australian community and, importantly, Defence people. The central focus of Pathway to Change was on values, attitudes and behaviours. Initiatives under Pathway to Change focused on strengthening the capacity of the Australian Defence Force members and the Australian Public Servants, along with Defence Industry personnel, to work together to deliver Defence capability for Australia.

The program had an initial implementation period of five years with 175 cultural reform key actions and recommendations.

All 175 actions and recommendations are now completed. Key actions have included:

- Establishment of the Sexual Misconduct and Prevention Response Office, including the introduction of a range of education programs, and the roll-out of bystander awareness training. Between 2015 and 2017 the Sexual Misconduct Prevention and Response Office has briefed over 46,000 Defence personnel;
- Establishment of the Restorative Engagement Program, which for some has provided positive outcomes in acknowledging historical incidents of abuse;
- Addressing the treatment of women in the Australian Defence Force through strategies to ensure women's safety, promoting gender equality, and increasing the participation and advancement of women in Defence through targeted mentoring, education, training and career development. The 'Women in Defence' report is prepared annually and provides the Government, and the Australian public with a measure of our progress;

- Removing gender restrictions from combat role employment categories;
- Development and implementation of the ADF Alcohol Management Strategy;
- Implementation of a more contemporary employment model, to enable the generation and sustainment of Australian Defence Force capability through greater workplace flexibility. Six of the seven service categories in the 'Total Workforce Model', have been implemented. The wider range of employment options for the ADF workforce also has the benefit of meeting a range of individual needs;
- Improvements to Workplace Health and Safety, including the implementation of the ADF Mental Health Strategy and the introduction of the Sentinel system to better capture and monitor work, health and safety incidents;
- The introduction of a Commanders and Managers Guide to Responding to Family and Domestic Violence which provides information on: responding to victims and perpetrators; identify warning signs of violence, and Defence policies, entitlements and internal and external support services; and
- The integration of agreed values and behaviours as core foundations of Defence education and training programs.

A critical underpinning of our cultural reform efforts has been to further capability through attracting and retaining a more diverse workforce. Strategies and programs have been implemented to increase the opportunities for women, people with a disability, people from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people. They have been aimed at removing barriers so that Defence can benefit from the contribution of all people, regardless of gender, background or sexual orientation. Since 2012, clear gains have been made, including:

- The increased representation of women in the Australian Defence Force and Australian Public Service. This has included greater numbers of women applying

and being recruited to the Australian Defence Force as well as more development opportunities and improved employment pathways for women to reach senior leadership roles. The number of women in the senior executive service in Defence has increased by 33 per cent.

- Increased pre-employment programs and more tailored recruitment and employment pathways have contributed to a greater number of Indigenous Australians joining the Australian Defence Force and Australian Public Service; and
- Defence has become a more inclusive employer for people with a disability, rated in the top five employers in Australia on the Disability Access and Inclusion Index. Programs in place that are furthering Defence capability include the Defence Administrative Assistance Program, now in operation at eight establishments across Australia, and the Dandelion@Defence Program delivering a dedicated cyber-security capability through the unique skills and attributes of those with autism.

Despite such progress, however, there is more work to be done. There has been important learning as to where cultural change has been difficult and where further focus is required. This is most evident in regard to reducing the incidence of unacceptable behaviour and in implementing further improvements to how complaints of unacceptable behaviour are managed.

While there has been a decrease in the number of complaints, work-related unacceptable behaviours, particularly bullying and discrimination, continue to be the most common types experienced in the workplace and satisfaction and confidence with the complaint process remains an area of concern. Women continue to experience unacceptable behaviour at higher rates than male counterparts and females are twice as likely to experience sexual-related unacceptable behaviour.

Where Defence has invested most effort in communicating expected standards of behaviour, demonstrable change has been seen. This is particularly evidenced in Defence's training establishments where initiatives have resulted in a reduction in

incidents of unacceptable behaviour. The four-year collaboration with the Australian Human Rights Commission, has been important in monitoring these cultural change efforts, and making recommendations on how to further improve and overcome impediments to reform.

Since 2015, through implementation of the First Principles Review of Defence, leaders are being held more accountable for their actions and for the workplace behaviours of their teams. This has been an important step forward, in moving from the implementation of actions and recommendations of Pathway to Change 2012–2017, to more deeply embedding positive workplace norms which support all of our people and help us to attract the best people in the future.

Defence Culture 2017 and Beyond

Defence has and is changing. Against an urgent need to improve how we behave and manage unacceptable personal and professional behaviour, we have moved towards an environment where leaders at all levels are being held accountable for creating a positive culture. We have worked hard to strengthen the best in our culture, to hold to account those that do not meet our standards, and to behave as One Defence.

The experience of implementing Pathway to Change has also shown us that focusing on culture change and building professionalism and accountability strengthens our capacity to deliver for the Government, the Australian community, and for our people. Our conclusion is that Pathway to Change remains as relevant to Defence and its future now as it did in 2012. The work of culture change must continue so we can continue to build an organisation capable of meeting Government objectives, sustaining the trust and commitment of the Australian community, and of those people who work in Defence. We must build on the work of recent years in practical ways that strengthen our professionalism, our accountability and our leadership at all levels.

The Defence White Paper 2016 establishes our strategic direction. The First Principles Review establishes the type of organisation, One Defence, that is best suited to implementing that direction. The One Defence approach is built on the foundation of an inclusive and diverse culture. This is a culture that is capable of attracting and keeping the best talent Australia has to offer and which capitalises on the contribution of a diverse range of backgrounds and perspectives to further team performance and combat effectiveness. It is about a culture that recognises and rewards high performance as well as the behaviours that define us as respectful, trusted and proven to deliver.

To build on what we have learnt and to ensure that Pathway to Change continues to drive culture change in Defence, we must have a shared understanding and commitment as to what needs to be done. In 2016 we had Defence wide conversations which provided valuable feedback. This guided the development of a refreshed statement of cultural intent and the priority areas of focus for 2017–2022.

Pathway to Change: Evolving Defence Culture 2017–2022

Respectful, Trusted and Proven to Deliver

To deliver on our Mission, to defend Australia and its national interests, we must continue to evolve our culture. Building on the five year implementation period for Pathway to Change (2012–2017), Defence has refreshed its cultural intent statement and identified cultural reform priorities for 2017–2022.

To maximise our capability, sustain the trust of Government, the Australian community and each other we must take the best in our culture forward, and hold to account those who do not meet our standards. This means building on our recent progress in creating a more inclusive culture to drive high performance. It means strengthening our professionalism, our accountability, and leadership at all levels.

Our Cultural Intent

- We act with the highest standards of professionalism, underpinned by Defence values and our ethical standards.
- We are guided by the core value of respect. Respect for each other, for those we work with in Government and in industry, both here and overseas, and for the many communities in which we live and work.
- We work together to harness the diverse backgrounds and experiences of those in our teams to deliver a capable and agile joint fighting force.
- We are building a diverse workforce with an inclusive culture, so every person is able to make their best contribution to deliver on our mission and so the community seeks us out as a workplace of choice.
- We are accountable for our actions, and hold others to account for theirs.
- We reflect on how to improve our performance in all areas, from the quality of our policy advice to Government to the conduct of operations in serving our nation.
- We are all leaders and as leaders we role model a One Defence approach. We will be more accountable for organisational performance and ensure our decisions are in the best interest of Defence as a whole.
- We provide regular feedback, do more to recognise and reward strong performance and address areas of poor performance.
- We reinforce the importance, and find new ways, to support and build the strength, health and resilience of our people and the organisation.

Our Priorities

Leadership accountability

Our leadership will determine what sort of organisation Defence will be. We want leadership that empowers people and teams to do their best work in planning, providing quality advice and delivering capability in all its dimensions. Through the One Defence leadership behaviours, we will embed an organisational culture where leadership, professionalism and corporate behaviour in support of One Defence are valued and rewarded. Our leaders will be judged both for their results and how those results have been achieved.

We will strengthen leadership capability so that our leaders are confident in their ability to empower their people, are able to seek out and use alternative ways of thinking, and are more skilled and active in managing the behaviour and performance of their teams. We will strengthen individual and organisational accountability through effective performance management by—and of—our leadership. We will expect our leaders to be more conscious of their own areas for personal and professional growth, of the need to learn from their own performance and that of their teams, and of the importance of giving and receiving feedback.

Capability through inclusion

Inclusion strengthens Defence capability. A just and inclusive workplace instils confidence and trust among our people and the Australian community of which we are a part. Attracting and retaining people that represent the Australian population in its diversity ensures that we are getting the best talent that Australia can provide. Building a workforce comprised of teams that are diverse in background and experience will help to ensure broader thinking in the development of policy, capability options and in our conduct of operations.

To achieve a more inclusive and capable organisation, we will foster work practices which enable men and women, people of different cultural backgrounds, sexual orientation, and those with a disability to contribute to their best potential. We will provide greater education on how respect for individual differences and more inclusive approaches improve Defence and team performance. We will further the representation of women, Indigenous Australians and people from culturally diverse backgrounds, and increase employment opportunities for people with disabilities. We will measure our success by setting recruitment targets, and through examining the effect of our retention and career progression measures and our more inclusive workplace practices. We will expect our leaders to role model the behaviour that reflects an inclusive workplace.

Ethics and workplace behaviours

Our personal and professional ethics define us as individuals and govern the way we behave. Ethics underpin our identity as members of Defence and are not dependent upon changing situations. They determine our reputation with Government and the Australian community as well as underpin the community's confidence in us as a trusted employer.

We will foster a workplace environment where all members can thrive and reach their potential, where poor behaviour is called out, and where people are respected as individuals and are valued as important contributors individually and through their team. Respect, responsibility and accountability are the foundations of such a workplace. Our supervisors will actively manage relationships in the workplace and across their teams in ways that strengthen respect and accountability, including holding people to account for poor behaviour and recognising people for their achievements.

Health, wellness and safety

Our service members carry risks that are not comparable to other organisations. Our world-class training equips our soldiers, sailors and airmen and women to manage these risks. Beyond these expected and expertly managed risks in training and on operations,

every member of our organisation has a fundamental right to be safe in the workplace. This includes physical and psychological safety. Our ability to create a workplace characterised by respect for each individual and with a focus on safety, is one of the foundations of establishing trust in both the workforce and the broader community, and in building capability that is sustainable.

A strong, healthy and resilient workforce is the best means by which we can deliver what Government and the Australian community expects of us. Our focus is on creating a positive psychosocial environment to ensure the health, safety and well-being of our people. This encompasses:

- people understanding how their work contributes to Defence outcomes;
- rewarding and recognising our people for their whole contribution, including how they support and mentor others;
- work-life flexibility being available and respected;
- a zero tolerance for bullying, harassment and discrimination;
- ensuring the safety and well-being of our young people in employment programs and operations;
- an environment which supports people coming forward with mental health questions and concerns;
- being supportive and responsive on issues pertaining to family and domestic violence; and
- educating about and managing the negative impacts of alcohol and substance use and abuse.

Workplace agility and flexibility

To meet the changes in our strategic environment we will build organisational agility. We will continually build the skills of our people and provide greater options for how people work and deploy these skills. We will create an organisation where our structures, processes and behaviours support more flexible career pathways and work practices. These are strategic business issues so the breadth of skills and capabilities can be optimised and so we can enable a more diverse and inclusive workplace.

Our leaders will draw on the range of employment options to most effectively deliver capability through their people and build a culture where people feel empowered to have a conversation about flexibility. Flexible work is founded on mutual obligations so it will be dynamic and responsive to the changing needs of individuals, as well as the role and operational nature of Defence. There is no one size fits all model of how work must be done or what workplaces must look like. It is a capability imperative that we focus on understanding and removing cultural barriers to optimising all elements of Defence's workforce. This is a mindset shift and requires us to move beyond the view that flexible work is temporary or a gender issue. Flexible and agile employment will increasingly be the community norm, not the exception.

Leading and developing integrated teams

The Defence workforce is large, complex and dynamic. The internal workforce comprises around 100,000 military and Australian Public Service personnel whose skills are categorised into hundreds of occupational groupings. This workforce is supported by contractors, service providers as well as Defence industry, who are recognised as fundamental inputs to capability. The mix of the workforce is continually adjusted in response to preparedness requirements, force design reviews and emerging capability requirements identified in the Defence White Paper. The challenge is optimising this mix so that each part of the Defence workforce is best equipped to deliver what is required.

The integrated nature of our workforce is a key enabler for delivering Defence's mission. We must develop our thinking, relationships, workforce management and design skills to fully harness the benefits that our integrated teams offer. This includes greater appreciation of the skills and thinking that people will bring from more varied employment experiences, how they can best contribute, and how to bring out the best from cultural differences when they arise.

We must also fully engage across government and private sectors to address some workforce challenges. In particular, the shortage of people with high level science, technology, engineering and mathematics skills is a national challenge that requires Defence to contribute to a whole of government response. As an organisation we must also improve our engagement with other government departments, industry and academia to enhance the development and sharing of critical skills that are in short supply.

Implementation and Progress

Defence People Group will continue as the policy lead for organisational level cultural reform initiatives, as well as facilitating, monitoring and reporting on the implementation of cultural reform in Defence. Groups and Services are expected to leverage enterprise level initiatives as appropriate, and where gaps exist in their local environment, to scope, develop and implement initiatives tailored to their context.

Cultural reform progress will be evaluated as part of Defence's regular enterprise performance reviews, with strategic oversight undertaken by the Enterprise Business Committee. Service and Group Business Plans, and the accompanying bi-annual Performance Reports which feed in to this cycle, will include the six cultural reform priorities for 2017–2022.

For more information visit PeopleConnect
drnet/People/Culture/Pages/Pathway-to-Change.aspx
or email pathwaytochange@defence.gov.au

Defending Australia and its National Interests
www.defence.gov.au



Responding to unacceptable behaviour

Chapter 3

3.0.0.1 Introduction

1. Defence personnel are respectful, trusted and proven to deliver. In doing so, Defence personnel have a responsibility to behave in a way that upholds our Values as an organisation, both at work and in any situation that may be connected to Defence. Values-based behaviour requires everyone to accept personal responsibility for their actions and the subsequent consequences for themselves, others and Defence.
2. In addition to Values-based behaviour, Defence personnel must not engage in behaviour that is proscribed in the unacceptable behaviour definitions.
3. Upholding the required behaviours contributes significantly to morale and promotes a cohesive, healthy, safe and effective workplace. It builds the capability of the Australian Defence Force and helps to protect and enhance the reputation of Defence.

3.0.0.2 Purpose

1. This Chapter provides Defence's policies and procedures for the responsibilities, notification, management of, and reporting of unacceptable behaviour by Defence personnel.

3.0.0.3 Contents of this Chapter

1. This Chapter contains the following Parts:

[Part 1: Rights and obligations](#)

[Part 2: Notification and complaints of unacceptable behaviour](#)

[Part 3: Responding to an incident of unacceptable behaviour](#)

[Part 4: Reporting and recording of incidents of unacceptable behaviour](#)

[Annex 3A: Defence Values](#)

[Annex 3B: Defence Behaviours](#)

[Annex 3C: No Longer Used. Navy Values and Signature Behaviours – Replaced by Defence Values and Behaviours](#)

[Annex 3D: No Longer Used. Army Values – Replaced by Defence Values and Behaviours](#)

[Annex 3E: No Longer used. Air Force Values – Replaced by Defence Values and Behaviours](#)

[Annex 3F: APS Values](#)

[Annex 3F.a: ASD Values](#)

[Annex 3G: Types of unacceptable behaviour](#)

[Annex 3H: Flowchart for managing unacceptable behaviour](#)

[Annex 3I: Checklist for responding to unacceptable behaviour incidents](#)

[Annex 3J: Support options](#)

3.0.0.4 Contents of this part

1. This Part contains the following information:

- [3.0.0.5 This Chapter applies to](#)
- [3.0.0.6 This Chapter does not apply to](#)
- [3.0.0.7 Policy](#)
- [3.0.0.8 What is unacceptable behaviour](#)
- [3.0.0.9 Defence Values and Behaviours](#)
- [3.0.0.10 Foreign military members](#)
- [3.0.0.11 External service providers and outsourced service providers](#)
- [3.0.0.12 Privacy and unacceptable behaviour](#)
- [3.0.0.13 Disclosure of security classified information](#)
- [3.0.0.14 Applicable legislation](#)
- [3.0.0.15 Other applicable information](#)
- [3.0.0.16 Sponsor and point of contact](#)

3.0.0.5 This Chapter applies to

1. This Chapter applies to:
 - a. Defence personnel;
 - b. External service providers and outsourced service providers who, under the conditions of their contract with Defence, are required to comply with this Chapter; and
 - c. Foreign military members serving with the ADF subject to their nature of service.

3.0.0.6 This Chapter does not apply to

1. This Chapter does not apply to:
 - a. Persons who have volunteered and been accepted by the Chief of the Defence Force as officers, instructors or cadets in the Australian Navy Cadets, Australian Army Cadets and Australian Air Force Cadets;
Related Information: Part 2 of [YOUTH POLMAN - Australian Defence Force Cadets](#) contains Defence policy for Australian Navy Cadets, Australian Army Cadets and Australian Air Force Cadets.
 - b. Defence personnel, external service providers, and outsourced service providers working in or for the Australian Geospatial-Intelligence Organisation, the Defence Intelligence Organisation and the Australian Signals Directorate to the extent that the incident of unacceptable behaviour is 'disclosable conduct' under the [Public Interest Disclosure Act 2013](#).

3.0.0.7 Policy

1. Defence personnel are expected to adhere to high standards of ethical and personal conduct in connection with their workplace. Behaviour at work or in any situation that is connected to Defence, that is proscribed in this Chapter is unacceptable behaviour and will not be tolerated.
2. In addition to causing harm to individuals and Defence's reputation, Defence may be held vicariously liable for the actions of Defence personnel engaging in unlawful discrimination or harassment. This is unacceptable. Unlawful discrimination and harassment includes:
 - a. racial discrimination and offensive behaviour based on racial hatred under the [Racial Discrimination Act 1975](#);
 - b. sex discrimination and sexual harassment under the [Sex Discrimination Act 1984](#);
 - c. disability discrimination under the [Disability Discrimination Act 1992](#);
 - d. age discrimination under the [Age Discrimination Act 2004](#); and

- e. belief based discrimination under the [Australian Human Rights Commission Act 1986 \(Cth\)](#).
3. Defence personnel are expected to behave in a way that fosters a fair and safe workplace environment. A failure of Defence personnel to meet expected standards of behaviour may also be contrary to Defence's obligations under the [Work Health and Safety Act 2011](#).
 4. All Defence personnel have a role in preventing and resolving unacceptable behaviour. Incidents of unacceptable behaviour must be responded to in an appropriate and timely manner. When an incident results in a complaint of unacceptable behaviour, the complaint must be managed promptly, seriously, and with fairness and sensitivity in accordance with this Chapter. Defence is committed to ensuring that incidents of unacceptable behaviour are dealt with appropriately.

Note: In this Chapter, the term 'incident of unacceptable behaviour' includes both alleged and substantiated incidents of unacceptable behaviour. An incident of unacceptable behaviour is considered an alleged incident until such time as the commander or manager determines the incident has been substantiated.
 5. Defence personnel are accountable for their behaviour where it falls below the expected standard. Failure to meet expected standards of behaviour may result in management, administrative, or disciplinary action.

See: [3.3.0.6 Responding to an incident of unacceptable behaviour](#)

3.0.0.8 What is unacceptable behaviour

1. Unacceptable behaviour is unreasonable conduct at work or in any situation that may be connected to Defence that is offensive, belittling, abusive or threatening to another person or adverse to morale, discipline or workplace cohesion. This includes unlawful discrimination and harassment. Specific types of unacceptable behaviour are:
 - a. [Harassment](#);
 - b. [Workplace bullying](#);
 - c. [Any form of sexual misconduct](#);
 - d. [Discrimination](#);
 - e. [Abuse of power](#);
 - f. [Conflict of interest and inappropriate workplace relationships](#); and
 - g. [Violent behaviour](#).

See: [Annex 3G – Types of unacceptable behaviour](#).

3.0.0.9 Defence Values and Behaviours

1. [The Defence Values and Behaviours](#) reflect the behaviours expected of Defence personnel and particularly how we treat each other at work and in connection with our work.

See:

[Annex 3A - Defence Values](#)

[Annex 3B – Defence Behaviours](#)

2. The APS Values and employment principles embedded in the [Public Service Act 1999](#) provide a similar standard for Defence APS employees. The ASD Values reflect the same standard of behaviour for ASD employees.

See:

[Annex 3F – APS Values](#)

[Annex 3F.a – ASD Values](#)

3. Defence personnel are expected to behave at work in accordance with Defence values statement and that of their respective Agency or Australian Public Service.

3.0.0.10 Foreign military members

1. Foreign military members seconded, posted, assigned, attached to, or on exchange with, the ADF, are expected to adhere to:
 - a. the Defence Values and Behaviours; and
 - b. the values of the Agency to which they are connected in accordance with any agreement or arrangement between their country of origin and Australia.

3.0.0.11 External service providers and outsourced service providers

1. If it is a term of their contract, external service providers and outsourced service providers must act in a manner that is consistent with the Defence Values and Behaviours when:
 - a. representing Defence;
Note: Representing Defence includes undertaking work with Defence personnel outside of a Defence establishment or acting as a spokesperson or other representative of Defence.
 - b. working on a Defence establishment; or
 - c. in any other circumstance that could bring discredit to Defence.

3.0.0.12 Privacy and unacceptable behaviour

1. The protection of personal information collected and used in the course of responding to an incident of unacceptable behaviour is to be taken seriously.

The Unacceptable Behaviour Privacy Notice can be found on the [Complaints and Resolution website](#).

Related Information: [Unacceptable Behaviour and ComTrack Privacy Notice](#) (APP5)

3.0.0.13 Disclosure of security classified information

1. Defence personnel must not provide/disclose security classified information when:
 - a. participating in a process provided for in this manual; or
 - b. submitting a complaint provided for in this manual.
2. Defence personnel acting contrary to paragraph [3.0.0.13.1](#) may be liable to criminal prosecution under section 70 of the [Crimes Act 1914](#).
3. Defence APS employees acting contrary to paragraph [3.0.0.13.1](#) may also be subject to Code of Conduct action.

Related Information: [APS People Policy](#)

4. ASD employees acting contrary to paragraph [3.0.0.13.1](#) may also be subject to ASD Code of Conduct action.

Related Information: [ASD People Policy](#)

5. Defence members acting contrary to paragraph [3.0.0.13.1](#) may also be subject to an administrative sanction under MILPERSMAN or action under the [Defence Force Discipline Act 1982](#).

Related Information: [Military Personnel Policy Manual \(MILPERSMAN\) Part 9 Chapter 2—Formal Warnings and Censures in the Australian Defence Force](#).

ASD employees and certain Defence APS employees acting contrary to paragraph [3.0.0.13.1](#), may be liable to criminal prosecution under the [Intelligence Services Act 2001](#).

3.0.0.14 Applicable legislation

1. Defence personnel must comply with the following as applicable:
- a. [Racial Discrimination Act 1975](#);
 - b. [Defence Force Discipline Act 1982](#);
 - c. [Sex Discrimination Act 1984](#);
 - d. [Australian Human Rights Commission Act 1986](#);
 - e. [Privacy Act 1988](#);
 - f. [Disability Discrimination Act 1992](#);
 - g. [Public Service Act 1999](#);
 - h. [Age Discrimination Act 2004](#);
 - i. [Fair Work Act 2009](#);
 - j. [Work Health and Safety Act 2011](#);
 - k. [Public Interest Disclosure Act 2013](#); and
 - l. Subordinate legislation made under the Acts above.

3.0.0.15 Other applicable information

1. **Defence legislation**
- a. [Defence Act 1903](#);
 - b. *Defence (Inquiry) Regulations 2018*;
 - c. [Defence Regulation 2016](#); and
 - d. [Inspector-General of the Australian Defence Force Regulation 2016](#).
2. **Defence Instructions**
- a. [DI Admin policy](#)
AG4 —Incident Reporting and Management (Annex C)
AG5—Conflicts of interest and declarations of interest (Annex C);
PPL7—Required behaviours in Defence (Annex J);
 - b. [DI\(G\) ADMIN 65-1](#)—Administrative Inquiry Tracking;
 - c. [DI\(G\) PERS 15-1](#)—Australian Defence Force Alcohol Policy.
3. **Legal Services Directions**

a. [Legal Services Directions 2017](#).

4. **Other Defence Policy and Publications**

a. [Chapter 9 – Responding to Sexual Misconduct](#);

b. [APS People Policy](#);

c. [ASD Determination Terms and Conditions of Employment \(non-SES\) 2018](#);

d. [ASD People Policy](#);

e. [Decision-Maker's Handbook for Personnel-related Decisions](#);

f. [Defence Enterprise Agreement \(DEA\) 2017-2020](#);

g. [Defence Indigenous Handbook 2015-2018](#);

h. [Defence Record Management Policy Manual \(RECMAN\)](#);

i. [Safetyman](#) (formerly the Defence Work Health and Safety Manual);

j. Fact finding in Incident Management [CAMPUS](#) course;

k. [Good decision-making in Defence: A guide for decision makers and those who brief them](#);

l. [Incident Reporting and Management Manual \(IRMMAN\)](#);

m. [Military Personnel Policy Manual \(MILPERSMAN Part 9, Chapter 8\)](#);

n. Workplace Behaviour Mandatory Awareness [CAMPUS](#) course; and

o. [Defence Media and Communication Policy](#).

5. **Defence organisational websites**

a. [Complaints and Resolution](#);

b. [SeMPRO](#);

c. [Diversity](#);

d. [Privacy](#);

e. [ADF Investigative Service](#);

f. [Defence Legal Division](#);

g. [Fraud Control and Investigations Branch](#);

h. [Inspector General of the ADF](#);

i. [Work Health and Safety Branch](#);

j. [Pay and Conditions](#); and

k. [Pathway to Change](#)

6. **External resources**

a. [Comcare bullying website](#);

b. [Comcare Bullying Resources Pack](#); and

c. [Defence Force Ombudsman](#).

3.0.0.16 Sponsor and point of contact

1. The sponsor for this Chapter is the Assistant Secretary HR Services Branch.
2. The point of contact is Assistant Director Policy, Learning and Development, [Directorate of Complaints and Resolution](#):

Phone: 02 6127 2994.

Part 1: Rights and obligations

3.1.0.1 Purpose

1. This Part lists the rights and obligations of all Defence personnel in relation to unacceptable behaviour.

Note: In this Chapter the term 'incident of unacceptable behaviour' includes both alleged and substantiated incidents of unacceptable behaviour. An incident of unacceptable behaviour is considered an alleged incident until such time as the commander or manager determines the incident has been substantiated.

An incident is when the behaviour occurred. A complaint occurs when a person involved in an incident notifies their commander, manager or supervisor.

3.1.0.2 Content

1. This Part contains the following information:

[3.1.0.3 Obligations of Defence personnel](#)

[3.1.0.4 A person who believes they have been subject of unacceptable behaviour](#)

[3.1.0.5 A person involved in an incident of unacceptable behaviour](#)

[3.1.0.6 Supervisors](#)

[3.1.0.7 Commanders and managers](#)

3.1.0.3 Obligations of Defence personnel

1. Defence personnel have a responsibility to take all reasonable and practical steps to protect the health and safety of themselves and others in the workplace. Consistent with this requirement, all Defence personnel:
 - a. are to monitor their own behaviour and attitude to minimise causing offence;
 - b. are expected to behave in a way that upholds the Defence Values and Behaviours, APS or ASD Values, and APS and ASD employment principles (as appropriate). This expectation applies in any situation connected to Defence in all domestic and overseas operational and exercise environments;
 - c. must not engage in or participate in unacceptable behaviour, including unlawful discrimination or harassment at work and in any situation connected to Defence in all domestic and overseas operational and exercise environments;
 - d. have a responsibility to question the behaviour of colleagues in the workplace that could reasonably be interpreted as unacceptable behaviour;
 - e. should notify their supervisor, commander or manager (as appropriate), incidents of unacceptable behaviour in the workplace or connected to the workplace that are beyond their ability or authority to manage;
 - f. are to take steps to resolve workplace conflict at the lowest level, where appropriate; and

See: [Chapter 2 Resolution of conflict](#)

 - g. must be cognisant of expected workplace behaviour and complete the Workplace Behaviour Mandatory Awareness training annually.
2. Defence personnel found to have engaged in, contributed to, ignored, assisted, or encouraged unacceptable behaviour may be held personally responsible.

3.1.0.4 A person who believes they have been the subject of unacceptable behaviour

1. A person who believes they have been the subject of unacceptable behaviour has a responsibility to attempt self-resolution at the lowest appropriate level in the circumstances. Self resolution may not always be appropriate.

Example: some incidents of sexual misconduct. **See:** [Chapter 2 Resolution of conflict](#)

2. In accordance with [3.1.0.3.1.c](#), a person who believes they have been the subject of any form of unacceptable behaviour is encouraged to discuss the incident with their commander, manager or supervisor, or the most appropriate person as listed at [3.2.0.3.3](#). The incident may be considered resolved if the parties have resolved it without needing to engage their chain of command.

Note: Commanders, managers and supervisors must respond to incidents of unacceptable behaviour once they become aware of it. Accordingly, subject to the [Public Interest Disclosure Act 2013](#), any discussion with the chain of command that reveals unacceptable behaviour will not be treated as confidential, but may attract protections of the disclosers' identity.

3. If the person chooses to make a complaint they are to do so in accordance with [3.2.0.3](#).
4. A person who believes they have been the subject of sexual misconduct is encouraged to seek advice and support from the Sexual Misconduct Prevention and Response Office (SeMPRO). Sexual misconduct includes a sexual offence.

Note: SeMPRO offers advice, guidance and support to all Defence personnel, former members and to ADF Cadets and their families, who have been impacted by sexual misconduct. The support offered to APS and ASD employees is more limited as described in [Chapter 3 Annex J – Support options](#).

SeMPRO treats a report of sexual misconduct as a restricted (confidential) disclosure.

A disclosure of sexual misconduct to your commander, manager or supervisor will give rise to specific statutory obligations on your commander, manager or supervisor under the [Incident and Reporting Management Manual](#).

Related Information:

[SeMPRO DRN site](#)

[Chapter 9 - Responding to Sexual Misconduct](#).

3.1.0.5 A person involved in an incident of unacceptable behaviour

1. A person involved in an incident of unacceptable behaviour includes:
 - a. a person who believes they have been the subject of any form of unacceptable behaviour;
 - b. a person alleged to have behaved unacceptably (respondent); and/or
 - c. any other person that has a connection with the incident of unacceptable behaviour. This may include witnesses.
2. A person involved in an incident of unacceptable behaviour can expect:
 - a. the incident be responded to in accordance with [Part 3](#) of this Chapter;
 - b. to remain informed, where appropriate, by their commander, manager or supervisor about the progress and completion of the required actions;
 - c. information collected in the notification/complaint of unacceptable behaviour and any response to that incident to be handled as **Sensitive: Personal** in accordance with the requirements of the [Defence Security Principles Framework](#); and
 - d. any personal information collected during the notification of and in the course of responding to an incident to be used in accordance with the [Privacy Act 1988](#), including the [Australian Privacy Principles](#) for the purpose of:
 - i. responding to the incident;

See: [Chapter 3 Part 3 Responding to unacceptable behaviour](#).

- ii. reporting the incident;

See: [Chapter 3 Part 4 Reporting and recording of incidents of unacceptable behaviour.](#)

- iii. taking any consequential action.

Example: Alternative dispute resolution, disciplinary or administrative action.

3. A person involved in an incident of unacceptable behaviour may access relevant support services available to them through their relevant Service, APS or ASD employment conditions. A person who has accessed a support service can expect that the information provided in the course of obtaining that assistance will be handled in accordance with the service provider's professional conduct obligations.

Example: A medical practitioner, allied health professional, psychologist, social worker, legal officer.

See: [Annex 3J – Support options](#)

4. A person involved in an incident of unacceptable behaviour is expected to cooperate with any reasonable action taken in response to the incident of unacceptable behaviour.
5. A person involved in an incident of unacceptable behaviour shall be aware that if they are found to have participated in, contributed to, or ignored the unacceptable behaviour they may have their behaviour reviewed.

3.1.0.6 Supervisors

1. Maintaining acceptable behaviour and effective relationships in the workplace is a primary leadership responsibility. Supervisors at all levels must act on all allegations of unacceptable behaviour in the workplace. In deciding how to proceed, supervisors are strongly encouraged to seek support and advice from their chain of command or line management and the advice services available to them. Supervisors are responsible for:
 - a. monitoring the workplace and the health and safety of all personnel under their supervision;
 - b. taking all reasonably practicable action to prevent unacceptable behaviour in the workplace;
 - c. responding promptly, seriously, with fairness and sensitivity to incidents of unacceptable behaviour;
 - d. reporting incidents of unacceptable behaviour to their commander or manager; and
 - e. ensuring that all Defence personnel within their supervisory line of responsibility complete the Workplace Behaviour Mandatory Awareness training annually and that the training is recorded in [PMKeyS](#).
2. In response to an incident of unacceptable behaviour, supervisors must take action in accordance with this Chapter.

3.1.0.7 Commanders and managers

1. Commanders and managers have additional responsibilities to the supervisory responsibilities above. Commanders and managers must promote a workplace environment where Defence personnel:
 - a. feel respected and comfortable to approach managers to discuss behavioural and other concerns;

- b. are empowered to resolve unacceptable behaviour at the appropriate level; and
 - c. have faith in Command to support them and manage unacceptable behaviour in a timely fashion.
2. Commanders are to ensure unit standing orders include, in language capable of constituting a lawful order/command, all obligations and prohibitions within this Chapter.
3. In response to a complaint of unacceptable behaviour, commanders and managers must manage the complaint by:
- a. taking reasonable steps to ensure that all involved in the incident of unacceptable behaviour are treated fairly and without victimisation or disadvantage;
 - b. responding to the incident of unacceptable behaviour in accordance with [Part 3](#) of this Chapter;
 - c. reporting and recording the incident of unacceptable behaviour in accordance with [Part 4](#) of this Chapter;
 - d. taking reasonable steps to advise people involved of their options to access support services in accordance with [Annex 3J – Support options](#);
 - e. ensuring that all personal information regarding the incident is handled with appropriate privacy and security considerations; and

Example: Information relating to the incident of unacceptable behaviour stored electronically must have appropriate access privileges in place.

Related Information: The [Defence Security Principles Framework](#).

- f. taking reasonable steps to advise the parties involved of the progress of the response in accordance with [3.3.0.5.7 Keeping parties informed](#).

Note: Commanders, managers and supervisors must not disclose the identity of a person who is entitled to have their identity protected under the [Public Interest Disclosure Act 2013](#).

Related Information: [Fraud Control and Investigations Branch](#) website.

Part 2: Notification and complaints of unacceptable behaviour

3.2.0.1 Purpose

1. This Part provides information on the process for notifications and complaints of incidents of unacceptable behaviour. A commander or manager may become aware of an incident without a complaint being submitted.

Note: In this Chapter the term 'incident of unacceptable behaviour' includes both alleged and substantiated incidents of unacceptable behaviour. An incident of unacceptable behaviour is considered an alleged incident until such time as the commander or manager determines the incident has been substantiated.

3.2.0.2 Content

1. This Part contains the following information:

[3.2.0.3 Complaints of unacceptable behaviour](#)

[3.2.0.4 Alternative notification processes](#)

[3.2.0.5 Vexatious or malicious complaints](#)

[3.2.0.6 What happens after a notification or complaint of unacceptable behaviour is made](#)

[3.2.0.7 Seeking review of a response to an incident of unacceptable behaviour](#)

3.2.0.3 Complaints of unacceptable behaviour

1. Any person may submit a complaint of unacceptable behaviour if they form a reasonable belief that Defence personnel, an external service provider or an outsourced service provider has behaved unacceptably in accordance with [Annex G](#). A complaint may be submitted by a person who believes they have experienced or were the target of unacceptable behaviour, or a person who has witnessed, or who becomes aware of, behaviour that they believe to be unacceptable behaviour.

Note: [3.1.0.3. Obligations of Defence personnel](#).

2. A complaint of unacceptable behaviour can be made in writing or verbally. Whether written or verbal, a complaint is neither formal nor informal; it is simply referred to as a complaint. When making a complaint of unacceptable behaviour, a person is to:
 - a. clearly state they have an unacceptable behaviour complaint;
 - b. provide a brief and clear description of the incident(s), including details of what happened, when it happened, where it happened and who was involved in the incident, including witnesses;
 - c. identify any steps taken by the complainant and/or third party to seek resolution, and the outcome of such steps;

See: [Chapter 2 Resolution of Conflict](#)

- d. identify the outcome they seek to achieve; and
- e. use the appropriate dissemination limiting markers.

Note: A person who submits a complaint of unacceptable behaviour may be entitled to protections under the [Public Interest Disclosure Act 2013](#).

Related Information: [Defence Public Interest Disclosure Scheme](#) website.

3. In most instances, a complaint of unacceptable behaviour will be made to the person identified in the table below:

If the complaint is about a person who is:	the complaint is to be made to:
in the same chain of command or line management as the person making the complaint	the complainants' commander, manager or supervisor.
in a different chain of command or line management as the person making the complaint	to the commander, manager or supervisor of the person making the complaint. Note: the commander or manager will then pass the complaint to the respondents' commander to manage in accordance with 3.3.0.3.1 .
the commander or manager of the person making the complaint	the person who supervises the commander or manager whom the complaint is about.
unknown	either: a. the commander, manager or supervisor responsible for the area in which the unacceptable behaviour is alleged to have occurred; or b. the commander, manager or supervisor of the person who is notifying their commander or manager of the alleged unacceptable behaviour.

Note: If a complainant is not comfortable notifying the commander or manager stated in the table above, they may notify an alternative commander or manager in the same chain of command.

4. A complaint of unacceptable behaviour to a commander or manager may also be a Public Interest Disclosure under the [Public Interest Disclosure Act 2013](#).

See: [3.2.0.4](#) Alternative notification processes.
5. A commander, manager or supervisor who identifies, or is notified of, an incident of unacceptable behaviour must take action even if there is no complaint from another person. This is considered a 'management initiated complaint'.

3.2.0.4 Alternative notification processes

1. Defence personnel who believe on reasonable grounds that an incident of unacceptable behaviour may be 'disclosable conduct' under the [Public Interest Disclosure Act 2013](#) may notify their commander or manager or an Authorised Officer.

See: [3.4.0.5 Reporting to a Public Interest Disclosure Authorised Officer](#)

2. A person who believes they have been the subject of sexual misconduct is encouraged to seek advice and support from the Sexual Misconduct Prevention and Response Office (SeMPRO). Sexual misconduct includes a sexual offence.

Note: SeMPRO offers advice, guidance and support to all Defence personnel, former members and to ADF Cadets and their families, who have been impacted by sexual misconduct. The support offered to APS and ASD employees is more limited as described in [Chapter 3 Annex J – Support options](#).

SeMPRO treats a report of sexual misconduct as a restricted (confidential) disclosure.

A disclosure of sexual misconduct to your commander, manager or supervisor may give rise to specific statutory obligations on your manager or supervisor

under the [Public Interest Disclosure Act 2013](#).

Related Information:

[SeMPRO DRN site](#)

[Chapter 9 - Responding to Sexual Misconduct](#).

3.2.0.5 Vexatious or malicious complaints

1. Making a vexatious or malicious complaint of unacceptable behaviour is inconsistent with the values and expected workplace behaviours and may require a response in accordance with this Chapter.
2. A person who makes a vexatious or malicious complaint of unacceptable behaviour, and is a:
 - a. Defence member, may be subject to:
 - i. disciplinary action; or
 - ii. an administrative sanction;
 - b. Defence APS or ASD employee, may be subject to Code of Conduct action;
 - c. external service provider or outsourced service provider, may have their contract reviewed.

Note: Care is to be taken before characterising a complaint as vexatious or malicious. Advice should be sought from the [Directorate of Complaints and Resolution](#) in this regard before such a decision is made.

See: Definitions of 'vexatious' and 'malicious' in [Chapter 1 Annex 1](#), Abbreviations and Definitions.

[Part 3 Responding to an incident of unacceptable behaviour](#).

3.2.0.6 What happens after a complaint of unacceptable behaviour is made

1. When a commander, manager or supervisor becomes aware of an incident of unacceptable behaviour, the commander, manager or supervisor responsible for responding to the incident is to follow the procedures in this Chapter.
2. The response of the commander, manager or supervisor will vary depending if the incident is substantiated, if it was minor or significant, and who was involved.

See: [Part 3 Responding to an incident of unacceptable behaviour](#).

3. If a person notifies their commander, manager or supervisor of an alleged incident of unacceptable behaviour they must note that the commander, manager or supervisor has an obligation to respond in accordance with this Chapter. This obligation remains when the person advises that they do not want to submit a complaint, or they seek to withdraw their complaint.

3.2.0.7 Seeking review of a response to an incident of unacceptable behaviour

1. If a person is not satisfied with the response to an incident of unacceptable behaviour the person, in the first instance, is to request the commander, manager or supervisor who responded to the incident to reconsider the response.
2. A request for reconsideration is to be made in writing and include:
 - a. the reason why the request is being made; and
 - b. any additional information.

3. If a person has sought review in accordance with [3.2.0.7](#) and is not satisfied with the response, they may request further review. The options available are dependent on the relationship the person requesting the review has with Defence:
- a. A Defence member may submit a Redress of Grievance;
See: [Chapter 6 Redress of Grievance](#).
 - b. A Defence APS employee, who is not a member of the SES, may request a Review of Actions;
See: [Chapter 5 Review of Actions](#).
 - c. Complaints to IGADF can be made by a Defence member, or by others where the conduct involved a Defence member, and there is a failure of military justice in the management of that matter;
See: [Chapter 8 Inspectors General](#)
 - d. A Defence APS employee who is a member of the SES may request a review of a decision in accordance with their contract of employment;
 - e. An external service provider or outsourced service provider may raise the issue with their employer;
 - f. An ASD employee may utilise the internal formal review process.

Part 3: Responding to an incident of unacceptable behaviour

3.3.0.1 Purpose

1. This Part provides information for commanders, managers and supervisors on the processes for responding to an incident of unacceptable behaviour.
2. The purpose of responding to an incident of unacceptable behaviour is to ensure, to the greatest extent possible, that Defence personnel work in a cohesive, healthy, safe and effective environment, and to address behaviour that is inconsistent with the expected workplace behaviours. It will also ensure that Defence responds to alleged incidents of unacceptable behaviour in an appropriate, transparent and timely manner, ensuring confidence in the system and its processes.

Note: In this Chapter, the term 'incident of unacceptable behaviour' includes both alleged and substantiated incidents of unacceptable behaviour. An incident of unacceptable behaviour is considered an alleged incident until such time as the commander or manager determines the incident has been substantiated.

3.3.0.2 Content

1. This Part contains the following information:

[3.3.0.3 Who is responsible for responding to and reporting an incident or complaint of unacceptable behaviour?](#)

[3.3.0.4 Incidents that are not to be responded to under this Part](#)

[3.3.0.5 Response process - general](#)

[3.3.0.6 Responding to an incident of unacceptable behaviour](#)

[3.3.0.7 Outcomes to incidents of unacceptable behaviour](#)

3.3.0.3 Who is responsible for responding to and reporting an incident or complaint of unacceptable behaviour

1. The person who must respond to an incident of unacceptable behaviour is determined by who the respondent is and the location at which the alleged unacceptable behaviour occurred. This is detailed in the table immediately below:

<u>If the respondent is:</u>	<u>the person to respond to the incident is:</u>
a Defence member or Defence APS or ASD employee from the same unit or lines of management where the alleged incident occurred	the respondent's commander, manager or supervisor Exception: If Defence personnel are temporarily transferred to another workplace, the commander, manager or supervisor of the workplace where the unacceptable behaviour is alleged to have occurred is to respond to the incident.

<p>a Defence member or Defence APS or ASD employee from different units or lines of management from where the alleged incident occurred</p>	<p>The respondent's commander, manager or supervisor.</p> <p>In accordance with Part 2, the complainant will usually make a complaint to their own commander, manager or supervisor. In this instance, the complaint is to be passed to the respondent's commander or manager for action.</p> <p>Note: the commander or manager responsible for responding must take reasonable steps to ensure that the commander or manager of those persons not under their chain of command or line management are advised of the incident of unacceptable behaviour.</p>
<p>an external service provider or outsourced service provider</p>	<p>the external service provider's or outsourced service provider's employer, through the Defence contract manager.</p>
<p>unknown</p>	<p>either:</p> <p>a. the commander or manager responsible for the area at which the unacceptable behaviour is alleged to have occurred; or</p> <p>b. the commander or manager of the person who originally notified their commander, manager or supervisor of the alleged unacceptable behaviour.</p>

2. In some cases, it may be more appropriate for the incident of unacceptable behaviour to be managed by the next person higher in the chain of command or reporting line.

Example: If the person responding to the incident of unacceptable behaviour has a conflict of interest due to having a close personal relationship with a party involved in the incident.

3. If a person is unsure about who is responsible for responding to an incident of unacceptable behaviour, advice can be sought from the [Directorate of Complaints and Resolution](#).
4. Despite the above, commanders, managers or supervisors remain responsible for ensuring that Defence personnel in their chain of command or line management are aware of support options available to them.

See: [Annex 3J Support options](#)

5. Legal officers, Medical officers, Workplace Behaviour Advisers/Network Coordinators, Dispute Resolution Practitioners and members of the Clergy (padres) are sometimes the recipients of unacceptable behaviour complaints. Each of these have professional confidentiality obligations that may apply depending upon the circumstances of the incident. The most appropriate person to respond to an incident of unacceptable behaviour is in the table at [3.3.0.3.1](#).

Transfer of responsibility

6. The person responsible for responding to an incident may change prior to action being finalised.

Example:

If the commander or manager responsible for responding to the incident:	responsibility is transferred to:
changes position	the person who fills the vacated position provided they are not the respondent and do not have a conflict of interest.
changes position and the position ceases to exist	the person in the next position higher in the chain of command or line management of that position, had it continued to exist.
determines the incident would be more appropriately managed in another area and the commander or manager of that area agrees	the commander or manager of that other area.
determines the incident requires complex case management and there is an area within the Service or Group responsible for complex case management	the area within the Service or Group responsible for complex case management. Example: Personnel Operations – Army.
determines the incident requires complex case management and there is no area within the Service or Group responsible for complex case management	the person in the next position higher in the chain of command or line management.

7. A transfer of responsibility must be reported to the [Directorate of Complaints and Resolution](#) via ComTrack, [PMKeyS Self Service](#).

See: [3.4.0.7 ComTrack reporting of incidents](#).

8. All parties involved in the incident must be advised of the transfer in writing by the originating commander or manager.

3.3.0.4 Incidents that are not to be responded to under this Part

1. An incident of unacceptable behaviour that is covered by another Defence manual or other process must be managed in accordance with that manual or process, such as:
 - a. suspected cases of sexual misconduct must be managed in the first instance in accordance with [Chapter 9 – Responding to Sexual Misconduct](#);

Note: If an incident is subsequently determined not to involve sexual misconduct, it may still constitute unacceptable behaviour and may, therefore, be dealt with under this Chapter.

 - b. a disclosure under the [Public Interest Disclosure Act 2013](#), unless directed by the Public Interest Disclosure authorised officer; and

See: [3.4.0.5 Reporting to a Public Interest Disclosure Authorised Officer](#)

 - c. if the commander, manager or supervisor forms a reasonable suspicion or is provided with information that the incident involves a notifiable incident it must be reported to a Defence Investigative Authority in accordance with [Incident Reporting and Management Manual](#). Examples may include violent behaviour and sexual offences.

Note:

This does not prevent administrative action or appropriate management action occurring concurrently with disciplinary action.

Care is to be taken and advice sought to avoid compromising any concurrent criminal or disciplinary investigations.

If a Defence Investigative Authority refers an incident of unacceptable behaviour back to the commander or manager for administrative action, the commander or manager must comply with the victim's wishes regarding any future action to be taken in relation to any alleged sexual offence; the victim's wishes remain paramount. However, unacceptable behaviour that does not amount to a sexual offence must be dealt with by the commander or manager in accordance with this Chapter.

Related Information:

[Incident Reporting and Management Manual \(IRMMAN\).](#)

[Military Personnel Policy Manual \(MILPERSMAN\) Part 9 Chapter 2—Formal Warnings and Censures in the Australian Defence Force.](#)

2. Military Police victim-centric approach. Military Police follow a victim-centric approach to sexual offence investigations. This compliments the 'restricted disclosure' approach for sexual offences adopted by SeMPRO, and is similarly focused on supporting the victim, minimising harm, and mitigating additional secondary trauma during the investigation process.
3. Some incidents may need to be handled in accordance with multiple policy and statutory requirements.

Example: If a Defence member were to misuse alcohol, and as a consequence behave unacceptably, this would be managed in accordance with [DI\(G\) PERS 15-1 — Australian Defence Force alcohol policy](#), single service Instructions, and this Chapter.

Related Information: A comprehensive, although not exhaustive list of other Defence Instructions can be found on the [Directorate of Complaints and Resolution](#) website.

3.3.0.5 Response process - general

1. Commanders, managers and supervisors must, as soon as practicable, within 24 hours of the commencement of duty act on all incidents of unacceptable behaviour that they have become aware of and that are not excluded by [3.3.0.4](#).
2. When responding to an incident of unacceptable behaviour commanders, managers and supervisor are to act in a prompt, fair and in an impartial manner.
3. Commanders, managers and supervisors remain responsible for ensuring that Defence personnel in their chain of command or line management are aware of support options available to them. This may include complainants, respondents, witnesses and any other relevant persons.

See: [Annex 3J Support options](#).

4. If an incident of unacceptable behaviour is likely to attract media comment or cause adverse publicity to Defence it must be reported in accordance with current Defence requirements.

Related Information:

[Incident Reporting and Management Manual \(IRMMAN\)](#)

[Media and Communication Branch: Hot Issues Brief](#)

Timeliness

5. In most circumstances, a response to an incident of unacceptable behaviour is to

be finalised as soon as possible ideally within two to three weeks of the commander, manager or supervisor becoming aware of the incident. Incidents of unacceptable behaviour that are complex or involve formal inquiries or multiple parties may take longer to resolve. Best practice suggests that complex incidents of unacceptable behaviour are to be finalised within three months.

Note: If the incident is responded to under an alternate manual or process, the timeframes for that manual or process should be followed.

6. If finalising a response to an incident of unacceptable behaviour is likely to take more than three months, the commander, manager or supervisor must report through ComTrack via [PMKeyS Self Service](#):
 - a. how long it is likely to take to finalise the response; and
 - b. the reason for not being able to finalise the incident of unacceptable behaviour earlier.

Keeping parties informed

7. In the course of responding to an incident of unacceptable behaviour, the commander or manager is to inform all parties involved of the existence of the response and keep the parties informed of the progress.

Note: The identity of a person who is entitled to have their identity protected under the [Public Interest Disclosure Act 2013](#), must not be disclosed in the course of responding.

Related Information: [Fraud Control and Investigations Branch](#) website.

8. The respondent must be provided with as much information that is necessary to afford procedural fairness. This will normally include disclosure of the identity of the complainant. Should the commander or manager consider that this disclosure may impede any other inquiry or investigation, for example through the risk of destruction of evidence, advice must be sought from the relevant Defence Investigative Authority or inquiry authority. The respondent is to be given the opportunity to reply, receive regular progress updates, be given appropriate support, and be advised of the outcome.
9. At the end of the response process, commanders and managers must communicate the final outcome to all affected parties, noting privacy requirements. Parties are also to be advised of the right to seek a review of the outcome if they are not satisfied with the response.

See: [Unacceptable Behaviour and ComTrack Privacy Notice](#) (APP5)

[3.2.0.7. Seeking review of a response to an incident of unacceptable behaviour](#)

Managing workplace relationships

10. If an incident of unacceptable behaviour gives rise to issues that negatively affect the working relationships between two or more people, commanders and managers are to take action to restore that relationship, where appropriate. This is in addition to dealing with the unacceptable behaviour.

Note: Discretion is to be used based on the type of unacceptable behaviour that has allegedly occurred, for example sexual offences or violent behaviour.

Example: Ms Smith and PO Zhang work in the same work area and had an argument which resulted in Ms Smith using offensive language towards PO Zhang. The manager responds to Ms Smith's behaviour as an incident of unacceptable behaviour. The relationship between Ms Smith and PO Zhang remains fractured and they have trouble working together. The manager talks to Ms Smith and PO Zhang together in an attempt to restore the relationship, but the meeting did not go well. The manager then talked to them separately about the relationship breakdown, in a further attempt to restore the relationship. Neither party wanted to work with the

other. The manager decided to contact the [Directorate of Complaints and Resolution](#) to seek advice on what to do next to restore the relationship. Complaints and Resolution offered a variety of tools and alternative dispute resolution interventions to help restore the relationship.

See: [Chapter 2 Resolution of conflict](#)

Tools and advice

11. Commanders, managers or supervisors may seek advice or guidance from:
 - a. the [Directorate of Complaints and Resolution](#);

See: [Chapter 2 Part 3 Division 2 Workplace Behaviour Advisers](#).
 - b. a Workplace Behaviour Adviser, but not a Workplace Behaviour Adviser who has, or is, providing advice to another party involved in the incident of unacceptable behaviour;

See: [Chapter 2 Part 3 Division 3 Workplace Behaviour Network Coordinators](#).
 - c. a Workplace Behaviour Network Coordinator;

See: [Chapter 2 Part 3 Division 4 Dispute Resolution Practitioners](#).
 - d. a Dispute Resolution Practitioner; or

See: [Chapter 2 Part 3 Division 4 Dispute Resolution Practitioners](#).
 - e. [HR Services Teams](#); and
 - f. [SeMPRO](#) (for incidents involving sexual misconduct).
12. Additional tools and references are provided on the [Directorate of Complaints and Resolution unacceptable behaviour DRN site](#) and as annexes to this Chapter:
 - a. Flowchart for managing unacceptable behaviour;

See: [Annex 3H Flowchart for managing unacceptable behaviour](#)
 - b. Checklist for responding to unacceptable behaviour;

See: [Annex 3I Checklist for responding to unacceptable behaviour incidents](#)
 - c. Workplace Bullying Risk Assessment Tool; and

See: [Complaints and Resolution unacceptable behaviour DRN page](#)
 - d. Guidance for Complainants, respondents and commanders/managers.

See: [Complaints and Resolution unacceptable behaviour DRN page](#)

3.3.0.6 Responding to an incident of unacceptable behaviour

1. When a commander, manager or supervisor becomes aware of an incident of unacceptable behaviour, they are to:
 - a. Consider if the incident of unacceptable behaviour meets the definition of 'disclosable conduct' under the [Public Interest Disclosure Act 2013](#). If the commander, manager or supervisor believes on reasonable grounds that the incident meets this definition they must as soon as reasonably practicable report the incident to a Public Interest Disclosure Authorised Officer;

See: [3.4.0.5. Reporting to a Public Interest Disclosure Authorised Officer](#)
 - b. Conduct an initial assessment by considering the information available and the nature of the incident in order to determine:

- i. nature of the behaviour;
 - ii. if the behaviour occurred, whether the behaviour is unacceptable; and
See: [Annex 3G Types of unacceptable behaviour](#)
 - iii. if the behaviour occurred and is unacceptable, whether the incident is minor or significant.
See: [3.3.0.6.8 - 3.3.0.6.11.](#)
- c. Assess if the incident of unacceptable behaviour must be responded to in accordance with this Chapter or in accordance with an alternative process.
See: [3.3.0.4 Incidents that are not to be responded to under this Part](#)
 - d. Complete a Defence Incident Record in the [Defence Policing and Security Management System](#) or by completing [webform AE530 – Defence Incident Record](#) in relation to the incident in accordance with the [Incident Reporting and Management Manual](#);
 - e. Complete a ComTrack Initial Incident Report via [PMKeyS Self Service](#);
 - f. Army should continue to report through the Army Incident Management System (AIMS) as well as ComTrack as the Defence mandated system for reporting unacceptable behaviour;
 - g. Complete a [Sentinel Event Report – Non-DPN \(DRN\) Users](#) (AE527), if appropriate; and
See: [3.4.0.9. Work Health and Safety Branch reporting and Comcare notification](#)
See: [Annex 3H Flowchart for managing unacceptable behaviour.](#)

Insufficient information available to make a decision

- 2. Sufficient information is that which allows a commander, manager or supervisor to decide if the incident meets the conditions at [3.3.0.6.1.b.](#)
- 3. A commander, manager or supervisor may believe there is insufficient information on which to make a decision about the incident of unacceptable behaviour. Processes that are available to assist a commander, manager or supervisor to obtain additional information include (not necessarily in this order):
 - a. undertake a fact finding exercise;

Related Information:

Fact Finding in Incident Management [CAMPUS](#) course (Campus course code: 00009631).

[Good Decision Making in Defence: a guide for decision makers and those who brief them.](#)

DPG provides a [Fact Finding panel](#) to assist commanders, managers or supervisors with this process. The Panel should only be accessed when a sufficiently independent person is not available locally **and** an independent impartial person is required to undertake the activity due to the potential seriousness of the allegation/s, issues with seniority or the activity is of a complex nature.

When the incident is a sexual offence, contact a Defence Investigative Authority before conducting fact finding.

- b. initiating an Inquiry Officer's Inquiry (an option if the behaviour complained of is by a Defence member); and

Related Information: [Administrative Inquiries Manual](#).

Note: The level of formality required for obtaining information will depend on the nature and complexity of each incident.

In more complex or serious incidents of unacceptable behaviour, it may be appropriate for an incident of unacceptable behaviour to be referred to a higher headquarters.

- c. Pass the matter to the [Directorate of Conduct and Performance](#) for a review under the APS Code of Conduct, where appropriate.

Note: The commander, manager or supervisor must take all reasonable action prior to passing to the [Directorate of Conduct and Performance](#).

4. If an incident of unacceptable behaviour has been referred to a Defence Investigative Authority (DIA) and the DIA refers the incident back to the commander, manager or supervisor for action, the commander, manager or supervisor is to make a decision on the incident of unacceptable behaviour in accordance with this Part.

Sufficient information available to make a decision

5. If a commander, manager or supervisor believes that there is sufficient information to make a decision, they must take action. The action will be guided by whether the evidence was sufficient to conclude that:
 - a. unacceptable behaviour did not occur or could not be substantiated; or
 - b. unacceptable behaviour occurred.

Unacceptable behaviour did not occur

6. If the commander, manager or supervisor determines:
 - a. the behaviour did not occur; or
 - b. the behaviour occurred but was not unacceptable behaviour; or
 - c. that despite reasonable efforts, nothing can be gained from further inquiry into the incident, the manager must:
 - i. advise the parties involved in the incident of the decision; and
 - ii. if appropriate, refer the incident of unacceptable behaviour for action under an alternative process.

Example: A dispute between Defence APS employees over the availability and use of a shared resource (such as a Directorate laptop) may be better handled under an alternative dispute resolution process.

Unacceptable behaviour occurred

7. Action must be taken to address the behaviour of persons involved in unacceptable behaviour that has been substantiated. If a commander, manager or supervisor has determined that all the following elements have been met:
 - a. the alleged behaviour occurred; and
 - b. the behaviour is unacceptable behaviour.

See: [Annex 3G – Types of unacceptable behaviour](#)

the commander, manager or supervisor must determine what action is to be taken to address the unacceptable behaviour. If unacceptable behaviour is determined to have occurred, possible outcomes could be guided by:

- a. the nature and seriousness of the behaviour;
- b. the service or employment **relationship** between Defence and the person alleged to have behaved unacceptably;
- c. the service or employment **history** of the person alleged to have behaved unacceptably.

Action to address minor incidents of unacceptable behaviour

8. Minor incidents of unacceptable behaviour may include the following:
 - a. using offensive language in a workplace;
 - b. having offensive material in a workplace; and
 - c. treating co-workers with disrespect.
9. Commanders, managers and supervisors are able to take reasonable action to address minor incidents of unacceptable behaviour. Reasonable action may include asking the person to stop the behaviour, explaining why the behaviour is unacceptable, and setting expectations for future behaviour. The commander, manager or supervisor is to also consider options to manage the interpersonal relationships.

See: [Chapter 2 Resolution of conflict](#)

Note: A series of minor incidents of unacceptable behaviour may require a more formal response in accordance with [3.3.0.6.10](#).

Action to address significant incidents of unacceptable behaviour

10. Significant incidents of unacceptable behaviour may include the following:
 - a. ongoing bullying or harassment;
 - b. any form of sexual misconduct;
 - c. an abuse of power;
 - d. criminal activity or service offences; and/or

Note: Criminal activity/offences must be reported to a Defence Investigative Authority.

 - e. misconduct that requires [APS Code of Conduct](#) or [ASD Code of Conduct](#) action to be taken.
11. Commanders, managers and supervisor are able to take reasonable action to address significant incidents of unacceptable behaviour. The action will depend upon the person's relationship to Defence.

See: [3.3.0.7 Outcomes to incidents of unacceptable behaviour](#)

3.3.0.7 Outcomes to incidents of unacceptable behaviour

Outcomes for Defence members

1. If a Defence member is assessed to have behaved unacceptably, the Defence member may be subject to:

Responding to unacceptable behaviour

Chapter 3

3.0.0.1 Introduction

1. Defence personnel are respectful, trusted and proven to deliver. In doing so, Defence personnel have a responsibility to behave in a way that upholds our Values as an organisation, both at work and in any situation that may be connected to Defence. Values-based behaviour requires everyone to accept personal responsibility for their actions and the subsequent consequences for themselves, others and Defence.
2. In addition to Values-based behaviour, Defence personnel must not engage in behaviour that is proscribed in the unacceptable behaviour definitions.
3. Upholding the required behaviours contributes significantly to morale and promotes a cohesive, healthy, safe and effective workplace. It builds the capability of the Australian Defence Force and helps to protect and enhance the reputation of Defence.

3.0.0.2 Purpose

1. This Chapter provides Defence's policies and procedures for the responsibilities, notification, management of, and reporting of unacceptable behaviour by Defence personnel.

3.0.0.3 Contents of this Chapter

1. This Chapter contains the following Parts:

[Part 1: Rights and obligations](#)

[Part 2: Notification and complaints of unacceptable behaviour](#)

[Part 3: Responding to an incident of unacceptable behaviour](#)

[Part 4: Reporting and recording of incidents of unacceptable behaviour](#)

[Annex 3A: Defence Values](#)

[Annex 3B: Defence Behaviours](#)

[Annex 3C: No Longer Used. Navy Values and Signature Behaviours – Replaced by Defence Values and Behaviours](#)

[Annex 3D: No Longer Used. Army Values – Replaced by Defence Values and Behaviours](#)

[Annex 3E: No Longer used. Air Force Values – Replaced by Defence Values and Behaviours](#)

[Annex 3F: APS Values](#)

[Annex 3F.a: ASD Values](#)

[Annex 3G: Types of unacceptable behaviour](#)

[Annex 3H: Flowchart for managing unacceptable behaviour](#)

[Annex 3I: Checklist for responding to unacceptable behaviour incidents](#)

[Annex 3J: Support options](#)

3.0.0.4 Contents of this part

1. This Part contains the following information:
 - [3.0.0.5 This Chapter applies to](#)
 - [3.0.0.6 This Chapter does not apply to](#)
 - [3.0.0.7 Policy](#)
 - [3.0.0.8 What is unacceptable behaviour](#)
 - [3.0.0.9 Defence Values and Behaviours](#)
 - [3.0.0.10 Foreign military members](#)
 - [3.0.0.11 External service providers and outsourced service providers](#)
 - [3.0.0.12 Privacy and unacceptable behaviour](#)
 - [3.0.0.13 Disclosure of security classified information](#)
 - [3.0.0.14 Applicable legislation](#)
 - [3.0.0.15 Other applicable information](#)
 - [3.0.0.16 Sponsor and point of contact](#)

3.0.0.5 This Chapter applies to

1. This Chapter applies to:
 - a. Defence personnel;
 - b. External service providers and outsourced service providers who, under the conditions of their contract with Defence, are required to comply with this Chapter; and
 - c. Foreign military members serving with the ADF subject to their nature of service.

3.0.0.6 This Chapter does not apply to

1. This Chapter does not apply to:
 - a. Persons who have volunteered and been accepted by the Chief of the Defence Force as officers, instructors or cadets in the Australian Navy Cadets, Australian Army Cadets and Australian Air Force Cadets;
Related Information: Part 2 of [YOUTHPOLMAN - Australian Defence Force Cadets](#) contains Defence policy for Australian Navy Cadets, Australian Army Cadets and Australian Air Force Cadets.
 - b. Defence personnel, external service providers, and outsourced service providers working in or for the Australian Geospatial-Intelligence Organisation, the Defence Intelligence Organisation and the Australian Signals Directorate to the extent that the incident of unacceptable behaviour is 'disclosable conduct' under the [Public Interest Disclosure Act 2013](#).

3.0.0.7 Policy

1. Defence personnel are expected to adhere to high standards of ethical and personal conduct in connection with their workplace. Behaviour at work or in any situation that is connected to Defence, that is proscribed in this Chapter is unacceptable behaviour and will not be tolerated.
2. In addition to causing harm to individuals and Defence's reputation, Defence may be held vicariously liable for the actions of Defence personnel engaging in unlawful discrimination or harassment. This is unacceptable. Unlawful discrimination and harassment includes:
 - a. racial discrimination and offensive behaviour based on racial hatred under the [Racial Discrimination Act 1975](#);
 - b. sex discrimination and sexual harassment under the [Sex Discrimination Act 1984](#);
 - c. disability discrimination under the [Disability Discrimination Act 1992](#);
 - d. age discrimination under the [Age Discrimination Act 2004](#); and

- a. management action to stop and correct the behaviour.

Example:

- i. If the Defence member is using offensive language in the workplace the commander, manager or supervisor is to correct the behaviour, explain to the person why such behaviour is unacceptable, and order the expected behaviours;
 - ii. If a Defence member is thought to be excluding other people from important meetings the commander, manager or supervisor will correct the behaviour, explain why the behaviour is unacceptable behaviour, and order the expected behaviours.
- b. initiating and imposing an administrative sanction which may include:
 - i. counselling;
 - ii. formal warnings;
 - iii. censure;
 - iv. reduction in rank; or
 - v. termination.

Related Information: [Military Personnel Policy Manual \(MILPERSMAN\) Part 9 Chapter 2—Formal Warnings and Censures in the Australian Defence Force.](#)

Note:

If the commander, manager or supervisor proposes to make an adverse decision about a Defence member, the commander, manager or supervisor must ensure that the Defence member is afforded procedural fairness in relation to that adverse decision.

A Defence Incident Record ([webform AE530](#)) cannot be used as a basis for the imposition of an administrative sanction.

A Defence APS employee who is the manager of a Defence member cannot impose an administrative sanction. The manager may be required to refer the incident of unacceptable behaviour to the Defence member's administrative Commanding Officer or higher headquarters.

- c. taking disciplinary action under the [Defence Force Discipline Act 1982](#)
2. Nothing in this Chapter prevents any other administrative action being taken to ensure the safety and wellbeing of Defence personnel or external service providers.

Example: Removal from an appointment, posting or locality.

Note: When the actions outlined above are finalised reporting requirements may continue under [Part 4](#) and the requirement to support members involved remains.

Outcomes for Defence APS and ASD employees

3. If a Defence APS or ASD employee is assessed to have behaved unacceptably, the Defence APS or ASD employee may be subject to the following, depending on the circumstances:
 - a. reasonable management action;

Example: If a Defence APS or ASD employee is using offensive language in the workplace, the manager is to correct the behaviour, explain to the person why such behaviour is unacceptable and order the expected behaviours.

- b. Refer the incident to the [Directorate of Conduct and Performance](#) for Code of Conduct action if the incident:
 - i. involves a potential breach of the APS or ASD Code of Conduct; and
 - ii. would warrant a sanction, which may include: termination of employment; reduction in classification; re-assignment of duties; reduction in salary; deductions from salary, by way of fine; Performance progression payments may be denied, due to the criteria of G6.3(b) of the proposed DEA not being met; or a reprimand.

Note: Behaving contrary to the expected workplace behaviours may affect performance assessments and progression.

- 4. If the manager determines that a Defence APS or ASD employee involved in unacceptable behaviour is to be referred for investigation for a suspected breach of the respective Code of Conduct, the manager must:
 - a. refer the unacceptable behaviour, including all the relevant information related to the behaviour of the Defence APS or ASD employee, to the [Directorate of Conduct and Performance](#) for consideration; and

Related Information: [Dealing with Misconduct \(PeopleConnect\)](#)

- b. advise the Defence APS or ASD employee of the referral to [the Directorate of Conduct and Performance](#); and
- c. inform the Defence APS or ASD employee of their rights and responsibilities in relation to the referral to the [Directorate of Conduct and Performance](#).

Note: While actions for responding to the incident of unacceptable behaviour may have been finalised, reporting requirements may continue under [Part 4](#) and the requirement to support members involved also remains.

If an incident of unacceptable behaviour gives rise to issues that negatively affect the working relationships between two or more people, managers may take action in an attempt to restore that relationship. This may occur at the same time as above actions.

See: [Chapter 2 Resolution of conflict](#)

The [Directorate of Conduct and Performance](#) may refer the incident of unacceptable behaviour back to the area for management action. If this is the case the manager is to take action under this Chapter.

Related Information: The [APS People Policy](#) and [ASD People Policy](#).

A manager **cannot** determine that there has been a breach of the Code of Conduct or impose a sanction under the Code of Conduct.

Outcomes for foreign military members

- 5. Foreign military members may serve with the ADF on attachment, exchange or as part of some other relationship between Australia and their own government. The manner in which matters of discipline and administration are dealt with will change significantly depending upon which form of agreement is in place. This will require reference to the relevant authorising instrument relating to the foreign military member. Legal advice is strongly recommended in such situations.

Outcomes for foreign public servant

- 6. Foreign public servants working in the Department of Defence on exchange or as part of some other relationship between Australia and their own government. The manner in which matters of discipline and administration are dealt with will change significantly depending upon which form of agreement is in place. This will require

reference to the relevant authorising instrument relating to the foreign public servant. Legal advice is strongly recommended in such situations.

Outcomes for external service providers and outsourced service providers

7. If it has been determined that an external service provider or outsourced service provider has behaved unacceptably, Defence (through the relevant contract manager) may take action in accordance with the contract between Defence and the employer of the external service provider or outsourced service provider.
8. The contract manager may take action in accordance with the provisions of the relevant contract, or by subsequent agreement with the employer to respond to an incident of unacceptable behaviour.

Example: The contract manager may negotiate the outcome in relation to the external service provider's further involvement with Defence under the relevant contract arrangements.

9. This clause does not limit the options that are available to an employer of the external service provider or outsourced service provider.

Note: Employers have a responsibility to respond to the behaviour of their employees.

Part 4: Reporting and recording of incidents of unacceptable behaviour

3.4.0.1 Purpose

1. This Part provides information on the reporting and recording processes for incidents of unacceptable behaviour.

Note: In this Chapter, the term 'incident of unacceptable behaviour' includes alleged and substantiated incidents of unacceptable behaviour. An incident of unacceptable behaviour is considered an alleged incident until such time as the commander, manager or supervisor determines the incident has been substantiated.

3.4.0.2 Content

1. This Part contains the following information:

[3.4.0.3 Who is responsible for reporting incidents of unacceptable behaviour](#)

[3.4.0.4 Reporting and recording of unacceptable behaviour - general](#)

[3.4.0.5 Reporting to a Public Interest Disclosure Authorised Officer](#)

[3.4.0.6 Defence Incident Record](#)

[3.4.0.7 ComTrack reporting of incidents](#)

[3.4.0.8 Career/Personnel Management Agency reporting](#)

[3.4.0.9 Work Health and Safety Branch reporting and Comcare notification](#)

[3.4.0.10 Reporting as a notifiable incident](#)

[3.4.0.11 Reporting concerns about an individual's suitability for access to security classified resources](#)

3.4.0.3 Who is responsible for reporting incidents of unacceptable behaviour

1. If it is alleged that:
 - a. Defence personnel;
 - b. External service providers and outsourced service providers who, under the conditions of their contract with Defence, are required to comply with this Chapter; or
 - c. Foreign military members serving with the ADF, subject to their nature of servicehave participated in unacceptable behaviour, the commander, manager or supervisor is responsible for responding to an incident of unacceptable behaviour must report the incident of unacceptable behaviour in accordance with this Part.

See: [3.3.0.3 Who is responsible for responding to and reporting an incident or complaint of unacceptable behaviour](#)

2. If the respondent to the incident of unacceptable behaviour is an external service provider, the contract manager together with the respondent's employer must report the incident in accordance with this Part.

3.4.0.4 Reporting and recording of unacceptable behaviour - general

1. When responding to an incident of unacceptable behaviour commanders, managers and supervisors are to:
 - a. create and keep records of the incident of unacceptable behaviour, any actions taken, and decisions made in response to the incident;
 - b. ensure that all information collected in the course of responding, reporting and recording of unacceptable behaviour incidents is treated as **Sensitive: Personal** at a minimum; and

Related Information: The [Defence Security Principles Framework](#).

- c. put in place reasonable safeguards to protect the information against loss, unauthorised access or use, modification, disclosure and other misuse.

Note: This may include assigning access privileges to documents on Objective, storage in locked cabinets, de-identifying information conveyed by email, strictly limiting access and distribution of information to those with a role in the complaint process, and then only that information which is relevant to their role.

2. Personal information collected in accordance with this Chapter is only to be used and disclosed for the purpose of:
 - a. responding to the incident;
 - b. reporting the incident of unacceptable behaviour; and
 - c. taking any consequential action.

Example: Recommending that the parties to an incident take part in an [alternative dispute resolution process](#).

See: [Chapter 2 Resolution of conflict](#)

Example:

Referring the matter for a formal disciplinary process.

Consideration of future management decisions.

3.4.0.5 Reporting to a Public Interest Disclosure Authorised Officer

1. A commander, manager or supervisor who receives a complaint of unacceptable behaviour that they believe are reasonable grounds to meet the definition of 'disclosable conduct', as defined in the [Public Interest Disclosure Act 2013](#), must report the incident to a Public Interest Disclosure authorised officer as soon as reasonably practicable.
2. Disclosable conduct under the [Public Interest Disclosure Act 2013](#) includes behaviour that:
 - a. contravenes a law;
 - b. is corrupt;
 - c. perverts the course of justice;
 - d. results in wastage of public funds;
 - e. is an abuse of public trust;
 - f. unreasonably endangers health and safety or endangers the environment;
 - g. is misconduct relating to scientific research, analysis or advice; and
 - h. is maladministration, including conduct that is unjust, oppressive or negligent.
3. The commander, manager or supervisor **must** discuss further actions with the authorised officer to appropriately manage and respond to the incident of unacceptable behaviour. The Public Interest Disclosure authorised officer will assess and advise:
 - a. if the incident of unacceptable behaviour meets the threshold to be considered a disclosure under the [Public Interest Disclosure Act 2013](#), and

- b. how the incident of unacceptable behaviour is to be managed. This may include referring the incident back to the commander, manager or supervisor for fact finding or investigation in accordance with extant Defence processes.

Related Information:

The Public Interest Disclosure authorised officer will provide advice on appropriate measures to provide protection to the discloser. Information about the protections owed to a person who makes a disclosure under the [Public Interest Disclosure Act 2013](#) can be found on the [Fraud Control and Investigations Branch](#) website.

The reporting requirements in this Part are to be undertaken having regard to the requirements to protect the identity of the person submitting the notification under the [Public Interest Disclosure Act 2013](#).

The Public Interest Disclosure authorised officer will complete a Defence Incident Record on receipt of the disclosure. The commander, manager or supervisor must still report the incident in ComTrack via [PMKeyS Self Service](#).

Commanders and managers must continue to take action to minimise or prevent a threat to safety or security from being realised if the alleged behaviour continues.

4. Until a Public Interest Disclosure authorised officer determines that an incident of unacceptable behaviour is not a disclosure under the [Public Interest Disclosure Act 2013](#), the commander, manager or supervisor must not disclose the identity of the person submitting the notification of the incident of unacceptable behaviour to another person other than the Public Interest Disclosure authorised officer, unless:
 - a. advised by a Public Interest Disclosure authorised officer that the identity of the person submitting the notification may be disclosed;
 - b. the person submitting the notification consents to their identity being disclosed; or
 - c. there is a requirement to disclose the identity of the person submitting the notification for the purposes of a law of the Commonwealth. A law of the Commonwealth includes, but is not limited to the:
 - i. [Defence Act 1903](#);
 - ii. [Defence Force Discipline Act 1982](#);
 - iii. [Public Service Act 1999](#); and
 - iv. [Work Health and Safety Act 2011](#).

Related information:

In addition to this Chapter, for information on how to report an incident of unacceptable behaviour, including a list of Public Interest Disclosure authorised officers, see the [Fraud Control and Investigations Branch](#) website.

[Incident Reporting and Management Manual](#)

Disclosures under the [Public Interest Disclosure Act 2013](#) are administered by the Assistant Secretary Fraud Control. To report or receive advice, telephone the hotline on 1800 673 502 or send email to: Defence.PID@defence.gov.au.

3.4.0.6 Defence Incident Record

1. A Defence Incident Record must be completed for every incident of unacceptable behaviour unless the incident involves security incidents, disclosable conduct under the PID Act, or a notifiable incident; these exceptions are detailed in Chapter 2 of the [Incident Reporting and Management Manual](#). A Defence Incident Record is submitted via the [Defence Policing and Security Management System](#) or by completing [webform AE530 – Defence Incident Record](#). The Defence Incident Record must be completed within 24 hours of commencement of duty even if not all the information is known at the time.

See: [Incident Reporting and Management Manual](#)

Note: This recording requirement is in addition to the requirement to report incidents of unacceptable behaviour via ComTrack. A Defence Incident Record does not replace ComTrack notification.

3.4.0.7 ComTrack reporting of incidents

1. **All incidents** of unacceptable behaviour are to be recorded in the ComTrack unacceptable behaviour database, via [PMKeyS Self Service](#), for statistical purposes and the identification and monitoring of repeat behaviours.

Initial Reporting

2. An initial report must be submitted:
 - a. after an assessment of the incident has been completed; and
 - b. no later than **seven days** after receiving notification of the incident.

Note: A single incident involving a number of aggrieved parties or a single incident with a number of respondents is to be recorded on one report. If an incident involves a series of incidents that form a pattern of behaviour, report all incidents reflecting the behaviour exhibited.

Example: Person Y has accused person X of bullying citing a number of incidents that have occurred over a period of time, this is to be noted in one initial report.

3. An initial ComTrack report for an incident of unacceptable behaviour will include the names of all parties to the incident and a brief description of the incident. Advice must be obtained from a Public Interest Disclosure authorised officer to determine whether the identity of a discloser is to be included in the report.

See: [3.4.0.5 Reporting to a Public Interest Disclosure Authorised Officer](#)

Progress reports

4. A progress report must be submitted at the following times:
 - a. when there is a significant development in management of the incident, such as;
 - i. the initiation or completion of an inquiry, or
 - ii. new information is provided, or
 - iii. the matter has been referred for disciplinary action (Defence member's only) or to the [Directorate of Conduct and Performance](#) (Defence APS and ASD employees only).

Note: This may finalise action required to respond to the incident of unacceptable behaviour under [Part 3](#), however reporting requirements continue under this Part.

- b. there has been a change in the personnel responsible for responding to the incident; or
- See:** [3.3.0.3 Who is responsible for responding to and reporting an incident or complaint of unacceptable behaviour](#)
- c. three months from the initial report being submitted, if no other progress report has been submitted;

Final outcome report

5. A final outcome report must be submitted when an incident has been finalised. The incident is considered finalised when:
 - a. it has been determined that there is no unacceptable behaviour has occurred; or
 - b. it has been decided further inquiry into the incident is unlikely to enable a definitive finding on the incident of unacceptable behaviour; or
 - c. it has been decided there was unacceptable behaviour and appropriate management action has been taken; or
 - d. the decisions in relation to the disciplinary action (Defence members) or to a breach of the APS or ASD Code of Conduct (Defence APS and ASD employees) have been finalised.

Exception: If the matter has been referred back to the commander or manager for management action.

6. Final outcome reports must be submitted within 7 days of the action relating to the incident being finalised.
7. Final outcome reports are to advise of the outcome and all actions taken.
8. If a Defence member is found to have participated in unacceptable behaviour and formal action has been taken, the final outcome report must identify if:
 - a. the Defence member was convicted under the [Defence Force Discipline Act 1982](#); or
 - b. an administrative sanction was imposed in accordance with Part 9 Chapter 2 of [Military Personnel Policy Manual \(MILPERSMAN\)](#) against the Defence member.
9. If a Defence APS or ASD employee is found to have participated in unacceptable behaviour, the final outcome report must advise whether a breach of the Code of Conduct was determined against the Defence APS or ASD employee.
10. The personal information collected in ComTrack will be used for the following purposes:
 - a. Making ADF career management decisions, including the decision to post a Defence member to a sensitive position; or
 - b. To determine whether a person who is applying for a position in Defence has previously been the subject of an unacceptable behaviour complaint in another capacity;

Example: A former Defence member applying for a position as a Defence APS employee.
 - c. Identifying persons who:

- i. misuse the unacceptable behaviour system;
Example: A Defence APS employee submitting a complaint purely because they do not like their supervisor.
- ii. have been named in a number of incidents of unacceptable behaviour involving similar circumstances, but have had no adverse finding against them; or
- iii. have been named in a number of incidents of unacceptable behaviour involving similar circumstances and have had adverse findings made against them.

11. The purpose of initial and final reporting of incidents of unacceptable behaviour is to assist the CDF and Secretary to meet their obligations under the [Work Health and Safety Act 2011](#).

3.4.0.8 Career/Personnel Management Agency reporting

1. If a Defence member participated in unacceptable behaviour and:
- a. the member was convicted under the [Defence Force Discipline Act 1982](#); or
 - b. the member was convicted of a criminal offence; or
 - c. an administrative sanction was imposed; then
- the commander or manager responsible for responding to the incident of unacceptable behaviour must advise the Career/Personnel Management Agency of the Defence member who has been convicted or sanctioned of:
- a. the identity of the Defence member who has been convicted or sanctioned;
 - b. the nature of the incident; and
 - c. either the charge and penalty relating to the conviction of the Defence member;
- Related Information:** [Summary Discipline Manual](#).
- d. the administrative sanction imposed on the Defence member; and
 - e. any other relevant information.

Note: There may be other circumstances where a commander may consider advising the relevant Career/Personnel Management Agency.

3.4.0.9 Work Health and Safety Branch reporting and Comcare notification

- 1. An incident of unacceptable behaviour may need to be notified to the [Work Health and Safety Branch](#) and to [Comcare](#).
- 2. The incident of unacceptable behaviour must be notified to [Comcare](#) and be reported to Defence **if** a commander or manager determines that the incident:
 - a. is work related; and
 - b. resulted in:
 - i. a fatality;
 - ii. serious injuries or illnesses; or
 - iii. a dangerous incident.

3. The incident of unacceptable behaviour is reportable to Defence only, via [Sentinel](#), only if the commander or manager determines the incident is a minor injury. A minor injury is one which did not result in action under [3.4.0.9.3](#). Minor injuries may include cases relating to bullying and harassment.
4. [Work Health and Safety Branch](#) reporting and [Comcare](#) notification is to be made using:
 - a. [Sentinel](#); or
 - b. [Form AE527](#) – Sentinel Event Report - Non-DPN (DRN) Users if there is no access to [Sentinel](#).

Related Information:

For assistance, contact the Sentinel Business Support (SBS) team on 1800 220 820 (Ext 1) or email whs.sentinel@defence.gov.au.

Categories of incidents above are defined on the [Work Health and Safety Branch](#) DRN site.

For further guidance on Work Health and Safety incident reporting and notification, refer to the [Defence Safety Manual](#) and the [Work Health and Safety Branch internet site](#).

Note:

The purpose of initial and final reporting of incidents of unacceptable behaviour is to assist the CDF and Secretary to meet their obligations under the [Work Health and Safety Act 2011](#).

Bullying or harassment reported on [Sentinel](#) is considered a 'sensitive event' meaning that the record will only be made visible to nominated roles for that record.

3.4.0.10 Reporting as a notifiable incident

1. An incident of unacceptable behaviour that is not a disclosure under the [Public Interest Disclosure Act 2013](#), may also contain actions or behaviours that are a notifiable incident.
2. Notifiable incidents must be reported in accordance with the [Incident Reporting and Management Manual](#).

Note:

This does not prevent administrative action or appropriate management action occurring concurrently with disciplinary action.

Care is to be taken and advice sought to avoid compromising any concurrent criminal or disciplinary investigations.

If a Defence Investigative Authority refers an incident of unacceptable behaviour back to the commander or manager for administrative action, the commander or manager must take action under this Chapter as appropriate.

3.4.0.11 Reporting concerns about an individual's suitability for access to security classified resources

1. An incident of unacceptable behaviour, or an event or concern about unacceptable behaviour relating to an individual's ongoing suitability to access official or security protected resources must be reported in accordance with the [Defence Security Principles Framework - Security Incidents and Investigations](#).
2. An incident of unacceptable behaviour that constitutes a security incident must be reported to the area Security Officer, who will report the incident to the Security Incident Centre (Security.Incident.Centre@defence.gov.au).

3. Supervisors and managers are to report any changes in circumstances relating to their staff if they become aware of these changes and are unsure whether the changes have been notified by the clearance holder to their agency security section.
4. All employees are to also report to their agency security section significant changes in circumstance in other individuals where they feel it may impact on agency security.
5. The agency's security section must notify the [Australian Government Security Vetting Agency](#) of any reported changes in circumstances about third parties who may hold a security clearance (i.e. all relevant information relating to third party clearance holders that has not been advised by the clearance holder directly to the [Australian Government Security Vetting Agency](#).)

Related information:

The [Defence Security Principles Framework](#) provides direction on reporting for security incidents.

Advice on security incidents can be obtained from the Security Incident Centre (Security.Incident.Centre@defence.gov.au).

The [Australian Government Security Vetting Agency](#) for direction on reporting for personnel security assessments.

The [Protective Security Policy Framework](#) provides direction on the reporting of changes of circumstances potentially impacting upon personnel security assessments.

Defence Values

1. The Defence Values are:
 - a. **Service.** The selflessness of character to place the security and interests of our nation and its people ahead of my own.
 - b. **Courage.** The strength of character to say and do the right thing, always, especially in the face of adversity.
 - c. **Respect.** The humanity of character to value others and treat them with dignity.
 - d. **Integrity.** The consistency of character to align my thoughts, words and actions to do what is right.
 - e. **Excellence.** The willingness of character to strive each day to be the best I can be, both professionally and personally.

Defence Behaviours

1. The Defence Behaviours are:
 - a. Act with purpose for Defence and the nation.
 - b. Be adaptable, innovative and agile.
 - c. Collaborate and be team focused.
 - d. Be accountable and trustworthy.
 - e. Reflect, learn and improve.
 - f. Be inclusive and value others.

No Longer Used. Navy Values and Signature Behaviours

1. The Navy Values and Signature behaviours were replaced on 01 October 2020 by the Defence Values and Behaviours.:

No Longer Used. Army Values

1. The Army Values were replaced on 01 October 2020 by the Defence Values and Behaviours.

No Longer Used. Air Force Values

1. The Air Force Values were replaced on 01 October 2020 by the Defence Values and Behaviours.

APS Values

1. The APS Values, found in Part 3, Subsection 10 of the [Public Service Act 1999](#), are:
 - a. **Impartial**—the APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.
 - b. **Committed to Service**—the APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.
 - c. **Accountable**—the APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.
 - d. **Respectful**—the APS respects all people, including their rights and their heritage.
 - e. **Ethical**—the APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

ASD Values and ASD Employment Principles

1. The ASD Values and the ASD employment principles are set out in the ASD Directive 003 – ASD Employment Directive. Each value is of equal importance and should be applied to a range of functions undertaken across ASD. The Values articulate the culture, leadership and operating ethos of the ASD and reflect those of the APS.
2. The **ASD Values** are as follows:
 - Impartial** - ASD is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.
 - Committed to Service** - ASD is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.
 - Accountable** - ASD is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.
 - Respectful** - ASD respects all people, including their rights and their heritage.
 - Ethical** - ASD demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.
3. The acronym I-CARE provides an easy way to remember the ASD Values.
4. The **ASD Employment Principles** complement the ASD Values and primarily deal with employment and workplace relationships. The Employment Principles set out that ASD is a career-based agency that:
 - (a) makes fair employment decisions with a fair system of review;
 - (b) recognises that the usual basis for engagement is as an ongoing employee;
 - (c) makes decisions relating to engagement and promotion that are based on merit;
 - (d) requires effective performance from each employee;
 - (e) provides flexible, safe and rewarding workplaces where communication, consultation, cooperation and input from employees on matters that affect their workplaces are valued;
 - (f) provides workplaces that are free from discrimination, patronage and favouritism; and
 - (g) recognises the diversity of the Australian community and fosters diversity in the workplace.
5. ASD employees exercise authority on behalf of the government and the parliament, and act for the public. The public expects high levels and standards of performance, ethics and personal behaviour from ASD employees.
6. The ASD Values and ASD Employment Principles have been designed to communicate these requirements, to encapsulate the expectations of the public and also to support and accommodate the specific business needs of ASD. They set a framework of enduring principles of good public administration.

Types of unacceptable behaviour

3.0.0.G.1 Purpose

1. This annex identifies and explains specific types of unacceptable behaviour that applies to those listed at [3.0.0.5](#).

3.0.0.G.2 Content

2. This annex contains the following information:

- [3.0.0.H.3 What is unacceptable behaviour](#)
- [3.0.0.H.4 Specific types of unacceptable behaviour](#)
- [3.0.0.H.5 Harassment](#)
- [3.0.0.H.6 Workplace bullying](#)
- [3.0.0.H.7 Any form of sexual misconduct](#)
- [3.0.0.H.8 Discrimination](#)
- [3.0.0.H.9 Abuse of power](#)
- [3.0.0.H.10 Conflict of interest and inappropriate workplace relationships](#)
- [3.0.0.H.11 Violent behaviour](#)

3.0.0.G.3 What is unacceptable behaviour

1. Unacceptable behaviour is unreasonable conduct at work or in any situation that may be connected to Defence that is offensive, belittling, abusive or threatening to another person or adverse to morale, discipline or workplace cohesion. This includes unlawful discrimination and harassment.

When can unacceptable behaviour occur

2. Unacceptable behaviour can occur at any time, regardless of whether Defence personnel are on or off duty, where the behaviour may be connected to Defence.

Where can unacceptable behaviour occur

3. Unacceptable behaviour can occur at any place, whether in Australia or overseas, where the behaviour may be connected to Defence. This could include public places including bars and hotels, private venues and accommodation.

3.0.0.G.4 Specific types of unacceptable behaviour

1. There are seven types of unacceptable behaviour detailed in this annex. They are:
 - a. [Harassment](#);
 - b. [Workplace bullying](#);
 - c. [Any form of sexual misconduct](#);
 - d. [Discrimination](#) (in all its forms);
 - e. [Abuse of power](#);
 - f. [Conflict of interest and inappropriate workplace relationships](#); and
 - g. [Violent behaviour](#).
2. These types of unacceptable behaviour do not limit other behaviours that may be considered unacceptable behaviour.

3.0.0.G.4 Harassment

3. Harassment is unwanted or unwelcome behaviour that a reasonable person, having regard to all the circumstances, would consider offensive, insulting, humiliating or intimidating. There does not have to be an intention to offend or harass for harassment to occur. Harassing behaviour can range from serious to less significant; one-off incidents may still constitute harassment.

Behaviours of harassment

4. Harassment can take many forms, such as:
- a. insulting comments or teasing about the physical characteristics, abilities or mannerisms of a person;
 - b. disparaging or unnecessary comments about a person's work or capacity for work;
 - c. spreading malicious rumours or public statements of a derogatory nature about a person;
 - d. interference with a person's workplace, work materials, equipment or property;
 - e. exclusion of a person from normal conversation, workplace activities or work-related social activities without good reason;
 - f. teasing;
 - g. offensive pictures, screen savers, posters, emails, SMS text messages, graffiti or written electronic material;
 - h. vexatious or malicious complaint(s) against a person; or
 - i. causing detriment to a person because they have made a complaint in good faith.

Note: This is not an exhaustive list.

For sexual harassment, see: [3.0.0.H.7 Any form of sexual misconduct](#).

5. Harassment may be a result of a person's attitude to some real or perceived attribute or difference of another person, such as:
- a. race, colour, ethnicity or national extraction;
 - b. sexual orientation or gender;
 - c. age;
 - d. religion;
 - e. political opinion;
 - f. socio-economic origin;
 - g. medical condition;
 - h. disability or impairment;
 - i. criminal record;
 - j. trade union activity; and
 - k. family status or caring responsibilities.

Note: This is not an exhaustive list.

3.0.0.G.6 Workplace bullying

1. Workplace bullying is **an aggressive form of harassment**. Bullying is a **persistent, unreasonable** pattern of behaviour directed towards a person or group of persons, which may create a risk to health and safety, including a risk to the emotional, mental or physical health of the person(s) in the workplace. Personnel at all levels may be affected, not only those to whom the harassment is directed, for example, colleagues.

Behaviours of workplace bullying

2. In many instances bullying may begin as discreet and indirect behaviour escalating over time into more open and direct behaviour. Workplace bullying may comprise a combination of behaviours, ranging from obvious verbal abuse or physical assault to very subtle or covert psychological abuse. Typical behaviours include:
 - a. physical behaviour—aggressive, intimidating physical ‘intrusion’ or body language.
 - b. verbal abuse, such as:
 - i. abusive, insulting or offensive language;
 - ii. humiliation through sarcasm, criticism and insults, often in front of other personnel;
 - iii. persistent teasing or taunting;
 - iv. belittling someone's opinions or unjustified criticism;
 - v. criticism delivered by yelling or screaming.
 - c. inappropriate or unfair work practices, such as:
 - i. giving a person a much greater proportion of menial work than given to others;
 - ii. constantly making a person the brunt of practical jokes; or
 - iii. checking of a person(s) work or whereabouts to a much greater extent than others without reasonable cause.
 - d. undermining or sabotaging another person's work or reputation by such means as:
 - i. hiding tools and equipment or damaging completed work for example usually with the aim of creating the appearance of the person's incompetence in front of management or peers;
 - ii. deliberately intruding on a person's workspace by pestering, spying or tampering with their work equipment or personal effects;
 - iii. spreading misinformation or malicious rumours about a person;
 - iv. making disparaging comments about a person suffering from illness or injury;
 - v. assigning menial tasks unrelated to the job;
 - vi. giving a person unrealistic tasks that are not within their capability or capacity, or that are required within an unrealistic timeframe;
 - vii. regularly changing work rosters, especially at short notice, to inconvenience particular personnel; or
 - viii. undermining work performance by deliberately withholding information vital for work performance.
 - e. excluding, isolating or marginalising others, deliberately or otherwise.
 - f. participating in ‘collective bullying’ or mobbing; and

- g. Threats of dismissal or disciplinary action for trivial mistakes or shortcomings.

Note: This is not an exhaustive list.

3. Bullying can be related to an inter-personal dispute or organisational practice that subjugates people and rewards and encourages predatory and bullying behaviour.
4. A person who bullies may use strength, power or position to coerce others by fear and intimidation to do something that they want done; they may be a commander, manager, a supervisor, a subordinate, a co-worker or an external service provider. Workplace bullying can be upwards (directed towards a commander, manager or supervisor), parallel (directed towards a colleague) or downwards (directed towards a subordinate).
5. Workplace bullying, whether a single incident or repeated occurrences, is a breach of the APS and ASD Code of Conduct, Commonwealth anti-discrimination legislation and the [Fair Work Act 2009](#).

Related Information: DPG web page - [Hazard identification, risk assessment and control for the identification and prevention of workplace bullying](#)

The difference between legitimate management action and bullying and harassment

6. Commanders, managers and supervisors have the right and obligation to direct and correct the work performance and behaviours of their subordinates. Legitimate management action is reasonable management action or the exercise of legitimate authority undertaken in a reasonable manner, such as:
 - a. providing objective and constructive feedback, counselling or advice about work-related behaviour and performance, given in a manner that is neither humiliating nor threatening;
 - b. expressing differences of opinion in a respectful manner;
 - c. making and implementing legitimate or reasonable management directions, decisions or actions, such as transfers, postings, work or task requirements and recruitment selections; and
 - d. making a complaint about another person's conduct in a proper and reasonable way.

Note: Defence personnel who have a complaint about the performance management process, or the merits of their assessment are to follow the procedures provided in the relevant policies.

The difference between tough training and bullying and harassment

7. The ultimate purpose of Australian Defence Force (ADF) military training is to prepare individuals and groups to undertake military operations. An essential element of military training is to replicate or simulate contemporary operating environments in order to expose individuals and groups to the physical and mental stresses those environments generate.
8. A key measure for differentiating tough training from bullying or harassment is whether the activity may be linked to an operational training outcome and has been conducted within the boundary of workplace health and safety. Given the fluid nature of the training environment, some of the tougher forms of training may result in a trainee feeling temporarily miserable or demoralised, which is, and should remain, distinctly different to the persistent and harmful behaviour known as bullying. Additional factors to guide the distinction between tough training and bullying or harassment are:
 - a. **Reasonableness.** While a trainee may, quite appropriately, be subjected to difficult training situations, this is not to form a repeated pattern of behaviour or create pressures that are greater than what would reasonably be expected of the trainee's abilities to meet the training objective.

- b. **Aim.** Instances where a trainer deliberately subjects a trainee to activities aimed at making the trainee feel demoralised, miserable or undermines self-confidence or self-esteem, is to be regarded as bullying or harassment as opposed to the temporary incidental feelings associated with tough training.
9. Each Service is responsible for determining what tough training is within the context of that Service.

3.0.0.G.7 Any form of sexual misconduct

1. Sexual misconduct is the term used to cover the full spectrum of inappropriate behaviours of a sexual nature, from unacceptable behaviours that are visible and non-criminal, through to criminal behaviours. These behaviours can be committed by force or intimidation, or be unwelcome.
2. Sexual misconduct includes, but is not limited to:
 - a. sex discrimination;
 - b. sexual harassment;
 - c. sexual offences; and
 - d. the recording, photographing or transmitting of incidents of a sexual nature without the knowledge and consent of all parties.
3. Sexual misconduct can occur in any sex or gender configuration regardless of sex or gender identity.

See:

[Sexual Misconduct Prevention and Response Office.](#)

[Chapter 9 – Responding to Sexual Misconduct.](#)

Sex discrimination

4. For the purposes of this Chapter, sex discrimination occurs when a person is treated less favourably than another person in the same or similar circumstances because of that person's sex, characteristics of that person's sex, or assumed characteristics of that person's sex. The [Sex Discrimination Act 1984](#) contains a detailed definition. The Act relates to discrimination on the grounds of:
 - a. sex or sexual orientation;
 - b. gender identity or intersex status;
 - c. marital or relationship status;
 - d. pregnancy, potential pregnancy or breastfeeding;
 - e. family or childcare responsibilities; and
 - f. family.

Sexual harassment

5. For the purposes of this Chapter sexual harassment is any unwelcome sexual behaviour that is likely to offend, humiliate or intimidate. The [Sex Discrimination Act 1984](#) contains a detailed definition. A person sexually harasses another person if:
 - a. the person makes an unwelcome sexual advance or an unwelcome request for sexual favours to the person harassed; or

- b. engages in other unwelcome conduct of a sexual nature in relation to the person harassed;
 - c. in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed could be offended, humiliated or intimidated by the actions which are of a sexual nature.
6. Behaviour that may be acceptable in other contexts, such as between friends in a social setting, may be inappropriate in the workplace. Behaviours that may amount to sexual harassment include, but are not limited to:
- a. staring or leering;
 - b. intrusive questions about a person's private life or body;
 - c. unwelcome touching or unnecessary familiarity, such as deliberately brushing against a person;
 - d. direct offensive verbal comments or innuendo of a sexual nature;
 - e. sexually offensive jokes;
 - f. comments about a person's sexual activities or private life;
 - g. offensive gestures;
 - h. comments regarding a person's sexual orientation;
 - i. comments regarding a person's sexual appeal;
 - j. the display or electronic transmission of printed material such as calendars, posters, email, SMS text messages, screen savers or wall papers that are sexually explicit or depict naked or semi-naked bodies or are displayed for the purpose of evoking sexual arousal or gratification;
 - k. condoning and encouraging the conduct of open sexual activities in accommodation areas used as a normal part of communal living;
 - l. course badges, clothing, in-house publications (informal and formal) and training materials with a sexual connotation; or
 - m. making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.
7. Sexual harassment may also manifest itself in official decisions and actions.

Example: The denial of promotions, termination of employment, breaches of confidentiality and refusal of overtime and higher duties.

8. Sexual harassment may be unlawful behaviour.

Related Information:

[Sex Discrimination Act 1984](#)

[Sexual Misconduct Prevention and Response Office](#)

[Incident Reporting and Management Manual.](#)

Sexual Offences

9. Sexual offences are criminal actions that are also unacceptable behaviour which may warrant action under the [Defence Force Discipline Act 1982](#) or other Commonwealth legislation. There are a number of different types of sexual offences, which can often

be described using different terms. Although sexual offences are unacceptable behaviour, they are to be managed in accordance with [Chapter 9 – Responding to Sexual Misconduct](#).

See: [3.3.0.4 Incidents that are not to be responded to under this Part](#)

10. Sexual offences are also notifiable incidents and must be reported to a Defence Investigative Authority without delay.

Related Information: [Incident Reporting and Management Manual](#).

11. Defence personnel who have been a victim of sexual misconduct including a sexual offence are encouraged to contact, and be referred to the [Sexual Misconduct Prevention and Response Office](#) (SeMPRO).

Related Information:

SeMPRO offers advice, guidance and support to all Defence personnel, former members and to ADF Cadets and their families, who have been impacted by sexual misconduct. The support offered to APS and ASD employees is more limited as described in [Chapter 3 Annex J – Support options](#).

SeMPRO treats a report of sexual misconduct as a restricted (confidential) disclosure.

12. If the incident of sexual misconduct involves a Protection Order it is to be managed in accordance with [Military Personnel Policy Manual \(MILPERSMAN\) Part 9 Chapter 4 Protection Orders](#).

Note: A Protection Order may also be called a Domestic Violence Order, Apprehended Violence Order, Restraining Order, Prohibition Order or other similar term.

3.0.0.G.8 Discrimination

1. Discrimination is any distinction, exclusion or preference that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. Unlawful discrimination does not include any distinction, exclusion or preference in respect of a particular job based on the inherent requirements of the job.

Example: The [Age Discrimination Act 2004](#) provides exemption for the ADF to determine compulsory retirement on the basis of age.

Direct discrimination

2. Direct discrimination can occur when there is a policy or action that specifically treats a person less fairly than another person based on some real or perceived attribute or difference. It does not allow people to be judged purely on their individual merit, but judges them on stereotypes or perceptions.

Indirect discrimination

3. Indirect discrimination can occur when a policy or practice, which appears to be neutral or non-discriminatory, has an unfair effect on a person or a particular group of people.

Unlawful discrimination

4. Not all behaviour that discriminates between people is unlawful or amounts to unacceptable behaviour. The following describes types of [unlawful discrimination](#).

- a. **Racial discrimination**

It is unlawful to behave in any way that involves a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic

origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

Offensive behaviour based on race, colour or national or ethnic origins is also unlawful.

Related Information: [Racial Discrimination Act 1975](#).

b. **Sex discrimination**

It is unlawful to treat a person less favourably at work because of a person's:

- i. sex or sexual orientation;
- ii. gender identity or intersex status;
- iii. marital or relationship status;
- iv. pregnancy, potential pregnancy or breastfeeding;
- v. family or childcare responsibilities; and
- vi. family.

Related Information: [Sex Discrimination Act 1984](#).

c. **Disability Discrimination**

It is unlawful to discriminate or harass a person in relation to their employment (including ADF service) based on:

- i. physical, mental, intellectual or psychiatric disability;
- ii. disease;
- iii. disorder; or
- iv. illness.

Related Information: [Disability Discrimination Act 1992](#)

d. **Age discrimination**

It is unlawful to treat, or propose to treat, a person less favourably, in circumstances which are the same or are not materially different than a person of a different age because of:

- i. the age of the aggrieved person;
- ii. a characteristic that pertains generally to persons of the age of the aggrieved person; or
- iii. a characteristic that is generally imputed to persons of the age of the aggrieved person.

Related Information: [Age Discrimination Act 2004](#)

3.0.0.G.9 Abuse of power

1. Abuse of power and authority attributed to rank or position to harass, discriminate or bully a subordinate is unacceptable, unethical and in some situations can constitute criminal behaviour.
2. Commanders, managers and supervisors must at all times be aware of their

actions in relation to their subordinates to ensure they do not abuse their power and authority. Some actions may inadvertently place a subordinate in a difficult position and the action thereby may be perceived as an abuse of power, such as:

- a. using subordinates to conduct personal tasks, such as running errands or collecting dry-cleaning;
- b. ordering subordinates to participate in unacceptable behaviour; or
- c. encouraging personnel to provide sexual favours in order to gain superior performance reports, desired postings or career advantage.

3.0.0.G.10 Conflict of interest and inappropriate workplace relationships

1. A conflict of interest may occur when there is a relationship that involves, or gives the appearance of involving, partiality, preferential treatment or improper use of rank or position; that is inappropriate in the workplace, irrespective of the employment type of the people involved. Disclosing or identifying and then managing the situation is essential.
2. A conflict of interest may occur between official duties and private interests and may be actual, potential or perceived. Defence personnel have a primary responsibility to act in the public interest and avoid or effectively manage actual, potential or perceived conflicts of interest between their private interests and official duties, and within their official duties. Defence personnel must avoid and/or manage conflicts of interest in a manner consistent with their legal obligations, Commonwealth policy and Defence Instructions, and policies.

See: [DI Admin policy AG5 - Conflict of interest and declarations of interest \(Annex C\)](#)

3. A conflict of interest may be pecuniary or non-pecuniary. A pecuniary conflict of interest involves an actual, potential or perceived financial gain or loss. Non-pecuniary interests do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural or political activities. They include any tendency toward favour or prejudice arising from friendship, animosity or other personal involvement with another person or group.

See: [DI Admin policy AG5 - Conflict of interest and declarations of interest \(Annex C\)](#)

4. The existence of personal relationships within the workplace does not excuse any form of unacceptable behaviour. In some cases, there will be actions or situations open to interpretation due to the context in which the behaviour occurs. For instance, displays of affection, like holding hands, hugging or a kiss on the cheek, may be unacceptable in the workplace. However, there will be occasions when this behaviour is acceptable, such as deploying or returning to workplaces. Touching another person (no matter who they are), using any part of the body or any object, for the purpose of displaying private intimacy for either the person initiating the touching or the person touched, with the purpose of sexual arousal or gratification is prohibited. Sexual behaviour or sexual acts are never appropriate in the workplace. It is the responsibility of the commander or manager to maintain and model the standard of behaviour consistent with the Defence Values and Behaviours, APS Values and Code of Conduct and ASD Values and Code of Conduct.

Inappropriate workplace relationships at Australian Defence Force schools and training establishments

5. Relationships between trainees or between trainees and staff at training establishments potentially impact the effectiveness, ability and morale of individuals and teams. The following prohibitions and directions at ADF schools and training establishments have been prescribed to enable training to be conducted in an environment where staff and trainees can apply themselves to their duties free from

any real or perceived conflict of interest. The prohibition on trainee relationships is to provide sufficient time to reinforce Defence Values and Behaviours. The prescribed periods of prohibition provide a consistent application of policy between service training establishments of enlisted trainees and officer trainees:

- a. subject to paragraph (b), any staff member from any training establishment is prohibited from forming relationships involving sexual relations or private intimacy with any trainee. This prohibition applies at all times, whether on or off duty, and irrespective of the level of direct contact between the staff member and the trainee.
 - b. any existing or pre-existing relationship, involving sexual relations or private intimacy between a staff member and a trainee, is to be declared by the staff member to the commanding officer prior to the commencement of training, for appropriate steps to be taken to manage the potential conflict, bias or appearance of partiality.
 - c. enlisted trainees are prohibited from forming relationships involving sexual relations or private intimacy with any other trainee employed in the same institutional precinct whilst either member is undergoing initial entry (recruit) training. After both members have completed recruit training, the standard requirements of this manual apply.
 - d. officer trainees, including Officer Cadets and Midshipmen, are prohibited from forming relationships involving sexual relations or private intimacy with any other trainee employed in the same institutional precinct whilst either member is within the first three months of initial training. After both members have completed the three-month period, the standard requirements of this manual apply.
6. Commanders of ADF schools and training establishments must include the above prohibitions and requirements in standing orders. Commanders are to ensure staff and trainees are provided with briefs that include the:
- a. prohibitions and requirements detailed in [3.0.0.H.10](#) and in staff and trainee codes of conduct;
 - b. rationale behind these prohibitions and requirements; and
 - c. support services available and how to contact them.

See: [Annex 3K Support options](#)

Management of conflict of interest and inappropriate workplace relationships

7. Relationships are a natural result of human interaction and as such may not be inappropriate. However, they may have a direct impact on the effectiveness and morale of a team and need to be carefully managed.
8. Defence personnel have a responsibility to report conflicts of interest and inappropriate workplace relationships.

See: [DI Admin policy](#) AG5 - *Conflict of interest and declarations of interest* (Annex C)

3.0.0.G.11 Violent behaviour

1. Violent behaviour is the intentional use of physical force, threatened or actual, against oneself, another person, or against a group or community or property which either results in or has a high likelihood of resulting in injury, death, or psychological harm.
2. Violent behaviour can have far reaching effects on Defence personnel, their family, the workplace and the capability of Defence. Violent behaviour, inside or outside the

workplace, is unacceptable, unless it is required as part of an individual's duties on Operations.

3. Violent behaviour may be unlawful and can attract civil criminal penalties. Defence personnel who engage in violent behaviour may be held personally liable for paying compensation.
4. Although violent behaviour is unacceptable behaviour it may also be a notifiable incident. If the violent behaviour is also a notifiable incident it is to be managed in accordance with [Incident Reporting and Management Manual](#).
5. If the violent behaviour involves a Protection Order it is to be managed in accordance with [Military Personnel Policy Manual \(MILPERSMAN\) Part 9 Chapter 4 Protection Orders](#).

Note: A Protection Order may also be called a Domestic Violence Order, Apprehended Violence Order, Restraining Order, Prohibition Order or other similar term.

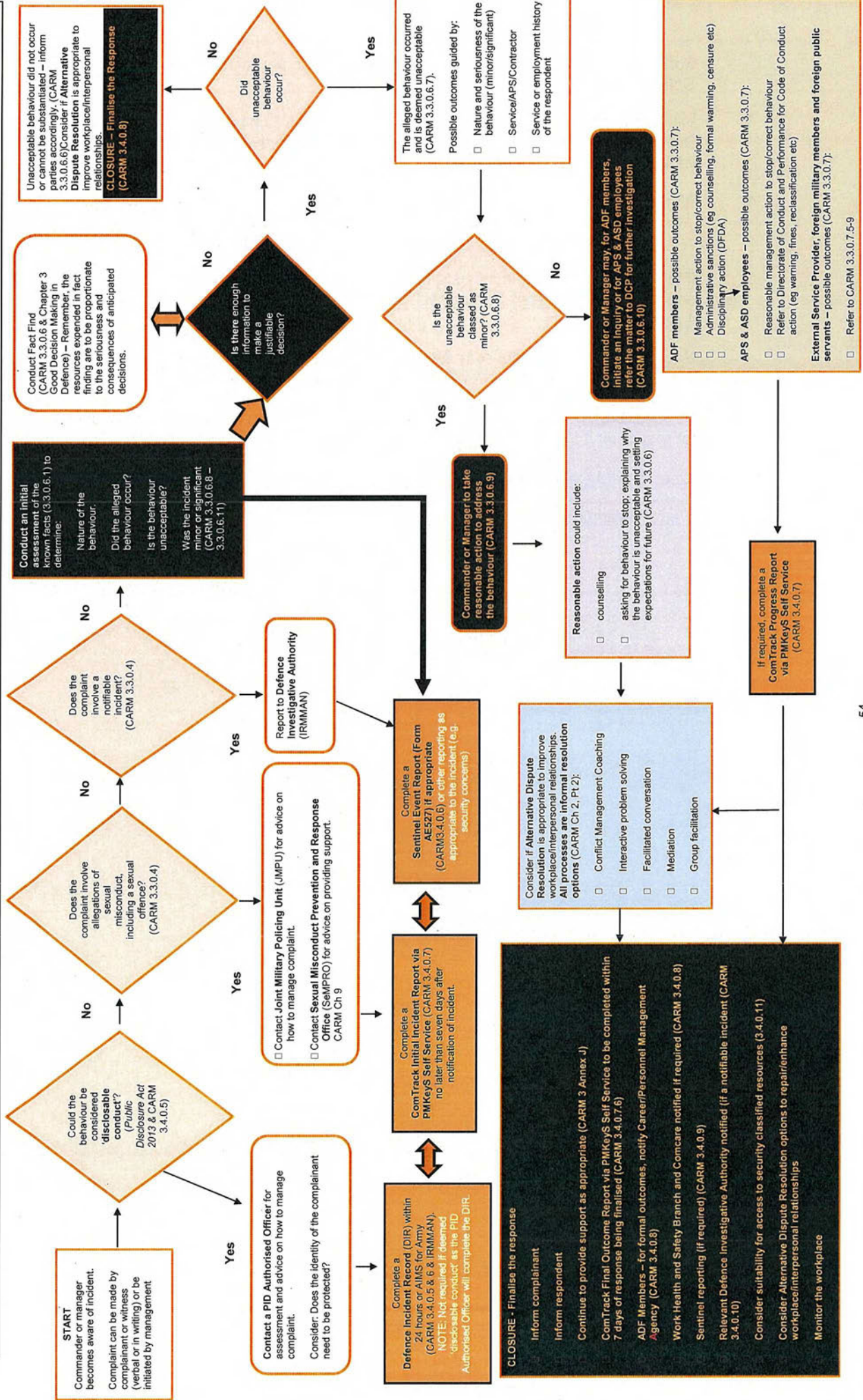
6. As required, commanders, managers and supervisors are to follow the procedures for responding to and reporting incidents of violent behaviour.

See: [Part 3 Responding to an incident of unacceptable behaviour](#)

[Part 4 Reporting and recording of incidents of unacceptable behaviour](#).

FLOWCHART FOR RESPONDING TO INCIDENTS OF UNACCEPTABLE BEHAVIOUR

Guiding Principles: ★ Consult the complainant ★ Keep all parties informed ★ Offer support to all people involved (Complainants, respondents, witnesses and others) ★ Resolve at the lowest appropriate level
 ★ Consider Alternative Dispute Resolution options ★ Comply with privacy requirements (*Privacy Act 1988*) ★ Ensure accurate record keeping ★ Ensure reporting requirements are completed



Checklist for responding to unacceptable behaviour incidents

Time frame	Management	Assessment/Inquiry	Reporting
<p>SHORT TERM 1-7 days</p>	<p><input type="checkbox"/> Is the allegation 'disclosable conduct' in accordance with the Defence Public Interest Disclosure Scheme? If so, see Reporting column.</p> <p><input type="checkbox"/> Conduct an initial assessment: See 3.3.0.6.1.</p> <p>1. Did the alleged behaviour occur?</p> <p>2. Is the behaviour unacceptable behaviour?</p> <p>3. Was the incident minor or significant?</p> <p><input type="checkbox"/> Is there enough information to make a justifiable decision? If no, conduct fact finding. See next column.</p> <p><input type="checkbox"/> If the incident is minor can it be managed by the parties involved or counselling by management? See 3.3.0.6.8 for responding and Chapter 2 for resolution options.</p> <p><input type="checkbox"/> If the incident is significant what is the best course of action? See 3.3.0.6.10 for responding and Chapter 2 for resolution options.</p> <p><input type="checkbox"/> Ensure the people involved in the incident are aware of their support options. See Annex 3J.</p> <p><input type="checkbox"/> Ensure the respondent is provided with sufficient information about the complaint to afford procedural fairness. See 3.3.0.5.7.</p>	<p><input type="checkbox"/> Commanders and managers can initiate fact finding if they do not have sufficient information to make a justifiable decision. See 3.3.0.6.</p> <p><input type="checkbox"/> Commanders and managers of <i>ADF members</i> may initiate an Inquiry for more complex incidents. See 3.3.0.6.</p> <p><input type="checkbox"/> Commanders and managers of <i>APS and ASD members</i> may refer potential breaches of the APS or ASD Code of Conduct to the Directorate of Conduct and Performance (DCP). Only DCP can make determinations on APS Code of Conduct inquiries. See 3.3.0.6.</p> <p><input type="checkbox"/> External service providers: the incident is assessed and managed by the contract manager within the parameters of the contract. See 3.3.0.7.6.</p> <p>Notes: The resources expended in fact finding/Inquiry/Code of Conduct are to be proportionate to the seriousness and possible consequences of anticipated decisions.</p> <p>See: Chapter 3 of 'Good Decision Making in Defence'.</p>	<p><input type="checkbox"/> If the behaviour could be 'disclosable conduct' in accordance with the <i>Public Interest Disclosure Act 2013</i>, contact a Public Interest Disclosure Authorised Officer for advice on how to proceed. See 3.4.0.5.</p> <p><input type="checkbox"/> Complete a Defence Incident Record. Must be completed no later than 24 hours after the incident, even if not all information is known at the time. See 3.4.0.6.</p> <p><input type="checkbox"/> If the matter constitutes a 'notifiable incident', report the matter to a Defence Investigative Authority in accordance Incident Reporting and Management Manual. See 3.4.0.10.</p> <p><input type="checkbox"/> Does the incident need to be referred to an alternative body? See 3.3.0.4.</p> <p><input type="checkbox"/> Record all action and decisions throughout the process. See Part 3.</p> <p><input type="checkbox"/> Within 7 days complete a ComTrack <i>Initial Complaint Report – Unacceptable Behaviour or Sexual Offence</i>. ComTrack is accessed via PMKeyS Self Service, if applicable.</p>
<p>MEDIUM TERM Up to four weeks</p>	<p><input type="checkbox"/> Consider appointing a case officer to keep the parties informed and provide them with support options. See Annex 3J.</p> <p><input type="checkbox"/> Consider the work duties and working proximity of the complainant and respondent. Are arrangements satisfactory, do they require review? See Part 3.</p> <p><input type="checkbox"/> Is alternative dispute resolution suitable at this stage in an attempt to resolve interpersonal conflict? Options include, but are not limited to, mediation and conflict management coaching. See Chapter 2 Part 2.</p> <p><input type="checkbox"/> If the incident has been resolved, communicate closure to the parties involved, including advice of review options. See Part 1 and Part 3.</p> <p><input type="checkbox"/> Provide on-going support to the complainant, respondent and other parties (as appropriate). See Part 3 and Annex 3J.</p> <p><input type="checkbox"/> Monitor the workplace and encourage positive relationships and culture.</p>	<p><input type="checkbox"/> Where required, continue with fact finding/Inquiry requirements. See Part 3 and Part 4.</p>	<p><input type="checkbox"/> Complete a ComTrack <i>Progress Report – Unacceptable Behaviour or Sexual Offence</i> if the situation meets the requirements at 3.4.0.7.4. ComTrack is accessed via PMKeyS Self Service.</p> <p><input type="checkbox"/> Should the incident be reported to Defence Work Health and Safety Branch/Comcare? If yes, report via Sentinel. If reporting to WHS/Comcare you must still report via Defence Incident Record and ComTrack. See Part 4.</p> <p><input type="checkbox"/> If the incident may attract media attention or adverse publicity towards Defence it must be reported. See: Incident Reporting and Management Manual.</p> <p><input type="checkbox"/> Should the matter be reported to the members' Career Management Agency? See 3.4.0.8.</p> <p><input type="checkbox"/> If there are concerns about the incident relating to a person's ongoing suitability to access official or security protected resources the matter must be reported to the area Security Officer? See 3.4.0.11.</p>

Time frame	Management	Assessment/Inquiry	Reporting
LONG TERM	<ul style="list-style-type: none"> <input type="checkbox"/> Ensure return to normal workplace activity, including addressing any relationship issues. See Chapter 2 Part 2. <input type="checkbox"/> Provide on-going support to the complainant, respondent and other parties (as appropriate). See Annex 3J. <input type="checkbox"/> Implement reasonable measures to prevent the recurrence of a similar incident in the workplace. <input type="checkbox"/> If the incident has been resolved, communicate closure to the parties involved, including advice of review options. See Part 1 and Part 3. 	<ul style="list-style-type: none"> <input type="checkbox"/> Where required, continue with fact finding/Inquiry requirements. See Part 3 and Part 4. 	<ul style="list-style-type: none"> <input type="checkbox"/> When the incident is resolved and all required actions have been taken a ComTrack Final Outcome Report – Unacceptable Behaviour or Sexual Offence must be completed. ComTrack is accessed via PMKeyS Self Service, if applicable. <p>Note: Unacceptable behaviour complaints are to be finalised within three months.</p>

Support options

1. Commanders and managers must maintain an environment where complainants, respondents and witnesses are confident that they can access a range of support services. The support strategy can include one or several of the Defence support services available. Defence is not financially responsible for support or advice provided by outside agencies.
2. This document defines the scope of Defence funded support options that can be offered to complainants, respondents and witnesses.

Key: Yes (Y); At Commander/Manager's discretion (A); Not available (N)				
Service Available	ADF Members	Defence APS Employees	ASD Employees	External Service Providers
<p>Workplace Behaviour Adviser (WBA) Network</p> <p>WBA's are available to provide information, options and support for the resolution of workplace behaviour issues.</p> <p>See: CARM Chapter 2</p>	Y	Y	Y	Y
<p>Sexual Misconduct Prevention and Response Office (SeMPRO)</p> <p>SeMPRO offers advice, guidance and support to all Defence personnel, former members and to ADF Cadets and their families, who have been impacted by sexual misconduct, whether the incident is current or historical.</p> <p>Within Australia: 1800 SEMPRO (736776) Text: 0429 600 800 Overseas: +61 429 600 800 Hours: 24/7/365</p>	Y	Y	Y	Y
<p>1800 Defence Service Centre</p> <p>The Defence Service Centre can direct customers to current workplace behaviour policies and relevant points of contact.</p> <p>Within Australia: 1800 333 362 Overseas: 0011 61 2 6455 1440 Hours: 0700-2200hrs Mon-Fri (excl PH)</p>	Y	Y	Y	Y

<p style="text-align: center;">Case Officer</p> <p>A case officer/s may be appointed at the discretion of the Commander or manager to assist the complainant and the respondent during the complaint management process. The role of a case officer is to inform of progress in the management of the complaint; to assist and advise on applicable support services; and to assist communication between the parties.</p> <p>Appointment of a case officer is advisable when the complainant and respondent have different commanders or managers.</p> <p>The selection and appointment process may be formal or informal, and relies upon the discretion and judgement of the Commander or manager.</p>	<p>A (or as directed by Service Policy)</p>	<p>A</p>	<p>A</p>	<p>A</p>
--	--	-----------------	-----------------	-----------------

Key: Yes (Y); At Commander/Manager's discretion (A); Not available (N)				
Service Available	ADF Members	Defence APS Employees	ASD Employees	External Service Providers
<p>Psychological counselling/support</p> <p>Where appropriate, the complainant, respondent and witnesses can be provided with counselling by appropriately qualified professionals. The type of counselling is to match the severity of the incident and impact on the person. The services below also accept self-referrals.</p> <p>For ADF members:</p> <p>Defence medical support at local medical centres. The local medical officer can provide assistance and referrals as required.</p> <p>Psychology Support Section. Available during office hours. Psychology Support Sections can offer after-hours, critical incident support through the local Duty Officer/Officer of the Day.</p> <p>Defence Community Organisation (DCO). DCO provides a comprehensive range of services that enhance the wellbeing of ADF members and their families. DCO also provide 24-hour assistance in crisis situations in all military locations and will help with appropriate referrals if required during office hours. The after hours service can be accessed through the local Duty Officer/Officer of the Day. Internet: www.defence.gov.au/dco/.</p> <p>ADF Mental Health Strategy All-hours Support Line (ASL). The ASL is a confidential telephone triage support service for ADF members and their families that is available 24 hours a day, seven days a week. Toll-free number within Australia is 1800 628 036 and +61 2 9425 3878 outside Australia. Intranet: http://drnet.defence.gov.au/People/WHS/Mental-Health/Pages/Mental-Health-Resources.aspx http://drnet.defence.gov.au/People/WHS/Mental-Health/Pages/Mental-Health-Resources.aspx; and Internet: http://www.defence.gov.au/health/healthportal/.</p> <p>Chaplains. Chaplains can provide support and appropriate referrals as required. Chaplains are found at most</p>	Y	N	Y	N

Key: Yes (Y); At Commander/Manager's discretion (A); Not available (N)				
<p>Diversity Directorate</p> <p>The Diversity Directorate provides additional support options in the areas of:</p> <ul style="list-style-type: none"> • Indigenous • Gender • Disability • cultural and linguistic • sexual orientation • religion and beliefs • age and youth, and • general diversity. <p>• Intranet:</p> <p>• http://drnet.defence.gov.au/People/Diversity/Pages/Diversity.aspx</p>	Y	Y	Y	N
<p>For Defence APS and ASD Employees:</p> <p>The Employee Assistance Program (EAP). EAP is a free, confidential and professional counselling service for all APS and ASD employees and their immediate families. Provides practical assistance to help resolve work-related problems, or personal problems that may impact their working life.</p> <p>ADF supervisors of APS and ASD employees can access the Manager Hotline for assistance.</p> <p>Within Australia: 1300 361 008 Overseas: +61 2 9232 7249 After hours crisis counselling: 1800 451 138</p>	N	Y	Y	Y
<p>Defence Legal Support</p> <p>The complainant and respondent may seek legal advice from separate legal officers. The respondent is not to consult the legal officer responsible for providing advice to the commander or manager managing the complaint.</p> <p>Generally, Defence APS and ASD employees are not provided with the same level of legal assistance as ADF members. APS and ASD employees should refer to Legal Services Direction 2005, appendix E—'Assistance to Commonwealth Employees for Legal Proceedings' for further information on legal support that may be available at http://www.comlaw.gov.au/.</p>	Y	Under limited circumstances	Under limited circumstances	N

Key: Yes (Y); At Commander/Manager's discretion (A); Not available (N)				
<p style="text-align: center;">Temporary transfer</p> <p>A commander <i>may</i> decide that a temporary transfer will assist a person during workplace behaviour issues. A commander or manager is to consider:</p> <ul style="list-style-type: none"> • the person's ability to cope if they remain where the incident occurred • family and personal circumstances • possible local posting alternatives • the availability of counselling and support services and networks • the effect on any current or future resolution options or investigations • any bail conditions and court orders • the effect on the career of the person transferred • the operational efficiency of the workplace <p>For Defence APS employees refer to the APS People Policy</p>	A	A	A	A
<p>If a commander or manager decides that a transfer is appropriate, the person to be transferred is to be notified and provided with an opportunity to discuss the transfer, in particular any objections and the proposed management of the transfer.</p> <p>If the person(s) involved is not relocated the commander or manager is to take reasonable steps to ensure all parties are treated fairly and no victimisation or further unacceptable behaviour occurs.</p>				
<p style="text-align: center;">Peer support</p> <p>The complainant, respondent and witnesses may receive moral and social support from their peers during the course of any workplace behaviour issues.</p>	Y	Y	Y	Y

Key: Yes (Y); At Commander/Manager's discretion (A); Not available (N)				
<p style="text-align: center;">Leave</p> <p>It <i>may</i> be appropriate for the complainant and/or respondent to rehabilitate prior to returning to the workplace. Leave regulations contained ADF Pay and Conditions Manual, the APS People Policy or ASD People Policy for Defence APS and ASD employees should be consulted.</p> <p>Prior to approving leave, commanders and managers are to consider the impact on the conduct of any fact finding, inquiry, investigation or return to work plan.</p>	A	A	A	N
<p style="text-align: center;">External support</p> <p>Defence personnel may access other services outside of Defence at their own expense.</p>	Y	Y	Y	Y



RESPONDING TO SEXUAL MISCONDUCT

Chapter 9

Abstract

All sexual misconduct is unacceptable. All Defence personnel are responsible for upholding and personally exhibiting behaviours which are aligned with Defence, Service, and community values. All Defence personnel must behave in accordance with their statutory obligations and Defence policies that deal with workplace behaviour, including this chapter.

Sexual Misconduct Prevention and Response Office (SeMPRO)
sempro@defence.gov.au

RESPONDING TO SEXUAL MISCONDUCT

INTRODUCTION

Sexual misconduct incidents include unwelcome and unwanted sexualised behaviours and sexual offences. These behaviours are contrary to Defence, Service, and community values. Defence personnel must respond promptly and sensitively to reported sexual misconduct incidents to ensure a safe working environment and to uphold the Defence, Service, and Australian community values.

The aim of this chapter is to assist personnel who must respond to reported sexual misconduct incidents. This chapter outlines how to undertake Defence's mandatory management and reporting obligations in a way that preserves the wellbeing of those impacted. The approach given follows trauma informed and victim-centric principles. Defence applies those principles when responding to victims of sexual misconduct, and in reporting and incident management procedures, to minimise the impacts that trauma can have.

COMPLIANCE AND AUTHORISATION

This chapter applies to:

- Defence personnel;
- Contractors;
- Foreign military members serving with Defence subject to the nature of their service.

This chapter is issued by the Secretary and the Chief of the Defence Force under section 11 of the *Defence Act 1903*. The mandatory requirements of this chapter constitute a general order to Defence members for the purposes of the *Defence Force Discipline Act 1982* (DFDA). Non-compliance with any mandatory requirement may result in disciplinary action being taken in accordance with the DFDA.

The mandatory requirements of this chapter are a direction to Defence Australian Public Service (APS) employees by the Secretary for the purpose of subsection 13(5) of the *Public Service Act 1999*. Non-compliance by Defence APS employees with any mandatory requirement of this chapter may be investigated in accordance with the *Public Service Act 1999*.

External and outsourced service providers must comply with the mandatory requirements of this chapter in the terms of the contract where it is directly relevant to the work performed for Defence. Failure of an external service provider to comply with the mandatory requirements of this chapter may result in a breach of contract where it has been included in the contract terms.

This chapter also applies to personnel conducting all types of inquiries, investigations, fact finding and other processes, into sexual misconduct incidents, that precede or follow legal or adverse administrative actions.

Compliance with this policy is mandatory.

POLICY STATEMENTS

1. Defence does not tolerate sexual misconduct.
2. Victim wellbeing is paramount.
3. Defence personnel have reporting obligations which are determined by the nature of an incident.
4. All sexual misconduct incident reports are to be actioned promptly and sensitively.
5. Defence provides support mechanisms for victims of sexual misconduct including access to external support service providers.
6. Defence requires personnel to propagate an organisational-level response to sexual misconduct.

1. ALL SEXUAL MISCONDUCT IS UNACCEPTABLE

1.1. All sexual misconduct is unacceptable. All Defence personnel are responsible for upholding and personally exhibiting behaviours which are aligned with Defence, Service, and community values. All Defence personnel must behave in accordance with their statutory obligations and Defence policies that deal with workplace behaviour, including this chapter.

1.2. Defence defines sexual misconduct as a spectrum of sexualised behaviours that are contrary to Defence, Service, and community values. Those behaviours include sex discrimination, sexual harassment, pornography incidents and offences, and sexual offences.

Sex discrimination occurs when a person is treated less favourably than another person in the same or similar circumstances because of that person's sex, characteristics of that person's sex, or assumed characteristics of that person's sex. The *Sex Discrimination Act 1984* contains a detailed definition. The *Sex Discrimination Act 1984* additionally makes it unlawful to discriminate on the grounds of sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, and breastfeeding or family responsibilities.

Sexual harassment occurs when a person makes unwelcome sexual advances, requests sexual favours, or engages in other unwelcome sexualised conduct, in circumstances reasonably anticipated to offend, humiliate, or intimidate. Sexual harassment is unlawful under the *Sex Discrimination Act 1984*.

Sexual offences are defined in various Commonwealth, State, and Territory legislation. Specific offences differ across the various jurisdictions, but most offences fall into the categories of non-penetrative sexual offences, penetrative sexual offences, and aggravated penetrative sexual offences¹.

Please refer to [Chapter 3 \(Annex 3G\)](#) of this manual for more information related to types of sexual misconduct.

1.3. All sexual offences are notifiable incidents in accordance with [Defence Instruction – Administrative policy AG4 – Incident reporting and management](#) and [Incident Reporting and Management Manual](#). Notifiable incidents arising from sexual offences must be reported directly to

¹ Australian Law Reform Commission 2010. *Family violence – A national legal response*. ALRC Report 114. Canberra: Australian Law Reform Commission

a Defence Investigative Authority (DIA). The Joint Military Policing Unit (JMPU) is the appropriate DIA for reporting sexual offences for both APS employees and military personnel.

1.4. Sexual harassment and sex discrimination are not notifiable incidents and must be dealt with in accordance with this chapter. Section 3 of this chapter details Defence's requirements for reporting notifiable incidents and section 4 outlines how to manage sexual harassment and sex discrimination incidents.

2. VICTIM WELLBEING IS PARAMOUNT

Recognising trauma

2.1. The welfare of the victim of a sexual misconduct incident is of paramount importance to Defence. Commanders and managers who become aware of a sexual misconduct incident must ensure the welfare of affected personnel and advise the victim before following notifiable incident requirements. Commanders and managers must ensure that the victim is treated sensitively. It may not be appropriate or necessary for the victim to recount what happened to them in full. Victims could be at risk of further harm each time they detail traumatic events. This means that the victim must not be expected to inform their commander about the incident and then have to re-tell the same details of the event to the DIA's investigator.

2.2. Implementing a trauma informed care framework and the principle of victim centricity is critical to Defence's harm minimisation efforts. Trauma can have physical, psychological, and emotional impacts on daily life and in the workplace. A trauma informed care framework uses the principles of safety, trust, choice, collaboration, and empowerment. Victim centricity means to focus on the needs and wishes of the victim. Victim centricity creates opportunities for victims to direct their own recovery, rebuild their sense of control and empowerment, and promotes capability in Defence.

2.3. Commanders and managers need to treat the victim and their allegations sensitively and seriously. They must avoid showing disbelief or judgement. Victims may display signs of shock, fear, confusion, anger, and high levels of distress; and be unable to present a linear account. This must not be treated as a sign of untruthfulness or fabrication. Reactions to trauma vary between victims.

Assessing needs and responding to trauma

2.4. Commanders and managers should enquire about the victim's wellbeing, including their physical and emotional safety, in an appropriate manner. They should discuss the victim's ability to seek medical, counselling, and support services as appropriate. Providing options to the victim, and allowing them to decide how to proceed, assists the victim to regain a sense of control. Medical officers, Sexual Misconduct Prevention and Response Office (SeMPRO) case managers, civilian medical practitioners, and Defence psychology services, among others, can assist the victim to explore their medical and counselling options fully. Defence must not restrict the ability for personnel to access civilian services for sexual assault medical care, or counselling and ongoing support, if that is the victim's preference. SeMPRO case managers can assist commanders and managers to understand the options available. JMPU can also assist them with advice about investigation and legal processes.

2.5. Commanders and managers should ask for, and consider, the victim's wishes about how to proceed, in terms of managing their safety and wellbeing. They must advise the victim of the

processes that are likely to follow their report. Outlining the processes that will take place indicates to the victim that their disclosure will be treated seriously by Defence. Victims of sexual misconduct have had their choice and control taken away from them. Involving the victim in decision making processes, such as reporting, assists the victim to regain some control over the process.

Respecting confidentiality

2.6. Commanders and managers must ensure the confidentiality of the incident details including the people involved. Limiting the information shared about an incident can protect the victim's physical safety and reduce risks of re-traumatisation. Commanders and managers must only disclose information to those with a legitimate need to know and after informing the victim. Discussing with the victim how much of their information is shared, and with whom, promotes their emotional safety and feelings of self-determination.

Do not disadvantage victims

2.7. The victim must not be disadvantaged by reporting a sexual misconduct incident or by that report being actioned. Commanders and managers must not take adverse administrative or disciplinary action against the victim for other alleged behaviours connected to a sexual misconduct incident while that incident is under investigation or management. JMPU is able to provide advice on pursuing any subsequent sanctions to commanders and managers as needed.

A fraternisation example

Chris is a staff member at Sam's training establishment. Chris and Sam were friends. They often went to the pub together on the weekend and would sometimes flirt and kiss after they had been drinking. Chris, on one weekend, asked Sam to have sex. Sam said no but Chris forced Sam into it. Sam reported the assault to their chain of command. JMPU was notified and are investigating the incident. Pursuing action against Sam for fraternisation could be perceived as punishing a victim for reporting the alleged incident and could discourage other members from reporting a sexual assault in the same circumstances. Administrative or disciplinary action should only be considered against Sam after the investigation is finalised if that is an appropriate course of action.

2.8. The victim of a sexual misconduct incident must not be disadvantaged or punished as a result of reporting the incident to Defence. Speaking with, and advising, a victim before taking action in areas such as postings, courses, accommodation, and deployments applies a trauma informed approach.

Removing victims from courses example

Sam's chain of command is concerned about Sam's sense of wellbeing on a course after the sexual assault. The chain of command wants to remove Sam from the course for their safety. Sam is doing well, all things considered, and feels quite safe on base. Sam is really focused on finishing the course and being able to get on with the job they signed up for. Being removed from the course would mean waiting another year to recommence. The course was hard to get onto and a setback will mean missing out on the posting that Sam really wants. Speaking with Sam about what they need to feel supported at work would avoid disadvantaging Sam and potentially impacting their career.

3. DEFENCE PERSONNEL REPORTING OBLIGATIONS

Incident type determines actions

3.1. Commanders and managers who receive a report about sexual misconduct will need to ascertain if the incident is a sexual offence, sexual harassment, or sex-based discrimination. The type of incident will determine any subsequent actions to be undertaken. Defence personnel can assess whether an incident is likely to be a criminal offence, a sexual harassment incident, or sex discrimination, based on the victims' description; by contacting JMPU; or by undertaking a fact finding exercise. In most cases it is inappropriate to commence a fact finding process that involves interviewing witnesses for sexual misconduct incidents without discussing that step with JMPU first. Victims are at risk of further psychological harm each time they detail traumatic events. Asking victims to provide a single account to a trained investigator, rather than multiple times in multiple processes, promotes that victim's safety and avoids potentially undermining an investigation.

Notifiable incidents

3.2. Penetrative and non-penetrative sexual offences are notifiable incidents in accordance with [Defence Instruction – Administrative policy](#) AG4 – *Incident reporting and management*. Defence personnel are required to report notifiable incidents arising from sexual offences immediately to a DIA. This reporting obligation exists for Defence personnel even if they are unsure a matter is a notifiable incident. JMPU is the appropriate DIA for sexual offences for both APS and military personnel. Commanders and managers' obligation to report notifiable incidents is separate to the DIA's obligation to respect the victim's wishes about whether or not an investigation commences.

3.3. Reported sexual harassment and sex discrimination incidents do not carry notifiable incident obligations unless there is a possibility that the incident is an offence. Victims of sexual misconduct may not initially provide comprehensive details of the incident which can make it difficult to assess the nature of events. It is recommended that Defence personnel make contact with JMPU, after advising the victim, to ascertain if an incident should be treated as an offence or as unacceptable behaviour.

Victims choice to report

3.4. Defence encourages victims of sexual misconduct, including sexual offences, to report the incident to Defence but respects their choice not to do so. Victims of physical violence, or those suffering from emotional trauma arising from a criminal offence, are not required to report the alleged offence to Defence.

3.5. Victims of sexual misconduct incidents may choose to report the incident directly to JMPU, to their chain of command, to civilian police, or to an authorised officer under the [Public Interest Disclosure Act 2013](#).

3.6. Victims may disclose what happened to them without reporting it to Defence. Victims of sexual misconduct may disclose to a friend without triggering notifiable incident reporting obligations. It is important to note that Defence personnel in the victim's chain of command, engaged in instructor-student relationships, or subject to another type of duty of care relationship will always have notifiable incident reporting obligations. Service providers subject to professional privilege are exempt from notifiable incident reporting obligations in confidential relationships. These

professional service providers may include medical officers, psychologists, social workers, legal officers, chaplains, and psychiatric nurses among others.

The following is an example of a management strategy following a report of sexual misconduct, and the victim and respondent, are in the same unit.

Sam reported an incident of sexual misconduct committed by Chris, who works in the same unit, to their Commanding Officer (CO). Considering the impact the incident may have on the individuals and the unit as a whole, the CO seeks advice from both JMPU and SeMPRO. The CO considers the safety and wellbeing of all parties involved and what the unit could accommodate for those impacted, before speaking to Sam and Chris. The CO is committed to including both parties to be part of the immediate interim solution while fact-finding investigations are taking place, by providing them with options that endorse collaboration, choice and empowerment. The CO informs both Sam and Chris separately about the process that is to follow and discusses their needs. The CO asked Sam about their preferred options for ensuring their safety and wellbeing. Sam wished to stay at work but with measures in place to prevent Chris making contact.

The CO speaks with Chris and provides the following options that were based on the unit's operational needs and requirements:

1. Chris will remain in the unit. Chris will not communicate with Sam or come closer than 500m to Sam.
2. Chris will remain in the unit. Chris and Sam will be rostered on at alternative times.
3. Chris will move into a different section of the unit and will not communicate with Sam.

Chris' preference is to move to a different section. Chris committed to not communicate with Sam. The CO ensures that both parties have access to support throughout the legal or unit's proceedings.

4. SEXUAL MISCONDUCT REPORTS ACTIONED PROMPTLY AND SENSITIVELY

Quick and sensitive response

4.1. Defence personnel must respond quickly and sensitively to any sexual misconduct allegation in a Defence context. The appropriate response is informed by the incident type, however, the wellbeing of the victim must be the paramount consideration in all actions. Commanders, managers, and other personnel can seek assistance from SeMPRO case managers on complying with Defence's response requirements while simultaneously promoting the victim's wellbeing.

Sexual offences

4.2. Reported sexual offences will be actioned by JMPU in accordance with the Military Police Manual (MPMAN). JMPU operates in a victim-centric environment where the wishes and interests of the victim are paramount. Commanders and managers must take all reasonable steps to protect the integrity and confidentiality of any investigation that arises from reporting sexual offences.

Sexual harassment and sex discrimination

4.3. Sexual harassment incidents that are not sexual offences are managed as unacceptable behaviours in Defence. Defence personnel are recommended to consider contacting JMPU for advice prior to managing sexual harassment or sex discrimination incidents within the unit. Commencing processes such as fact finding may undermine an investigation should a reported incident constitute a sexual offence.

4.4. Sexual harassment and sex discrimination incidents may be managed informally in the workplace or become the subject of formal action. Complaints may be made verbally or in writing. All complaints must be addressed promptly. Sexual harassment and sex discrimination incidents can be the subject of a management initiated complaint.

4.5. The wellbeing and the wishes of the victim must remain paramount in all processes including in management initiated complaints. Commanders and managers must cease unit level investigation or administrative action for sexual harassment and sex discrimination if the victim does not wish the matter to be taken further. The options available to commanders and managers for addressing the unacceptable behaviour, in circumstances where the victim does not wish a formal process to commence, could include speaking with the alleged respondent about the expected behaviours that are in line with Defence, APS, and Service values; or directing the alleged respondent to complete training on Defence's expected behaviours.

4.6. Sexual harassment and sex discrimination complaints made against Defence APS employees can be referred to the Directorate of Conduct and Performance. Commanders and managers must seek assistance from the HR Business Partner in their Group prior to referring a complaint to the Directorate of Conduct and Performance. Complaints against ADF members can be investigated by an inquiry conducted under *Defence (Inquiry) Regulations 2018*.

4.7. Commanders and managers must act on all incidents of sexual harassment and sex discrimination within 24 hours of becoming aware of an incident or as soon as practicable.

4.8. The first recommended action after receiving a complaint for sexual harassment or sex discrimination should be a conversation with JMPU to ensure that the incident does not cross over into a sexual offence.

4.9. Commanders and managers are to act in a prompt, fair, and impartial manner when responding to an incident of sexual harassment or sex discrimination. The wellbeing of the victim is to remain paramount throughout each step of the process.

4.10. Commanders and managers must ensure that personnel in their chain of command or line management are aware of the support options available to them. Those options include services such as those provided by SeMPRO case managers, psychologists, and external providers.

4.11. Complaints about sexual harassment or sex discrimination are to be finalised as soon as possible. In most circumstances complaints should be finalised within two or three weeks of the commander or manager becoming aware of the incident. Incidents that are complex or involve formal inquiries or multiple parties may take longer to resolve but should still be finalised within three months.

4.12. Commanders and managers responding to sexual harassment or sex discrimination complaints are to inform all parties involved about the response to the complaint and keep the parties informed on progress. All parties must be informed if a complaint is going to take longer than three months to finalise and be provided with the reasons for the extended time frame.

4.13. Sexual harassment and sex discrimination incidents can give rise to issues that negatively affect the working relationships between those involved and within the unit more generally. Commanders and managers are to take action to manage those relationships, keeping in mind the wellbeing of the victim, and other staff, at all times.

4.14. Commanders and managers who are responding to sexual harassment or sex discrimination must complete a Defence Incident Record (DIR), in accordance with the [Incident Reporting and Management Manual](#), after consulting JMPU. A ComTrack Initial Incident Report must also be made via PMKeyS Self Service.

4.15. Commanders and managers managing sexual harassment or sex discrimination incidents at a unit level are to establish the known facts and undertake a fact finding where further action is required. Information on how to conduct a fact finding is available on Campus and in the ["Good Decision-Making in Defence guide"](#).

4.16. If a commander or manager believes that there is sufficient information to make a decision they must take action. The action will be guided by whether the evidence was sufficient to conclude that either the sexual harassment or sex discrimination took place or that the incident could not be substantiated.

4.17. If the commander or manager determines that the sexual harassment or sex discrimination complaint is unsubstantiated then they must advise all parties involved in the incident of the decision.

Outcomes to Incidents of sexual harassment or sex discrimination

Informal resolutions

4.18. Please refer to [Chapter 2](#) of this manual.

Formal resolutions: outcomes for Defence members

4.19. If ADF members have sexually harassed or discriminated against other personnel they may be subject to a range of management actions, disciplinary, or administrative sanctions.

- a) In cases of sex discrimination, a management action to stop and correct the behaviour may be taken.

- b) In cases of sexual harassment or repeated sex discrimination, initiating and imposing administrative sanctions may be taken. These sanctions may include: counselling, formal warnings, censure, reduction in rank, or termination.
- c) Disciplinary action under the DFDA for ADF members may also be considered.

4.20. The commander or manager must ensure all members are afforded procedural fairness in any adverse decisions. A Defence APS employee who is the manager of an ADF member cannot impose an administrative sanction. The manager may be required to refer the incident of unacceptable behaviour to the ADF member's administrative Commanding Officer or higher headquarters.

Outcomes for APS employees

4.21. If APS employees are assessed to have sexually harassed or discriminated against other personnel they may be subject to a range of management actions.

- a) Management action to stop and correct the behaviour may be taken in cases of sex discrimination.
- b) If an APS employee is found to have breached the APS Code of Conduct under s13 of the *Public Service Act 1999* (the Act), with respect to sexual harassment or sex discrimination, an authorised Delegate can impose sanctions, in accordance with s15(1) of the Act. The possible sanctions include termination of employment; reduction in classification; re-assignment of duties; reduction in salary; deductions from salary by way of a fine;
- c) Performance progression payments may be denied as the criteria of G6.3(b) of the Defence Enterprise Agreement 2017-2020 (DEA) were not met; or a reprimand may be imposed.

4.22. A commander or manager may consider initiating formal administrative action against a respondent while an incident of sexual misconduct is under investigation, while criminal or disciplinary proceedings are pending, or after those proceedings have concluded. A conviction or acquittal for an offence does not prevent administrative action being taken for a sexual misconduct matter that is the subject of those disciplinary or criminal proceedings. A decision whether or not to initiate administrative action may be reconsidered as required.

4.23. Legal advice should be sought in consultation with JMPU where an administrative sanction is contemplated in conjunction with criminal or disciplinary proceedings. Care must be taken to avoid any potential injustice or where the disciplinary or criminal proceedings may be compromised.

5. DEFENCE SUPPORT FOR VICTIMS

5.1. Victims of sexual misconduct in Defence are not compelled to report the incident to access health and support services. Defence directly provides several support options for victims of sexual misconduct, recognises that personnel might prefer to use external services, and aids access to internal and external options.

5.2. SeMPRO provides confidential case management and support services to Defence personnel who are victims of sexual misconduct. The service ensures the physical and emotional safety of the victim, assists personnel to navigate Defence's complex systems, coordinates services, and provides resources and education material. All communications with SeMPRO case managers are protected confidences.

5.3. SeMPRO provides advice to all personnel on managing and responding to sexual misconduct incidents while holding the victim's wellbeing paramount. The service offers assistance for meeting Defence's policy and legal requirements using the trauma informed principles of safety, trust, choice, collaboration, and empowerment. Assisting personnel to manage incidents promptly and sensitively promotes victim outcomes including the ability to provide unrestricted service.

5.4. The Mental Health and Psychology Section (MHPS) provides ADF members with confidential counselling services. Members are able to access MHPS services through self-referral. Communications with MHPS psychologists are protected confidences. Client confidentiality is limited by subpoena or statutory requirements or where there is a risk of harm to the client or to others. ADF members may access pastoral care through chaplains.

5.5. Defence APS employees are able to access services provided by the Employee Assistance Program. Defence recognises that victims of sexual misconduct may prefer to access external support services. Services such as the Open Arms - Veterans and Families Counselling and community based services are available through self-referral. SeMPRO case managers can provide advice and contact details for services available in the victim's local area.

5.6. It is important for commanders and managers to consider the wellbeing of all personnel affected by or involved in a sexual misconduct incident. Managing, witnessing, or assisting a friend through an incident may affect the wellbeing of those involved. SeMPRO provides debriefing services to those affected by an incident committed against another person, and to personnel managing incidents. It is unable to provide ongoing services to alleged respondents. All personnel, including alleged respondents, may access support services via the mechanisms set out in [Chapter 3 \(Annex 3J\)](#) of this manual.

6. DEFENCE'S ORGANISATIONAL RESPONSE TO SEXUAL MISCONDUCT

6.1. Defence's organisational responses to sexual misconduct form part of Defence's commitment to cultural change. Complying with the appropriate actions outlined in this chapter facilitates this organisational-level change.

6.2. Commanders and managers must demonstrate and promote behaviours that are consistent with the expected behaviours of Defence personnel within their Service or Group. Commanders and managers must take a proactive approach to preventing sexual misconduct. SeMPRO will support commanders and managers to promote desired behaviours, and prevent and respond to unwanted behaviours. SeMPRO will achieve this by developing primary prevention strategies and education products as well as providing direct assistance and support to victims and advice for commanders and managers.

6.3. Commanders and managers should ensure all Defence personnel have training on awareness of what is sexual misconduct and maintain their three year proficiency. Commanders and managers should ensure that they and their management team maintain their three year SeMPRO Commanders and Managers Team proficiency.

6.4. Key promotion courses within each Service should include a SeMPRO educational component on managing and responding to reported sexual misconduct incidents. The SeMPRO incident management training continuum must target promotion courses for SGT(E)-WO2(E) and MAJ(E)-

LTCOL(E) levels as each Service deems appropriate. SeMPRO training must be provided to all new appointees to the APS6 and EL1 levels in the APS, as well as external appointees to the EL2 level.

6.5. Additional training on the broader management of inappropriate workplace behaviours is achieved via instructor-led delivery at unit annual training or via the mandatory annual *'Workplace Behaviour Mandatory Awareness'* online Campus training course. Defence personnel may be required to participate in targeted education sessions as required by their commander or manager.

7. SEXUAL MISCONDUCT INCIDENTS INVOLVING YOUNG PEOPLE

7.1. Defence is committed to providing safe, challenging, high quality, and contemporary youth engagement and development activities across Australia. The Youth Policy Manual (YOUTHPOLMAN) provides direction to all Defence personnel, ADF Cadets members, Defence Approved Helpers, Officers and Instructors of Cadets, and other volunteers on the responsibilities for engaging with young people including ensuring youth safety and wellbeing. YOUTHPOLMAN gives specific guidance for responding to sexual misconduct incidents involving young people and outlines the mandatory reporting requirements.

8. ROLES OF DEFENCE PERSONNEL

All Defence personnel

8.1. Defence personnel must not engage in, participate in, or encourage any form of sexual misconduct. Defence personnel must not engage or participate in any act that could be taken as victimising an individual who reports a sexual misconduct incident.

8.2. Defence personnel who witness a sexual misconduct incident that might constitute a notifiable incident, or who have reason to believe that one has occurred, must immediately report that incident to their commander, manager, or JMPU to enable appropriate action to be undertaken. There are exceptions to this mandated reporting requirement. This chapter is subject to the requirements of Australian law and is not intended to override potential legal privileges, including privilege against self-incrimination, protected confidences with other professionals, or the protections provided to disclosures made under the [Public Interest Disclosure Act 2013](#). A friend of the victim to whom the victim has confided, without a duty of care relationship, is also exempt from mandated reporting.

8.3. Defence personnel or those who are connected to the workplace, who witness sexual misconduct that does not constitute a notifiable incident, such as sexual harassment, should report the incident to their commander or manager as appropriate.

Commanders, managers, and supervisors

8.4. Commanders and managers are to respond promptly and sensitively to all reported sexual misconduct incidents. The primary role of commanders and managers who are managing incidents of sexual misconduct is to ensure the safety of the victim, promote their wellbeing, and facilitate access to appropriate services.

Joint Military Policing Unit (JMPU)

8.5. JMPU is responsible for determining and coordinating the appropriate jurisdiction for handling sexual misconduct incident reports that involve Defence members, those that occur in the Defence

workplace, and those that may have a connection with the Defence workplace, in conjunction with relevant stakeholders.

8.6. JMPU has the authority to investigate matters under the DFDA, whether or not the matter occurs within Australia or overseas. JMPU and civilian police have dual jurisdiction for incidents that take place within Australia.

8.7. JMPU will provide victims of sexual offences with options for further actions. Those options include investigating the matter, providing information for a future investigation should the victim wish it, or taking no further action. JMPU is the primary liaison point between Defence and civilian police. JMPU, on the request of the victim, will facilitate notifying and referring an incident to the relevant civilian police service where they also have jurisdiction within Australia. JMPU will maximise obtaining evidence and information in investigations where the victim wishes to proceed with an investigation. All military police actions will cease where victims do not wish for any further action to take place.

8.8. A number of parallel jurisdictions may exist where a sexual offence occurs offshore, overseas, or in a deployed environment. JMPU will liaise with relevant authorities, including coalition partners and local investigative authorities, to determine any jurisdictional limitations where appropriate.

8.9. JMPU will engage the chain of command as appropriate throughout any sexual offence investigation undertaken by them or by a civilian authority. Where the alleged respondent of a sexual offence is identified as a Defence APS employee, the investigation will reside in the appropriate civilian jurisdiction or through the Directorate of Conduct and Performance for matters that are not sexual offences.

8.10. JMPU will advise victims of misconduct incidents of the range of support options available and encourage victims to utilise those services. JMPU is focused on supporting the victim, minimising harm, and mitigating additional secondary trauma during an investigation. This ensures that all processes have been complied with to ensure that all parties to the incident are appropriately assisted.

8.11. JMPU may revisit past complaints where the same member has been identified as the alleged suspect in three or more reported sexual offences, and the safety of Defence personnel is directly threatened by their continued presence in the workplace or service. JMPU must consult SeMPRO, or other relevant providers such as Joint Health Command (JHC), to aid assessing all potential impacts on victims in these cases. This must occur before JMPU makes contact with victims in past complaints for the purposes of gaining their consent for releasing information to the respective Service Chief or their delegate.

8.12. Provost Marshall - Australian Defence Force may authorise releasing de-identified information to the relevant Service Chief or their delegate for the purposes of taking administrative action against the alleged respondent. JMPU must not include any information about a suspect's partner or ex-partner in information released about reported incidents where that person is one of the victims and without that person's explicit permission. JMPU should not proceed with the release of any information, including de-identified information, where doing so would be to the victims' detriment,

including to their physical, emotional, and psychological safety. JMPU must advise all involved victims, prior to releasing any information, to whom and where those details will be made.

Service Chiefs and Group Heads

8.13. The Service Chiefs and Group Heads are responsible for implementing this chapter within their Service or Group and for demonstrating and promoting behaviours that are consistent with the expected behaviours of Defence personnel. The Service Chiefs and Group Heads are responsible for initiating appropriate action when specific issues are identified by Head People Capability and Head SeMPRO.

Sexual Misconduct Prevention and Response Office (SeMPRO)

8.14. SeMPRO aims to improve the wellbeing of people affected by sexual misconduct in Defence and to improve the organisational response to those personnel. SeMPRO designs and delivers primary prevention strategies, and educational and organisational interventions, that facilitate reducing sexual misconduct in Defence.

8.15. SeMPRO case managers provide a suite of client services including crisis response to those directly affected by sexual misconduct in Defence. These clients are referred to as victim services clients. SeMPRO case managers use therapeutic interventions to assist wellbeing, build resilience, and develop self-management strategies and skills in victim services clients. Case managers also provide system navigation and service coordination, resources and referrals, and education for individuals and their families.

8.16. SeMPRO case managers provide debriefing services to Defence personnel exposed to sensitive material at work and to friends, partners, family, and colleagues of Defence personnel affected by sexual misconduct. The debriefing services aim is to prevent potential psychological injuries arising from workplace exposure to trauma, normalise reactions to indirect exposure to trauma, and assist to promote the emotional stability to provide support to others.

8.17. SeMPRO can be contacted 24/7 on 1800 SeMPRO (736 776); +612 6127 1759 (outside Australia); via text on +61 (0)429 600 800 or email on sempro@defence.gov.au

8.18. SeMPRO case managers promote cultural change by providing advice on responding to sexual misconduct reports and disclosures. SeMPRO case managers assist advice clients to apply Defence's policy and legal requirements for incident management in a way that promotes the wellbeing of victims. This service aims to improve the response victims receive upon disclosing or reporting to Defence while also evolving Defence's organisational response.

8.19. SeMPRO case management services are confidential and are provided by social workers and psychologists. SeMPRO case managers, as social workers and psychologists, are ethically and legally responsible to protect confidences and must operate in accordance with their respective professional practice standards.

8.20. SeMPRO learning and development staff design and deliver educational products on sexual consent, sexual ethics and healthy relationships, and bystander behaviours for Defence. SeMPRO engagement, governance, and co-ordination staff ensure the delivery of these educational products.

8.21. SeMPRO educational packages are designed to build a foundational level of knowledge in Defence personnel on consent and the impact of bystander behaviours.

8.22. Briefings are also provided to command and management teams. These briefings are facilitated conversations. They are designed to ensure that commanders and managers understand the best approach for dealing with sexual misconduct and the importance of applying the trauma informed care principles throughout managing and responding to incidents.

8.23. The SeMPRO-designed Healthy Relationships and Sexual Ethics education course is delivered to New Starter Training Institutes for incoming ADF members while they are in their initial training. This training is delivered by each of the Services by their own instructors.

8.24. SeMPRO has developed a scenario library to assist commanders and managers who would like further resources to promote understanding the impact of sexual misconduct on victims, respondents, and on the unit as a whole. This scenario library is designed to be delivered in conjunction with other SeMPRO educational packages.

Confidentiality

8.27. All SeMPRO clients receive a confidential service regardless of whether they have chosen to make a formal complaint or not. The boundaries of client privacy and confidentiality establish what information is collected from clients. Those boundaries also guide the information obtained from others about clients, determine who that information will be shared with, in how much detail, under what circumstances, for what purpose, and for how long. SeMPRO case managers can only reveal information about clients with the clients' informed consent to release the information and within the specified boundaries. Client confidentiality is limited by subpoena or statutory requirements or where there is a risk of harm to the client or to others. The identifiable risk of potential harm will be carefully assessed applying the principle of the primacy of victim's wellbeing and with reference to relevant policy and legal requirements. Clients must be notified when the case manager plans to disclose their information or if it has been disclosed without their consent. Privacy and confidentiality statutory parameters must be complied with at all times.

Restricted disclosure

8.28. Restricted disclosure is a mechanism that was formalised with the establishment of SeMPRO. It articulates the ability for current serving ADF members who are victims of sexual misconduct to access support, medical assistance, and other services without automatically triggering notifiable incident reporting obligations by the service provider. SeMPRO victim services clients are described as making a restricted disclosure when they contact SeMPRO for support without disclosing or reporting the incident to any other Defence personnel with notifiable incident reporting obligations. All SeMPRO clients receive a confidential service within the same boundaries regardless of their choice to report an incident or not.

Other confidential services across Defence

8.29. Current serving ADF members who are victims of sexual misconduct are able to access confidential services from psychologists, mental health nurses, medical officers in Defence health centres, and chaplains. Psychologists, mental health nurses, medical officers, and chaplains who provide professional services or pastoral care to ADF members are also exempt from notifiable incident reporting obligations that would otherwise stem from providing those services.

Data collation and analysis

8.30. SeMPRO provides centralised reporting on incidents of sexual misconduct. In order to achieve this SeMPRO collates data from a number of sources within Defence, mindful of its privacy and confidentiality obligations. Areas within Defence including, but not limited to, JMPU, the Directorate of Complaints and Resolutions, the Directorate of Conduct and Performance, and the Defence Public Interest Disclosure Scheme that hold data on sexual misconduct should provide that data to SeMPRO on a quarterly basis.

Notifiable incident exemptions

8.31. Head SeMPRO may exempt SeMPRO personnel from notifiable sexual misconduct incident reporting obligations. Exemptions must only be provided for personnel undertaking roles that directly provide support to SeMPRO case managers. This could include, but is not limited to, personnel undertaking data collection and analysis for the purpose of reporting on sexual misconduct in Defence.

9. RESOURCES FOR ASSISTING PERSONNEL TO APPLY THIS POLICY

9.1. SeMPRO case managers can provide direct assistance to apply this chapter, and general information for commanders, managers, and other Defence personnel. SeMPRO is able to provide additional advice on supporting subordinates, colleagues, and friends. Defence personnel who are unsure on how to proceed with a reported incident are encouraged to seek advice from JMPU or Defence Legal Division. The [Incident Reporting and Management Manual](#) can provide initial guidance on reporting obligations for notifiable incidents.

9.2. Defence has other resources which commanders and managers may find useful. The following resources provide assistance for managing sexual misconduct incidents that are not notifiable incidents at the unit level.

Complaints and Alternative Resolution Manual (Chapters 2 and 3)

[Incident Reporting and Management Manual](#)

[Administrative Inquiries Manual](#)

[Public Interest Disclosure Act 2013](#)

[Good Decision making in Defence Guide: A guide for decision-makers and those who brief them](#)

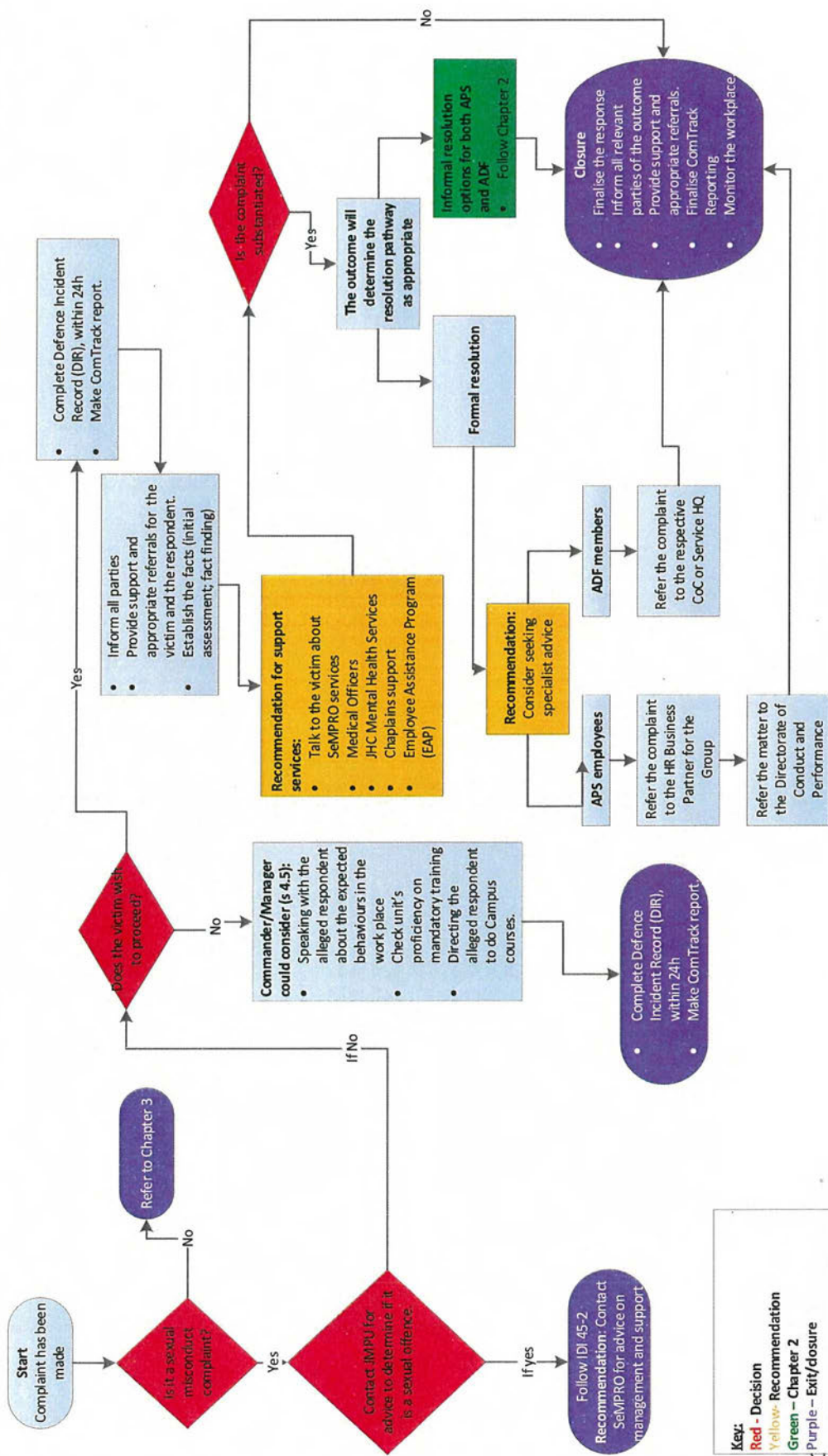
The Directorate of Complaints and Resolution website also contains useful resources for incident management.

Defence recognises that receiving, reviewing, managing, or investigating sexual misconduct reports can personally affect people. SeMPRO case manager's services are available to commanders, managers, and all other Defence personnel for confidential debriefing during and after managing incidents.

Managing a complaint of sexual harassment or sex discrimination.

Please follow these principles throughout the process

- Ensure safety (physical and emotional)
- Assess needs and respond to trauma
- Advise about the processes that will follow
- Don't disadvantage the victim
- Respect their confidentiality and privacy



Key:
 Red - Decision
 Yellow - Recommendation
 Green - Chapter 2
 Purple - Exit/dosure

OFFICIAL



Australian Government
Department of Defence

INCIDENT REPORTING AND MANAGEMENT MANUAL

EDITION 2



A handwritten signature in grey ink, appearing to read 'Tom Clarke'.

Dr Tom Clarke
First Assistant Secretary
Audit and Fraud Control

Department of Defence
CANBERRA ACT 2600

12 August 2019

OFFICIAL

AMENDMENT CERTIFICATE

Amendment number	Chapter(s)	Amendment	Effectuated date
1	Chapter 3, paragraph 3.2	Updated hyperlink reference to incident reporting and management definitions	18 February 2020
2	All	Updated security classification markers	03 September 2020
2	All chapters	Updated references to YOUTHPOLMAN policy	03 September 2020

INCIDENT REPORTING AND MANAGEMENT MANUAL

EDITION 2

Date Issued:	12 August 2019
Issued by:	The Associate Secretary and the Vice Chief of the Defence Force
Document management:	This manual will be reviewed five years from its date of issue or sooner if necessitated by business requirements and to ensure it continues to meet the intent of Defence's policy on this subject. Minor amendments may be made after the date of issue.
Availability:	<p>The latest version of this manual is only available from the Defence manuals webpage.</p> <p>Its currency cannot be guaranteed if sourced from other locations.</p> <p>It is available for public release.</p>
Policy domain:	Administration and governance
Accountable officer:	Associate Secretary
Policy owner:	First Assistant Secretary Audit and Fraud Control
Policy contact:	Director Fraud Control
Purpose:	<p>This manual details policy and process changes to reporting, recording and managing incidents within Defence.</p> <p>The manual provides guidance to all Defence Personnel on what constitutes an incident and how those incidents are to be reported. The manual also provides guidance to managers and commanders on recording and managing reported incidents to ensure an effective centralised incident recording system is maintained for accurate, efficient and timely reporting of incidents within Defence and externally, where appropriate.</p>
Structure:	<p>Chapter 1 – Incident Reporting by Defence personnel</p> <p>Chapter 2 – Incident recording and management by commanders and managers</p> <p>Chapter 3 – Reporting Notifiable Incidents</p>

OFFICIAL

IRMMAN

iv

- Cancellation: Incident Reporting and Management Manual, Edition 1 – Oct 16
IDI(G) ADMIN 45-2—*Incident Reporting and Management*
- Definitions: Definitions that apply to this manual are available in the [Definitions section](#).
- Related documents: A list of related documents can be found on the Audit and Fraud Control [policy intranet page](#).

CONTENTS

Chapter 1	1-1
Incident reporting by Defence Personnel	1-1
Introduction	1-1
Scope and applicability of this manual	1-1
Requirement for Defence Personnel to report an incident	1-2
Exceptions to reporting requirement	1-2
Reporting a Notifiable Incident directly to a Defence Investigative Authority	1-3
Reporting to civilian police forces	1-3
Reporting security related incidents	1-4
Reporting suspected unacceptable behaviour	1-4
Victims of physical violence or emotional trauma	1-4
Incidents involving persons under 18 years of age	1-5
Chapter 2	2-1
Incident recording and management by managers and commanders	2-1
Introduction	2-1
Group and service responsibilities	2-1
Head Defence Investigative Authority responsibilities	2-2
The Defence Incident Record	2-2
Information required for completion of a Defence Incident Record	2-3
The Defence Incident Record process	2-4
Sharing of Defence Incident Records across Services and Groups	2-5
Fact finding	2-5
Chapter 3	3-1
Reporting Notifiable Incidents	3-1
Introduction	3-1
Notifiable incidents	3-1
Responsibilities of managers and commanders	3-1
Actions on reporting a notifiable incident	3-2

CHAPTER 1

INCIDENT REPORTING BY DEFENCE PERSONNEL

INTRODUCTION

1.1 As defined on the Audit and Fraud Control [policy intranet page](#), an incident is any non-routine event or occurrence that may have an effect on Defence, in particular capability, operations, personnel, security, safety, reputation, property, premises, environment, legal and ethical obligations, obligations to minors, and foreign relations. It includes all complaints made by Defence Personnel, person/s engaged under a contract, people involved in Australian Defence Force cadets and other Defence supported youth programs, and members of the public, where the complaint is about Defence (including complaints about Defence Personnel).

SCOPE AND APPLICABILITY OF THIS MANUAL

1.2 This manual is an Administrative Policy framework document and applies to all Defence Personnel.

1.3 The Secretary and the Chief of the Defence Force require Defence Personnel to comply with provisions in Defence manuals unless the particular circumstances warrant departure from the provisions.

1.4 Some manual provisions support Defence Personnel to comply with obligations that exist in legislation, other applicable laws or in Defence Instructions. Defence Personnel must not depart from manual provisions in a way that would result in a breach of applicable laws or Defence Instructions.

1.5 When considering a possible departure from a Defence manual, the Secretary and the Chief of the Defence Force require Defence Personnel to:

- a. consider whether a proposed departure from the provisions is reasonable and justified in the circumstances and will produce a better outcome for Defence;
- b. consult their supervisor, in writing, wherever practicable, about a proposed departure – a properly informed decision may involve consulting the policy owner; and
- c. be responsible and accountable for the consequences of departing from, or not adhering to, the content of a manual including where such departure or non-adherence results in a breach of applicable laws or leads to adverse outcomes for Defence.

1.6 Defence Personnel may be subject to performance management, administrative action, or in some circumstances disciplinary action, where decisions or actions that depart from, or do not adhere to, the provisions in this manual involve serious errors of judgement.

1.7 Failure to adhere to Administrative Policy may result in a breach of legislation or other legal requirement and sanctions under the legislation that may apply.

1.8 This policy applies to persons engaged under a contract where compliance is a term of their contract. People engaged under a relevant contract will be subject to the duties of supervisors and managers to the extent they perform those roles as defined on the Audit and Fraud Control [policy intranet page](#), and will be subject to the duties of Defence Personnel to the extent that they perform their duties as part of a Defence workplace.

1.9 Defence Personnel who award or manage contracts must include in the terms of the contract the requirement to comply with the mandatory requirements of this policy, where this policy is directly relevant to the scope of the contract.

1.10 Failure to comply with the mandatory requirements of this policy – where compliance is a term of a relevant contract – may result in a breach of contract.

REQUIREMENT FOR DEFENCE PERSONNEL TO REPORT AN INCIDENT

1.11 All Defence Personnel who have a reasonable suspicion that an incident has occurred, or who have received credible and/or believable information about any matter that might be categorised as an incident must, as soon as practicable but within 24 hours of commencement of duty, report the incident to their manager or commander. If the incident involves one or more youth, immediate reporting requirements are specified in [Youth Policy Manual](#) (YOUTHPOLMAN) Part 1, Section 3, Chapters 3 and 4.

1.12 Where the incident involves a person under the age of 18, refer to [YOUTHPOLMAN Part 1, Section 3, Chapter 3](#) for guidance on incident reporting.

EXCEPTIONS TO REPORTING REQUIREMENT

1.13 There are, however, a number of exceptions to this requirement. In this regard, Defence Personnel who use any of the following methods to pass on information about an incident are considered to have met their obligations to report the incident;

- a. the incident is a Notifiable Incident and is reported directly to a Defence investigative authority
- b. a notifiable incident is reported directly to civilian police
- c. a disclosure of information about an incident is made under the [Public Interest Disclosure Act 2013](#)
- d. an incident that might affect a person's suitability to hold a security clearance is reported directly to the Australian Government Security Vetting Agency
or
- e. a complaint of unacceptable behaviour has already been made to the complainant's or respondent's manager.

Further guidance on these exceptions is provided in the paragraphs below.

REPORTING A NOTIFIABLE INCIDENT DIRECTLY TO A DEFENCE INVESTIGATIVE AUTHORITY

1.14 There will be circumstances where it is appropriate for Defence Personnel to report a Notifiable Incident directly to a Defence Investigative Authority whether or not it is also reported to their manager or commander. For example:

- a. the Notifiable Incident is such that it requires the immediate attendance of military police; or
- b. there are compelling reasons why the Notifiable Incident should not be reported to a manager or commander (for example, the Notifiable Incident could involve the manager or commander of the person wishing to report the Notifiable Incident).

1.15 Defence expects that the Defence Investigative Authority will, where appropriate and as soon as reasonably practicable, consult with the affected Group or Service about the circumstances of the reported Notifiable Incident.

1.16 Comprehensive guidance on the reporting of Notifiable Incidents can be found at Chapter 3 of this manual.

REPORTING TO CIVILIAN POLICE FORCES

1.17 In some circumstances, it may be appropriate for Defence Personnel to report a Notifiable Incident directly to civilian police forces.

Example

An ADFA volleyball team, consisting predominantly of first year cadets, is on a training camp at Singleton. Late one evening, a 17 year old cadet reports that their volleyball coach, who is an ADFA staff member, assaulted them following a training session earlier that day. The cadet also notes that they witnessed the coach assault another ADFA staff member that afternoon. The Commanding Officer believes, due to immediate concerns for the safety of youth and ADF members, that an urgent response by civilian police is necessary. The CO calls civilian police using the usual police emergency contact number.

1.18 Nothing in this manual is intended to prevent Defence Personnel from reporting suspected criminal offences directly to civilian police forces. Where a Notifiable Incident is reported to civilian police, and where consistent with the policy, Defence also expects its personnel to report the Notifiable Incident to their manager or commander and/or a Defence Investigative Authority.

1.19 For any incidents involving persons (as respondents or claimants) under the age of 18, refer to paragraph 1.29.

REPORTING A PUBLIC INTEREST DISCLOSURE

1.20 The [Public Interest Disclosure Act 2013](#) came into operation on 15 January 2014, providing a statutory framework for the disclosure of suspected wrongdoing and maladministration in the Commonwealth public sector.

1.21 Defence Personnel making a disclosure under the [Public Interest Disclosure Act 2013](#) about suspected wrongdoing or maladministration within Defence are considered to have met any requirement to report an incident.

1.22 Defence has implemented the [Public Interest Disclosure Act 2013](#) through the operation of the [Defence Public Interest Disclosure Scheme](#). Further information and guidance on the operation of the [Public Interest Disclosure Act 2013](#) within Defence can be found at the [Defence Public Interest Disclosure Scheme](#) intranet website.

1.23 Additional material, fact sheets and guidance on the [Public Interest Disclosure Act 2013](#) can be found on the [Commonwealth Ombudsman's Public Interest Disclosure](#) website.

REPORTING SECURITY RELATED INCIDENTS

1.24 Security related incidents can constitute an exception to the mandatory reporting requirement as detailed in the [Defence Instruction Administrative Policy Annex C – AG4 – Incident reporting and management 4.2, d](#). Guidance on reporting security related incidents can be found in the [Defence Security Principles Framework \(DSPF\)](#).

1.25 Defence Personnel reporting incidents in compliance with the [Defence Security Principles Framework \(DSPF\) – Control 77.1 Security Incidents and Investigations](#) are considered to have met their obligation to report an incident.

REPORTING SUSPECTED UNACCEPTABLE BEHAVIOUR

1.26 The Defence policy on reporting unacceptable behaviour is contained within [PPL7 – Required behaviours in Defence](#) and the [Complaints and Alternative Resolutions Manual](#).

1.27 Defence Personnel reporting unacceptable behaviour may report the unacceptable behaviour to the complainant's manager or to the respondent's manager. In either case, Defence Personnel reporting incidents in this manner are considered to have met their obligations to report an incident.

VICTIMS OF PHYSICAL VIOLENCE OR EMOTIONAL TRAUMA

1.28 Defence Personnel who are victims of physical violence or emotional trauma arising from the commission of a criminal act are not compelled to report the incident in accordance with Defence policy; however such victims are encouraged to report incidents to their managers and commanders.

INCIDENTS INVOLVING PERSONS UNDER 18 YEARS OF AGE

1.29 For any incidents involving persons (as respondents or claimants) under the age of 18, actions must be taken in accordance with the guidance provided in [YOUTHPOLMAN Part 1, Section 3, Chapters 3 and 4](#) and this policy.

1.30 Specific caution is required in relation to the disclosure of certain personal information when reporting on youth.

CHAPTER 2

INCIDENT RECORDING AND MANAGEMENT BY MANAGERS AND COMMANDERS

INTRODUCTION

2.1 The responsibility for recording a [Defence Incident Record](#) and reporting an incident (to line management, the chain of command or to a Defence Investigative Authority) are separate and distinct actions in this manual. Defence requires managers and commanders to:

- a. as soon practicable but within 24 hours of commencement of duty, report all required information about a reported incident, through their line management or chain of command;
- b. refer any Notifiable Incident to a Defence Investigative Authority in accordance with Chapter 3 of this manual; and
- c. record details of the reporting and management of incidents in the authorised case management system using a [Defence Incident Record](#).

If the incident involves one or more youth, additional reporting requirements are specified in [YOUTHPOLMAN Part 1, Section 3, Chapters 3 and 4](#).

2.2 The authorised case management system for centralised incident recording in Defence is the Defence Policing and Security Management System. For youth protection events/incidents, refer to [YOUTHPOLMAN Part 1, Section 3, Chapters 3 and 4](#).

2.3 Managers and commanders must manage any incident reported to them until all actions are complete or responsibility for managing the incident has passed to an appropriate internal or external investigative authority.

2.4 Where an incident is recorded in the Army Incident Management System there is no requirement to raise a [Defence Incident Record](#).

GROUP AND SERVICE RESPONSIBILITIES

2.5 Each Group and Service must appoint at least one [Defence Incident Record](#) Manager. Where a [Defence Incident Record](#) Manager has not been appointed, the role will be performed by the Chief of Staff in each Group and Service.

2.6 While managers and commanders are responsible for ensuring all [Defence Incident Records](#) are recorded in the Defence Policing and Security Management System, Group Heads and Service Chiefs may implement Group or Service specific standard operating procedures or protocols for incident record management. Head Joint Support Services Division must be informed of certain youth protection events/incidents; refer to [YOUTHPOLMAN Part 1, Section 3, Chapter 3](#).

HEAD DEFENCE INVESTIGATIVE AUTHORITY RESPONSIBILITIES

2.7 On receipt of a report of a Notifiable Incident, the head of a Defence Investigative Authority or authorised delegate must update any managers and commanders with responsibility for managing an incident on the progress of any assessment or investigation of the Notifiable Incident.

THE DEFENCE INCIDENT RECORD

2.8 [Defence Incident Records](#) are for documenting what was understood about an incident at the time, and documenting actions that were proposed or taken. [Defence Incident Records](#) are critical and auditable records that provide information about an incident and also enhance strategic visibility of incident management in Defence.

2.9 A [Defence Incident Record](#) is not substituted by other operational reporting methods where an Operational Authority may be alerted to an incident by phone, email or formal messaging (Signals). A [Defence Incident Record](#) process will always need to be submitted, with the relevant Service headquarters kept informed.

2.10 A [Defence Incident Record](#) **must** be made as close as possible to the time of an incident, recording the circumstances of an incident as understood by the person making the record. A [Defence Incident Record](#) also records immediate management or command action taken or proposed in response to the incident.

2.11 Completion of a [Defence Incident Record](#) helps a manager or commander ensure they have assessed an incident based on the information available to them at the time. It is recognised that minimal facts or information may be available at the time of completing a [Defence Incident Record](#). Nevertheless, it provides a contemporaneous record that will support informed review and accountability for Defence in the management of incidents.

2.12 Managers and commanders must ensure all incidents reported to them are recorded in the Defence Policing and Security Management System using the link to the [Defence Incident Record](#). A [Defence Incident Record](#) **must** be completed at the earliest opportunity. Where access to the Defence Policing and Security Management System is not possible, Defence Personnel should complete a [Form AE530 – Defence Incident Record](#) and upload the details of that form into the Defence Policing and Security Management System using the [Defence Incident Record](#) link when available.

2.13 Where a [Defence Incident Record](#) or [Form AE530 – Defence Incident Record](#) is unavailable (for example because there is no access to the Defence Restricted Network), managers and commanders should use their discretion to determine the most appropriate format for recording an incident and as soon as reasonably practicable cause that information to be included in a [Defence Incident Record](#) in the Defence Policing and Security Management System.

Where all recordable convictions on a [Form PD052](#) are quashed, the [Form PD052](#) is to be removed from [Form PD103](#) and forwarded to DMDL for archiving and/or disposal as appropriate. The relevant CMA is to be updated on all changes to recordable convictions to ensure centralised records are amended appropriately.

7.31 Where administrative action is taken as a result of the conviction, a copy of [Form PD052](#) is to be retained by the relevant agency as supporting material accompanying the record of the administrative action.

ADMINISTRATIVE CONSEQUENCES

7.32 When a Defence member has a Recordable Conviction adverse administrative action may be considered. However, administrative action is not to be taken for the purpose of rectifying any perceived deficiency or inadequacy in the sentence imposed by a civil court. In cases involving the use of prohibited substances, Commanders must refer to [MILPERSMAN Part 4, Chapter 3](#)—*Management of the Use of Prohibited Substances in the Australian Defence Force*.

7.33 Before any adverse administrative action is taken, the member is to be advised of the proposed action and afforded procedural fairness in accordance with [Good Decision Making in Defence](#).

7.34 The relevant administrative decision-making authority is to ensure that any administrative action is taken while the conviction remains a Recordable Conviction. Once the conviction becomes spent, which may occur after only a short period, the charge and the conviction may not be taken into account in decision-making unless a relevant exclusion applies.

7.35 To make an informed decision on the most appropriate administrative action to be taken, the relevant administrative decision-making authority may wish to examine the evidence gathered by civilian authorities. In such circumstances, the evidence required should be sought from the relevant civilian authority, through the Service Police.

7.36 **Suspension from duty.** In addition to administrative consequences, when a Defence member is convicted of a civil offence they may be suspended from duty pending a decision to terminate their Service, pursuant to section 99 of the [Defence Force Discipline Act 1982](#).

CAREER CONSEQUENCES

7.37 As the seriousness of a civilian conviction, the circumstances that led to the conviction and an individual's personal circumstances vary significantly, the consequences of a civil conviction on an individual's career will also be highly varied. However, irrespective of any administrative action that has been undertaken as a result of the conviction, all members convicted of a civilian offence will have this matter considered by their relevant CMA in future career management decisions, such as promotions, competitive postings, transfer between employment categories, service transfers, deployment and course panelling and Command Initiated Transfer to the Reserves (CITR). The importance placed on the conviction by the CMA will decrease over time, but may remain a consideration for several years, depending on

the offence and the member's circumstances (such as rank, age, seniority and whether they have been promoted subsequent to the conviction).

7.38 Additionally as a minimum, a civilian conviction is to be noted in the member's performance report in the reporting period the conviction is finalised. Wherever possible, the performance report narrative is to provide comment on the impact of the conviction on the member's performance, adherence to Defence values and the efficiency and effectiveness of the Defence Force. The conviction may be referred to in subsequent performance reports where it contributes to the ongoing management and development of the individual.

7.39 Supervisors of members convicted of a civilian offence are also to consider the relevance of counselling, corrective-training and the impact of the conviction on their performance scores and recommendation during the reporting period. They are to seek advice from their Chain of Command as to what, if any other administrative action has or will be taken regarding the matter.

DISCLOSURE OF SPENT CONVICTIONS

7.40 A Defence member does not have to disclose a Spent Conviction to any person, including the ADF, unless a legislative exclusion applies. Should a member disclose a Spent Conviction either voluntarily or by mistake, or where the conviction has become spent post-disclosure, no consideration can be made of that Spent Conviction unless a legislative exclusion applies. Where there is doubt about the status of a particular conviction, legal advice may be sought.

RECORDING OF SERVICE CONVICTIONS

7.41 To record a conviction by a court martial or Defence Force Magistrate (DFM), a copy of the Findings and Punishment Sheet signed by the Judge Advocate or DFM is to be attached to [Form PD103](#) and copies are to be provided to the relevant CMA for retention the member's History File. If on review or appeal one or more convictions are quashed, then the conviction(s) is to be struck through and annotated as such on the Findings and Punishment Sheet and on the cover of the Conduct Record. If all convictions on a Findings and Punishment Sheet are quashed, they are to be taken off the Conduct Record and forwarded to DMDL for archiving and/or disposal as appropriate. The relevant CMA is to be updated on all changes to recordable convictions to ensure centralised records are amended appropriately.

7.42 To record a Service Conviction from a Summary Authority trial, Form C2 - Charge Sheet and Action Report is to be attached to the Conduct Record and copies are to be provided to the relevant CMA for retention the member's History File. If on review one or more convictions are quashed, then those conviction(s) are to be struck through and annotated as such on Form C2 and on the cover of the Conduct Record. If all convictions are quashed the annotated Form C2 is to be taken off the Conduct Record and forwarded to DMDL for archiving and/or disposal as appropriate. The relevant CMA is to be updated on all changes to recordable convictions to ensure centralised records are amended appropriately.

CAREER CONSEQUENCES

7.43 As the seriousness of a service conviction, the circumstances that led to the conviction and an individual's personal circumstances vary significantly, the consequences of a service conviction on an individual's career will also be highly varied. However, all members convicted of a service offence will have this matter considered by their relevant CMA in future career management decisions, such as promotions, competitive postings, transfer between employment categories, service transfers, deployment and course panelling and Command Initiated Transfer to the Reserves (CITR). The importance placed on the conviction by the CMA will decrease over time, but may remain a consideration for several years, depending on the offence and the member's circumstances (such as rank, age, seniority and whether they have been promoted subsequent to the conviction).

7.44 Additionally as a minimum, a service conviction is to be noted in the member's performance report in the reporting period the conviction is finalised. Wherever possible, the performance report narrative is to provide comment on the impact of the conviction on the member's performance, adherence to Defence values and the efficiency and effectiveness of the Defence Force. The conviction also may be referred to in subsequent performance reports where it contributes to the ongoing management and development of the individual.

7.45 Supervisors of members convicted of a civilian offence are also to consider the relevance of counselling, corrective-training and the impact of the conviction on their performance scores and recommendation during the reporting period. They are to seek advice from their Chain of Command as to what, if any other administrative action has or will be taken regarding the matter.

7.46 Supervisors should also consider taking into account the underlying behaviour relevant to Discipline Officer infringements for performance reporting purposes consistent with the policy guidance in the Discipline Officer Manual 2019 [see extract below]:

7.7 Performance reporting and management action. The issuing or undertaking of a Discipline Infringement Notice cannot be recorded other than in the Discipline Officer Register (which must be destroyed after 12 months). However, the facts and circumstances of the member's underlying conduct can be recorded in performance reports or management action. The recording of information detailing a member's poor conduct or behaviour will assist command in the management (including counselling, corrective training and administrative sanctions) of their personnel.

Discipline Officer Manual 2019

MAINTENANCE, CUSTODY AND DISPOSAL OF CONDUCT RECORD

7.47 Unless otherwise directed by the relevant Service CMA, the Conduct Record is maintained at the Defence member's unit by an officer nominated by the CO (normally the officer having responsibility for the maintenance of other unit personnel

documents). Upon discharge from the ADF, a member's Conduct Record is to be sent with their other Service documents for permanent retention by the relevant Service records office. The Conduct Record and any other documentation dealing with a member's convictions history must be marked 'SENSITIVE: PERSONAL'.

7.48 Where a Recordable Conviction becomes spent, the member may notify their CO. Upon confirmation that a conviction has become spent, the CO is responsible for ensuring that the Conduct Record is annotated accordingly, that the PMKeyS Discipline Tracking function is updated, and is to notify the relevant Service CMA and DSVS for the amendment of their records.

EXTERNAL REPORTING AND DISCLOSURE OF CONVICTIONS

REPORTING AND DISCLOSURE OF SERVICE CONVICTIONS TO CIVIL COURTS

7.49 All requests by civil courts for information about Service Convictions should be referred to the [Office of General Counsel – Dispute Resolution and Litigation \(GC-DRL\)](#), within Defence Legal Division.

DISCLOSURE OF SERVICE CONVICTIONS TO THIRD PARTIES

7.50 Where a third party (eg an employer or prospective employer of an ex-Defence member) requests information about a member's Service Convictions, the request is to be forwarded to Service Police Central Records Office for resolution.

RELATED MANUAL CHAPTERS

[MILPERSMAN Part 4, Chapter 3](#)—*Management of the Use of Prohibited Substances in the Australian Defence Force*

[MILPERSMAN Part 9, Chapter 8](#)—*Conduct Reporting and Tracking System*

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Force Discipline Act 1982](#)

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL6](#)—*Reporting, recording and dealing with civil offences, service and civil convictions and diversionary programs*

[Incident Reporting and Management Manual \(IRMMAN\)](#)

[Defence Security Principles Framework \(DSPF\)](#)

[Good Decision Making in Defence](#)

OFFICIAL

MILPERSMAN Part 9

7-12

RELATED WEB FORMS

[Form PD103](#)—*Conduct Record File Cover*

[Form PD052](#)—*Report of Arrest, Charge for Civilian Offence and/or Civil Offence*

Sponsor: ASPPEC (DMPP)

CHAPTER 8

CONDUCT REPORTING AND TRACKING SYSTEM

INTRODUCTION

8.1 In addition to civilian criminal law, members of the Australian Defence Force (ADF) and Defence civilians as defined under the [Defence Force Discipline Act 1982](#) (DFDA) are subject to Service disciplinary proceedings for offences alleged to have been committed against the [DFDA](#). ADF policies also empower the chain of command to impose administrative sanctions against Defence members for unsatisfactory conduct, behaviour or performance standards.

8.2 The combination of a Defence member's convictions under the [DFDA](#) and administrative sanctions constitute a member's total conduct history. Recording the complete conduct history of Defence members is essential for effective career management and discipline maintenance.

8.3 The recording of information regarding a Defence member's civil convictions and Protection Orders enables the relevant Service Command to manage incidents that may impact on a Defence member's character and Defence Values.

POLICY STATEMENT

8.4 Where a Defence member is subject to action under the [DFDA](#), adverse administrative action or the subject of a civil conviction or Protection Order, this information is to be recorded in Defence One/PMKeyS under the heading 'Manage Labour Relations'.

SCOPE

8.5 This chapter applies to all Defence members.

POLICY

8.6 The Conduct Reporting and Tracking System (CRTS) policy establishes a regime for the electronic recording and retrieval of conduct related information on Defence members:

- a. from the time an alleged offence under the [DFDA](#) is first reported, through the investigation and action phase until the case is closed
- b. in relation to adverse administrative action
- c. on the outcome of civil convictions, and
- d. on the details of Protection Orders.

DEFINITIONS

8.7 [Military Personnel Policy Manual \(MILPERSMAN\), Part 1, Chapter 3—Military Personnel Policy Manual Glossary](#) contains terms and definitions used throughout this chapter. For the purpose of this chapter, the following specific definitions apply:

- a. **Administrative Sanction** is an administrative decision initiated and imposed when a members' conduct, behaviour or performance standards are unsatisfactory. Administrative sanctions may include, but are not limited to:
- (1) Administrative posting
 - (2) Censure
 - (3) Formal counselling
 - (4) Formal warning
 - (5) Reduction in rank
 - (6) Re-categorisation
 - (7) Termination of service.
- b. **Adverse administrative action** is action taken in respect of a Defence member which leads to a decision about the imposition of an administrative sanction, whether an administrative sanction is imposed or not.

ROLES AND RESPONSIBILITIES

8.8 **Commanding Officers (COs)** are responsible for assignment of data entry responsibility and monitoring of data integrity (timeliness, completeness and accuracy) where they, or a person/member under their command, are undertaking actions that require reporting and tracking under this policy.

8.9 **Inspector-General of the Australian Defence Force (IGADF)**, as the Business Process Owner is responsible for CRTS management and operation, with additional functions that include:

- a. liaison with users and stakeholders to ensure CRTS complies with policy and legislative changes to the military justice system
- b. liaison with the single Services to ensure CRTS complies with policy and changes to the administrative sanctions process
- c. data and trend analysis and report generation in response to enquiries initiated by the ADF Senior Executive; and
- d. provision of CRTS held information in response to ministerial inquiries and requests under the [Freedom of Information Act 1982](#).

8.10 **Defence One Service Representatives.** Each of the Services have representatives within Defence One / Personnel Information Systems Management Teams. These representatives:

- a. provide advice on single Service specific use of CRTS with respect to discipline and administrative sanction procedures and policies
- b. act as CRTS and policy co-sponsors and
- c. assist IGADF in the maintenance of CRTS currency.

INFORMATION TO BE RECORDED

DISCIPLINARY INVESTIGATION

8.11 CRTS enables the capture of, and the reporting on, the key milestone steps relating to incidents and investigations. These include the date and nature of an alleged offence, the authority conducting the investigation, investigation duration and the unit's decision regarding follow-up action (for example; a charge under the [DFDA](#) or the imposition of an administrative sanction). All investigations conducted under the auspices of the [DFDA](#), whether conducted at the unit level or referred to the Service police or Joint Military Police Unit (JMPU), are to be recorded in Defence One/PMKeyS.

ADVERSE ADMINISTRATIVE ACTION

8.12 Adverse administrative action that may lead to the imposition of an administrative sanction as detailed in MILPERSMAN, Part 9, Chapter 2—is to be recorded in Defence One/PMKeyS. Recording is to include the cause (e.g. unsatisfactory conduct), associated steps (e.g. issuing a notice to show cause) and the resultant action (e.g. imposing a formal warning or a decision not to impose a sanction).

8.13 Confirmation that Defence members are afforded procedural fairness such as adherence to key steps in the adverse administrative action process including any notice (issued under section 30 of [Defence Regulation 2016](#), section 100 of [Defence Act 1903](#), or the [DFDA](#)), any statement of reasons received, and any notification that the imposed sanction has expired are also to be recorded where appropriate.

DEFENCE FORCE DISCIPLINE ACT OFFENCES

8.14 All [DFDA](#) offences are to be recorded in Defence One/PMKeyS. Data entry is to occur in accordance with paragraphs 1.21–22 and includes the mandatory steps as set out in the [PMKeyS Online Library](#). Capture of key elements of the investigation leading to the preference of a charge must precede disciplinary action data entry.

CIVIL CONVICTIONS

8.15 Recording of civil convictions, detailed in MILPERSMAN, Part 9, Chapter 7—'Reporting, Recording and Dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs', are also to be recorded in Defence One/PMKeyS (e.g. cause: civil conviction and result: loss of licence) when reported to a member's unit.

8.16 Defence members receiving a civil conviction may be subject to additional administrative sanction as detailed in relevant single Service instructions and directives.

Protection orders

8.17 All Protection Orders are to be recorded in Defence One/PMKeyS including any interim protection order and others defined in MILPERSMAN Part 9, Chapter 4—'Protection Orders' and MILPERSMAN Part 9, Chapter 5—'Court or Police Orders Restricting Access to weapons or Firearms'. The details to be recorded include the length and cease date for the order, as well as details concerning possession or use of weapons. Whilst the Protection Order is in force, the unit is to ensure any amendments to a Protection Order are entered in Defence One/PMKeyS. When the Protection Order ceases, the unit is to close the case in Defence One/PMKeyS.

EXCLUSIONS

8.18 **Discipline Officer Scheme.** Infringement notices issued as part of the Discipline Officer Scheme are placed on a unit register, not on a member's conduct record and therefore are not to be recorded in Defence One/PMKeyS.

8.19 **Spent Convictions.** When a civil conviction has become a spent conviction, (according to the spent conviction laws that apply in the jurisdiction that it was issued), a Defence member can apply to their unit to have Defence One/PMKeyS updated in accordance with MILPERSMAN, Part 9, Chapter 7—'Reporting, Recording and Dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs'.

8.20 **Other reporting schemes.** The recording of information in Defence One/PMKeyS is complimentary to other mandated reporting schemes.

DATA INTEGRITY

8.21 Data entry responsibility is assigned to the person/area undertaking the action(s) which are subject to reporting and tracking under this policy. There may be more than one responsible party for data entry during the course of an adverse administrative action process.

8.22 Whenever an incident is referred to, or originates from, a Defence Investigative Authority (see *Incident Reporting and Management Manual (IRMMAN)* definition), the following data capture rules apply:

- a. Whenever a Defence Investigative Authority is involved, CRTS data is not to be entered in Defence One/PMKeyS without that authority's concurrence
- b. If data entry is deferred, capture is retrospective after the brief of evidence has been submitted to the unit
- c. If, after an investigation, the brief of evidence is submitted directly to the Director of Military Prosecutions (DMP), data entry is retrospective after the unit is advised of DMP decision to prosecute or the matter referred back to the unit for trial

- d. All investigation related data entry, in real time or retrospective, is a unit responsibility. If retrospective, necessary data elements will be provided by the relevant Defence Investigative Authority as extracted from Defence Policing and Security Management System.

RELATED PUBLICATIONS

[Defence Act 1903](#)

[Defence Force Discipline Act 1982](#)

[Defence Regulation 2016](#)

[Freedom of Information Act 1982](#)

[Australian Defence Force Publication \(ADFP\) 06.1.1 Volume 3 – Discipline Law Manual – Summary Authority and Discipline Officer Proceedings](#)

[Discipline Processing Steps](#)

[PMKeyS Online Library](#)

[IRMMAN](#)

RELATED CHAPTERS

[MILPERSMAN, Part 9, Chapter 2](#)—*Formal Warnings and Censures in the Australian Defence Force*

[MILPERSMAN, Part 9, Chapter 4](#)—*Protection Orders*

[MILPERSMAN, Part 9, Chapter 5](#)—*Court or Police Orders Restricting Access to Weapons or Firearms*

[MILPERSMAN, Part 9, Chapter 7](#)—*Reporting, Recording and Dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs*

Sponsor: ASPPEC (DMPP)

2.14 Certain classes of incidents, however, have separate recording functionality within the Defence Policing and Security Management System. As such, managers and commanders do not need to complete a [Defence Incident Record](#) for the following types of incident:

- a. Security incidents independently reported under the [Defence Security Principles Framework \(DSPF\) – Control 77.1 Security Incidents and Investigations](#) which are recorded in the Defence Policing and Security Management System using forms [XP188](#) (security incident report) and [XP168](#) (contact report).
- b. Information disclosed by Defence Personnel to their supervisors¹ under the [Public Interest Disclosure Act 2013](#), which is subsequently reported to an appointed public interest disclosure 'authorised officer' in Defence. This type of incident will be recorded independently in the Defence Policing and Security Management System through extant policy and processes. Further information on the procedures to be followed by commanders and managers on receipt of a public interest disclosure can be found in the [Defence Public Interest Disclosure Scheme Administrative Guide](#).

INFORMATION REQUIRED FOR COMPLETION OF A DEFENCE INCIDENT RECORD

2.15 The [Defence Incident Record](#) is intended to be a quick reference document, created in a consistent format that provides a reader with the following information (so far as it is readily available and able to be lawfully disclosed):

- a. brief details of what happened, including when, where, and who was involved (as understood by the person completing the [Defence Incident Record](#) at the time it is completed). Refer to paragraph 1.29 for incidents involving persons under the age of 18;
- b. the identity of the person in the unit/team responsible for managing the incident (and the person/property involved, usually the manager or commander of the unit/team involved);
- c. what actions were taken in the team/unit immediately following the incident;
- d. what further action is proposed, including in some cases that no further action is required;
- e. whether the incident has been or will be reported outside the team/unit involved; and

¹ Supervisors in Defence are encouraged to make themselves aware of their obligations under the Public Interest Disclosure Act. Supervisors can review the Public Interest Disclosure Act or access facts sheets and guidance on the Defence Public Interest Disclosure website or the Commonwealth Ombudsman's Public Interest Disclosure website.

- f. reference numbers to any records containing more detailed information about the incident (e.g. the [ComTrack](#) receipt number, Sentinel event number etc.).

2.16 Managers and commanders should be aware that a [Defence Incident Record](#) may contain personal or sensitive information. All [Defence Incident Records](#) should include appropriate dissemination limiting markers, and should be handled and stored appropriately [see the [Privacy Act 1988](#), the [Defence privacy policy](#), the [Defence Security Manual](#) and the [Records Management Policy Manual](#) for further information]. Where the Notifiable Incident involves a respondent or claimant under 18, it is essential that managers and commanders read part 1 of the [Youth Policy Manual](#) (including policy on disclosure of certain personal information).

THE DEFENCE INCIDENT RECORD PROCESS

2.17 [Defence Incident Records](#) are to be completed in three stages: initial; update and closure. The Defence Policing and Security Management System provides for each stage to be recorded.

Initial: Provides the known facts of any incident on a who, what, where, and when basis. It is acknowledged that the initial [Defence Incident Record](#) may be incorrect or contain inaccuracies.

Update(s): Records any developments regarding an incident including what, if any, further action is underway or is required. An update can also be used to correct information provided in the initial report. Where management of an incident is expected to be long term, a weekly/fortnightly/monthly update should be considered.

Closure: Provides information on how the incident was resolved to a point where no further action is necessary.

2.18 In some circumstances, a manager or commander may determine that no further action is required at the outset, in which case only an initial [Defence Incident Record](#) need be completed. When this situation occurs the Defence Incident Record should be annotated as initial and closure.

2.19 For incidents where responsibility for the management of involved personnel is transferred to a different line management or chain of command, the losing area is responsible for conducting a formal handover process to the gaining area. The handover must ensure alignment of the [Defence Incident Record](#) numbering and data entry into DPSMS, as well as ensuring that final notification of incident outcomes and resolution is provided to the DIR originator.

2.20 Further guidance on the use and management of [Defence Incident Records](#) is available by accessing [Defence Incident Record instructions](#) within the [Audit and Fraud Control Division intranet website](#).

2.21 The completion of a [Defence Incident Record](#) does not limit or replace the need, as required, for incidents to also be recorded as:

- a. a safety incident in [Sentinel](#) or on Form [AE 527](#) – Sentinel event report
- b. a report of unacceptable behaviour using [ComTrack](#)

- c. a Notifiable Incident with mandatory notification requirements to a Defence Investigative Authority
- d. a casualty incident as required in the [Defence Casualty and Bereavement Support Manual](#)
- or
- e. any other mandated reporting and recording requirements necessary under legislation or extant policy.

SHARING OF DEFENCE INCIDENT RECORDS ACROSS SERVICES AND GROUPS

2.22 For incidents occurring within a particular Group or Service but which involve personnel from another Group or Service, the reporting Group or Service must ensure that all other relevant Group or Service headquarters are included during the initial notification process. The reporting Group or Service must also keep other relevant Group or Service headquarters updated through to the closure and/or handover of the incident.

FACT FINDING

2.23 As a tool in determining the content of a [Defence Incident Record](#) or to decide whether an incident is a Notifiable Incident as described in Chapter 3 of this manual, managers and commanders may wish to conduct 'fact finding'. Fact finding is a process of collecting information to support decision-making. However, an initial [Defence Incident Record](#) should not be delayed merely to collect additional information.

2.24 Fact finding should not occur where a Defence Investigative Authority is likely to investigate the incident.

2.25 Guidance on the use of fact finding to assist decision making is available in the [Good decision-making in Defence](#) guide.

CHAPTER 3

REPORTING NOTIFIABLE INCIDENTS

INTRODUCTION

3.1 Certain incidents involving Defence and its resources, including personnel, property and premises must be notified to the relevant Defence Investigative Authority so that appropriate action is taken. This chapter defines a Notifiable Incident and details the reporting procedures to be followed.

3.2 Where a Notifiable Incident involves a respondent or claimant under 18, refer to [YOUTHPOLMAN Part 1](#).

NOTIFIABLE INCIDENTS

3.3 The definition of Notifiable Incidents can be found in the [Definitions section](#) of this Manual.

RESPONSIBILITIES OF MANAGERS AND COMMANDERS

3.4 Managers and commanders are required to determine whether an incident is a Notifiable Incident as soon as possible after becoming aware of the incident. Where it is determined that an incident is a Notifiable Incident, it must be reported immediately to a Defence Investigative Authority. If there is doubt as to whether a matter is a Notifiable Incident, it should still be reported to a Defence Investigative Authority. Advice may be sought from a Defence Investigative Authority in appropriate cases. Legal and medical professional privilege may preclude the reporting of certain information.

3.5 Defence requires managers and commanders who have incidents reported to them (including Notifiable Incidents) to be aware of their statutory obligations under relevant legislation, regulations, Government and Defence policies.

3.6 In dealing with reported incidents including Notifiable Incidents, managers and commanders should refer to the Notifiable Incident Referral Guide on the Audit and Fraud Control [policy intranet page](#) to determine the most appropriate Defence Investigative Authority or support agency to which the incident should be referred.

3.7 In circumstances where the jurisdiction for investigating a Notifiable Incident is not clear, managers and commanders must report the Notifiable Incident to a Defence Investigative Authority. Defence expects that the Head Defence Investigative Authority receiving the report will consider any jurisdictional issues and engage with the heads of other Defence Investigative Authorities as appropriate.

3.8 Managers and commanders must afford all reasonable assistance to personnel from the relevant Defence Investigative Authority in the execution of their duties to prevent any unreasonable impediment or interference, including directing or obstructing the investigation or inquiry process.

3.9 Managers and commanders retain responsibility for monitoring and reporting on all incidents to line management and chain of command.

HOW TO REPORT A NOTIFIABLE INCIDENT

3.10 A report of a Notifiable Incident should be made by the most expeditious means possible in accordance with the Notifiable Incident Referral Guide. To ensure there is an auditable reporting trail, reports should be made in writing (for example by email, message, minute or any other means appropriate to the circumstances). Where an urgent Notifiable Incident is reported by telephone or in person, a written report of the incident should be made at the earliest opportunity. Unit reporting of any matter must not be unduly delayed.

ACTIONS ON REPORTING A NOTIFIABLE INCIDENT

3.11 Managers and commanders will continue to manage incidents that are classified as a Notifiable Incident. Generally, the reporting of Notifiable Incidents to Defence Investigative Authorities will trigger a number of possible follow on actions that are intended to assist managers and commanders to manage a particular incident. The ability of Defence Investigative Authorities to pursue particular courses of action is directly related to their authority under law and policy.

3.12 Possible courses of action available to managers, commanders and Defence Investigative Authorities on receipt of a Notifiable Incident report are:

- a. Managers and Commanders ensure, wherever possible, action is undertaken to preserve and secure the incident scene in accordance with the [Defence Incident Scene Initial Action and Preservation Manual](#) until arrival of police and investigative authorities.
- b. Managers and commanders may be required by legislation or policy to report Notifiable Incidents to civilian authorities or civilian investigative authorities. This may occur through a Defence Investigative Authority or directly to civilian authorities as necessitated by an extant emergency. In any event the appropriate Defence Investigative Authority must also be notified.

PART 9: DISCIPLINE AND UNACCEPTABLE BEHAVIOUR

Contents

Chapter 1	1-1
Suspension From Duty	1-1
Introduction	1-1
Policy statement	1-1
Scope	1-1
Definitions	1-1
Authority	1-1
Suspension from duty pending termination	1-1
Treatment of pay	1-3
Related manual chapters	1-3
Related legislation, policy and publications	1-3
Chapter 2	2-1
Formal warnings and censures in the Australian Defence Force	2-1
Introduction	2-1
Policy statement	2-1
Definitions	2-1
Unsatisfactory conduct, performance or standards	2-1
Authority	2-1
Other forms of administrative sanction	2-2
Principles	2-2
Other action	2-3
Selection of appropriate sanction	2-4
Procedural fairness	2-5

Separation of roles	2-6
Procedures	2-7
Administration	2-7
Commencement of a formal warning or censure	2-7
Duration of a formal warning	2-7
Release from a formal warning	2-7
Duration of a censure	2-7
Cancellation	2-7
Recording, filing and distribution	2-7
Support services	2-8
Postings/movements before action finalised	2-8
Postings/movements after action finalised	2-8
Member serving overseas	2-8
Consequences	2-9
Further action	2-10
Redress and review	2-10
Related manual chapters	2-10
Related legislation, policy and publications	2-11
Annex 2A	2A-1
Procedures to be followed in processing formal warnings and censures	2A-1
Delivery of the notice	2A-2
Appendix 2A1	2A1-1
An example format of a notice to show cause why a formal warning/censure should not be imposed	2A1-1
Appendix 2A2	2A2-1
An example format of a formal warning/censure	2A2-1
Appendix 2A3	2A3-1
An example for early release from a formal warning	2A3-1
Appendix 2A4	2A4-1
An example of cancellation of a formal warning/censure	2A4-1
Chapter 3	3-1
Corrective Training	3-1
Introduction	3-1
Policy statement	3-1
Scope	3-1
Definitions	3-1
Principles of corrective training	3-2
Related legislation, policy and publications	3-3
Chapter 4	4-1
Protection Orders	4-1
Introduction	4-1

Policy statement	4-1
Scope	4-1
Definitions	4-1
Roles and responsibilities	4-2
Responsibilities of the Defence member as a respondent	4-2
Responsibilities of the Defence member as an aggrieved person	4-3
Responsibilities of the Commanding Officer	4-3
Responsibilities of the Career Management Agency	4-5
Related manual chapters	4-5
Related legislation, policy and publications	4-5
Chapter 5	5-1
Court or Police Orders Restricting Access to Weapons or Firearms	5-1
Introduction	5-1
Policy statement	5-1
Scope	5-1
Definitions	5-1
Roles and responsibilities	5-1
Responsibilities of the Defence member	5-1
Responsibilities of the Commanding Officer	5-2
Responsibilities of armoury personnel and the Service Police Unit	5-3
Responsibilities of the Career Management Agency	5-3
Responsibilities of Defence Force Recruiting	5-3
Application of court or police orders made under a Commonwealth law	5-4
Related manual chapters	5-4
Related legislation, policy and publications	5-4
Chapter 6	6-1
Reporting and Management of defence Members Absent Without Leave	6-1
Introduction	6-1
Policy statement	6-1
Scope	6-1
Definitions	6-1
Procedures	6-2
Initial action	6-2
Absent without leave in excess of twenty four hours	6-2
Action to be taken on return of AWOL Defence member to parent unit or to other than parent unit prior to three months continuous absence	6-4
Action on return of AWOL Defence member following more than three months continuous absence	6-5
Action on issuing an arrest warrant	6-5
Arrest of absentees	6-5

Related manual chapters	6–6
Related legislation, policy and publications	6–6
Annex 6A	6A–1
Procedures for reporting and management of Navy members absent without leave	6A–1
Appendix 6A1	6A1–1
Breakout routine (for an absentee from the workplace)	6A1–1
Appendix 6A2	6A2–1
Example of absentee breakout proforma	6A2–1
Appendix 6A3	6A3–1
Notification of member absent without leave – extended absence	6A3–1
Appendix 6A4	6A4–1
Distribution of warrants	6A4–1
Annex 6B	6B–1
Signal template – notification of member absent without leave – initial notification	6B–1
Annex 6C	6C–1
Suggested text to primary emergency contact of absentee	6C–1
Annex 6D	6D–1
Signal template – notification of member absent without leave – 22 day notification	6D–1
Annex 6E	6E–1
Signal template – notification of member absent without leave – three month notification	6E–1
Annex 6F	6F–1
Signal template – return of member absent without leave – recovery by parent unit prior to three months away without leave	6F–1
Annex 6G	6G–1
Signal template – return of member absent without leave – recovery by other than parent unit prior to three months away without leave	6G–1
Chapter 7	7–1
Reporting, recording and dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs, and Discipline Officer Infringements	7–1
Introduction	7–1
Policy Framework	7–1
Policy Statement	7–1
Scope	7–1
Definitions	7–2
Civil conviction prior to appointment to or enlistment	7–2
Recording	7–3
A Defence member with a civil offence	7–3

Reporting requirements	7-3
Recording	7-4
Administrative consequences	7-4
Member placed on a Diversionary Program	7-5
Reporting requirements	7-5
Recording	7-5
Administrative consequences	7-6
Member convicted of a civil offence	7-7
Reporting requirements	7-7
Recording	7-7
Administrative consequences	7-8
Career Consequences	7-8
Disclosure of Spent Convictions	7-9
Recording of Service convictions	7-9
Career Consequences	7-10
Maintenance, custody and disposal of Conduct Record	7-10
External reporting and disclosure of convictions	7-11
Reporting and disclosure of Service convictions to civil courts	7-11
Disclosure of Service convictions to third parties	7-11
Related manual chapters	7-11
Related legislation, policy and publications	7-11
Related Web Forms	7-12
Chapter 8	8-1
Conduct Reporting and Tracking System	8-1
Introduction	8-1
Policy statement	8-1
Scope	8-1
Policy	8-1
Definitions	8-2
Roles and responsibilities	8-2
Information to be recorded	8-3
Disciplinary investigation	8-3
Adverse administrative action	8-3
Defence Force discipline Act offences	8-3
Civil convictions	8-3
Protection orders	8-4
Exclusions	8-4
Data integrity	8-4
Related publications	8-5
Related chapters	8-5

List of tables

Table 7-1: Administrative consequences
Table 7-2: Administrative consequences

**Error! Bookmark not defined.
Error! Bookmark not defined.**

CHAPTER 1

SUSPENSION FROM DUTY

INTRODUCTION

1.1 The [Defence Act 1903](#) and [Defence Regulation 2016](#) enable the Chief of the Defence Force (CDF) to suspend Defence members from duty for prescribed reasons. The suspension may also be with pay, without pay or on part pay.

POLICY STATEMENT

1.2 Delegates may make decisions with respect to suspending from duty members of the ADF.

SCOPE

1.3 This chapter details the Defence policy regarding the suspension from duty mechanisms contained in the [Defence Act 1903](#) and [Defence Regulation 2016](#), and is applicable to Defence members. This chapter does not address suspension from duty under the [Defence Force Discipline Act 1982](#).

DEFINITIONS

1.4 Military Personnel Policy Manual (MILPERSMAN), [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

AUTHORITY

1.5 [Defence Regulation 2016](#) provides the CDF authority to suspend a Defence member from duty in prescribed circumstances and to delegate those powers, as detailed in the [Defence Regulation 2016](#) Instrument of Delegation. The [Defence Act 1903](#) provides the CDF authority to suspend a Defence member from duty.

SUSPENSION FROM DUTY PENDING TERMINATION

1.6 Under *Section 28* of the [Defence Regulation 2016](#), a member may be suspended from duty if they have received a notice of a proposed termination, or if a delegate has decided to terminate a member's service but the decision has not yet taken effect (under either the [Defence Regulation 2016](#) or the [Defence Act 1903](#)). A member may be suspended with pay, without pay or on part pay. Further policy on the treatment of pay is in paragraphs 1.13—1.14.

1.7 A member may be suspended with pay without being provided with written notice of the proposed decision. However, if a member is to be suspended without pay or on part pay, the member must be given a notice before the decision is made. The member may be suspended with pay while given an opportunity to respond to a notice about a proposed decision to suspend them without pay or on part pay. In accordance with *Section 30 of [Defence Regulation 2016](#)*, the notice must:

- a. state that it is proposed to suspend the member from duty (including the proposed pay arrangements while the member is suspended – see paragraphs 1.13–1.14)
- b. state the reason for the proposed suspension
- c. set out the facts and circumstances relating to the reason for suspending the Defence member's service, in sufficient detail to allow the Defence member to prepare a written response about why the member should not be suspended from duty, or why the member should receive some or all pay during the period of suspension
- d. invite the Defence member to provide a written response
- e. specify a period of at least 7 days after the date of the notice as the period in which the Defence member may give the statement of reasons.

1.8 A decision to suspend a member without pay or on part pay must not be made until the member has either provided a written response, advised in writing that they do not intend to provide a written response, or the period for providing a written response has ended. The delegate must consider any written response before making a decision.

1.9 A suspended Defence member remains a member of the Defence Force at all times, so requirements to follow lawful commands will continue to apply to them.

1.10 Suspension of a member ends if a decision is made not to terminate the member's service. A delegate may also vary or cancel a decision to suspend the member at any time, provided this is not to the member's detriment, unless the member is provided written notice. Procedural fairness is to be applied at all times.

1.11 A delegate may retrospectively vary a suspension as follows:

- a. If the suspension was without pay – by changing it to suspension with pay or on part pay, or
- b. If the suspension was on part pay – by increasing the amount of part pay or changing it to suspension with pay.

1.12 Suspension from duty is not a punishment or sanction for misconduct. While its effect on a Defence member may be detrimental, the reasons for suspension should be protective – for example to protect a member's safety, the integrity of an investigation, or Defence's reputation. A Defence member should only be suspended when other measures, such as temporary or permanent re-assignment of duties, are not sufficient to meet the relevant protective purpose.

TREATMENT OF PAY

1.13 When considering the suspension of a Defence member without pay or on part pay, the delegate should specify in the notice the effect on pay that is to apply to salary, salary-based allowances, or both. Suspension of pay is only to be applied to salary and salary-based allowances provided for by a Defence Remuneration Tribunal Determination made under *subsection 58H* of the [Defence Act 1903](#). Allowances and benefits provided for by a Determination made under *subsection 58B* of the [Defence Act 1903](#) (as replicated in the [Pay and Conditions Manual](#)) should continue to be paid or provided when a Defence member is suspended.

1.14 When suspension on part pay is to be considered, the notice is to specify the proposed effect on pay in percentage terms. After considering any written response from the Defence member, a subsequent decision made by the delegate to suspend the Defence member must specify the effect on pay, in percentage terms, in the written decision.

1.15 *Subsection 28(5)* of [Defence Regulation 2016](#) also provides for a delegate to retrospectively vary a suspension. Any variation that suspends pay where it wasn't previously suspended, or increases the amount of pay to be suspended, requires that the member is provided a notice as specified in *subsection 28(4)*.

RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 3, Chapter 2](#)—'Australian Defence Force Medical Employment Classification System'

MILPERSMAN, [Part 4, Chapter 3](#)—'Management of the use or involvement with prohibited substances in the Australian Defence Force'

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Act 1903](#)

[Defence Force Discipline Act 1982](#)

[Ombudsman Act 1976](#)

[Defence Regulation 2016](#)

[ADF Pay and Conditions Manual \(PACMAN\)](#)

[Complaints and Alternative Resolution Manual \(CARM\)](#)

[Australian Navy Publications \(ANP\)](#)

[Australian Navy Publication 2110](#)

[Air Force Personnel Standing Instructions](#)

[Army Standing Instruction \(Personnel\)](#)

Sponsor: ASPPEC (DMPP)

PART 9: DISCIPLINE AND UNACCEPTABLE BEHAVIOUR

Contents

Chapter 1	1-1
Suspension From Duty	1-1
Introduction	1-1
Policy statement	1-1
Scope	1-1
Definitions	1-1
Authority	1-1
Suspension from duty pending termination	1-1
Treatment of pay	1-3
Related manual chapters	1-3
Related legislation, policy and publications	1-3
Chapter 2	2-1
Formal warnings and censures in the Australian Defence Force	2-1
Introduction	2-1
Policy statement	2-1
Definitions	2-1
Unsatisfactory conduct, performance or standards	2-1
Authority	2-1
Other forms of administrative sanction	2-2
Principles	2-2
Other action	2-3
Selection of appropriate sanction	2-4
Procedural fairness	2-5

Separation of roles	2-6
Procedures	2-7
Administration	2-7
Commencement of a formal warning or censure	2-7
Duration of a formal warning	2-7
Release from a formal warning	2-7
Duration of a censure	2-7
Cancellation	2-7
Recording, filing and distribution	2-7
Support services	2-8
Postings/movements before action finalised	2-8
Postings/movements after action finalised	2-8
Member serving overseas	2-8
Consequences	2-9
Further action	2-10
Redress and review	2-10
Related manual chapters	2-10
Related legislation, policy and publications	2-11
Annex 2A	2A-1
Procedures to be followed in processing formal warnings and censures	2A-1
Delivery of the notice	2A-2
Appendix 2A1	2A1-1
An example format of a notice to show cause why a formal warning/censure should not be imposed	2A1-1
Appendix 2A2	2A2-1
An example format of a formal warning/censure	2A2-1
Appendix 2A3	2A3-1
An example for early release from a formal warning	2A3-1
Appendix 2A4	2A4-1
An example of cancellation of a formal warning/censure	2A4-1
Chapter 3	3-1
Corrective Training	3-1
Introduction	3-1
Policy statement	3-1
Scope	3-1
Definitions	3-1
Principles of corrective training	3-2
Related legislation, policy and publications	3-3
Chapter 4	4-1
Protection Orders	4-1
Introduction	4-1

Policy statement	4-1
Scope	4-1
Definitions	4-1
Roles and responsibilities	4-2
Responsibilities of the Defence member as a respondent	4-2
Responsibilities of the Defence member as an aggrieved person	4-3
Responsibilities of the Commanding Officer	4-3
Responsibilities of the Career Management Agency	4-5
Related manual chapters	4-5
Related legislation, policy and publications	4-5
Chapter 5	5-1
Court or Police Orders Restricting Access to Weapons or Firearms	5-1
Introduction	5-1
Policy statement	5-1
Scope	5-1
Definitions	5-1
Roles and responsibilities	5-1
Responsibilities of the Defence member	5-1
Responsibilities of the Commanding Officer	5-2
Responsibilities of armoury personnel and the Service Police Unit	5-3
Responsibilities of the Career Management Agency	5-3
Responsibilities of Defence Force Recruiting	5-3
Application of court or police orders made under a Commonwealth law	5-4
Related manual chapters	5-4
Related legislation, policy and publications	5-4
Chapter 6	6-1
Reporting and Management of defence Members Absent Without Leave	6-1
Introduction	6-1
Policy statement	6-1
Scope	6-1
Definitions	6-1
Procedures	6-2
Initial action	6-2
Absent without leave in excess of twenty four hours	6-2
Action to be taken on return of AWOL Defence member to parent unit or to other than parent unit prior to three months continuous absence	6-4
Action on return of AWOL Defence member following more than three months continuous absence	6-5
Action on issuing an arrest warrant	6-5
Arrest of absentees	6-5

Related manual chapters	6-6
Related legislation, policy and publications	6-6
Annex 6A	6A-1
Procedures for reporting and management of Navy members absent without leave	6A-1
Appendix 6A1	6A1-1
Breakout routine (for an absentee from the workplace)	6A1-1
Appendix 6A2	6A2-1
Example of absentee breakout proforma	6A2-1
Appendix 6A3	6A3-1
Notification of member absent without leave – extended absence	6A3-1
Appendix 6A4	6A4-1
Distribution of warrants	6A4-1
Annex 6B	6B-1
Signal template – notification of member absent without leave – initial notification	6B-1
Annex 6C	6C-1
Suggested text to primary emergency contact of absentee	6C-1
Annex 6D	6D-1
Signal template – notification of member absent without leave – 22 day notification	6D-1
Annex 6E	6E-1
Signal template – notification of member absent without leave – three month notification	6E-1
Annex 6F	6F-1
Signal template – return of member absent without leave – recovery by parent unit prior to three months away without leave	6F-1
Annex 6G	6G-1
Signal template – return of member absent without leave – recovery by other than parent unit prior to three months away without leave	6G-1
Chapter 7	7-1
Reporting, recording and dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs, and Discipline Officer Infringements	7-1
Introduction	7-1
Policy Framework	7-1
Policy Statement	7-1
Scope	7-1
Definitions	7-2
Civil conviction prior to appointment to or enlistment	7-2
Recording	7-3
A Defence member with a civil offence	7-3

Reporting requirements	7-3
Recording	7-4
Administrative consequences	7-4
Member placed on a Diversionary Program	7-5
Reporting requirements	7-5
Recording	7-5
Administrative consequences	7-6
Member convicted of a civil offence	7-7
Reporting requirements	7-7
Recording	7-7
Administrative consequences	7-8
Career Consequences	7-8
Disclosure of Spent Convictions	7-9
Recording of Service convictions	7-9
Career Consequences	7-10
Maintenance, custody and disposal of Conduct Record	7-10
External reporting and disclosure of convictions	7-11
Reporting and disclosure of Service convictions to civil courts	7-11
Disclosure of Service convictions to third parties	7-11
Related manual chapters	7-11
Related legislation, policy and publications	7-11
Related Web Forms	7-12
Chapter 8	8-1
Conduct Reporting and Tracking System	8-1
Introduction	8-1
Policy statement	8-1
Scope	8-1
Policy	8-1
Definitions	8-2
Roles and responsibilities	8-2
Information to be recorded	8-3
Disciplinary investigation	8-3
Adverse administrative action	8-3
Defence Force discipline Act offences	8-3
Civil convictions	8-3
Protection orders	8-4
Exclusions	8-4
Data integrity	8-4
Related publications	8-5
Related chapters	8-5

List of tables

Table 7-1: Administrative consequences

Error! Bookmark not defined.

Table 7-2: Administrative consequences

Error! Bookmark not defined.

CHAPTER 1

SUSPENSION FROM DUTY

INTRODUCTION

1.1 The [Defence Act 1903](#) and [Defence Regulation 2016](#) enable the Chief of the Defence Force (CDF) to suspend Defence members from duty for prescribed reasons. The suspension may also be with pay, without pay or on part pay.

POLICY STATEMENT

1.2 Delegates may make decisions with respect to suspending from duty members of the ADF.

SCOPE

1.3 This chapter details the Defence policy regarding the suspension from duty mechanisms contained in the [Defence Act 1903](#) and [Defence Regulation 2016](#), and is applicable to Defence members. This chapter does not address suspension from duty under the [Defence Force Discipline Act 1982](#).

DEFINITIONS

1.4 Military Personnel Policy Manual (MILPERSMAN), [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

AUTHORITY

1.5 [Defence Regulation 2016](#) provides the CDF authority to suspend a Defence member from duty in prescribed circumstances and to delegate those powers, as detailed in the [Defence Regulation 2016](#) Instrument of Delegation. The [Defence Act 1903](#) provides the CDF authority to suspend a Defence member from duty.

SUSPENSION FROM DUTY PENDING TERMINATION

1.6 Under *Section 28* of the [Defence Regulation 2016](#), a member may be suspended from duty if they have received a notice of a proposed termination, or if a delegate has decided to terminate a member's service but the decision has not yet taken effect (under either the [Defence Regulation 2016](#) or the [Defence Act 1903](#)). A member may be suspended with pay, without pay or on part pay. Further policy on the treatment of pay is in paragraphs 1.13—1.14.

1.7 A member may be suspended with pay without being provided with written notice of the proposed decision. However, if a member is to be suspended without pay or on part pay, the member must be given a notice before the decision is made. The member may be suspended with pay while given an opportunity to respond to a notice about a proposed decision to suspend them without pay or on part pay. In accordance with *Section 30 of [Defence Regulation 2016](#)*, the notice must:

- a. state that it is proposed to suspend the member from duty (including the proposed pay arrangements while the member is suspended – see paragraphs 1.13—1.14)
- b. state the reason for the proposed suspension
- c. set out the facts and circumstances relating to the reason for suspending the Defence member's service, in sufficient detail to allow the Defence member to prepare a written response about why the member should not be suspended from duty, or why the member should receive some or all pay during the period of suspension
- d. invite the Defence member to provide a written response
- e. specify a period of at least 7 days after the date of the notice as the period in which the Defence member may give the statement of reasons.

1.8 A decision to suspend a member without pay or on part pay must not be made until the member has either provided a written response, advised in writing that they do not intend to provide a written response, or the period for providing a written response has ended. The delegate must consider any written response before making a decision.

1.9 A suspended Defence member remains a member of the Defence Force at all times, so requirements to follow lawful commands will continue to apply to them.

1.10 Suspension of a member ends if a decision is made not to terminate the member's service. A delegate may also vary or cancel a decision to suspend the member at any time, provided this is not to the member's detriment, unless the member is provided written notice. Procedural fairness is to be applied at all times.

1.11 A delegate may retrospectively vary a suspension as follows:

- a. If the suspension was without pay – by changing it to suspension with pay or on part pay, or
- b. If the suspension was on part pay – by increasing the amount of part pay or changing it to suspension with pay.

1.12 Suspension from duty is not a punishment or sanction for misconduct. While its effect on a Defence member may be detrimental, the reasons for suspension should be protective – for example to protect a member's safety, the integrity of an investigation, or Defence's reputation. A Defence member should only be suspended when other measures, such as temporary or permanent re-assignment of duties, are not sufficient to meet the relevant protective purpose.

TREATMENT OF PAY

1.13 When considering the suspension of a Defence member without pay or on part pay, the delegate should specify in the notice the effect on pay that is to apply to salary, salary-based allowances, or both. Suspension of pay is only to be applied to salary and salary-based allowances provided for by a Defence Remuneration Tribunal Determination made under *subsection 58H* of the [Defence Act 1903](#). Allowances and benefits provided for by a Determination made under *subsection 58B* of the [Defence Act 1903](#) (as replicated in the [Pay and Conditions Manual](#)) should continue to be paid or provided when a Defence member is suspended.

1.14 When suspension on part pay is to be considered, the notice is to specify the proposed effect on pay in percentage terms. After considering any written response from the Defence member, a subsequent decision made by the delegate to suspend the Defence member must specify the effect on pay, in percentage terms, in the written decision.

1.15 *Subsection 28(5)* of [Defence Regulation 2016](#) also provides for a delegate to retrospectively vary a suspension. Any variation that suspends pay where it wasn't previously suspended, or increases the amount of pay to be suspended, requires that the member is provided a notice as specified in *subsection 28(4)*.

RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 3, Chapter 2](#)—'Australian Defence Force Medical Employment Classification System'

MILPERSMAN, [Part 4, Chapter 3](#)—'Management of the use or involvement with prohibited substances in the Australian Defence Force'

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Act 1903](#)

[Defence Force Discipline Act 1982](#)

[Ombudsman Act 1976](#)

[Defence Regulation 2016](#)

[ADF Pay and Conditions Manual \(PACMAN\)](#)

[Complaints and Alternative Resolution Manual \(CARM\)](#)

[Australian Navy Publications \(ANP\)](#)

OFFICIAL

MILPERSMAN Part 9

1-4

[Australian Navy Publication 2110](#)

[Air Force Personnel Standing Instructions](#)

[Army Standing Instruction \(Personnel\)](#)

Sponsor: ASPPEC (DMPP)

Edition 2

AL9
OFFICIAL

CHAPTER 2

FORMAL WARNINGS AND CENSURES IN THE
AUSTRALIAN DEFENCE FORCE

INTRODUCTION

2.1 Formal warnings and censures are two forms of administrative sanctions used within the Australian Defence Force (ADF) to deal with individuals whose conduct, performance or standards are unsatisfactory.

POLICY STATEMENT

2.2 Formal warnings or censures are management tools that may be imposed on individuals whose conduct, performance or standards are unsatisfactory and whose actions or behaviour have adversely impacted, or are likely to impact, on the efficiency, reputation or operational effectiveness of the ADF.

DEFINITIONS

2.3 Military Personnel Policy Manual (MILPERSMAN) [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

UNSATISFACTORY CONDUCT, PERFORMANCE OR STANDARDS

2.4 Unsatisfactory conduct, performance or standards may include, but is not limited to:

- a. personal misconduct
- b. conduct that adversely affects the administrative efficiency/operational effectiveness of the unit
- c. unacceptable behaviour as defined in [Complaints and Alternative Resolutions Manual \(CARM\)](#)
- d. poor performance that is within the member's control, or
- e. errors of judgement, failings or actions that are intentional, careless, reckless or negligent.

AUTHORITY

2.5 The authority to impose a formal warning or censure comes from the inherent power of command, whereas the authority to impose administrative sanctions such as termination or reduction in rank stem from either [Defence Regulation 2016](#) or *Part VIII A* of the [Defence Act 1903](#).

2.6 **Initiating Authority.** An initiating authority is a person who is authorised to issue a notice to a Defence member requesting that they provide reasons why a formal warning or censure should not be imposed on them.

2.7 **Imposing Authority.** An imposing authority is a Defence member who is authorised to decide whether or not to impose a formal warning or censure on a member.

OTHER FORMS OF ADMINISTRATIVE SANCTION

2.8 Other forms of administrative sanction include, but are not limited to:

- a. compulsory transfer of employment category
- b. denying or delaying promotion that the member would otherwise have received
- c. reduction in rank
- d. removal from an appointment or locality
- e. removal of security classification/clearance
- f. termination of service.

2.9 Policies and procedures relating to other forms of administrative sanction are promulgated in other instructions—see related publications at the end of this Chapter.

2.10 The form of administrative sanction imposed by ADF authorities should be proportional to the circumstances of the case. This may involve one or more forms of administrative sanction being imposed.

PRINCIPLES

2.11 A formal warning is a written caution imposed on a member informing them that if their conduct, performance or standards do not improve further action may be taken against them.

2.12 A censure is a written expression of disapproval or criticism of a member in relation to their unsatisfactory conduct, performance or standards.

2.13 The use of formal warnings and censures is governed by the following principles:

- a. **Applicability.** A formal warning or censure can be imposed on any member of the ADF, regardless of rank.
- b. **Appropriateness.** Where the facts of a case may support the elements of an offence, consideration should be given to initiating a disciplinary investigation or referring the matter to the civilian police. In the event that disciplinary and/or criminal proceedings are initiated they should normally be finalised

prior to any action being taken to initiate administrative action. Where the facts of a case do not support the elements of an offence, but the conduct, performance or standards of a member are unsatisfactory consistent with paragraph 2.4, consideration should be given to initiating a formal warning, censure or other administrative sanction. In these specific circumstances fresh independent administrative action is not required. The investigative steps that have been taken in contemplation of disciplinary proceedings may be relied upon as the basis for administrative action as if they had been undertaken in accordance with this chapter.

- c. **Procedural fairness.** Members are to be afforded procedural fairness prior to a formal warning or censure being imposed. Further guidance on the requirements of procedural fairness is detailed later in this chapter.
- d. **Separation of roles.** The member issuing the notice to show cause (NTSC) why a formal warning or censure should not be imposed is to be different from the member deciding on whether to impose the formal warning or censure. The initiating and imposing officers may be of the same or equivalent rank.
- e. **Standard of proof.** The standard of proof required in assessing the evidence and then deciding whether there is sufficient evidence that would tend to support the imposition of a formal warning or censure is on the balance of probabilities. This means that the evidence gathered in support of each allegation is more probable or likely than not. This is different to the much higher standard of proof required in disciplinary or criminal proceedings, which is beyond reasonable doubt.

OTHER ACTION

2.14 **Offences.** Incidents that may amount to disciplinary or criminal offences should be investigated under the [Defence Force Disciplinary Act 1982](#) or referred to civilian authorities for investigation where appropriate. Policy guidance regarding the prosecution of offences under the [DFDA](#) is contained in [Director of Military Prosecutions Prosecution Policy](#), Australian Defence Force Publication (ADFP) 06.1.1, [Volume 3—Discipline Law Manual, Chapter 2—Jurisdiction and Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex C, AG4—Incident Reporting and Management](#).

2.15 Regardless of the outcome of Defence Force Disciplinary Act proceedings or a civilian criminal trial, an administrative sanction can still be imposed on the member out of the same set of facts that led to the disciplinary and/or criminal proceedings. Similarly, the fact that a member is given a punishment or receives no punishment is no bar to imposing an administrative sanction. Disciplinary and administrative proceedings are essentially different in character, purpose and result. A punishment is a penalty that is imposed by statute on a member for a breach of a disciplinary or criminal offence, whereas the imposition of an administrative sanction such as a formal warning or censure has a whole of organisation protective purpose and is designed to reinforce the need for and to encourage members to maintain high standards of conduct and performance. Accordingly, the imposition of a formal

warning or censure has a protective purpose, and should not be imposed in order to punish a person.

2.16 **Sexual offences.** Sexual offences are required to be dealt with in accordance with the [Complaints and Alternative Resolutions Manual \(CARM\)](#).

2.17 **Use of prohibited substances.** In cases involving use of prohibited substances, initiation of any administrative action/sanction will be in accordance with MILPERSMAN, [Part 4, Chapter 3—Management of the Use of Prohibited Substances in the Australian Defence Force](#).

2.18 **Unacceptable behaviour.** Where a member's behaviour amounts to unacceptable behaviour as described in [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7—Required behaviours in Defence](#), then action is required to be taken in accordance with [DI ADMINPOL](#), and where appropriate in all the circumstances, supplemented by the provisions of this chapter as necessary.

SELECTION OF APPROPRIATE SANCTION

2.19 **Counselling.** Counselling should normally precede the initiation of action to impose a formal warning or censure. There is great benefit in taking action to formally counsel members prior to taking other more severe forms of administrative action. However, the fact that a member has not previously been counselled does not prohibit action to initiate a formal warning or censure.

2.20 In circumstances requiring formal warning or censure action, the following guidance is provided to initiating and imposing authorities for determining the most appropriate administrative sanction.

2.21 **Formal warning.** A formal warning will normally be imposed on a member whose conduct, performance or standards has generally been unsatisfactory over a period of time. There will often be a series of minor incidents of unsatisfactory conduct, performance or standards which, if allowed to continue, would be likely to result in the imposition of a more severe sanction such as a reduction in rank or termination. The purpose of a formal warning is two fold:

- a. firstly, to serve as an administrative sanction
- b. secondly, as a remedial action that provides a member with a timely opportunity to improve/correct their conduct, performance or standards in order to avoid the imposition of a more severe sanction.

2.22 **Censure.** A censure will normally be imposed in the following instances:

- a. Where a member's conduct, performance or standards is so unsatisfactory, in relation to one or more incidents, that it warrants the imposition of an immediate and severe administrative sanction. Normally, the unsatisfactory conduct, performance or standards would be of such significance that it has damaged, or has the potential to damage, the reputation of the ADF or part thereof in a material respect.

- b. Where the member has not responded appropriately to an earlier formal warning but they were retained as a serving member.

2.23 Unsatisfactory conduct by a member who has previously been censured would, depending on the seriousness of the circumstances, normally give rise to the separate consideration of whether in all the circumstances it is appropriate to commence action to reduce them in rank or to terminate their service.

2.24 **NTSC for both formal warning and censure.** It is possible to issue a NTSC to a member seeking their response in terms of both formal warning and censure concurrently. However, this can give rise to difficulties in drafting and dealing with the NTSC and the member's response and should not normally be done. If it is considered appropriate in exceptional circumstances to do this, advice should be sought from a legal officer. Difficulties can occur because of differences in initiating and imposing authorities for each form of sanction, differences in the effect of imposing each of the sanctions and possible differences in the factors which will be considered by the decision maker. In addition, it requires a more detailed response from the member (in order to address both potential sanctions) and this can itself cause delay.

PROCEDURAL FAIRNESS

2.25 Where action is taken to initiate or impose a formal warning or censure, the requirements of procedural fairness are to be observed.

2.26 **Opportunity to be heard.** The right to procedural fairness provides a member with an opportunity to be heard prior to a decision being made to impose a formal warning or a censure. The right requires that:

- a. a member is informed of the substance of the case against them
- b. a member is provided with all material that is credible, relevant and significant to the decision to be made
- c. the imposing authority gives consideration to any rational argument a member may wish to place before them why a formal warning or censure should not be imposed.

2.27 **Rule against bias.** A member also has a right to have the decision to impose the formal warning or censure made by an unbiased decision-maker. An initiating or imposing authority is required to bring an impartial and unprejudiced mind to the making of their decision to initiate or impose a formal warning or censure. This determination is based on both a subjective and objective test. The subjective test is determined by the initiating or imposing authority deciding whether they bring an impartial and unprejudiced mind to the making of their decision, and the objective test is determined by deciding whether a reasonable person would consider that the initiating or imposing authority is bringing an impartial or unprejudiced mind to the making of their decision. More information and guidance on rule against bias can be found in [Good decision making in Defence: A guide for decision-makers and those who brief them](#).

2.28 If bias is relied upon in support of an application to disqualify an initiating or imposing authority, a member must be able to firmly establish that the authority's mind is so prejudiced in favour of a conclusion already formed (to their detriment) that they will not alter that conclusion irrespective of the evidence or arguments presented to them.

2.29 **Right of appeal.** Members are able to seek redress if they have any complaint about the way that a formal warning and/or censure have been administered.

2.30 More information and guidance on procedural fairness can be found in [Good decision making in Defence: A guide for decision-makers and those who brief them](#).

SEPARATION OF ROLES

2.31 Members with authority to initiate and impose formal warnings and censures are authorised in writing by the relevant Service Chief.

2.32 **Separate initiating and imposing authorities.** Formal warnings and censures are to be initiated and imposed by different authorities. The initiating authority commences the action by issuing a NTSC to the member why a formal warning or censure should not be imposed. Upon receipt of the member's response, the initiating officer must decide whether or not to proceed with the sanction. The initiating officer has the discretion to decide whether or not to proceed with the matter having regard to all the information available. In the event that the initiating authority decides to proceed they will refer the matter to the imposing authority. The imposing authority decides, having regard to the optimum amount of information, on whether or not to impose the formal warning or censure. As a result, an imposing authority cannot direct an initiating authority to issue a NTSC, but may make a suggestion that consideration should be given to investigating the circumstances surrounding the incident(s) / complaint(s). Similarly, an initiating authority cannot direct an imposing authority to impose a formal warning or censure.

2.33 The separation of roles between the initiating and imposing authorities provides a greater degree of impartiality in deciding whether to impose a formal warning or censure. However, the mere fact that there is a separation of roles does not excuse an initiating or imposing authority from disqualifying themselves from initiating or deciding to impose a sanction, if there is an actual or perceived bias.

2.34 In the event that actual or perceived bias has been firmly established, the initiating or imposing authority is to refer the matter to another initiating or imposing authority of not less than equal or equivalent rank to determine whether to initiate or impose a formal warning or censure.

2.35 The most appropriate members to act as initiating and imposing authorities for a particular case will generally depend on the seriousness and circumstances of each case, which include the rank and appointment of the member against whom action is being considered. Generally, the administration of a formal warning or censure should be managed at the lowest appropriate level, noting that more serious matters and/or those involving members of more senior rank will have to be managed at higher levels.

PROCEDURES

2.36 A detailed description of the procedures to be followed in administering formal warnings and censures is provided in [Annex 2A](#).

ADMINISTRATION

COMMENCEMENT OF A FORMAL WARNING OR CENSURE

2.37 A formal warning or censure commences on the date the imposing authority signs the instrument imposing the sanction. It is not appropriate for such instruments to be back dated or for sanctions to be awarded retrospectively.

DURATION OF A FORMAL WARNING

2.38 The duration of a formal warning is discretionary but would normally be between three to 12 months, depending on the circumstances of the case. Whatever the circumstances of the case, the duration of a formal warning should be long enough for the member to have the opportunity to demonstrate the required improvement in their conduct, performance or standards. Throughout the period of the warning, the member's progress should be reviewed regularly, with feedback provided to the member as and when required.

RELEASE FROM A FORMAL WARNING

2.39 An imposing authority may grant an early release from a formal warning. See [Annex 2A](#) for more details.

DURATION OF A CENSURE

2.40 Once imposed, a censure is a matter of record and its duration is indefinite.

CANCELLATION

2.41 The original imposing authority, or an imposing authority who is both superior in rank to the original imposing authority and whose position confers the authority to impose the same level of sanction may, in the light of compelling new evidence or information that was not reasonably available at the time the original sanction was imposed, cancel a formal warning or censure at any time if it is considered that such action is justified and appropriate in all the circumstances. See [Annex 2A](#) for more details.

RECORDING, FILING AND DISTRIBUTION

2.42 Once a formal warning or censure has been imposed it must be recorded on PMKeyS under the heading *Manage Labour Relations*. Copies of all documentation are then to be sent to the relevant CMA.

2.43 All records relating to formal warnings and censures, whether imposed or not, current, expired or cancelled, are required to be retained as a permanent record on file in accordance with the [Archives Act 1983](#) and individual Service requirements.

However, formal warnings and censures that were cancelled or not imposed, should be annotated accordingly. [Annex 2A](#) provides details on filing and distribution.

SUPPORT SERVICES

2.44 Commanders/supervisors must ensure that all reasonable and practical support services, including but not limited to medical, psychological, legal and welfare, are made available to all members on whom an administrative sanction is initiated and/or imposed.

POSTINGS/MOVEMENTS BEFORE ACTION FINALISED

2.45 **Posting of authorities.** Initiating and imposing authorities are authorised by virtue of their appointment. Therefore, in the event that an authority is posted prior to the completion of action in relation to a formal warning or censure, the new incumbent of the position is to take over those responsibilities.

2.46 **Posting of member.** In the event that a member's posting takes effect prior to being issued with a NTSC or after being issued with a NTSC, but before responding to the notice, the member should respond to the initiating officer at the losing unit. After receiving a response, or if the member fails to respond within the specified period, the initiating officer should decide whether to proceed with the action. If the initiating officer decides to proceed they should forward the material to an imposing authority in the member's new chain of command for a decision.

POSTINGS/MOVEMENTS AFTER ACTION FINALISED

2.47 **Member under formal warning.** If a member's new posting takes effect while under a formal warning, a copy of the formal warning and associated documentation must be forwarded by the Commanding Officer (CO) of the losing unit to the CO of the gaining unit if the formal warning is considered relevant to the nature of the future duties (see [Annex 2A](#) 'release provisions'). The CO of the gaining unit is then responsible to ensure that the member's progress is reviewed and feedback is provided to the member as/when necessary.

2.48 **Member under censure.** If a member proceeds on posting within 12 months of the imposition of a censure, a copy of the censure and the associated documentation must be forwarded by the CO of the losing unit to the CO of the gaining unit. If a member's posting takes effect after 12 months of the imposition of a censure, the documents are to remain on the losing unit's appropriate unit/establishment file.

MEMBER SERVING OVERSEAS

2.49 Where a member is serving overseas (with the exception of those personnel who are deployed), the initiating and imposing authorities responsible for administrative action are to inform the Head of Defence Staff, responsible for the member, on the reasons for and progress of any administrative action. This will enable the Mission to provide appropriate assistance and support to the member within the limits of the Mission.

CONSEQUENCES

2.50 The consequences of a formal warning or censure on a member's future career in the ADF depend entirely on an assessment of the merits and circumstances of each case.

2.51 **General consequences.** A formal warning or censure will be considered in relation to a member's competitiveness for promotion, postings and training courses. As a result, a member should not expect to be promoted or selected for certain postings or training courses whilst under formal warning or within 12 months of the imposition of censure.

2.52 **Expired formal warnings.** Even after the expiry of a formal warning, the unsatisfactory conduct, performance or standards that gave rise to the sanction may still be considered in relation to a member's competitiveness for promotion, postings and training courses. However, the weight given to the unsatisfactory conduct, performance or standard in relation to the member's competitiveness for promotion, postings and training courses should diminish over time.

2.53 **Specific consequences.** In the event that a formal warning or censure is to provide for specific consequences to a member's career, those consequences should be included in the NTSC for formal warning or censure and on the sanction, if imposed, provided it is within the imposing authority's power to determine such consequences. For example, if a member is to undergo alcohol or prohibited substance counselling or testing as a consequence of the sanction, this should be included in the NTSC and on the sanction, if imposed.

2.54 **Performance appraisal reporting.** Where a formal warning or censure is imposed on a member during the reporting period, this, and the reasons for it, should be mentioned in the narrative of the member's performance appraisal report by the member's assessor. Details of any positive or negative response to the remedial provisions of a formal warning, and any improvement or decline in the member's conduct, performance or standards should also be commented on. These comments will be considered in relation to a member's competitiveness for promotion, postings and training courses.

2.55 **Command-initiated transfer to the reserves (CITR)/voluntary redundancy.** Members under a formal warning or censure are not eligible for any expedient or advantageous transfer to the Reserves or separation from their Service by way of a CITR or voluntary redundancy. Members who are subject to an investigation for unacceptable behaviour, performance or standards, or are subject to extant administrative action (including formal warning and/or censure), will not be eligible for CITR or for a redundancy. The period of exclusion will be for the duration of the formal warning or, in the case of a censure, for 12 months immediately following the date the censure is imposed.

2.56 **Cancelled formal warning/censure.** If a formal warning or censure is cancelled there are to be no future adverse consequences on a member's career. Any adverse consequences suffered by the member as a result of the sanction should be as far as practicable remedied.

FURTHER ACTION

2.57 If a member under a formal warning fails to meet the required improvement within the required period, more severe administrative sanctions should be considered and pursued in accordance with relevant DI(G)s and/or single-Service Instructions. More details are contained in [Annex 2A](#).

2.58 If a member is found to have been involved in other incidents of poor conduct, performance or standards while subject to a formal warning or censure, further disciplinary and/or administrative action should be considered against the member such as reduction in rank or termination under the [Defence Regulation 2016](#) or *Part VIIIA* of the [Defence Act 1903](#) see MILPERSMAN, [Part 10, Chapter 2](#)—‘Termination of Service in the Australian Defence Force’.

2.59 Members who have a ‘history’ of formal warnings and/or censures over a number of postings may be issued with a termination notice seeking a statement of reasons why their service in the ADF should not be terminated.

REDRESS AND REVIEW

2.60 If a member has any complaints about the way a formal warning or censure was administered, the member may seek redress in accordance with the [Complaints and Alternate Resolutions Manual](#).

2.61 A formal warning or censure may be reviewed by an imposing authority who is both superior in rank to the original imposing authority and whose position confers the authority to impose the same level of sanction. The reviewing authority may uphold, amend, release or cancel a formal warning or censure.

2.62 The decision to initiate formal warning or censure action is merely a procedural step in the process of deciding whether to impose a formal warning or censure. As such, the decision to initiate formal warning or censure action does not give rise to a right for a member to appeal such a decision.

RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 3, Chapter 1](#)—*Australian Defence Force Policy on Individual Readiness*

MILPERSMAN, [Part 4, Chapter 1](#)—*Alcohol Management in the Australian Defence Force*

MILPERSMAN, [Part 4, Chapter 3](#)—*Management of the Use of Prohibited Substances in the Australian Defence Force*

MILPERSMAN, [Part 10, Chapter 2](#)—*Termination of service in the Australian Defence Force*

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Archives Act 1983](#)

[Defence Act 1903](#)

[Defence Force Disciplinary Act 1982](#)

[Defence Regulation 2016](#)

[Australian Navy Publications \(ANP\)](#)

[Australian Navy Publication 2110](#)

[Australian Defence Force Publication 06.1.1 Volume 3](#)—Discipline Law Manual—*Summary Authority and Discipline Officer Proceedings*

ADFP 06.1.1, [Volume 3—Discipline Law Manual, Chapter 2](#)—*Jurisdiction*

[Air Force Personnel Standing Instructions](#)

[DI\(G\) PERS 15-1](#)—*Australian Defence Force Alcohol Policy*

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7](#)—*Required behaviours in Defence*

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex C, AG4](#)—*Incident Reporting and Management*

[Alcohol Use and the Management of Alcohol Misuse in the Army—Electronic Manual of Personnel Administration](#)

[Complaints and Alternative Resolutions Manual](#)

[Director of Military Prosecutions Prosecution Policy](#)

[Good decision making in Defence: A guide for decision-makers and those who brief them](#)

[Theft—Electronic Manual of Personnel Administration](#)

Annex:

2A [Procedures to be followed in processing formal warnings and censures](#)

Sponsor: ASPPEC (DMPP)

PROCEDURES TO BE FOLLOWED IN PROCESSING FORMAL WARNINGS AND CENSURES

PREPARATION OF THE NOTICE

1. A recommended format for a Notice to Show Cause (NTSC) for Formal Warning/Censure is in [Appendix 2A1](#). When initiating a formal warning or censure against a member, the initiating officer is to:
 - a. give the member written notification of the proposed action to be taken against them
 - b. advise the member of the substance of the case against them
 - c. subject to privacy and other considerations, give the member all material that is credible, relevant and significant to the decision to be made, including copies of statements and other documents containing the evidence, policy and other information being relied upon to make the decision (redacted as required)
 - d. advise the member of the consequences of the sanction, if imposed
 - e. give the member an opportunity to reply
 - f. advise the member of the time period they have in which to respond, which should be at least 14 days
 - g. request the member to acknowledge receipt of the notice and all accompanying material attached to the NTSC
 - h. refer the matter to the imposing authority, unless deciding not to proceed with the action in light of the member's response.
2. **Documentation.** The imposing authority is ultimately responsible for ensuring that the member is provided with material that is credible, relevant and significant to the decision to be made. However, the initiating authority is responsible for ensuring that the member is provided with this material when the notice is issued. The mere fact that there is a requirement to provide the member with material does not mean that the source and nature of all material that comes before the imposing authority must be disclosed. The decision whether information is credible, relevant and significant is to be made by the imposing authority. It is the imposing authority's responsibility to ensure that the member has had an opportunity to comment on all information that the imposing authority believes is credible, relevant and significant to the decision to be made.

3. In the event that the material to be disclosed is voluminous and/or complex, the initiating authority should ensure that the member has been directed to the parts of the material that are considered credible, relevant and significant to the decision being made. The decision whether a member has been properly directed to those parts of the material is ultimately the responsibility of the imposing authority.

4. Subject to privacy considerations, all material that is credible, relevant and significant to the decision to be made is to be provided with the notice. This may include statements from witnesses, civilian or military police reports, records of civilian or military convictions, evidence of prior counselling, warnings or administrative inquiry reports, medical reports, Defence policies, publications and manuals, and unit orders. Other information may include previous conduct, Service history, potential harm to the reputation of the Australian Defence Force and the impact of the conduct on the unit.

5. **Initiating authority's recommendation.** If the initiating authority is to make a recommendation to the imposing authority on the imposition of the sanction, then this recommendation is to be notified to the member within the NTSC in order to give the member an opportunity to respond to the recommendation.

DELIVERY OF THE NOTICE

6. The notice should be hand delivered to the member by the initiating officer or representative (who should be superior in rank to the member). An acknowledgement of receipt of the NTSC and all accompanying material should be obtained at the time of delivery and the date recorded. If the member does not wish to provide a receipt or acknowledgement for delivery, then the member delivering the notice should make a file record of the time and date of delivery, that they satisfied themselves that the person to whom the documents were delivered was the relevant member and an annotation that the member declined to provide the acknowledgement.

RESPONSE

7. In preparing a response a member is entitled to seek the assistance of a unit representative or legal officer.

8. If a member accepts that their conduct, performance or standard has been unsatisfactory, they can choose not to respond to the notice or they can give reasons why the sanction sought to be imposed is too harsh in the circumstances. They may, if they wish, make submissions that a lesser sanction may be more appropriate.

9. If a member does not accept that their conduct, performance or standard has been unsatisfactory, they can choose to respond with rational arguments as to why the sanction should not be imposed. They can dispute any allegations of fact contained in the notice, or the member can indicate why some information should be afforded less weight when considering the information and may supply any relevant information for consideration by the imposing authority.

10. If a member needs further time in which to respond, they are to request an extension in writing. The request should be hand delivered to the initiating authority or the representative who delivered the notice. If the initiating authority decides to

grant an extension of time, this should be notified to the member in writing. Normally, extensions of time will be granted where appropriate reasons are given and any extension should not exceed seven days.

11. The response should be hand delivered to the initiating authority, the representative or other nominated person on or before the close of business (COB) on the last day given for the response.

DECISION TO PROCEED

12. Once the member's response is received or the member has not responded by the COB on the last day given for the response, the initiating authority is to conduct a review of the matter. This review should be conducted within five working days. The purpose of the review is to determine whether or not to proceed with the proposed action.

13. In the event that the initiating authority determines that formal warning or censure action should not proceed and that no further action involving an imposing authority is to be taken, they are to notify the member of that decision, in writing. The initiating authority may, however, decide that other less severe action (eg counselling) is appropriate and proceed accordingly.

REFERRAL TO THE IMPOSING AUTHORITY

14. If a decision is made to proceed with the proposed action to impose a formal warning or censure, the initiating authority is to forward the NTSC, including all attachments, together with any response by the member to the imposing authority.

15. Unless the initiating authority has previously advised the member of their recommendation on the imposition of the formal warning or censure and provided the member with an opportunity to respond, no recommendation or comment is to be made to the imposing authority.

OBLIGATIONS OF THE IMPOSING AUTHORITY

16. Prior to making a decision whether to impose a formal warning or censure, the imposing authority is to satisfy themselves that the member has been:

- a. given appropriate notice of the proposed action
- b. advised of the substance of the case against them
- c. advised of any recommendation by the initiating authority on the imposition of a formal warning or censure
- d. provided with all material that is credible, relevant and significant to the decision to be made
- e. given a reasonable opportunity to reply
- f. given the opportunity to seek the assistance of a unit representative or legal officer.

17. In order for the imposing authority to be satisfied that the requirements of procedural fairness have been met, the imposing authority may wish to refer the question of whether or not procedural fairness has been applied in the consideration of the matter to a legal officer.

FACTORS TO BE CONSIDERED

18. In deciding whether a formal warning or censure is to be imposed, and without limiting the matters to be taken into account, the imposing authority is to consider:

- a. the relative seriousness of the issue giving rise to the proposed action
- b. the quality and nature of the evidence that supports the proposed action
- c. any recommendation by the initiating authority on the imposition of a formal warning or censure
- d. whether, on the balance of probabilities, the evidence is sufficient to establish the case against the member and warrants the imposition of a formal warning or censure
- e. the member's response to the proposed action
- f. the member's conduct after issue of the NTSC
- g. the rank, appointment and service experience of the member
- h. the potential consequences of a formal warning or censure on the member's immediate career.

19. If the imposing officer, after reviewing the documentation, considers that the case warrants a more serious response (eg termination of service), the imposing authority must advise the initiating authority accordingly and further action is to be taken in accordance with Military Personnel Policy Manual (MILPERSMAN), [Part 10, Chapter 2](#)—*Termination of Service in the Australian Defence Force*.

20. Further guidance on decision making and matters to be taken into account when deciding to impose a formal warning or censure is set out in [Good Decision Making in Defence: a Guide for Decision-Makers and Those Who Brief Them](#).

IMPOSITION OF A FORMAL WARNING/CENSURE

21. A recommended format for a formal warning/censure is in [Appendix 2A2](#). The formal warning/ censure must include:

- a. the decision to impose the formal warning/censure and its duration
- b. the precise nature of the conduct, performance or standards that are unsatisfactory
- c. reasons/evidence for the formal warning/censure

- d. in the case of a formal warning, the precise remedial improvement/corrective action required and notice that failure to achieve the required improvement and/or corrective action within the stated period may result in the initiation of further action
- e. its consequences
- f. the right of review or redress.

RECORDING AND NOTIFICATION OF THE DECISION

22. All decisions relating to the imposition or non imposition of a formal warning/censure and the associated reasons are also to be recorded and retained on file. Written notification of the decision is to be provided to the member and the initiating officer.

RELEASE

23. If a member improves to the required standard before the end of the formal warning period, the imposing authority may grant the member an early release from the formal warning if warranted. The release is to be in writing. A recommended format for a release is in [Appendix 2A3](#). In the absence of an early release, the formal warning will automatically lapse at the end of the specified period without the requirement to formally release the member, in writing.

24. If a member is to be posted during the period of the formal warning, it may be appropriate to release a member from the sanction if their future duties do not relate to the conduct, performance or standards for which the sanction was imposed and there is no way to demonstrate or measure improvement.

FAILURE OF MEMBER TO MEET REQUIREMENTS OF FORMAL WARNING

25. If a member fails to meet the conditions of the formal warning within the specified period, more severe administrative sanctions may be considered and initiated in accordance with instructions covering the particular action to be taken. For example, if termination of service is considered necessary, action is to be taken in accordance with MILPERSMAN, [Part 10, Chapter 2—Termination of Service in the Australian Defence Force](#) and relevant single-Service Instructions. More serious administrative sanctions may be initiated before the expiry date of the formal warning if the member is not making a reasonable attempt to comply with the conditions of the formal warning.

26. **Second formal warning.** Where the member has made reasonable effort and progress towards satisfying the conditions of the formal warning but has not achieved sufficient compliance by the expiry date, the member may be given more time to achieve the necessary improvement. If considered appropriate, authorities can do this by way of the initiation of a second formal warning at or just prior to the expiry of the original formal warning. In these circumstances, the procedures to be followed are the same as for the first formal warning.

CANCELLATION

27. The original imposing authority, or an imposing authority who is of the same/ equivalent rank or higher to the original imposing authority and whose position confers the authority to impose the same level of sanction, may, having appropriate regard to compelling new evidence or information, cancel a formal warning or censure at any time if it is considered by the reviewing authority that such action is justified and appropriate in the circumstances. A recommended format for cancellation is in [Appendix 2A4](#).

DISTRIBUTION/FILING

28. The original document of the formal warning/censure is to be handed to the member with a signed acknowledgement obtained from the member. Distribution of formal warning/censure records, including the NTSC and/or cancellations are to be filed as follows:

- a. Where a formal warning/censure is not imposed either because the initiating officer suspends further processing as a result of the member's response to the NTSC, or the imposing authority decides not to impose the formal warning/censure—original documents are to be passed to the member, with copies placed on the appropriate unit/ establishment file.
- b. Where a formal warning/censure is imposed—original documents are to be distributed to the member, a copy placed on the appropriate unit/establishment file and a copy forwarded to the relevant Career Management Authority for placement on the member's file. For members serving on operations, a copy of the relevant documentation is to be sent to the Commanding Officer of the member's parent unit (where the member has not deployed with their parent unit).

All documentation is to be marked *Sensitive: Personal*.

29. **Incidents of unacceptable behaviour/sexual offences.** Where an administrative sanction has been imposed in relation to an incident of unacceptable behaviour as described in [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7—Required behaviours in Defence](#), the [Directorate of Complaint Resolution](#) must be notified by the imposing authority using [Complaints and Alternative Resolutions Manual \(CARM\)](#). If the sanction is subsequently cancelled, Directorate of Complaint Resolution must be informed accordingly.

Appendices:

- 2A1 [An example format of a notice to show cause why a formal warning/censure should not be imposed](#)
- 2A2 [An example format of a formal warning/censure](#)
- 2A3 [An example for early release from a formal warning](#)
- 2A4 [An example of cancellation of a formal warning/censure](#)

**AN EXAMPLE FORMAT OF A NOTICE TO SHOW CAUSE
WHY A FORMAL WARNING/CENSURE SHOULD NOT
BE IMPOSED**

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

**Notice to show cause why you should not have a formal warning/censure
(delete as applicable) imposed on you**

1. It has been brought to my attention that your conduct/performance/standards have been unsatisfactory, the details of which are provided below. You are invited to show cause:

- a. why the imposing authority *(state appointment eg Commanding Officer XX)* should not be satisfied that the facts and circumstances, as alleged, occurred; and
- b. why the imposing authority should not impose a formal warning for a period of *(insert time period)*/censure upon you.

2. I am informed that *(insert a summary of the facts and circumstances relied upon to impose the formal warning/censure)*.

3. These allegations are evidenced in the following material, attached to this Notice:

- a. *(subject to privacy and other considerations, give the member material that is credible, relevant and significant to the decision to be made. List and attach for example copies of statements and other documents containing the evidence, policy and other information being relied upon to make the decision, including relevant reports/Service police reports/statements; any relevant instructions and policies etc.)*

4. Subject to any response you may wish to submit, I will be recommending to the imposing authority that a formal warning/censure be imposed on you. The details of my recommendation are as follows *(this paragraph may be deleted if it is not proposed to make a recommendation to the imposing authority)*:

- a. *(Specific details of the recommendation to be made to the imposing authority should be provided to enable the member to have an opportunity to respond to it.)*

5. In making a decision whether to impose a formal warning/censure upon you the imposing authority will consider the following material:

- a. this Notice to Show Cause, including all material attached to this Notice;
- b. any reply and relevant material you submit in response to this Notice; and
- c. your service record.

6. You have 14 days from the date this Notice is delivered to you to show cause why the imposing authority should not impose a formal warning/censure upon you. Your response is to be in writing and any relevant evidence or other information that you wish the imposing authority to consider is to be attached to your response. In your response, you may address the facts, conclusions to be drawn from them and what action, if any, the imposing officer should take.

7. If you wish to have an extension of time for submitting your response to me, you are to apply to me or my nominated representative, in writing, with the reason you are requesting an extension.

8. You may consult a Service legal officer, if one is available, or may have another person assist you in preparing your response.

9. If after receiving your response I do not refer the matter to the imposing authority, I may pursue other less severe forms of administrative sanctions or decide that no action is to be taken. Some of these other forms of administrative sanction are detailed in MILPERSMAN, Part 9, Chapter 2. As a result, you should consider addressing alternate forms of administrative sanction in any response you submit.

10. If after receiving your response I decide to refer the matter to the imposing authority, the imposing authority may direct that other less severe forms of administrative sanction are to be taken against you. For similar reasons you should address alternate forms of administrative sanction in any response you submit.

11. The administrative consequences of a formal warning/censure are detailed in MILPERSMAN, Part 9, Chapter 2. In the event that the imposing authority decides to impose a formal warning/censure¹ on you the following consequences may apply:

- a. you should not expect to be promoted or selected for certain postings or training courses during the period of this formal warning/for 12 months following the imposition of this censure¹;
- b. *(List specific consequences that may flow from the imposition of the sanction. For example alcohol or prohibited substance counselling and/or testing);*
- c. You will not be considered for a Command Initiated Transfer to the Reserve or a voluntary redundancy during the period of this formal warning/for 12 months following the imposition of this censure¹; or

OFFICIAL

MILPERSMAN Part 9

2A1-3

d. This formal warning/censure¹ will remain permanently on your personal records and may be taken into account for future decisions regarding your career management, particularly if you have a history of formal warnings/censures¹ and/or other administrative sanctions being imposed on you.

12. You are requested to sign an acknowledgement that you have 'read and understood' this Notice. The original copy is for your retention and a copy will be placed on file.

(Insert Signature block of initiating authority)

Enclosures:

1. *(Attach the material referred to in paragraph 3 of the NTSC)*

I *(Service number, rank and name of member)* hereby acknowledge that I have read and understood this Notice to Show Cause why a formal warning/censure¹ should not be imposed upon me and that I have 14 days in which to respond. I have received a copy of this notice for my retention, including the information referred to in paragraph 3. above upon which the decision to impose the proposed formal warning/censure will be based.

(Insert Signature block of member)

**AN EXAMPLE FORMAT OF A FORMAL
WARNING/CENSURE**

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

1. I, *(Service number, rank and name of person imposing the formal warning/censure)*, have determined that your conduct/performance/standards has/have been unsatisfactory and therefore impose a formal warning for a period of *(insert duration)*/censure upon you.

2. I have made that determination upon reaching the conclusion that you have exhibited the following unsatisfactory conduct/performance/standards:

a. *(Provide a description of the unsatisfactory conduct, performance or standards exhibited.)*

3. The evidence from which I have concluded that your conduct/performance/standards have been unsatisfactory is contained in the following material:

a. *(The information contained in these subparagraphs must have been notified to the member in the Notice to Show Cause (NTSC). If not, then the member may have been denied procedural fairness.)*

In reaching my conclusion, I have taken particular account of the matters you have raised in your response to the NTSC.

4. I consider that your conduct/performance/standard¹ has been unsatisfactory in the following respect: *(insert one or more of the following as required)*

a. demonstrated a significant error of judgment and the trust placed in you;

b. been below the standard expected of a member of your rank and position in the RAN/Army/RAAF;

c. brought discredit and disrepute on you and your command position;

d. brought discredit upon the Australian Defence Force;

e. represented a failure to perform your duties at a sufficient standard required in the position of *(insert position)*;

f. undermined the authority of your position as *(insert appointment)*;

g. resulted in a loss of confidence towards you by *(insert appointment)*;

- h. demonstrated a disregard of Defence Instructions (General) (DI(G))s and policy for the proper use or management of (*insert resource/s*);
- i. demonstrated a pattern of conduct that is unsatisfactory.

Note:

Paragraphs 5 and 6 used only for formal warnings.

5. By the end of the formal warning period, you are required to have demonstrated the following improvement in your (*insert one or more of the following as required: conduct, performance or standards*):

- a. (describe improvements or corrective action required).

6. If you fail to achieve the required improvement, more severe administrative sanctions may be taken against you, such as:

- a. (insert possible action if appropriate).

Such action may be initiated before the expiration of the warning period if you have not made a reasonable attempt to meet the required (*insert one or more of the following as required: conduct, performance or standards*) expected, or if you come to notice for any further unsatisfactory behaviour.

Note:

Following paragraphs are used for both formal warnings and censures and renumbered as appropriate.

7. The administrative consequences of a formal warning/censure are detailed in MILPERSMAN, Part 9, Chapter 2. The following consequences apply in the circumstances of your case:

- a. You should not expect to be promoted or selected for certain postings or training courses during the period of this formal warning/for 12 months following the imposition of this censure
- b. (List specific consequences that will flow from the imposition of the sanction. For example alcohol or prohibited substance counselling and/or testing)
- c. You will not be considered for a Command Initiated Transfer to the Reserve or a voluntary redundancy during the period of this formal warning/for 12 months following the imposition of this censure¹
- d. This formal warning/censure will remain permanently on your personal records and may be taken into account for future decisions regarding your career management, particularly if you have a history of formal warnings/censures and/or other administrative sanctions being imposed on you.

OFFICIAL

MILPERSMAN Part 9

2A2-3

8. You are requested to sign this document as having 'read and understood' it. The original copy is for your retention, a copy will be placed on the file held by this unit/establishment and a copy will be forwarded to *(insert applicable career management agency)* and placed on your personnel file.

9. If you have a complaint about any of the administrative action leading up to the imposition of this formal warning/censure, you have the right to seek review of my decision in accordance with the [Complaints and Alternate Resolutions Manual](#).

(Insert Signature block of imposing authority)

I *(Service number, rank and name of member)* hereby acknowledge that I have read and understood this formal warning/censure. and have received a copy for my retention, including the information upon which the decision to impose the formal warning/censure was based.

Note:

Following paragraph to be used only for formal warnings, as it is not relevant to censures.

I understand that, having been warned, if I fail to achieve the standard required of me within a period of *(insert period)* from the date of this warning or if I fail to achieve the required improvement, I may be the subject of more severe administrative sanction, such as *(insert possible action)*, the possible consequences of which have been explained to me. I am aware that such action may be initiated before the expiration of the prescribed warning period if I am not making a reasonable attempt to meet the required conduct, performance or standards expected, or if I come to notice for any further unsatisfactory behaviour.

(Insert Signature block of member)

AN EXAMPLE FOR EARLY RELEASE FROM A FORMAL WARNING

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

1. I, *(Insert Service number, rank and name of person imposing the formal warning)*, have determined that your conduct/performance/standard during the period of this sanction has been satisfactory and now release you from the formal warning imposed on you.

2. The consequences notified to you in the formal warning are no longer in effect. However, you should note that the unsatisfactory conduct / performance / standard that gave rise to the formal warning may still be considered by your career manager in relation to you competitiveness for promotion, postings and training courses in the future.

(Insert Signature block of formal warning authority)

I *(Insert Service number, rank and name of member)* hereby acknowledge that I have read and understood this release from formal warning and have received a copy for my retention.

(Insert Signature block of member)

**AN EXAMPLE OF CANCELLATION OF A FORMAL
WARNING/CENSURE**

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

1. On *(insert date)* I, *(insert Service number, rank and name of person imposing the formal warning/censure)*, imposed a formal warning for a period of *(insert period)* / censure upon you, having determined that your conduct/performance/standard was unsatisfactory.

2. I hereby cancel the formal warning/censure¹ for the following reason(s):

a. *(provide a description of reason(s)).*

3. The information upon which I have based the decision to cancel the formal warning/censure is attached. (Include the new information or material that caused the cancellation decision. Relevant privacy provisions to apply).

4. As a result of this cancellation there are to be no further adverse consequences to your career. Any adverse consequences that you may have suffered as a result of the imposition of the sanction will be as far as practicable remedied.

(Insert Signature block of formal warning/censure authority)

I *(insert Service number, rank and name of member)* hereby acknowledge that I have read and understood this cancellation of the formal warning/censure and have received a copy for my retention, including the information upon which the decision to cancel the formal warning/censure was based.

(Insert Signature block of member)

CHAPTER 3

CORRECTIVE TRAINING

INTRODUCTION

3.1 Subject to this chapter, Defence members, by virtue of command and rank, are authorised to direct a subordinate member to complete corrective training when the Defence member's performance, although unsatisfactory, does not warrant administrative or disciplinary action.

POLICY STATEMENT

3.2 Defence's mission is to defend Australia and its national interests. This requires the Australian Defence Force (ADF) to maintain an operationally capable force with high levels of fitness, commitment, efficiency and discipline among its members. To maintain this operationally capable force, Defence has a requirement to ensure Defence members are appropriately trained. Corrective training is a management tool that may be used when a member's performance of their duties has been unsatisfactory. Corrective training is an additional tool available to commanders to ensure that members perform their duties to a satisfactory standard.

SCOPE

3.3 This chapter provides guidance for all Permanent and Reserve members of the ADF on the policy and principles for directing a subordinate Defence member to undertake corrective training. Any Permanent or Reserve member of the ADF who directs a subordinate Defence member to undertake corrective training is to comply with the contents of this chapter. Failure to comply with the mandatory aspects of this chapter may result in administrative or disciplinary action.

3.4 This chapter contains basic, guiding principles in relation to corrective training. Commanders, in particular commanders of training establishments, are able to develop their own, more detailed, corrective training policy in accordance with the principles contained in this chapter in order to address unit-specific requirements.

3.5 The imposition of corrective training does not relieve a Defence member or commander of their obligation to report a notifiable incident.

DEFINITIONS

3.6 Military Personnel Policy Manual (MILPERSMAN) [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

3.7 For the purposes of this chapter, corrective training:

- a. is training that a Defence member is directed to undertake in order to rectify unsatisfactory performance

- b. is separate to, and does not replace, the ordinary training of Defence members
- c. encompasses additional training required of a member outside their ordinary duties. For example, corrective training would include where a member is required to perform additional activities outside scheduled or programmed work hours, in order to correct a deficiency in their performance
- d. is not a punishment and must not to be used to punish a member
- e. is separate to:
 - (1) action under the [Defence Force Discipline Act 1982](#), whether through the preferring of a charge against a member, or the issuing of an Infringement Notice by a relevant officer, or
 - (2) administrative sanction, including the imposition of a formal warning or censure.

PRINCIPLES OF CORRECTIVE TRAINING

3.8 Corrective training can be ordered when a member's performance is considered unsatisfactory, provided it is consistent with the principles contained in this chapter and conforms to any unit-specific requirements.

3.9 **Proper purpose.** The purpose of corrective training is to provide the member with the skills or understanding necessary to perform a task, duty or other military requirement to a satisfactory standard.

3.10 Corrective training must not amount to unacceptable behaviour. Unacceptable behaviour is unreasonable conduct at work or in any situation that may be connected to Defence that is offensive, belittling, abusive or threatening to another person or adverse to morale, discipline or workplace cohesion. This includes unlawful discrimination and harassment. Defence personnel found to have engaged in, contributed to, ignored, assisted, or personally encouraged unacceptable behaviour may be held personally responsible. For more information, see the [Complaints and Alternative Resolution Manual](#) (CARM).

3.11 Corrective training must not be required of a group of members unless:

- a. each member of that group has failed to perform to a satisfactory standard
- b. the training is consistent with the principles in this chapter in relation to each member of that group
- c. the training is consistent with any unit-specific requirement in relation to each member of that group.

3.12 **Proper authority.** A Defence member of Corporal equivalent or above can direct a member subordinate to them in rank and in their chain of command to complete corrective training. Civilians, whether Defence employees or external service providers cannot direct corrective training.

3.13 All ranks can be subject to a direction to undertake corrective training. Civilians, whether Defence employees or external service providers can not be directed to undertake corrective training.

3.14 **Reasonableness.** When requiring a Defence member to undertake corrective training to rectify unsatisfactory performance, the corrective training must directly and reasonably relate to unsatisfactory performance that has been identified.

3.15 The corrective training imposed on a member is to be carried out for a period which is reasonable to allow for the unsatisfactory performance to be corrected. Corrective training should cease if the member completing corrective training is able to demonstrate that they have attained, and can be relied upon to maintain, satisfactory performance or when it is clear that the corrective training will not lead to rectification of the deficiency in performance.

3.16 **Accountability.** Commanders are to ensure that the parameters within which corrective training of members must be conducted are understood by unit personnel. Commanders are accountable for the conduct of corrective training within their unit and are to maintain a record (for example, a register) of the corrective training required of unit members. The records should carry the appropriate Australian Government Security Classification of 'Sensitive: Personal' and be reviewed by unit Command Officers regularly.

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Interim Defence Instruction ADMIN 45-2](#)—*Incident Reporting and Management*

[Australian Defence Force Publication \(ADFP\) 06.1.1](#)—*Discipline Law Manual*, Volume 3

[Complaints and Alternative Resolution Manual](#) (CARM)

[Defence Force Discipline Act 1982](#)

Sponsor: ASPPEC (DMPP)

CHAPTER 4

PROTECTION ORDERS

INTRODUCTION

4.1 Defence seeks to respond appropriately to protection orders issued either against or in support of Australian Defence Force (ADF) members. Where a Defence member is subject to a Protection Order (PO), compliance with the restrictions imposed by the PO may impede the member's ability to meet Individual Readiness requirements, adversely affect the reputation of the ADF and reduce Defence operational capability. In such circumstances, Commanding Officers (COs) are to be notified and consider management options appropriate to the situation.

POLICY STATEMENT

4.2 Where a Defence member becomes the respondent to a PO, they are to immediately report it to their CO as prescribed in paragraph 4.7. The member's CO is required to manage the Defence member in a manner appropriate to the specific circumstances of the member's situation.

4.3 Where a Defence member is the aggrieved person in a PO and the circumstances are likely to directly or indirectly influence their performance, duty or their daily work routine, they should immediately notify their CO as soon as possible as prescribed in paragraph 4.11. Aggrieved persons should also notify their CO when the respondent is another Defence member or employee or where the PO is likely to affect Defence business or reputation. COs should take all reasonable steps to provide support and assistance to the aggrieved person, especially where changes to duty or daily work routine are necessary.

4.4 This chapter is to be read in conjunction with Military Personnel Policy Manual (MILPERSMAN), [Part 9, Chapter 5](#)—*Court or Police Orders Restricting Access to Weapons or Firearms by Members of the Australian Defence Force*.

SCOPE

4.5 This chapter applies to all Defence members. In addition to the requirements of this chapter, a Service Chief may issue further instructions, guidance or direction with respect to the treatment of protection orders and domestic violence.

DEFINITIONS

4.6 MILPERSMAN, [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

ROLES AND RESPONSIBILITIES

RESPONSIBILITIES OF THE DEFENCE MEMBER AS A RESPONDENT

4.7 A Defence member who is a respondent to a PO must notify their CO of the PO in writing as soon as possible, but no later than 24 hours after becoming aware they are subject to a PO or, for Reserve members not on duty, during the first period of duty after becoming aware they are subject to a PO. The written advice must include:

- a. a copy of the PO
- b. details of the circumstances surrounding the issue of the PO (such as details of the complaint, dates, affidavits and court proceedings)
- c. the duration and conditions of the PO (if this information is not included in the PO)
- d. the effect that the PO may have on the effectiveness of the member in carrying out assigned duties (including geographic restrictions) if Defence enforces all restrictions
- e. whether the member is presently in possession of any service weapons, body armour and/or explosive ordnance
- f. whether the member has any personal firearms and/or ammunition stored in any ADF armoury and, if so, their whereabouts.

4.8 The Defence member must, as soon as possible, but no later than 24 hours after being advised, inform their CO in writing of any updated circumstances and/or changes to the PO or, for Reserve members not on duty, during the first period of duty after being advised. For example, if the PO has been amended, finalised or revoked. The CO is expected to re-apply the responsibilities outlined below in paragraph 4.14 for each change in circumstance.

4.9 The respondent is responsible for seeking any approval (if necessary) required by law to release a copy of the PO and/or any other record of court proceedings to Defence to enable the CO to discharge their responsibilities.

4.10 In addition to the requirements of this chapter, the reporting requirements outlined in MILPERSMAN, [Part 9, Chapter 5](#)—*Court or Police Orders Restricting Access to Weapons or Firearms by Members of the Australian Defence Force* also apply if a PO:

- a. limits or restrains a Defence member's access to, possession or use of a weapon, or
- b. cancels, suspends or results in the refusal of a weapon licence, permit, registration, or any similar authorisation, or
- c. orders the confiscation or disposal of a weapon.

AN EXAMPLE FORMAT OF A FORMAL WARNING/CENSURE

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

1. I, *(Service number, rank and name of person imposing the formal warning/censure)*, have determined that your conduct/performance/standards has/have been unsatisfactory and therefore impose a formal warning for a period of *(insert duration)*/censure upon you.

2. I have made that determination upon reaching the conclusion that you have exhibited the following unsatisfactory conduct/performance/standards:

a. *(Provide a description of the unsatisfactory conduct, performance or standards exhibited.)*

3. The evidence from which I have concluded that your conduct/performance/standards have been unsatisfactory is contained in the following material:

a. *(The information contained in these subparagraphs must have been notified to the member in the Notice to Show Cause (NTSC). If not, then the member may have been denied procedural fairness.)*

In reaching my conclusion, I have taken particular account of the matters you have raised in your response to the NTSC.

4. I consider that your conduct/performance/standard¹ has been unsatisfactory in the following respect: *(insert one or more of the following as required)*

- a. demonstrated a significant error of judgment and the trust placed in you;
- b. been below the standard expected of a member of your rank and position in the RAN/Army/RAAF;
- c. brought discredit and disrepute on you and your command position;
- d. brought discredit upon the Australian Defence Force;
- e. represented a failure to perform your duties at a sufficient standard required in the position of *(insert position)*;
- f. undermined the authority of your position as *(insert appointment)*;
- g. resulted in a loss of confidence towards you by *(insert appointment)*;

- h. demonstrated a disregard of Defence Instructions (General) (DI(G))s and policy for the proper use or management of *(insert resource/s)*;
- i. demonstrated a pattern of conduct that is unsatisfactory.

Note:

Paragraphs 5 and 6 used only for formal warnings.

5. By the end of the formal warning period, you are required to have demonstrated the following improvement in your *(insert one or more of the following as required: conduct, performance or standards)*:

- a. *(describe improvements or corrective action required)*.

6. If you fail to achieve the required improvement, more severe administrative sanctions may be taken against you, such as:

- a. *(insert possible action if appropriate)*.

Such action may be initiated before the expiration of the warning period if you have not made a reasonable attempt to meet the required *(insert one or more of the following as required: conduct, performance or standards)* expected, or if you come to notice for any further unsatisfactory behaviour.

Note:

Following paragraphs are used for both formal warnings and censures and renumbered as appropriate.

7. The administrative consequences of a formal warning/censure are detailed in MILPERSMAN, Part 9, Chapter 2. The following consequences apply in the circumstances of your case:

- a. You should not expect to be promoted or selected for certain postings or training courses during the period of this formal warning/for 12 months following the imposition of this censure
- b. *(List specific consequences that will flow from the imposition of the sanction. For example alcohol or prohibited substance counselling and/or testing)*
- c. You will not be considered for a Command Initiated Transfer to the Reserve or a voluntary redundancy during the period of this formal warning/for 12 months following the imposition of this censure¹
- d. This formal warning/censure will remain permanently on your personal records and may be taken into account for future decisions regarding your career management, particularly if you have a history of formal warnings/censures and/or other administrative sanctions being imposed on you.

OFFICIAL

MILPERSMAN Part 9

2A2-3

8. You are requested to sign this document as having 'read and understood' it. The original copy is for your retention, a copy will be placed on the file held by this unit/establishment and a copy will be forwarded to *(insert applicable career management agency)* and placed on your personnel file.

9. If you have a complaint about any of the administrative action leading up to the imposition of this formal warning/censure, you have the right to seek review of my decision in accordance with the [Complaints and Alternate Resolutions Manual](#).

(Insert Signature block of imposing authority)

I *(Service number, rank and name of member)* hereby acknowledge that I have read and understood this formal warning/censure. and have received a copy for my retention, including the information upon which the decision to impose the formal warning/censure was based.

Note:

Following paragraph to be used only for formal warnings, as it is not relevant to censures.

I understand that, having been warned, if I fail to achieve the standard required of me within a period of *(insert period)* from the date of this warning or if I fail to achieve the required improvement, I may be the subject of more severe administrative sanction, such as *(insert possible action)*, the possible consequences of which have been explained to me. I am aware that such action may be initiated before the expiration of the prescribed warning period if I am not making a reasonable attempt to meet the required conduct, performance or standards expected, or if I come to notice for any further unsatisfactory behaviour.

(Insert Signature block of member)

AN EXAMPLE FOR EARLY RELEASE FROM A FORMAL WARNING

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

1. I, *(Insert Service number, rank and name of person imposing the formal warning)*, have determined that your conduct/performance/standard during the period of this sanction has been satisfactory and now release you from the formal warning imposed on you.

2. The consequences notified to you in the formal warning are no longer in effect. However, you should note that the unsatisfactory conduct / performance / standard that gave rise to the formal warning may still be considered by your career manager in relation to you competitiveness for promotion, postings and training courses in the future.

(Insert Signature block of formal warning authority)

I *(Insert Service number, rank and name of member)* hereby acknowledge that I have read and understood this release from formal warning and have received a copy for my retention.

(Insert Signature block of member)

**AN EXAMPLE OF CANCELLATION OF A FORMAL
WARNING/CENSURE**

Sensitive: personal (when completed)

To: _____

(rank, name, and service number of member)

1. On *(insert date)* I, *(insert Service number, rank and name of person imposing the formal warning/censure)*, imposed a formal warning for a period of *(insert period)* / censure upon you, having determined that your conduct/performance/standard was unsatisfactory.
2. I hereby cancel the formal warning/censure¹ for the following reason(s):
 - a. *(provide a description of reason(s)).*
3. The information upon which I have based the decision to cancel the formal warning/censure is attached. *(Include the new information or material that caused the cancellation decision. Relevant privacy provisions to apply).*
4. As a result of this cancellation there are to be no further adverse consequences to your career. Any adverse consequences that you may have suffered as a result of the imposition of the sanction will be as far as practicable remedied.

(Insert Signature block of formal warning/censure authority)

I *(insert Service number, rank and name of member)* hereby acknowledge that I have read and understood this cancellation of the formal warning/censure and have received a copy for my retention, including the information upon which the decision to cancel the formal warning/censure was based.

(Insert Signature block of member)

CHAPTER 3

CORRECTIVE TRAINING

INTRODUCTION

3.1 Subject to this chapter, Defence members, by virtue of command and rank, are authorised to direct a subordinate member to complete corrective training when the Defence member's performance, although unsatisfactory, does not warrant administrative or disciplinary action.

POLICY STATEMENT

3.2 Defence's mission is to defend Australia and its national interests. This requires the Australian Defence Force (ADF) to maintain an operationally capable force with high levels of fitness, commitment, efficiency and discipline among its members. To maintain this operationally capable force, Defence has a requirement to ensure Defence members are appropriately trained. Corrective training is a management tool that may be used when a member's performance of their duties has been unsatisfactory. Corrective training is an additional tool available to commanders to ensure that members perform their duties to a satisfactory standard.

SCOPE

3.3 This chapter provides guidance for all Permanent and Reserve members of the ADF on the policy and principles for directing a subordinate Defence member to undertake corrective training. Any Permanent or Reserve member of the ADF who directs a subordinate Defence member to undertake corrective training is to comply with the contents of this chapter. Failure to comply with the mandatory aspects of this chapter may result in administrative or disciplinary action.

3.4 This chapter contains basic, guiding principles in relation to corrective training. Commanders, in particular commanders of training establishments, are able to develop their own, more detailed, corrective training policy in accordance with the principles contained in this chapter in order to address unit-specific requirements.

3.5 The imposition of corrective training does not relieve a Defence member or commander of their obligation to report a notifiable incident.

DEFINITIONS

3.6 Military Personnel Policy Manual (MILPERSMAN) [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

3.7 For the purposes of this chapter, corrective training:

- a. is training that a Defence member is directed to undertake in order to rectify unsatisfactory performance

- b. is separate to, and does not replace, the ordinary training of Defence members
- c. encompasses additional training required of a member outside their ordinary duties. For example, corrective training would include where a member is required to perform additional activities outside scheduled or programmed work hours, in order to correct a deficiency in their performance
- d. is not a punishment and must not to be used to punish a member
- e. is separate to:
 - (1) action under the [Defence Force Discipline Act 1982](#), whether through the preferring of a charge against a member, or the issuing of an Infringement Notice by a relevant officer, or
 - (2) administrative sanction, including the imposition of a formal warning or censure.

PRINCIPLES OF CORRECTIVE TRAINING

3.8 Corrective training can be ordered when a member's performance is considered unsatisfactory, provided it is consistent with the principles contained in this chapter and conforms to any unit-specific requirements.

3.9 **Proper purpose.** The purpose of corrective training is to provide the member with the skills or understanding necessary to perform a task, duty or other military requirement to a satisfactory standard.

3.10 Corrective training must not amount to unacceptable behaviour. Unacceptable behaviour is unreasonable conduct at work or in any situation that may be connected to Defence that is offensive, belittling, abusive or threatening to another person or adverse to morale, discipline or workplace cohesion. This includes unlawful discrimination and harassment. Defence personnel found to have engaged in, contributed to, ignored, assisted, or personally encouraged unacceptable behaviour may be held personally responsible. For more information, see the [Complaints and Alternative Resolution Manual](#) (CARM).

3.11 Corrective training must not be required of a group of members unless:

- a. each member of that group has failed to perform to a satisfactory standard
- b. the training is consistent with the principles in this chapter in relation to each member of that group
- c. the training is consistent with any unit-specific requirement in relation to each member of that group.

3.12 **Proper authority.** A Defence member of Corporal equivalent or above can direct a member subordinate to them in rank and in their chain of command to complete corrective training. Civilians, whether Defence employees or external service providers cannot direct corrective training.

3.13 All ranks can be subject to a direction to undertake corrective training. Civilians, whether Defence employees or external service providers can not be directed to undertake corrective training.

3.14 **Reasonableness.** When requiring a Defence member to undertake corrective training to rectify unsatisfactory performance, the corrective training must directly and reasonably relate to unsatisfactory performance that has been identified.

3.15 The corrective training imposed on a member is to be carried out for a period which is reasonable to allow for the unsatisfactory performance to be corrected. Corrective training should cease if the member completing corrective training is able to demonstrate that they have attained, and can be relied upon to maintain, satisfactory performance or when it is clear that the corrective training will not lead to rectification of the deficiency in performance.

3.16 **Accountability.** Commanders are to ensure that the parameters within which corrective training of members must be conducted are understood by unit personnel. Commanders are accountable for the conduct of corrective training within their unit and are to maintain a record (for example, a register) of the corrective training required of unit members. The records should carry the appropriate Australian Government Security Classification of 'Sensitive: Personal' and be reviewed by unit Command Officers regularly.

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Interim Defence Instruction ADMIN 45-2—Incident Reporting and Management](#)

[Australian Defence Force Publication \(ADFP\) 06.1.1—Discipline Law Manual, Volume 3](#)

[Complaints and Alternative Resolution Manual \(CARM\)](#)

[Defence Force Discipline Act 1982](#)

Sponsor: ASPPEC (DMPP)

CHAPTER 4

PROTECTION ORDERS

INTRODUCTION

4.1 Defence seeks to respond appropriately to protection orders issued either against or in support of Australian Defence Force (ADF) members. Where a Defence member is subject to a Protection Order (PO), compliance with the restrictions imposed by the PO may impede the member's ability to meet Individual Readiness requirements, adversely affect the reputation of the ADF and reduce Defence operational capability. In such circumstances, Commanding Officers (COs) are to be notified and consider management options appropriate to the situation.

POLICY STATEMENT

4.2 Where a Defence member becomes the respondent to a PO, they are to immediately report it to their CO as prescribed in paragraph 4.7. The member's CO is required to manage the Defence member in a manner appropriate to the specific circumstances of the member's situation.

4.3 Where a Defence member is the aggrieved person in a PO and the circumstances are likely to directly or indirectly influence their performance, duty or their daily work routine, they should immediately notify their CO as soon as possible as prescribed in paragraph 4.11. Aggrieved persons should also notify their CO when the respondent is another Defence member or employee or where the PO is likely to affect Defence business or reputation. COs should take all reasonable steps to provide support and assistance to the aggrieved person, especially where changes to duty or daily work routine are necessary.

4.4 This chapter is to be read in conjunction with Military Personnel Policy Manual (MILPERSMAN), [Part 9, Chapter 5](#)—*Court or Police Orders Restricting Access to Weapons or Firearms by Members of the Australian Defence Force*.

SCOPE

4.5 This chapter applies to all Defence members. In addition to the requirements of this chapter, a Service Chief may issue further instructions, guidance or direction with respect to the treatment of protection orders and domestic violence.

DEFINITIONS

4.6 MILPERSMAN, [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

ROLES AND RESPONSIBILITIES

RESPONSIBILITIES OF THE DEFENCE MEMBER AS A RESPONDENT

4.7 A Defence member who is a respondent to a PO must notify their CO of the PO in writing as soon as possible, but no later than 24 hours after becoming aware they are subject to a PO or, for Reserve members not on duty, during the first period of duty after becoming aware they are subject to a PO. The written advice must include:

- a. a copy of the PO
- b. details of the circumstances surrounding the issue of the PO (such as details of the complaint, dates, affidavits and court proceedings)
- c. the duration and conditions of the PO (if this information is not included in the PO)
- d. the effect that the PO may have on the effectiveness of the member in carrying out assigned duties (including geographic restrictions) if Defence enforces all restrictions
- e. whether the member is presently in possession of any service weapons, body armour and/or explosive ordnance
- f. whether the member has any personal firearms and/or ammunition stored in any ADF armoury and, if so, their whereabouts.

4.8 The Defence member must, as soon as possible, but no later than 24 hours after being advised, inform their CO in writing of any updated circumstances and/or changes to the PO or, for Reserve members not on duty, during the first period of duty after being advised. For example, if the PO has been amended, finalised or revoked. The CO is expected to re-apply the responsibilities outlined below in paragraph 4.14 for each change in circumstance.

4.9 The respondent is responsible for seeking any approval (if necessary) required by law to release a copy of the PO and/or any other record of court proceedings to Defence to enable the CO to discharge their responsibilities.

4.10 In addition to the requirements of this chapter, the reporting requirements outlined in MILPERSMAN, [Part 9, Chapter 5](#)—*Court or Police Orders Restricting Access to Weapons or Firearms by Members of the Australian Defence Force* also apply if a PO:

- a. limits or restrains a Defence member's access to, possession or use of a weapon, or
- b. cancels, suspends or results in the refusal of a weapon licence, permit, registration, or any similar authorisation, or
- c. orders the confiscation or disposal of a weapon.

RESPONSIBILITIES OF THE DEFENCE MEMBER AS AN AGGRIEVED PERSON

4.11 If a Defence member is the aggrieved person, and the PO is likely to directly or indirectly influence their performance, duty or their daily work routine, or where the PO is likely to affect Defence business or reputation, the Defence member must, as soon as possible, but no later than 24 hours after its issue, notify their CO in writing of the PO. Reserve members not on duty at the time of the issue of a PO must notify their CO in writing during the first period of duty after the PO is issued. All information necessary for the CO to make a decision, and enable a discussion with an aggrieved member, concerning their management is to be provided (such as any restrictions placed by the PO on another ADF or Australian Public Servant (APS) member, requirement for alternate working or living accommodation, or requirements for release to attend to family commitments or attend Court), including a copy of the PO where available.

4.12 The aggrieved Defence member is responsible for seeking any approval (if necessary) required by State/Territory legislation to release a copy of the PO or any other record of court proceedings to Defence to enable the CO to discharge their responsibilities.

RESPONSIBILITIES OF THE COMMANDING OFFICER

4.13 COs are to remain cognisant that a PO is a serious matter and their response is critical to enhancing personnel safety and security as well as maintaining unit operational capability. The purpose of requiring ADF members to advise their CO of the issue of a PO is to enable the ADF to protect the health and safety of its members and the wider community and the administrative management of ADF members. Each PO must be considered on its individual factual basis.

4.14 COs are to discharge their responsibilities below in the context of assessing a member's suitability for future employment in the ADF. It is expected that a PO will normally require a CO to consider whether the respondent has behaved in a manner inconsistent with Defence Values. If fact finding in accordance with subparagraph 4.14.a and subparagraph 4.14.c determines that a Court has made a finding about conduct or behaviour of the respondent that may be considered inconsistent with Defence Values, the appropriate administrative action is to be commenced including the issue of a notice to show cause. Upon notification by a Defence member that they are the respondent to a PO, bearing in mind that the allegations may not have been tested in a court of law, the member's CO is expected to:

- a. raise a Defence Incident Record and consider whether the actions leading to the PO require reporting, in accordance with [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex C, AG4—Incident Reporting and Management](#)
- b. immediately restrict the member's access to ADF weapons, body armour and explosives subject to paragraph 4.16

- c. consider whether the actions of the Defence member leading to the PO being issued constitute unacceptable behaviour in accordance with [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7—Required behaviours in Defence](#) and commence administrative action where appropriate
- d. consider whether the actions leading to the PO adhere to Defence Values and, if not, commence appropriate administrative action in accordance with MILPERSMAN, [Part 9, Chapter 2—Formal Warnings and Censures in the Australian Defence Force](#).
- e. take steps to ensure that the Defence member does not breach the PO as a result of a Service requirement
- f. determine whether the member's individual readiness, deployment availability or posting may be affected and advise the relevant Career Management Agency (CMA) accordingly
- g. ensure that the Defence member is able to meet their obligation under the PO, for example, to attend an intervention program
- h. where the respondent and aggrieved person are living in service accommodation, consult with the Defence Community Organisation to ensure that requirements of a PO are adhered to.

4.15 If a CO is notified that a PO has been issued, the CO must ensure that a risk assessment is undertaken to ensure that both the aggrieved person's and respondent's duties, activities and tasks do not respectively place them in a vulnerable situation or contribute to a contravention of the PO by the respondent.

4.16 Regardless of whether the PO specifically limits or restrains access to weapons or not, a CO is expected to restrict the member's access to ADF weapons, body armour and explosives. Subject to a risk assessment, the CO may lift the restrictions in exceptional circumstances. For example, if the member is located in a different geographic location to that of the aggrieved person, and they are unable to return to the location of the aggrieved person whilst in possession of an ADF weapon. If the PO specifically limits or restrains the Defence member's access to, possession or use of a weapon, or cancels, suspends or results in the refusal of a weapon licence, permit, registration, or any similar authorisation, or orders the confiscation or disposal of a weapon, CO responsibilities outlined in MILPERSMAN, [Part 9, Chapter 5—Court or Police Orders Restricting Access to Weapons or Firearms by Members of the Australian Defence Force](#) also apply.

4.17 The CO is expected to act fairly towards respondents and aggrieved persons at all times and ensure that their personal information is only used and disclosed in accordance with the requirements of MILPERSMAN, [Part 1, Chapter 4—Privacy Notice](#) and the applicable Commonwealth and State laws. COs are to be aware that State/Territory protection laws may place restrictions on Defence gathering and using information relating to POs. Advice from the CO's local legal officer should be sought. All information in relation to POs should be marked Sensitive: Personal.

RESPONSIBILITIES OF THE CAREER MANAGEMENT AGENCY

4.18 Upon notification by the CO of a PO against a Defence member, the relevant CMA is to establish the Defence member's current and ongoing suitability for duties, based on the recommendations of the member's CO.

RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 1, Chapter 4](#)—Privacy Notice

MILPERSMAN, [Part 9, Chapter 2](#)—Formal Warnings and Censures in the Australian Defence Force

MILPERSMAN, [Part 9, Chapter 5](#)—Court or Police Orders Restricting Access to Weapons or Firearms by Members of the Australian Defence Force

MILPERSMAN, [Part 10, Chapter 2](#)—Termination of Service in the Australian Defence Force

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Regulation 2016](#)

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7](#)—*Required behaviours in Defence*

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex C, AG4](#)—*Incident Reporting and Management*

[Defence Security Principles Framework \(DSPF\)](#)

Sponsor: ASPPEC (DMPP)

CHAPTER 5

COURT OR POLICE ORDERS RESTRICTING ACCESS TO WEAPONS OR FIREARMS

INTRODUCTION

5.1 Under civil law, a State or Territory Court or Police Force can issue orders that protect a person from another person and may include orders that control access to, or possession of, firearms. For the purpose of this chapter, State or Territory Court or Police Force orders that pertain to the possession of weapons are referred to as Weapons Prohibition Orders (WPO). WPO include orders issued under Commonwealth laws such as the [Family Law Act 1975](#) see paragraph 5.18 of this Chapter.

5.2 Nothing in this chapter prejudices the ability of a Commanding Officer (CO) to exercise their command and management duties, and manage their unit in accordance with work health and safety principles. This includes the ability of a CO to restrict a member's access to weapons under any reasonable grounds. Where a member's access to weapons is restricted for reasons other than a WPO, the policies and procedures outlined in this chapter should still be followed.

POLICY STATEMENT

5.3 The Australian Defence Force (ADF) will restrict Defence members' access to military weapons where they are the subject of a WPO.

SCOPE

5.4 This Chapter is applicable to all Defence members.

DEFINITIONS

5.5 Military Personnel Policy Manual (MILPERSMAN), [Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter.

ROLES AND RESPONSIBILITIES

RESPONSIBILITIES OF THE DEFENCE MEMBER

5.6 A Defence member who becomes the subject of a WPO must notify their CO of the WPO in writing as soon as possible, but no later than 24 hours after becoming aware they are subject to a WPO or, for Reserve members not on duty, as soon as practicable, but no later than during the first period of duty after becoming aware they are subject to a WPO. The written advice is to include:

- a. a copy of the WPO
- b. details of the circumstances surrounding the issue of the WPO

- c. the duration and conditions of the WPO (where this information is not included in the WPO)
- d. the impact that the WPO may have on the effectiveness of the member in carrying out assigned duties (including geographic restrictions) if Defence enforces all restrictions
- e. whether the member is presently in possession of any military weapons, body armour and/or explosive ordnance
- f. whether the member has any personal firearms and/or ammunition stored in any ADF armoury and, if so, their whereabouts.

5.7 The Defence member is responsible for seeking any approval (if necessary) required by law to release a copy of the WPO and/or any other record of court proceedings to Defence to enable the CO to discharge their responsibilities.

5.8 **Civilian employment.** Where a Defence member has access to a weapon for civilian employment and is subject to a sanction on handling weapons by that employer, the member must advise their CO as stated in paragraph 5.5.

RESPONSIBILITIES OF THE COMMANDING OFFICER

5.9 Upon notification by a Defence member that they have been issued with a WPO, the member's CO is to:

- a. immediately prevent the member from accessing ADF weapons
- b. advise the Service Police Unit and/or relevant stores and armoury personnel of the details of the WPO
- c. raise a Defence Incident Record and consider whether the actions leading to the WPO require reporting, in accordance with [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex C, AG4—Incident Reporting and Management](#).
- d. notify the Defence member's Career Management Agency (CMA) of the existence and expiry date of the WPO and advise whether or not the Defence member's individual readiness, deployment availability or posting could be affected
- e. consider whether the actions of the Defence member leading to the WPO being issued constitute unacceptable behaviour in accordance with [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7—Required behaviours in Defence](#) and commence administrative action where appropriate
- f. consider whether the actions leading to the WPO conflict with Defence Values and, if so, commence appropriate administrative action in accordance with MILPERSMAN, [Part 9, Chapter 2—Formal Warnings and Censures in the Australian Defence Force](#).

- g. take steps to ensure that the Defence member does not breach the WPO as a result of a Service requirement
- h. when the currency of the WPO ceases, ensure that normal access requirements to weapons is resumed.

5.10 If a Defence member's ability to perform their duties is restricted by a WPO, the CO must consult the relevant CMA to consider the Defence member's suitability for continued service in the ADF. In recommending a course of action for the relevant CMA, COs are to consider the Defence member's readiness status, the unit's scheduled training and operational commitments and requirements of the Defence member's Employment Category.

5.11 Any privately owned weapons stored in a Defence armoury in accordance with the [Defence Security Principles Framework \(DSPF\)](#) must not be released to the Defence member where such a release would be contrary to the WPO. If the WPO requires the surrender of weapons, the surrender must be carried out in the presence of the Defence member (unless the WPO requires otherwise) by the officer-in-charge of the armoury direct to the civilian police. All details of the weapon and surrender must be recorded in the armoury register and receipts given to the Defence member.

5.12 If a Defence member who is subject to a WPO is posted or attached to another unit, the losing unit CO must notify the gaining unit CO of the WPO prior to the Defence member departing the losing unit.

5.13 COs must ensure that the personal information of a Defence member who is subject of a WPO is managed in accordance with the Information Privacy Principles set out in the [Privacy Act 1988](#).

RESPONSIBILITIES OF ARMOURY PERSONNEL AND THE SERVICE POLICE UNIT

5.14 Armoury personnel are to ensure that a Defence member subject to a WPO cannot gain unsupervised access to an armoury or magazine. If the Defence member subject to the WPO holds access codes to an armoury, the codes must be changed immediately to prevent access by the member.

5.15 Service Police must enter the details of any weapons restriction as an Information Report into the Defence Police and Security Management System database.

RESPONSIBILITIES OF THE CAREER MANAGEMENT AGENCY

5.16 Following advice from a CO that a Defence member is subject to a WPO, the relevant CMA is to make decisions concerning the Defence member's suitability for service in the ADF, particularly if those duties involve the use of military weapons.

RESPONSIBILITIES OF DEFENCE FORCE RECRUITING

5.17 **ADF applicants.** Defence Force Recruiting is responsible for seeking an applicant's declaration about any WPO to which they are subject at the time of signing the *Applicant's Declarations, Acknowledgement and Consent* of the

Application Form and any time thereafter prior to enlistment/appointment. Entry to the ADF may be declined or deferred on the basis of this information. Applicants are also to be advised that a failure to declare the existence of a WPO may result in termination action being taken at a later date.

APPLICATION OF COURT OR POLICE ORDERS MADE UNDER A COMMONWEALTH LAW

5.18 Where a Court or Police WPO is authorised by a provision of a Commonwealth Act (eg an injunction issued under the [Family Law Act 1975](#) that would have the same effect as a WPO defined in MILPERSMAN, [Part 1, Chapter 3](#), the Defence member is to notify their CO. The Defence member is to comply with the order in relation to privately owned weapons. The CO will impose the same weapons restrictions on a member that would be imposed if that WPO were issued by a State/Territory Court or Police Force.

RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 2, Chapter 1](#)—Inherent Requirements of service in the Australian Defence Force

MILPERSMAN, [Part 3, Chapter 1](#)—Australian Defence Force policy on Individual Readiness

MILPERSMAN, [Part 9, Chapter 2](#)—Formal warnings and censures in the Australian Defence Force

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Family Law Act 1975](#)

[Privacy Act 1988](#)

[Public Service Act 1999](#)

[Control of Weapons Act 1990](#) (VIC)

[Firearms Act 2015](#) (SA)

[Firearms Act 1996](#) (TAS)

[Prohibited Weapons Act 1996](#) (ACT)

[Weapons Act 1990](#) (QLD)

[Weapons Act 1999](#) (WA)

[Weapons Control Act 2001](#) (NT)

[Weapons Prohibition Act 1998](#) (NSW)

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL7](#)—Required behaviours in Defence

Defence Instruction Administrative Policy (DI ADMINPOL) Annex C, AG4—Incident Reporting and Management

Defence Security Principles Framework (DSPF)

Sponsor: ASPPEC (DMPP)

CHAPTER 6

REPORTING AND MANAGEMENT OF DEFENCE MEMBERS
ABSENT WITHOUT LEAVE

INTRODUCTION

6.1 When Defence members are absent without leave (AWOL) from their place of duty they are potentially guilty of an offence under section 24 of the [Defence Force Discipline Act 1982 \(DFDA\)](#). While management of absences of less than 24 hours is subject to local unit management discretion, formal action is required for the management of Defence members who are AWOL for 24 hours or more.

6.2 Once the Defence member's Commanding Officer (CO) is aware that a Defence member is AWOL, they become the responsible CO and must ensure that the reporting action and management processes mandated in this chapter are undertaken.

6.3 Prompt reporting is essential to ensure that AWOL processes are performed in a professional and coordinated manner. Effective reporting also facilitates the flow of vital information from the chain of command to other relevant stakeholders.

POLICY STATEMENT

6.4 When Defence members are AWOL for 24 hours or more, it is imperative that mandatory reporting and management processes are actioned in accordance with the provisions of this chapter. This will ensure consistent reporting and management of absentees across units and higher commands.

SCOPE

6.5 The policy and provisions for AWOL reporting and management contained in this chapter apply to all Defence members.

DEFINITIONS

6.6 Military Personnel Policy Manual (MILPERSMAN), Part 1, Chapter 3—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter. In relation to this chapter the following specific definition applies:

- a. **AWOL.** A Defence member who is absent from their place of duty without the approval of their supervisor/Commanding Officer is considered to be AWOL. However, for the purpose of this policy, AWOL is defined as any continuous period of 24 hours or more where a Defence member is absent from their place of duty without the approval of their supervisor/CO.

PROCEDURES

INITIAL ACTION

6.7 As soon as a Defence member's supervisor becomes aware that a Defence member is absent, the unit is to take all reasonable steps to locate the Defence member. This should involve contacting the Defence member at their usual place of residence, contacting the Defence member's next of kin and primary emergency contact, checking to ensure the Defence member has not been hospitalised and confirming with the Service police that the Defence member has not been placed in custody. For Navy only, refer to [Annex 6A](#) for further guidance on locating absent Defence members. Units are to take appropriate action if the Defence member returns to duty within 24 hours.

ABSENT WITHOUT LEAVE IN EXCESS OF TWENTY FOUR HOURS

6.8 **AWOL from parent unit.** When a Defence member has been absent without authorisation from their unit for a period of 24 consecutive hours, they are to be classified as AWOL. AWOL is non-effective service, affects a range of conditions of service and must be recorded on Personnel Management Key Solutions (PMKeyS). Once it has been established that a Defence member is AWOL at the end of 24 hours, the CO is to:

- a. Refer the notifiable incident directly to the [Joint Military Police Unit](#) as the Defence Investigative Authority for the disappearance of Defence personnel, as required by the [Defence Instruction Administrative Policy – AG4 – Incident reporting and management](#) and in accordance with Chapter 3 Paragraph 9 of the [Incident Reporting and Management Manual](#).
- b. Record details of the reporting and management of the incident in the authorised case management system using a [Defence Incident Record](#)
- c. Notify the relevant single-Service Career Management Agency (CMA), Service Provost Marshal and the Defence Pay Centre (DEFPAC) by message signal in the format in [Annex 6B](#). This is the source document for all PMKeyS and ADFPAY transactions associated with a period of unauthorised absence.
- d. Safeguard commonwealth property on charge to, and private property left at the unit by, the absent Defence member and take action in accordance with the single-Service Instruction on disposal of commonwealth and private property as a result of unauthorised absence.
- e. Notify the Defence member's Primary Emergency Contact (PEC) of the Defence member's failure to report for duty and request their assistance in advising the Defence member to return to duty should they make contact with the Defence member. If notification is provided in writing, suggested text is provided in [Annex 6C](#). No other information, such as notification of civil police or contact with local hospital authorities is to be relayed to the PEC.

- f. Where the Defence member's return is essential or appropriate (for disciplinary, criminal or security reasons) seek legal advice for raising a warrant for the Defence member's arrest or complete and submit [Form PD011](#) (Army only), as applicable.
- g. Record absence on PMKeyS leave application panel (using leave code FUA – ABSENCE WITHOUT LEAVE ADF), refer to PMKeyS Business Processes for actions required.
- h. Notify the Corporate Credit Card supervisor of the Defence member's absence.

6.9 Failure to report at gaining unit on posting or temporary duty. When a Defence member in transit on posting or temporary duty fails to arrive at the gaining unit on the 'with effect from' date, the gaining unit is to check with the losing unit whether the Defence member left the losing locality and the expected time of arrival at the new locality. If applicable, the losing unit is to take action in accordance with paragraph 3.7. Additionally, for a posting, the gaining unit is to also check with Toll Transitions.

6.10 For a posting, if unable to locate the Defence member after 24 hours, the gaining unit is to take action in accordance with paragraph 3.8.

6.11 For temporary duty, if unable to locate the Defence member after 24 hours, the parent unit is to take action in accordance with paragraph 3.8.

6.12 Action on 8th day of AWOL (Navy Only). If the Defence member remains AWOL after seven days, action is to be taken in accordance with [Annex 6A](#).

6.13 Action on 22nd day of AWOL. If the Defence member remains AWOL after 21 days, the CO is to:

- a. where appropriate, appoint an Inquiry Officer in accordance with *Regulation 69, [Defence \(Inquiry\) Regulations 2018](#)* to inquire into the Defence member's absence
- b. where appropriate, appoint an Investigating Officer in accordance with [Defence Force Discipline Act 1982](#) section 24 offence—Absence Without Leave
- c. for Army and Royal Australian Air Force only, notify the relevant Service CMA, Service Provost Marshal and DEFPAC by Defence signal in the format in [Annex 6D](#).

6.14 Upon receipt of the signal referred to in paragraph 3.13.c., the relevant single-Service CMA is to post the Defence member to the non-effective strength of their parent unit using PMKeyS Code MPU/983—*Desertion/Unauthorised Absence*.

6.15 AWOL after three months. Where a Defence member is still AWOL at the expiration of three months, the CO is to:

- a. notify the relevant single-Service CMA, Service Provost Marshal and DEFPAC by Defence signal in the format in [Annex 6E](#), and
- b. comply with the requirements of the relevant single-Service policy on disposal of commonwealth and private property.

6.16 Paragraph 24(1)(c) of [Defence Regulation 2016](#) provides that the Chief of the Defence Force may terminate the service of a Defence member where retention of the member's service is not in the interests of the Defence Force. The Chief of the Defence Force or their delegate may deem that the retention of a Defence member who has been AWOL for a continuous period of three months or more is not in the interests of the Defence Force. Such cases should be referred to a delegate so that they may consider whether to commence action to terminate the member's service. Policy and guidance on termination of service is located in MILPERSMAN, Part 10, Chapter 2—*Termination of Service in the Australian Defence Force*.

ACTION TO BE TAKEN ON RETURN OF AWOL DEFENCE MEMBER TO PARENT UNIT OR TO OTHER THAN PARENT UNIT PRIOR TO THREE MONTHS CONTINUOUS ABSENCE

6.17 When, prior to three months continuous absence, a Defence member who has been AWOL returns to their parent unit, or a Defence member who is AWOL is apprehended or surrenders and is attached to a unit other than their parent unit for disciplinary purposes, the CO of the relevant unit is to:

- a. if parent unit, comply with the requirements of the relevant single-Service's instruction on disposal of commonwealth and private property. If other than parent unit, notify the CO of the parent unit to arrange return of the Defence member if required and request parent unit to comply with the relevant single-Service instruction
- b. take administrative or disciplinary action as required
- c. arrange, as soon as practicable, for a medical examination of the Defence member to identify any physical or mental health issues requiring management or which might restrict future posting options
- d. if parent unit, notify the relevant single-Service CMA, Service Provost Marshal and DEFPAC by Defence signal in the format in [Annex 6F](#). If other than parent unit, notify by Defence signal in the format in [Annex 6G](#)
- e. request the relevant single-Service CMA to identify a vacant position and enter a PST MGT PMKeyS row to return the Defence member to an action paid position
- f. update the PMKeyS leave application panel (using leave code FUA – ABSENCE WITHOUT LEAVE ADF) to reflect the end date of the Defence member's return to duty
- g. notify DEFPAC and APAC, if applicable, by signal requesting input of Cease Pay Restriction transaction.

ACTION ON RETURN OF AWOL DEFENCE MEMBER FOLLOWING MORE THAN THREE MONTHS CONTINUOUS ABSENCE

6.18 A Defence member who has been AWOL for more than three months would ordinarily have had their service terminated. Should a former Defence member under such circumstances surrender to any unit, the CO concerned is to contact the relevant single-Service CMA immediately and seek guidance as to what course of action is considered appropriate. Should an AWOL Defence member whose service has not been terminated after three months surrender, then the processes in paragraph 3.17 are to be followed.

ACTION ON ISSUING AN ARREST WARRANT

6.19 The basis for the issue of an arrest warrant for a member who is AWOL is subsection 90(1) of the [Defence Force Discipline Act 1982](#). CO's should seek legal advice where they are unsure of the merits of this course of action.

6.20 Where circumstances justify the issuing of an arrest warrant, the original warrant is to be held in safe keeping by the senior Service Police member managing the case. The senior Service Police member is to notify relevant civilian police services. A copy of the warrant is to be sent to the single-Service Provost Marshal, attention Service Police Records Office.

6.21 When a warrant has been served and the Defence member has been arrested or the Defence member surrenders to a military or civilian police authority, the Service Provost Marshal, the parent unit and the relevant CMA are to be notified at the earliest opportunity. Where the Defence member is arrested away from their unit location, escorts should be provided whenever possible by Service Police from the Defence member's base or ship.

6.22 **Cancellation of warrants.** A warrant for arrest must specify the date after which the warrant ceases to have effect. Generally, the warrant should be annotated to cease to have effect three calendar months after the date the warrant is issued, after which time administrative action would ordinarily have been taken to terminate the service of the Defence member. In cases where a Defence member has committed a serious offence prior to going into absence and has not been tried for that offence, the warrant may be issued with a later expiry date than the normal three months period. A warrant is automatically cancelled on that date or on the date that a Defence member is recovered from absence. Where the Defence member has been recovered, action is to be taken to cancel warrants, including notifying all parties who received a copy of the warrant.

ARREST OF ABSENTEES

- 6.23 Pursuant to a warrant, any Defence member may be arrested within Australia by:
- a. a member of the ADF in accordance with the [Defence Force Discipline Act 1982](#)
 - b. a member or special member of the Australian Federal Police, or

- c. a member of the police force of a State or Territory.

6.24 Where a CO believes that an absentee is outside Australia or its Territories and wishes to have the member apprehended, the CO is to seek direction from their higher headquarters on the appropriate course of action.

RELATED MANUAL CHAPTERS

MILPERSMAN, Part 10, Chapter 2—*Termination of Service in the Australian Defence Force*

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Force Discipline Act 1982](#)

[Defence \(Inquiry\) Regulations 2018](#)

[Defence Regulation 2016](#)

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex C, AG4—Incident Reporting and Management](#)

[Incident Reporting and Management Manual](#)

Defence [Casualty Manual \(CASMAN\)](#)

Annexes:

- 6A [Procedures for reporting and management of Navy members absent without leave](#)
- 6B [Signal template – notification of member absent without leave – initial notification](#)
- 6C [Suggested text to primary emergency contact of absentee](#)
- 6D [Signal template – notification of member absent without leave – 22 day notification](#)
- 6E [Signal template – notification of member absent without leave – three month notification](#)
- 6F [Signal template – return of member absent without leave – recovery by parent unit prior to three months away without leave](#)
- 6G [Signal template – return of member absent without leave – recovery by other than parent unit prior to three months away without leave](#)

Sponsor: ASPPEC (DMPP)

PROCEDURES FOR REPORTING AND MANAGEMENT OF NAVY MEMBERS ABSENT WITHOUT LEAVE

INTRODUCTION

1. This annex provides supplementary procedural details for the reporting and management of absentees in the Royal Australian Navy (RAN).

ROLES AND RESPONSIBILITIES

2. **Naval Personnel and Career Management Agency (NPCMA).** NPCMA is responsible for taking all appropriate posting action for RAN personnel as well as conducting termination in absentia in accordance with [Defence Regulation 2016](#) section 24 and [Australian Navy Publication 2110](#)—*RAN Career Management*.
3. **Office of the Provost Marshal – Navy (OPM–N).** OPM–N is responsible for receiving copies of affidavits [Form B1](#)—Affidavit and warrants for arrest [Form B7](#)—*Warrant for Arrest of Person Suspected of Having Committed Service Offence* raised by authorised officers under subsection 90(1) of the [Defence Force Discipline Act 1982](#) and distributing this information to the civilian police and Defence authorities. OPM–N is also responsible for the technical standards of Naval Police Coxswain (NPC) conduct in support of absentee administration and for providing specialist advice regarding absentees.
4. **Directorate of Navy Personnel Information Systems Management (DNPISM).** DNPISM is responsible for ensuring that Personnel Management Key Solutions (PMKeyS) action (such as non-effective service) is carried out.
5. **Commanding Officer (CO).** The CO is responsible for the conduct of unit actions regarding absentees including storage and disposal of personal effects and notification of the Primary Emergency Contact (PEC) to request assistance for return of the absentee. The CO is responsible for initiating termination in absentia in accordance with Defence Regulation and [Australian Navy Publication 2110](#)—*RAN Career Management*. The CO is the primary authority to decide whether an arrest warrant should be issued.
6. **Supervisor or Manager.** The immediate supervisor or manager is responsible for reporting a member as a possible absentee to their departmental regulator, duty officer, chain of command or Service Police section.
7. **Departmental Regulator/Duty Officer.** The Departmental Regulator or the Duty Officer, as appropriate, is responsible for the initial conduct of the breakout routine.
8. **Corporate Card Supervisor.** The Corporate Card Supervisor of the absentee is responsible for taking appropriate action regarding an absentee's corporate cards.

9. **Service Police.** Where borne, Naval Police Coxswains (NPC) are responsible to oversee and administer the absentee process as well as store personal property in accordance with this instruction. The Senior NPC may provide advice to command regarding the issuing of a warrant for an absentee. Where no NPC is borne, the CO is to liaise with the local Service Police section to ensure appropriate action is taken. Service Police are to maintain and actively manage either an electronic or physical absentee register which encompasses all current absentee information.
10. **Members.** All RAN members are responsible for providing the chain of command with information relevant to the unauthorised absence of the absentee.

PROCEDURES

GENERAL

11. In circumstances where personnel are subject to a Local Area Movement (LAM), temporarily detached for duty to another unit/organisation, or are absent when a vessel has sailed, and the parent unit does not have the connectivity required to carry out actions as detailed in policy, agreement is to be reached between the parent CO, the CO of the home ported or local administrative establishment, and any relevant Defence authorities on the most appropriate CO to conduct specified actions.

NOTIFICATION OF ABSENCE

12. **Breakout Routine.** On initial receipt of a report of an absentee or suspected absentee, the Departmental Regulator/Duty Officer is then responsible for commencing the Breakout Routine, a series of checks to locate the member in question. The Departmental Regulator/Duty Officer must ensure that the matter is then reported through the chain of Command for follow up action as required. The format for a Breakout Routine is shown in Appendix 1 and an example Absentee Breakout proforma is in [Appendix 6A2](#) of this annex.
13. **Dispatch of Signal.** As stated in the main instruction, the initial Absent Without Leave (AWOL) notification signal will normally be sent after 24 consecutive hours has expired. However, if a member is absent when their ship sails, the signal must be sent on sailing. Ships unable to access PMKeyS are to additionally report the absence on their Registered Movements Signal in accordance with extant Personnel Onboard reporting procedures.
14. **Checking to 'Absence'.** Ships and establishments are to enter the initial absentee information into PMKeyS in accordance with [MILPERSMAN, Part 9, Chapter 8](#)—*Conduct Reporting and Tracking System*.
15. DNPISM is to record the Non-Effective Service component of the absent member using a Forces Unauthorised Absence to annotate the member being AWOL within PMKeyS.

EXTENDED ABSENCE

16. Checking to 'Extended Absence'. If a member has not returned after seven days absence, the member is to be checked to 'Extended Absence' as from the date which the absence began. The CO is to notify Navy People Career Management Agency (NPCMA, PM-N, DEFPAC), and where applicable any other Coordinating Agency by Defence signal in the format in [Appendix 6A3](#) of this annex. NPCMA is responsible for checking the member to 'Extended Absence' in PMKeyS.

17. Upon receipt of the signal, the NPCMA is to post the member to the non-effective strength of their parent unit using PMKeyS Code MPU/983—*Desertion/Unauthorised Absence*.

COLLECTION AND INVENTORY OF PERSONAL EQUIPMENT AND EFFECTS

18. The procedures below are provided as guidance to units in dealing with any personal effects or Defence issued equipment of an absentee located within Navy ships, establishments or workplaces. Where in doubt, a common sense approach should be taken, ensuring transparent recording of any actions and decisions for the purpose of future accountability.

19. The CO is to cause all equipment and effects of the absentee to be mustered by at least two trustworthy persons of appropriate rank. Where additional DFDA or criminal offences are suspected prior to the muster, or where suspicion arises during the course of the muster, an NPC or other Service Police member is to be present.

20. The mustering persons must prepare an inventory of effects on [Form PD049](#)—*Effects of Naval Offender/Absentee/Hospital Patient/Deceased* and sign the form in the appropriate space. The inventory is to include any cash found among the effects. Should there be no effects, a [Form PD049](#) showing 'Nil' is to be completed and signed by the mustering persons. In the presence of the mustering persons, all of the effects (except for items as directed in later paragraphs) must then be suitably packed and labelled with the name rank and personal number of the absentee. The exterior of the package/bag must display a list of the contents of that package/bag.

21. **Soiled/perishable items which should not be retained for hygiene reasons.** Soiled clothing and other dirty items are to be laundered or cleaned before being packed. Any clothes or effects that should not be retained for hygiene or contamination reasons only—for example, fungal, bacterial, chemical, etc should be destroyed and a notation made in the inventory to this effect. Where practicable, any such destruction should be supported by a report from a Medical Officer. Perishable items such as foodstuffs are to be disposed of. Photographs are to be taken and retained of any items disposed of or destroyed. No item is to be disposed of or destroyed without prior concurrence by the relevant Service Police section head, to prevent the loss of potential evidence. Care is to be taken to remove money or other personal item from clothing or effects.

22. **Valuables.** Credit cards, personal cheque books, bank books, uncashed cheques and private articles of value such as watches, cameras and jewellery are to

be listed on a separate [Form PD049](#). The serial number and amounts of any insurance policies and bank books must also be included. Uncashed cheques must be recorded along with the name and the address of the bank and the name of the drawer of each cheque. The effects are to be packed and sealed in the presence of the mustering persons.

23. All valuable or attractive items found in effects, including documents of a personal nature—for example, journals, diaries or bills, are to be maintained by the Senior Service Police member. These items are to be placed into a tamper evident container and to be signed by the senior member of the mustering party and the Service Police member present. The other effects once packed are also to be maintained by the Senior Service Police member. All transactions are to be receipted. Key documents, such as wills, passports and birth certificates, are to be placed in a separate package for ease of access.

24. Cash found in the process of the mustering is to be dealt with IAW subsection 20A of the [Public Governance, Performance and Accountability Act 2013](#), [Accountable Authority Instructions \(AAI\) 7.2.2](#)—Money found on Defence premises and the [Financial Management Manual 5 \(FINMAN 5\)](#), subsection 7.3—Money found on Commonwealth premises.

25. **Private correspondence.** Private correspondence, diaries, photographs, etc are to be examined to ensure they do not contain any information contrary to security regulations. Documents containing security information are to be sealed in an envelope and secured in an appropriate Defence security container. All other correspondence is to be packed and labelled.

26. **Official documents and Defence stores items.** Any official documents, loan clothing, flying clothing or Defence stores found with the effects should be returned to administration or stores. The completed [Form PD049](#) is to note the return. The disposal of flying log books, Service Police notebooks and other accountable documents are to be managed in accordance with relevant Defence policies.

27. **Weapons, ammunition and hazardous items.** Any weapons or ammunition found among the effects that can be identified as Service property are to be returned to the Unit Armoury. Private weapons and ammunition are to be held within the Unit Armoury in accordance with [Australian Book of Reference 1920](#)—*Royal Australian Navy Manual of Military Skills* or other relevant policies. Hazardous items, such as chemicals or flammables, are to be stored in accordance with relevant Defence instructions. The [Form PD049](#) is to be annotated accordingly.

28. **Controlled items.** Any controlled items, such as S4 drugs, are to be passed into the custody of an appropriate authority and a receipt obtained. The [Form PD049](#) is to be annotated accordingly.

29. **Inventories.** These are to be signed by the members of the mustering party. The Senior Service Police member borne must maintain a copy of the [Form PD049](#). Copies of the [Form PD049](#) must be entered into Objective and placed on the personal file of the absentee. A further copy must be attached to the packaged items.

These documents are to be signed by the CO who is to approve an appropriate secure storage area for the items.

WARRANTS FOR ARREST

30. Completion of Warrant. Three originals of [Form B7](#)—*Warrant for Arrest of Person Suspected of Having Committed Service Offence* and [Form B1](#)—*Affidavit* are to be signed by the CO or authorised officer. Two originals of the [Form B7](#)—*Warrant for Arrest of Person Suspected of Having Committed Service Offence* and [Form B1](#)—*Affidavit* are to be forwarded by Express Post to:

Office of the Provost Marshal – Navy (OPM–N)

BP 35–02–050

PO Box 7927

CANBERRA BC ACT 2610

31. [Form B7](#)—*Warrant for Arrest of Person Suspected of Having Committed Service Offence* is to be accompanied by two photographs of the member if available. Photographs of the absentee can be obtained from their official passport, Divisional Documents, or by contacting the last known issuing authority of the member's Defence Common Access Card.

32. The third original of [Form B7](#)—*Warrant for Arrest of Person Suspected of Having Committed Service Offence* and [Form B1](#)—*Affidavit* is to be retained by the ship/establishment/unit.

33. **Action by OPM–N.** OPM–N must forward an original copy of the warrant, affidavit and photograph to the Australian Federal Police (AFP). An original copy of the warrant, affidavit and photograph are to be retained by OPM–N with copies of the warrant, affidavit and photograph sent to all authorities shown in Appendix 4 of this chapter.

RECOVERY OF ABSENTEES

34. **On report of recovery.** The recovery signal is to be taken as the authority to cancel warrants for arrest, for DNPISM to amend PMKeyS to reflect recommencement of Effective Service and for the relevant Pay Section to Cease Pay Restriction. NPCMA is to consult with the member's parent and gaining units as necessary to commence future posting action.

35. **Management of recovered absentee.** Where a member returns or is returned to a unit after a period of absence the recovering unit is to liaise with the member's parent unit and any other relevant Service authorities—for example, Career Management Agency, to determine the appropriate course of action with respect to the disposition of the member. The following factors may be relevant in determining the appropriate course of action:

- a. whereabouts of the absentee's parent unit

- b. whether the recovering unit or the parent unit is best equipped to administer consequent administrative/disciplinary action stemming from the absence
- c. availability of any necessary personnel/documentation necessary to support administrative or disciplinary action
- d. time lost in, and the expense of, travelling.

DISPOSAL OF PERSONAL EFFECTS ON TERMINATION IN ABSENTIA

36. Once NPCMA has completed the action to discharge the absentee, the Senior Service Police member is to attempt to contact the absentee or their PEC regarding the disposition of the property. This may be made via letter, email or phone informing the person that unless claimed within 14 days the held items will be disposed of in accordance with obligations under the [Public Governance, Performance and Accountability Act 2013](#) and in compliance with Defence policy as set out in [Accountable Authority Instructions](#), 7.2.2—*Money Found on Defence Premises*, [Accountable Authority Instructions](#), 10.2—*Disposing of Relevant Property*, [Defence Finance Manual 5](#), paragraph 7.3—*Money found on Commonwealth premises* and [Defence Finance Manual 5](#), paragraph 10.3.6—*Disposal of Property Found on Commonwealth Premises*.

37. If no contact is made after 14 days of reasonable receipt of notification, the unit may commence disposal action in compliance with the provisions of [Accountable Authority Instructions](#) and [Financial Management Manual 5](#).

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Public Governance, Performance and Accountability Act 2013](#)

[MILPERSMAN, Part 9, Chapter 8](#)—*Conduct Reporting and Tracking System*

[Accountable Authority Instructions \(AAI\)](#) 7.2.2—*Money found on Defence premises*

[Accountable Authority Instructions \(AAI\)](#) 10.2—*Disposing of relevant property*

[Financial Management Manual 5](#)—*Financial Management Manual*

[Australian Navy Publication 2110](#)—*RAN Career Management*

[Australian Book of Reference 1920](#)—*Royal Australian Navy Manual of Military Skills*

RELATED WEB FORMS

[Form PD049](#)—*Effects of Naval Offender/Absentee/Hospital Patient/Deceased*

[Form B1](#)—*Affidavit*

[Form B7](#)—*Warrant for Arrest of Person Suspected of Having Committed Service Offence*

OFFICIAL

MILPERSMAN Part 9

6A-7

Appendices:

- 6A1 [Breakout routine \(for an absentee from the workplace\)](#)
- 6A2 [Example of absentee breakout proforma](#)
- 6A3 [Notification of Member Absent Without Leave – Extended Absence](#)
- 6A4 [Distribution of warrants](#)

**BREAKOUT ROUTINE (FOR AN ABSENTEE FROM THE
WORKPLACE)**

1. A 'Breakout Routine' is to commence with all actions recorded on the attached proforma. This routine is to be conducted in the following format:
 - a. Check the member's usual workplaces
 - b. Check the workplace and unit recreational areas
 - c. Ring the member's Recall phone number as stated in the recall list, or other contact numbers listed in Personnel Management Key Solutions (PMKeyS).
 - d. Inquire whether other personnel who normally work or recreate with the absentee know of their whereabouts. Further, enquire if there is any reason as to why the person may be absent
 - e. Ask if regulating or administrative staff have been approached to ascertain the absentee's whereabouts. If needed, contact the Departmental Regulator or relevant authority for that department/workplace and ascertain:
 - (1) if the member has been granted Short Absence from Duty, Medical Absence from Duty, Recreational Leave or other leave for specific purposes
 - (2) if the member has been loaned or posted at short notice to another unit/ship
 - (3) if the Regulator/authority knows the member's likely whereabouts
 - (4) if there any circumstances about the member that may be of a concern or likely to have caused their absence (Divisional Matters)
 - (5) through the use of PMKeyS, whether the absentee is on leave, course or posting.
 - f. Contact the following areas and ascertain whether the member has mustered for sick parade or has an appointment with the following:
 - (1) Medical department
 - (2) Dental department
 - (3) Specialist department
 - (4) Psychology department
 - (5) Chaplain office
 - (6) Local alcohol and drug program advisor coordinator

- (7) Local Service Police Office.
- g. Contact the gymnasium, the member may be doing remedial PT or their annual physical fitness test
- h. if after hours, then a check of mess recreational and bar areas is to be made.
2. Once all the above avenues have been exhausted and if the member remains missing, the absence is to be reported to the local Service Police Office. The Service Police Staff are to take the following actions:
 - a. Contact the local hospitals in the area and try to ascertain if the member has been admitted to that facility
 - b. Ring the local State or Federal Police departments and advise them you are trying to establish the whereabouts of a member of the unit who is missing or failed to report for duty. Ask if they have in custody or have knowledge of an incident that may involve this person
 - c. In extreme cases of legitimate concern, consideration should be given to contacting the State Morgue to ascertain if the member has been admitted, or if an unidentified person meeting his/her description is admitted. This is to be performed by Service Police staff only.
3. Once these avenues have been exhausted, the Commanding Officer (CO)/Executive Officer (XO) are to be advised that the member is believed absent without leave. The Service Police should provide recommendations to the CO/XO on the raising of an arrest warrant.
4. **Home visits.** A visit to the home of the member should not be carried out unless special circumstances exist. Special circumstances will exist when there are facts or information made known to Service Police staff, which gives rise to concern for the health or safety of the absentee. The Defence Community Organisation (DCO) may assist the unit in facilitating home visits.
5. If special circumstances exist, consideration should be given to seeking the assistance and presence of civilian police. The decision to seek the assistance of civilian police must be approved by Command.
6. If the member is not located then the Absentee process is to be followed.

EXAMPLE OF ABSENTEE BREAKOUT PROFORMA

HMAS XXXX/Unit:		
Surname:		
Given name(s):		
Rank/Rate:		PMKeyS Employee ID:
Under 18 years?	Yes	No
Place of employment:		
Time reported:	Reported by:	Ext:
Supervisor		Ext:
Regulator:		Ext:
Divisional Officer:		Ext:

OFFICIAL

MILPERSMAN Part 9

6A2-2

Ensure the absentee is not in the normal place of employment		
Ensure the absentee is not on leave		
Ensure the absentee is not on course		
Ensure the absentee has not been posted LAM/Activity Log Movement		
SMHQ HR Manager: (SM Personnel Only)		
Medical Dept	Dental Dept	Specialist Dept
Psychology Dept	Chaplin Office	Gymnasium
WAADPAC (after hours)		
Check Mess and Bar Areas, Cinema, Canteen Areas		
(LIA Member) Check Cabin & Facilities (Laundry, TV Rooms)		
List any reason (if any) that you have been informed may have caused or led to the person becoming an absentee:		
Member's local recall details:		
Address:		
Contact number (home):	Contact number (mobile):	
Last sighting of member:		
Place:		
Address:		
Any other significant information:		

Note:

(a) Section A : To be completed by the Department regulator, Chain of Comman or the Duty Officer

OFFICIAL

MILPERSMAN Part 9

6A2-3

Local police called?	Yes / No	Time:
Local hospital called?	Yes / No	Time:
Mortuary called?	Yes / No	Time:
Is a Home Visit considered appropriate?	Yes / No	
Is the assistance of DCO / Chaplaincy required?	Yes / No	
Absentee Signal raised?	Yes / No	

Note:

(a) Section B : To be completed by Service Police staff

CO/XO Informed?	Yes / No	Time
Regulator/Duty Officer Sign		Service Police Sign

This Form is to be retained by Service Police Staff until the member has been recovered or Service Terminated due to Extended Absence)

**NOTIFICATION OF MEMBER ABSENT WITHOUT LEAVE –
EXTENDED ABSENCE**

Security Classification:	UNCLASSIFIED
Precedence action:	PRIORITY
Message SOC	
From:	Reporting Unit
To: (Defence)	PM ADF DEFPAY Melbourne DS-(insert region)- PAC DEFCOMMUNITYORG (insert region) (Navy) AIG3622 CN AUSTRLIA DGNHS NPCMA NPCMA (insert region) FHQAUST DPSN DNPISM AUSNAVSTRATCOM COMAUSSHOREFOR MARHOPS (if applicable) Member's Admin Authority (if different to parent unit)
INFO	(Navy) Admin authority location of member's PEC (if applicable)

DISTRIBUTION OF WARRANTS

1. Warrants for arrest of Navy personnel are to be addressed and distributed to the following authorities by Provost Marshal – Navy:

a. **Original:**

- (1) Warrant Section, Australian Federal Police, City Police Station, PO Box 401, CANBERRA ACT 2601.

b. **Copies:**

- (1) Navy People Career Management Agency (NPCMA)
- (2) Commanding Officer (CO), HMAS Albatross
- (3) CO HMAS Cairns
- (4) CO HMAS Cerberus
- (5) CO HMAS Coonawarra
- (6) CO HMAS Creswell
- (7) CO HMAS Kuttabul
- (8) CO HMAS Harman
- (9) CO HMAS Penguin
- (10) CO HMAS Stirling
- (11) CO HMAS Waterhen
- (12) CO HMAS Watson
- (13) Navy Headquarters (NHQ) South Australia (SA)
- (14) NHQ South Queensland and
- (15) NHQ Tasmania.

**SIGNAL TEMPLATE – NOTIFICATION OF MEMBER
ABSENT WITHOUT LEAVE – INITIAL NOTIFICATION**

Security Classification	UNCLASSIFIED
Precedence action:	PRIORITY
Message SIC	
From:	Reporting Unit
To: (Defence)	PM ADF
	DEFPAY Melbourne DS-(insert region)- PAC DEFCOMMUNITYORG (insert region) (Navy) AIG3622 CN AUSTRLIA DGNHS NPCMA NPCMA (insert region) FHQAUST DPSN DNPISM AUSNAVSTRATCOM COMAUSSHOREFOR MARHOPS (if applicable) Member's Admin Authority (if different to parent unit) (Army) ADF-LSL ARMY-HQ DSCM-A (for ARA and CFTS officers, and ARES LTCOL and above) PLA "CMA DCMI-A"

Security Classification	UNCLASSIFIED
	<p>include the appropriate command as follows:</p> <p>HQ FORCOMD (as applicable)</p> <p>PAC-NSW (for Navy, Air Force and Army not administered by APAC)</p> <p>Regional APAC (as applicable)</p> <p>SOHQ (as applicable)</p> <p>HQ 1 DIV (as applicable)</p> <p>(RAAF)</p> <p>CAF CANBERRA (for DCOORD-AF)</p> <p>DEFAIR DGPERS-AF</p> <p>DEFAIR DP-AF</p>
INFO	(Navy)
	<p>Admin authority in location of member's PEC (if applicable)</p> <p>Admin authority location of member's PEC (if applicable)</p>
SENSITIVE	PERSONAL
SUBJ:	NOTIFICATION OF MEMBER ABSENT WITHOUT LEAVE – INITIAL NOTIFICATION
	<p>A. Military Personnel Policy Manual, Part 9, Chapter 6—<i>Reporting and Management of Members Absent Without Leave</i>.</p> <ol style="list-style-type: none"> 1. PMKeyS number, surname, initials, rank of absent member. 2. Recall address. 3. Security clearance. 4. Date/Time of the commencement of absence 5. Date/Time and location last seen. 6. Possible reasons for absence if known—for example, sickness/trouble in family, known offer of alternative employment, imminent DFDA or civil court action, suspension from course, etc.

Security Classification	UNCLASSIFIED
	<p>7. Possible location outside unit area (if known). (If used, make unit that area an action addressee and request they attend location).</p> <p>8. Details of action taken to locate the member—for example, contacted PEC, checked with local hospital and police authorities.</p> <p>9. Administrative action taken—for example, safeguarding of public and private property in accordance with the single Service Instruction on disposal of public and private property as a result of illegal absenteeism.</p> <p>10. Commence pay restrictions.</p> <p>11. PMKeyS updated/not updated.</p> <p>12. POC details at parent unit</p>

Notes:

- (a) For Navy, Subject Indicator Codes (SIC) A1A, WAT and the relevant W3 for officers or W4 for sailors applicable to the member's category or PQ are to be used—for example, W4B – Boatswain's Mate
- (b) For Navy, the Access Indicator Group – AIG 3622 may be used. When using this AIG, the releasing unit will need to remove the MAROPS and NPCMA region PLAs if these are not applicable to the absentee. The DEFCOMMUNITYORG and the absentee's admin authority PLAs (if different to the parent unit) are to be added as action addresses of the signal.
- (c) When the absence is abroad, the signal is to be addressed to the local Defence Attaché or the local Australian High Commission, Embassy or Consulate as required.

**SUGGESTED TEXT TO PRIMARY EMERGENCY CONTACT
OF ABSENTEE**

Dear *(insert title and name of person)*,

I am writing to inform you that your *(son/daughter/partner, etc*)*, *(insert name in full)*, has been absent without leave from *(insert Unit)* since *(insert date)*.

It is an offence against the [Defence Force Discipline Act 1982](#) for a person to be absent without leave and the person is liable to be arrested and returned to custody of the Australian Defence Force. A warrant has now/has not yet¹ been issued for arrest of your *(son/daughter/partner, etc*)*.

Whilst he/she¹ is in a state of absence he/she¹ will cease to be eligible for pay and allowances and, as a consequence, payment of any allotments will cease during the period of his/her¹ absence. Any personal items left on Defence premises will be collected and stored for safe keeping until such time as he/she¹ returns to duty.

It is in your *(son's/daughter's/partner's, etc*)* best interest for him/her¹ to return to duty and if the whereabouts of *(insert name in full)* is known to you, your influence in having them return to their place of duty would be greatly appreciated.

Yours faithfully,

Commanding Officer

*(*insert relevant relationship)*

¹ Delete as applicable

**SIGNAL TEMPLATE – NOTIFICATION OF MEMBER
ABSENT WITHOUT LEAVE – 22 DAY NOTIFICATION**

Security Classification	UNCLASSIFIED
Precedence action:	PRIORITY
Message SIC	
From:	Reporting Unit
To: (Defence)	PM ADF DEFPAY Melbourne DS-(insert region)- PAC DEFCOMMUNITYORG (insert region) (Army) ADF-LSL ARMY-HQ DSCM-A (for ARA and CFTS officers, and ARES LTCOL and above) include the appropriate command as follows: HQ FORCOMD (as applicable) PAC-NSW (for Navy, Air Force and Army not administered by APAC) Regional APAC (as applicable) SOHQ (as applicable) HQ 1 DIV (as applicable) (RAAF) CAF CANBERRA (for DCOORD-AF) DEFAIR DGPERS-AF DEFAIR DP-AF PLA "CMA DCMI-A"

Security Classification	UNCLASSIFIED
SENSITIVE	PERSONAL
SUBJ:	<p>NOTIFICATION OF MEMBER ABSENT WITHOUT LEAVE – 22 DAY NOTIFICATION</p> <p>A. Military Personnel Policy Manual, Part 9, Chapter 6—<i>Reporting and Management of Members Absent Without Leave</i>.</p> <p>B. Reference notification of member AWOL – Initial Notification Defence signal.</p> <ol style="list-style-type: none"> 1. Provide full particulars of absent member. 2. State that the member is still absent as advised in reference B. 3. Compliance with requirements detailed in accordance with the single Service Instruction on disposal of public and private property as a result of illegal absenteeism and security measures to be taken. 4. If an Investigating Officer and Inquiry Officer are appointed—provide details of the Investigating Officer and Inquiry Officer and terms of reference. 5. Warrants for arrest – provide date issued and cease date. 6. Pay restrictions – provide commencement date 7. Summary of outstanding disciplinary or criminal charges (if applicable). 8. Whether recommended for termination of service due to extended absence if not recovered at three month point. 9. Request CMA post the member to non-effective strength of parent unit. 10. POC details at parent unit.

**SIGNAL TEMPLATE – NOTIFICATION OF MEMBER
ABSENT WITHOUT LEAVE – THREE MONTH
NOTIFICATION**

Security Classification	UNCLASSIFIED
Precedence action:	PRIORITY
Message SIC	
From:	Reporting Unit
To: (Defence)	<p>PM ADF DEFPAY Melbourne DS-(insert region)- PAC DEFCOMMUNITYORG (insert region) (Navy) AIG3622 CN AUSTRLIA DGNHS NPCMA NPCMA (insert region) FHQAUST DPSN DNPISM AUSNAVSTRATCOM COMAUSSHOREFOR MARHOPS (if applicable) Member's Admin Authority (if different to parent unit) (Army) ADF-LSL ARMY-HQ DSCM-A (for ARA and CFTS officers, and ARES LTCOL and above) include the appropriate command as follows: HQ FORCOMD (as applicable) PAC-NSW (for Navy, Air Force and Army not administered by APAC)</p>

OFFICIAL

Security Classification	UNCLASSIFIED
	Regional APAC (as applicable) SOHQ (as applicable) HQ 1 DIV (as applicable) (RAAF) CAF CANBERRA (for DCOORD-AF) DEFAIR DGPERS-AF DEFAIR DP-AF PLA "CMA DCMI-A"
INFO	(Navy)
	Admin authority in location of member's PEC (if applicable)
SENSITIVE	PERSONAL
SUBJ:	<p>NOTIFICATION OF MEMBER ABSENT WITHOUT LEAVE – THREE MONTH NOTIFICATION</p> <p>A. Military Personnel Policy Manual, Part 9, Chapter 6—<i>Reporting and Management of Members Absent Without Leave</i>.</p> <p>B. Reference notification of member AWOL – Initial Notification Defence signal.</p> <p>C. Reference notification of member AWOL – 22nd Day of Notification Defence signal</p> <ol style="list-style-type: none"> 1. Provide full particulars of absent member. 2. State that the member is still absent as advised. 3. Compliance with requirements detailed in accordance with the single Service Instruction on disposal of public and private property as a result of illegal absenteeism and security measures to be taken. 4. If applicable, summary of Investigating Officer and Inquiry Officer reports 5. Request the relevant single Service DGPERS area, as applicable provide further advice. 6. POC for parent unit.

Note:

- (a) For Navy, the Access Indicator Group – AIG 3622 may be used. When using this AIG, the releasing unit will need to remove the MAROPS and NPCMA region PLAs if these are not applicable to the absentee. The DEFCOMMUNITYORG and the absentee's admin authority PLAs (if different to the parent unit) are to be added as action addresses of the signal

SIGNAL TEMPLATE – RETURN OF MEMBER ABSENT WITHOUT LEAVE – RECOVERY BY PARENT UNIT PRIOR TO THREE MONTHS AWAY WITHOUT LEAVE

Security Classification	UNCLASSIFIED
Precedence action:	PRIORITY
Message SIC	
From:	Reporting Unit
To: (Defence)	PM ADF DEFPAY Melbourne DS-(insert region)- PAC DEFCOMMUNITYORG (insert region) (Navy) AIG3622 CN AUSTRLIA DGNHS NPCMA NPCMA (insert region) FHQAUST DPSN DNPISM AUSNAVSTRATCOM COMAUSSHOREFOR MARHOPS (if applicable) Member's Admin Authority (if different to parent unit) (Army) ADF-LSL ARMY-HQ DSCM-A (for ARA and CFTS officers, and ARES LTCOL and above)

Security Classification	UNCLASSIFIED
	<p>include the appropriate command as follows:</p> <p>HQ FORCOMD (as applicable)</p> <p>PAC-NSW (for Navy, Air Force and Army not administered by APAC)</p> <p>Regional APAC (as applicable)</p> <p>SOHQ (as applicable)</p> <p>HQ 1 DIV (as applicable)</p> <p>(RAAF)</p> <p>CAF CANBERRA (for DCOORD-AF)</p> <p>DEFAIR DGPERS-AF</p> <p>DEFAIR DP-AF</p> <p>PLA "CMA DCMI-A"</p>
INFO	<p>(Navy)</p> <p>Admin authority in location of member's PEC (if applicable)</p>
SENSITIVE	PERSONAL
SUBJ:	<p>NOTIFICATION OF RETURN OF AWOL MEMBER – RECOVERY BY PARENT UNIT PRIOR TO THREE MONTHS AWOL</p> <p>A. Military Personnel Policy Manual, Part 9, Chapter 6—<i>Reporting and Management of Members Absent Without Leave</i>.</p> <p>B. Reference notification of member AWOL – Initial Notification Defence signal.</p> <p>C. Reference notification of member AWOL – 22nd Day of Notification Defence signal</p> <ol style="list-style-type: none"> 1. Provide full particulars of absent member. 2. Provide details surrounding member's return—for example, date/time, location and brief reasons for member's return. 3. Actions completed in accordance with the single Service Instruction on disposal of public and private property as a result of illegal absenteeism and security measures to be taken.

Security Classification	UNCLASSIFIED
	<ol style="list-style-type: none">4. Details of proposed disciplinary action.5. Notification to DEFPAY.6. Whether member has been medically examined and if so details of any restrictions.7. Request the relevant single Service DGPERS area, as applicable, if any further action is required.8. Cancel warrants for arrest (if issued).9. Cease pay restrictions.10. Any other relevant details—for example, outstanding civil proceedings.11. POC details for parent unit.

Note:

- (a) For Navy, the Access Indicator Group – AIG 3622 may be used. When using this AIG, the releasing unit will need to remove the MAROPS and NPCMA region PLAs if these are not applicable to the absentee. The DEFCOMMUNITYORG and the absentee's admin authority PLAs (if different to the parent unit) are to be added as action addresses of the signal.

SIGNAL TEMPLATE – RETURN OF MEMBER ABSENT WITHOUT LEAVE – RECOVERY BY OTHER THAN PARENT UNIT PRIOR TO THREE MONTHS AWAY WITHOUT LEAVE

Security Classification	UNCLASSIFIED
Precedence action:	PRIORITY
Message SIC	
From:	Reporting Unit
To: (Defence)	PM ADF DEFPAY Melbourne DS-(insert region)- PAC DEFCOMMUNITYORG (insert region) Parent unit (Navy) AIG3622 CN AUSTRLIA DGNHS NPCMA NPCMA (insert region) FHQAUST DPSN DNPISM AUSNAVSTRATCOM COMAUSSHOREFOR MARHOPS (if applicable) Member's Admin Authority (if different to parent unit) (Army) ADF-LSL ARMY-HQ DSCM-A (for ARA and CFTS officers, and ARES LTCOL and above)

Security Classification	UNCLASSIFIED
	<p>include the appropriate command as follows:</p> <p>HQ FORCOMD (as applicable)</p> <p>PAC-NSW (for Navy, Air Force and Army not administered by APAC)</p> <p>Regional APAC (as applicable)</p> <p>SOHQ (as applicable)</p> <p>HQ 1 DIV (as applicable)</p> <p>(RAAF)</p> <p>CAF CANBERRA (for DCOORD-AF)</p> <p>DEFAIR DGPERS-AF</p> <p>DEFAIR DP-AF</p> <p>PLA "CMA DCMI-A"</p>
INFO	<p>(Navy)</p> <p>Admin authority in location of member's PEC (if applicable)</p>
SENSITIVE	PERSONAL
SUBJ:	<p>NOTIFICATION OF RETURN OF AWOL MEMBER – RECOVERY BY OTHER THAN PARENT UNIT PRIOR TO THREE MONTHS AWOL</p> <p>A. Military Personnel Policy Manual, Part 9, Chapter 6—<i>Reporting and Management of Members Absent Without Leave</i>.</p> <p>B. Reference notification of member AWOL – Initial Notification Defence signal.</p> <p>C. Reference notification of member AWOL – 22nd Day of Notification Defence signal</p> <ol style="list-style-type: none"> 1. Provide full particulars of absent member. 2. Provide details surrounding member's return—for example, date/time, location and brief reasons for member's return. 3. Actions completed in accordance with the single Service Instruction on disposal of public and private property as a result of illegal absenteeism and security measures to be taken.

Security Classification	UNCLASSIFIED
	<ol style="list-style-type: none">4. Details of proposed disciplinary action.5. Notification to DEFPAY.6. Whether member has been medically examined and if so details of any restrictions.7. Request the relevant single Service DGPERS area, as applicable, if any further action is required.8. Cancel warrants for arrest (if issued).9. Cease pay restrictions.10. Any other relevant details—for example, outstanding civil proceedings.11. POC details for parent unit.

Note:

- (a) For Navy, the Access Indicator Group – AIG 3622 may be used. When using this AIG, the releasing unit will need to remove the MAROPS and NPCMA region PLAs if these are not applicable to the absentee. The DEFCOMMUNITYORG and the absentee’s admin authority PLAs (if different to the parent unit) are to be added as action addresses of the signal

CHAPTER 7

REPORTING, RECORDING AND DEALING WITH CIVIL OFFENCES, SERVICE AND CIVIL CONVICTIONS AND DIVERSIONARY PROGRAMS, AND DISCIPLINE OFFICER INFRINGEMENTS

INTRODUCTION

7.1 Civil convictions imposed by a Commonwealth, State or Territory court may affect the career management of Defence members. A civil conviction may also affect the suitability of applicants seeking to join the Australian Defence Force (ADF).

7.2 When a Defence member is arrested and/or charged with a civil offence, or participates in a Diversionary Program, the ADF is to be informed and is to determine whether the member remains suitable for their current employment or position. The ADF also has a responsibility to ensure that the Member is not prevented by ADF commitments from attending any court/program requirements.

POLICY FRAMEWORK

7.3 [Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL6—Reporting, recording and dealing with civil offences, service and civil convictions and diversionary programs](#) compliments this chapter.

POLICY STATEMENT

7.4 Defence members and applicants seeking to join the ADF are required to report and record any civil offences, service and civil convictions and diversionary programs they have attended or will be required to attend.

SCOPE

7.5 This chapter details the reporting and recording requirements and summarises the available administrative options when an applicant for appointment or enlistment in the ADF has a Recordable Conviction, and where a Defence member:

- a. has been arrested and/or charged with a Civil Offence; or
- b. has been placed on a Diversionary Program; or
- c. has a Recordable Conviction.

DEFINITIONS

7.6 [Military Personnel Policy Manual \(MILPERSMAN\), Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout MILPERSMAN. The following definitions apply to this Chapter.

- a. **Civil offence** means an offence against an Australian law (including Commonwealth, State or Territory laws) prosecuted by civilian authorities or an offence against a law of another country.
- b. **Conduct Record** is a permanent record of a Member's recordable convictions and related evidence. It is contained in [Form PD103](#)—*Conduct Record File Cover* available on the Defence Publishing Service Web Forms System.
- c. **Diversionsary Programs** are programs coordinated by civilian police, State and Territory courts and/or government health departments, which aim to divert people who have committed minor civil offences (eg possession or use of drugs) away from the criminal justice system for rehabilitation and further education. The programs differ with respect to eligibility, scope and legal effect.
- d. **Recordable Conviction** is a Civil Conviction that is not a Spent Conviction.
- e. **Service Conviction** is a conviction by a Service tribunal for a Service offence under the [Defence Force Discipline Act 1982](#) (DFDA). It does not include an infringement notice under the Discipline Officer scheme.
- f. **Spent Conviction** is a Civil Conviction that has been defined as being a 'spent conviction' or an 'annulled conviction' pursuant to a State, Territory or Commonwealth Spent Conviction Scheme.
- g. **Spent Conviction Schemes** are statutory or policy based schemes designed to prevent discrimination on the basis of relatively minor convictions by enabling people with a criminal record to 'wipe the slate clean' after a period of time.

CIVIL CONVICTION PRIOR TO APPOINTMENT TO OR ENLISTMENT

7.7 A Recordable Conviction may affect a person's suitability for appointment or enlistment in the ADF. All applicants will be asked to consent to a police records check for Recordable Convictions.

7.8 An individual does not have to disclose a Spent Conviction to any person, including the ADF, unless a legislative exclusion applies. Should an applicant for appointment or enlistment to the ADF disclose a Spent Conviction either voluntarily or by mistake, no consideration can be made of that Spent Conviction unless a legislative exclusion applies. Where there is doubt about the status of a particular conviction, legal advice may be sought.

RECORDING

7.9 When a decision to enlist/appoint is made, the enlisting/appointing authority is to advise the relevant Service Career Management Agency (CMA) and the Defence Security and Vetting Service (DSVS) of all Recordable Convictions using part C of [Form PD052](#)—*Report of Arrest, Charge for Civilian Offence and/or Civil Offence*. All Recordable Convictions are to be recorded on a Member's Conduct Record, [Form PD103](#), and on Personnel Management Key Solution (PMKeyS).

A DEFENCE MEMBER WITH A CIVIL OFFENCE

REPORTING REQUIREMENTS

7.10 **Defence member's responsibility.** A Defence member who has been arrested and/or charged with a civil offence is to report this to their Commanding Officer (CO) within 24 hours of return to duty, by completing part A of [Form PD052](#). The member is to provide details of the nature of the arrest and/or charge, including pending court dates and any further requirements that may affect their availability for duty.

7.11 **Officer, warrant officer, or senior non-commissioned officer and Service Police responsibilities.** An officer, warrant officer, or senior non-commissioned officer, on becoming aware of a Defence member posted to their unit being arrested and/or charged with a civil offence, is to report the matter to the member's CO. A Service Police member, on becoming aware of the arrest and/or charging with a civil offence of a member posted to their unit or another unit is to report the matter to the member's CO. This information must be handled as 'SENSITIVE: PERSONAL'.

7.12 **Further reporting requirements.** The Defence member's CO is to determine whether further reporting is required, in accordance with the following guidance:

- a. If the matter amounts to a 'notifiable incident', as defined in [Incident Reporting and Management Manual \(IRMMAN\)](#), it is to be reported in accordance with that Instruction.
- b. If the matter is likely to attract media or Parliamentary interest, it is to be reported to higher Headquarters.
- c. If the Defence member holds a security clearance, Commanders must refer to the [Defence Security Principles Framework \(DSPF\)](#) for guidance on further reporting.
- d. If the Defence member's availability is affected or administrative action is taken, the matter is to be reported to the relevant Service CMA.

7.13 To assist Commanders, a Service Police agency may be asked to liaise with the relevant civilian authorities and confirm the circumstances of the arrest/charge.

RECORDING

7.14 The [Form PD052](#) is to be placed on the Defence member’s personal file at their unit. It must not be placed on the member’s conduct record.

7.15 Where:

- a. A Defence member is arrested but not later charged, or where charge(s) are dropped or the member is found not guilty—[Form PD052](#) is to be removed from the member’s personal file and forwarded to the Directorate of Military Discipline Law (DMDL), Defence Legal Division (DL), for archiving and/or disposal as appropriate.
- b. Administrative action is taken—a copy of [Form PD052](#) is to be permanently retained by the relevant agency as supporting material accompanying the record of the administrative action.

ADMINISTRATIVE CONSEQUENCES

7.16 The information reported on [Form PD052](#) may be used to determine whether there will be any administrative consequences, which may include, but are not limited to, those in Table 7-1 below. Before any adverse administrative action is taken, the Defence member is to be advised of the proposed action and afforded procedural fairness in accordance with [Good Decision Making in Defence](#). In cases involving the use of prohibited substances, Commanders are to refer to [MILPERSMAN Part 4, Chapter 3—Management of the Use of Prohibited Substances in the Australian Defence Force](#).

Table 7-1: Administrative consequences

Interest	Options available
Defence member—to ensure they are available for a court appearance or further requirements.	<ul style="list-style-type: none"> • Posting restrictions, or • Reconsideration of the member's availability e.g.: <ul style="list-style-type: none"> – to deploy, or – to attend nominated courses.
ADF—suitability of the Defence member to retain a security clearance.	<ul style="list-style-type: none"> • Review of security clearance to determine suitability for continued access to classified matter.

7.17 **Suspension from duty.** In addition to administrative consequences, when a Defence member is charged with a civil offence, consideration may be given to suspending the individual from duty pursuant to section 98 of the [Defence Force Discipline Act 1982](#).

MEMBER PLACED ON A DIVERSIONARY PROGRAM

REPORTING REQUIREMENTS

7.18 Defence member's responsibility. A Defence member who has been placed on a Diversionary Program is to report this to their CO, within 24 hours of returning to duty, by completing part B of [Form PD052](#). The member is to provide details of why they have been placed on the diversionary program, any undertakings they have made and any program requirements that may affect availability for duty.

7.19 Officer, warrant officer, or senior non-commissioned officer and Service Police responsibilities. An officer, warrant officer, or senior non-commissioned officer, on becoming aware of a Defence member posted to their unit being placed on a diversionary program, is to report the matter to the member's CO. A Service Police member, on becoming aware of a member posted to their unit or another unit being placed on a diversionary program is to report the matter to the member's CO. This information must be handled as 'SENSITIVE: PERSONAL'.

7.20 Further reporting requirements. The Defence member's CO is to determine whether further reporting is required, in accordance with the following guidance:

- a. If the matter amounts to a 'notifiable incident', as defined in [IRMMAN](#), it is to be reported in accordance with that Instruction.
- b. If the matter is likely to attract media or Parliamentary interest, it is to be reported to higher Headquarters.

If the Defence member holds a security clearance, Commanders are to refer to [Defence Security Principles Framework \(DSPF\)](#)

- c. for guidance on further reporting.
- d. If the Defence member's availability is affected or administrative action is taken, the matter is to be reported to the relevant Service CMA.

7.21 To assist Commanders, the relevant Service Police agency may be asked to liaise with the relevant civilian authorities and confirm the nature of the diversionary program. However, in some jurisdictions confidentiality requirements in legislation or policy may prevent civilian authorities from providing the ADF with information.

RECORDING

7.22 [Form PD052](#) is to be placed on the Defence member's personal file at their unit. It is not to be placed on the member's conduct record. Upon successful completion of the program [Form PD052](#) is to be removed from the member's personal file and forwarded to DMDL for archiving and/or disposal as appropriate. If administrative action is taken, a copy of [Form PD052](#) is to be permanently retained by the relevant agency as supporting material accompanying the record of the administrative action.

ADMINISTRATIVE CONSEQUENCES

7.23 The information reported on [Form PD052](#) may be used to determine whether there will be administrative consequences, which may include, but are not limited to, any of those in Table 7-2 below. Before any adverse administrative action is taken, the Defence member is to be advised of the proposed action and afforded procedural fairness in accordance with [Good Decision Making in Defence](#). In cases involving the use of prohibited substances, Commanders are to refer to [MILPERSMAN Part 4, Chapter 3—Management of the use of prohibited substances in the Australian Defence Force](#).

Table 7-2: Administrative consequences

Interest	Options available
Defence member—to ensure they are available to meet program requirements.	<ul style="list-style-type: none"> • posting restrictions, or • reconsideration of member’s availability: <ul style="list-style-type: none"> – to deploy, or – to attend nominated courses.
ADF—suitability of the Defence member to retain security clearance.	<ul style="list-style-type: none"> • review of security clearance to determine suitability for continued access to classified matter.
ADF—suitability of the Defence member for further service.	<ul style="list-style-type: none"> • termination of service(a) • reduction in rank; • formal warning/censure/counselling;(b) • denying or delaying promotion; • transfer of employment category; or • reconsideration of member’s suitability for: <ul style="list-style-type: none"> – confirmation of probationary appointment/enlistment; – offer of permanent appointment/enlistment; – extension of a limited period appointment/enlistment or compulsory retirement age; – conversion of appointment/enlistment to an indefinite period appointment/enlistment; or – representational post/duties.

Notes:

- (a) See [MILPERSMAN Part 10, Chapter 2—Termination of Service in the Australian Defence Force](#).
- (b) See [MILPERSMAN Part 9, Chapter 2—Formal Warnings and Censures in the Australian Defence Force](#).

7.24 Before any adverse administrative action is taken, the Defence member is to be advised of the proposed action and afforded procedural fairness in accordance with [Good Decision Making in Defence](#).

MEMBER CONVICTED OF A CIVIL OFFENCE

REPORTING REQUIREMENTS

7.25 **Defence member's responsibilities.** A Defence member who incurs a Recordable Conviction is to report this to their CO within 24 hours of returning to duty, by completing part C of [Form PD052](#). If the member has any doubt about whether they have a Recordable Conviction, advice should be sought in the first instance from the relevant court/police agency.

7.26 **Officer, warrant officer, or senior non-commissioned officer and Service Police responsibilities.** An officer, warrant officer, or senior non-commissioned officer, on becoming aware of a new Recordable Conviction incurred by a Defence member posted to their unit is to report the matter to the individual's CO. Service Police, on becoming aware of a new Recordable Conviction incurred by a member posted to their unit or another unit are to report the matter to the member's CO. This information must be handled as 'SENSITIVE: PERSONAL'.

7.27 **Further reporting requirements.** If there is doubt about whether the reported conviction is a Recordable Conviction legal advice should be sought.

7.28 **The Defence member's unit must report the Recordable Conviction to the relevant Service Career Management Agency.** The Defence member's CO is to determine whether further reporting is required, in accordance with the following guidance:

- a. If the matter amounts to a 'notifiable incident', as defined in [IRMMAN](#), it is to be reported in accordance with that Instruction.
- b. If the matter is likely to attract media or Parliamentary interest, it is to be reported to higher Headquarters.

If the Defence member holds a security clearance, Commanders are to refer to the [Defence Security Principles Framework \(DSPF\)](#)

- c. for guidance on further reporting.

7.29 To assist Commanders, a Service Police agency may be asked to liaise with the relevant civilian authorities and confirm the nature of the civil offence.

RECORDING

7.30 [Form PD052](#) is to be placed on the Defence member's Conduct Record [Form PD103](#) and the Recordable Conviction is to be entered on PMKeyS in accordance with [MILPERSMAN Part 9, Chapter 8—Conduct Reporting and Tracking System](#). The unit is also to forward a copy to the relevant CMA for retention on the member's History File. If a conviction is subsequently quashed, that conviction is to be struck through and annotated as such on the cover of [Form PD103](#) and on [Form PD052](#).

Where all recordable convictions on a [Form PD052](#) are quashed, the [Form PD052](#) is to be removed from [Form PD103](#) and forwarded to DMDL for archiving and/or disposal as appropriate. The relevant CMA is to be updated on all changes to recordable convictions to ensure centralised records are amended appropriately.

7.31 Where administrative action is taken as a result of the conviction, a copy of [Form PD052](#) is to be retained by the relevant agency as supporting material accompanying the record of the administrative action.

ADMINISTRATIVE CONSEQUENCES

7.32 When a Defence member has a Recordable Conviction adverse administrative action may be considered. However, administrative action is not to be taken for the purpose of rectifying any perceived deficiency or inadequacy in the sentence imposed by a civil court. In cases involving the use of prohibited substances, Commanders must refer to [MILPERSMAN Part 4, Chapter 3](#)—*Management of the Use of Prohibited Substances in the Australian Defence Force*.

7.33 Before any adverse administrative action is taken, the member is to be advised of the proposed action and afforded procedural fairness in accordance with [Good Decision Making in Defence](#).

7.34 The relevant administrative decision-making authority is to ensure that any administrative action is taken while the conviction remains a Recordable Conviction. Once the conviction becomes spent, which may occur after only a short period, the charge and the conviction may not be taken into account in decision-making unless a relevant exclusion applies.

7.35 To make an informed decision on the most appropriate administrative action to be taken, the relevant administrative decision-making authority may wish to examine the evidence gathered by civilian authorities. In such circumstances, the evidence required should be sought from the relevant civilian authority, through the Service Police.

7.36 **Suspension from duty.** In addition to administrative consequences, when a Defence member is convicted of a civil offence they may be suspended from duty pending a decision to terminate their Service, pursuant to section 99 of the [Defence Force Discipline Act 1982](#).

CAREER CONSEQUENCES

7.37 As the seriousness of a civilian conviction, the circumstances that led to the conviction and an individual's personal circumstances vary significantly, the consequences of a civil conviction on an individual's career will also be highly varied. However, irrespective of any administrative action that has been undertaken as a result of the conviction, all members convicted of a civilian offence will have this matter considered by their relevant CMA in future career management decisions, such as promotions, competitive postings, transfer between employment categories, service transfers, deployment and course panelling and Command Initiated Transfer to the Reserves (CITR). The importance placed on the conviction by the CMA will decrease over time, but may remain a consideration for several years, depending on

the offence and the member's circumstances (such as rank, age, seniority and whether they have been promoted subsequent to the conviction).

7.38 Additionally as a minimum, a civilian conviction is to be noted in the member's performance report in the reporting period the conviction is finalised. Wherever possible, the performance report narrative is to provide comment on the impact of the conviction on the member's performance, adherence to Defence values and the efficiency and effectiveness of the Defence Force. The conviction may be referred to in subsequent performance reports where it contributes to the ongoing management and development of the individual.

7.39 Supervisors of members convicted of a civilian offence are also to consider the relevance of counselling, corrective-training and the impact of the conviction on their performance scores and recommendation during the reporting period. They are to seek advice from their Chain of Command as to what, if any other administrative action has or will be taken regarding the matter.

DISCLOSURE OF SPENT CONVICTIONS

7.40 A Defence member does not have to disclose a Spent Conviction to any person, including the ADF, unless a legislative exclusion applies. Should a member disclose a Spent Conviction either voluntarily or by mistake, or where the conviction has become spent post-disclosure, no consideration can be made of that Spent Conviction unless a legislative exclusion applies. Where there is doubt about the status of a particular conviction, legal advice may be sought.

RECORDING OF SERVICE CONVICTIONS

7.41 To record a conviction by a court martial or Defence Force Magistrate (DFM), a copy of the Findings and Punishment Sheet signed by the Judge Advocate or DFM is to be attached to [Form PD103](#) and copies are to be provided to the relevant CMA for retention the member's History File. If on review or appeal one or more convictions are quashed, then the conviction(s) is to be struck through and annotated as such on the Findings and Punishment Sheet and on the cover of the Conduct Record. If all convictions on a Findings and Punishment Sheet are quashed, they are to be taken off the Conduct Record and forwarded to DMDL for archiving and/or disposal as appropriate. The relevant CMA is to be updated on all changes to recordable convictions to ensure centralised records are amended appropriately.

7.42 To record a Service Conviction from a Summary Authority trial, Form C2 - Charge Sheet and Action Report is to be attached to the Conduct Record and copies are to be provided to the relevant CMA for retention the member's History File. If on review one or more convictions are quashed, then those conviction(s) are to be struck through and annotated as such on Form C2 and on the cover of the Conduct Record. If all convictions are quashed the annotated Form C2 is to be taken off the Conduct Record and forwarded to DMDL for archiving and/or disposal as appropriate. The relevant CMA is to be updated on all changes to recordable convictions to ensure centralised records are amended appropriately.

CAREER CONSEQUENCES

7.43 As the seriousness of a service conviction, the circumstances that led to the conviction and an individual's personal circumstances vary significantly, the consequences of a service conviction on an individual's career will also be highly varied. However, all members convicted of a service offence will have this matter considered by their relevant CMA in future career management decisions, such as promotions, competitive postings, transfer between employment categories, service transfers, deployment and course panelling and Command Initiated Transfer to the Reserves (CITR). The importance placed on the conviction by the CMA will decrease over time, but may remain a consideration for several years, depending on the offence and the member's circumstances (such as rank, age, seniority and whether they have been promoted subsequent to the conviction).

7.44 Additionally as a minimum, a service conviction is to be noted in the member's performance report in the reporting period the conviction is finalised. Wherever possible, the performance report narrative is to provide comment on the impact of the conviction on the member's performance, adherence to Defence values and the efficiency and effectiveness of the Defence Force. The conviction also may be referred to in subsequent performance reports where it contributes to the ongoing management and development of the individual.

7.45 Supervisors of members convicted of a civilian offence are also to consider the relevance of counselling, corrective-training and the impact of the conviction on their performance scores and recommendation during the reporting period. They are to seek advice from their Chain of Command as to what, if any other administrative action has or will be taken regarding the matter.

7.46 Supervisors should also consider taking into account the underlying behaviour relevant to Discipline Officer infringements for performance reporting purposes consistent with the policy guidance in the Discipline Officer Manual 2019 [see extract below]:

7.7 Performance reporting and management action. The issuing or undertaking of a Discipline Infringement Notice cannot be recorded other than in the Discipline Officer Register (which must be destroyed after 12 months). However, the facts and circumstances of the member's underlying conduct can be recorded in performance reports or management action. The recording of information detailing a member's poor conduct or behaviour will assist command in the management (including counselling, corrective training and administrative sanctions) of their personnel.

Discipline Officer Manual 2019

MAINTENANCE, CUSTODY AND DISPOSAL OF CONDUCT RECORD

7.47 Unless otherwise directed by the relevant Service CMA, the Conduct Record is maintained at the Defence member's unit by an officer nominated by the CO (normally the officer having responsibility for the maintenance of other unit personnel

documents). Upon discharge from the ADF, a member's Conduct Record is to be sent with their other Service documents for permanent retention by the relevant Service records office. The Conduct Record and any other documentation dealing with a member's convictions history must be marked 'SENSITIVE: PERSONAL'.

7.48 Where a Recordable Conviction becomes spent, the member may notify their CO. Upon confirmation that a conviction has become spent, the CO is responsible for ensuring that the Conduct Record is annotated accordingly, that the PMKeyS Discipline Tracking function is updated, and is to notify the relevant Service CMA and DSVS for the amendment of their records.

EXTERNAL REPORTING AND DISCLOSURE OF CONVICTIONS

REPORTING AND DISCLOSURE OF SERVICE CONVICTIONS TO CIVIL COURTS

7.49 All requests by civil courts for information about Service Convictions should be referred to the [Office of General Counsel – Dispute Resolution and Litigation \(GC-DRL\)](#), within Defence Legal Division.

DISCLOSURE OF SERVICE CONVICTIONS TO THIRD PARTIES

7.50 Where a third party (eg an employer or prospective employer of an ex-Defence member) requests information about a member's Service Convictions, the request is to be forwarded to Service Police Central Records Office for resolution.

RELATED MANUAL CHAPTERS

[MILPERSMAN Part 4, Chapter 3](#)—*Management of the Use of Prohibited Substances in the Australian Defence Force*

[MILPERSMAN Part 9, Chapter 8](#)—*Conduct Reporting and Tracking System*

RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Force Discipline Act 1982](#)

[Defence Instruction Administrative Policy \(DI ADMINPOL\) Annex J, PPL6](#)—*Reporting, recording and dealing with civil offences, service and civil convictions and diversionary programs*

[Incident Reporting and Management Manual \(IRMMAN\)](#)

[Defence Security Principles Framework \(DSPF\)](#)

[Good Decision Making in Defence](#)

OFFICIAL

MILPERSMAN Part 9

7-12

RELATED WEB FORMS

[Form PD103](#)—*Conduct Record File Cover*

[Form PD052](#)—*Report of Arrest, Charge for Civilian Offence and/or Civil Offence*

Sponsor: ASPPEC (DMPP)

CHAPTER 8

CONDUCT REPORTING AND TRACKING SYSTEM

INTRODUCTION

8.1 In addition to civilian criminal law, members of the Australian Defence Force (ADF) and Defence civilians as defined under the [Defence Force Discipline Act 1982](#) (DFDA) are subject to Service disciplinary proceedings for offences alleged to have been committed against the [DFDA](#). ADF policies also empower the chain of command to impose administrative sanctions against Defence members for unsatisfactory conduct, behaviour or performance standards.

8.2 The combination of a Defence member's convictions under the [DFDA](#) and administrative sanctions constitute a member's total conduct history. Recording the complete conduct history of Defence members is essential for effective career management and discipline maintenance.

8.3 The recording of information regarding a Defence member's civil convictions and Protection Orders enables the relevant Service Command to manage incidents that may impact on a Defence member's character and Defence Values.

POLICY STATEMENT

8.4 Where a Defence member is subject to action under the [DFDA](#), adverse administrative action or the subject of a civil conviction or Protection Order, this information is to be recorded in Defence One/PMKeyS under the heading 'Manage Labour Relations'.

SCOPE

8.5 This chapter applies to all Defence members.

POLICY

8.6 The Conduct Reporting and Tracking System (CRTS) policy establishes a regime for the electronic recording and retrieval of conduct related information on Defence members:

- a. from the time an alleged offence under the [DFDA](#) is first reported, through the investigation and action phase until the case is closed
- b. in relation to adverse administrative action
- c. on the outcome of civil convictions, and
- d. on the details of Protection Orders.

DEFINITIONS

8.7 [Military Personnel Policy Manual \(MILPERSMAN\), Part 1, Chapter 3](#)—*Military Personnel Policy Manual Glossary* contains terms and definitions used throughout this chapter. For the purpose of this chapter, the following specific definitions apply:

- a. **Administrative Sanction** is an administrative decision initiated and imposed when a members' conduct, behaviour or performance standards are unsatisfactory. Administrative sanctions may include, but are not limited to:
- (1) Administrative posting
 - (2) Censure
 - (3) Formal counselling
 - (4) Formal warning
 - (5) Reduction in rank
 - (6) Re-categorisation
 - (7) Termination of service.
- b. **Adverse administrative action** is action taken in respect of a Defence member which leads to a decision about the imposition of an administrative sanction, whether an administrative sanction is imposed or not.

ROLES AND RESPONSIBILITIES

8.8 **Commanding Officers (COs)** are responsible for assignment of data entry responsibility and monitoring of data integrity (timeliness, completeness and accuracy) where they, or a person/member under their command, are undertaking actions that require reporting and tracking under this policy.

8.9 **Inspector-General of the Australian Defence Force (IGADF)**, as the Business Process Owner is responsible for CRTS management and operation, with additional functions that include:

- a. liaison with users and stakeholders to ensure CRTS complies with policy and legislative changes to the military justice system
- b. liaison with the single Services to ensure CRTS complies with policy and changes to the administrative sanctions process
- c. data and trend analysis and report generation in response to enquiries initiated by the ADF Senior Executive; and
- d. provision of CRTS held information in response to ministerial inquiries and requests under the [Freedom of Information Act 1982](#).

8.10 **Defence One Service Representatives.** Each of the Services have representatives within Defence One / Personnel Information Systems Management Teams. These representatives:

- a. provide advice on single Service specific use of CRTS with respect to discipline and administrative sanction procedures and policies
- b. act as CRTS and policy co-sponsors and
- c. assist IGADF in the maintenance of CRTS currency.

INFORMATION TO BE RECORDED

DISCIPLINARY INVESTIGATION

8.11 CRTS enables the capture of, and the reporting on, the key milestone steps relating to incidents and investigations. These include the date and nature of an alleged offence, the authority conducting the investigation, investigation duration and the unit's decision regarding follow-up action (for example; a charge under the [DFDA](#) or the imposition of an administrative sanction). All investigations conducted under the auspices of the [DFDA](#), whether conducted at the unit level or referred to the Service police or Joint Military Police Unit (JMPU), are to be recorded in Defence One/PMKeyS.

ADVERSE ADMINISTRATIVE ACTION

8.12 Adverse administrative action that may lead to the imposition of an administrative sanction as detailed in MILPERSMAN, Part 9, Chapter 2—is to be recorded in Defence One/PMKeyS. Recording is to include the cause (e.g. unsatisfactory conduct), associated steps (e.g. issuing a notice to show cause) and the resultant action (e.g. imposing a formal warning or a decision not to impose a sanction).

8.13 Confirmation that Defence members are afforded procedural fairness such as adherence to key steps in the adverse administrative action process including any notice (issued under section 30 of [Defence Regulation 2016](#), section 100 of [Defence Act 1903](#), or the [DFDA](#)), any statement of reasons received, and any notification that the imposed sanction has expired are also to be recorded where appropriate.

DEFENCE FORCE DISCIPLINE ACT OFFENCES

8.14 All [DFDA](#) offences are to be recorded in Defence One/PMKeyS. Data entry is to occur in accordance with paragraphs 1.21–22 and includes the mandatory steps as set out in the [PMKeyS Online Library](#). Capture of key elements of the investigation leading to the preference of a charge must precede disciplinary action data entry.

CIVIL CONVICTIONS

8.15 Recording of civil convictions, detailed in MILPERSMAN, Part 9, Chapter 7—'Reporting, Recording and Dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs', are also to be recorded in Defence One/PMKeyS (e.g. cause: civil conviction and result: loss of licence) when reported to a member's unit.

8.16 Defence members receiving a civil conviction may be subject to additional administrative sanction as detailed in relevant single Service instructions and directives.

Protection orders

8.17 All Protection Orders are to be recorded in Defence One/PMKeyS including any interim protection order and others defined in MILPERSMAN Part 9, Chapter 4—'Protection Orders' and MILPERSMAN Part 9, Chapter 5—'Court or Police Orders Restricting Access to weapons or Firearms'. The details to be recorded include the length and cease date for the order, as well as details concerning possession or use of weapons. Whilst the Protection Order is in force, the unit is to ensure any amendments to a Protection Order are entered in Defence One/PMKeyS. When the Protection Order ceases, the unit is to close the case in Defence One/PMKeyS.

EXCLUSIONS

8.18 **Discipline Officer Scheme.** Infringement notices issued as part of the Discipline Officer Scheme are placed on a unit register, not on a member's conduct record and therefore are not to be recorded in Defence One/PMKeyS.

8.19 **Spent Convictions.** When a civil conviction has become a spent conviction, (according to the spent conviction laws that apply in the jurisdiction that it was issued), a Defence member can apply to their unit to have Defence One/PMKeyS updated in accordance with MILPERSMAN, Part 9, Chapter 7—'Reporting, Recording and Dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs'.

8.20 **Other reporting schemes.** The recording of information in Defence One/PMKeyS is complimentary to other mandated reporting schemes.

DATA INTEGRITY

8.21 Data entry responsibility is assigned to the person/area undertaking the action(s) which are subject to reporting and tracking under this policy. There may be more than one responsible party for data entry during the course of an adverse administrative action process.

8.22 Whenever an incident is referred to, or originates from, a Defence Investigative Authority (see *Incident Reporting and Management Manual (IRMMAN)* definition), the following data capture rules apply:

- a. Whenever a Defence Investigative Authority is involved, CRTS data is not to be entered in Defence One/PMKeyS without that authority's concurrence
- b. If data entry is deferred, capture is retrospective after the brief of evidence has been submitted to the unit
- c. If, after an investigation, the brief of evidence is submitted directly to the Director of Military Prosecutions (DMP), data entry is retrospective after the unit is advised of DMP decision to prosecute or the matter referred back to the unit for trial

- d. All investigation related data entry, in real time or retrospective, is a unit responsibility. If retrospective, necessary data elements will be provided by the relevant Defence Investigative Authority as extracted from Defence Policing and Security Management System.

RELATED PUBLICATIONS

[Defence Act 1903](#)

[Defence Force Discipline Act 1982](#)

[Defence Regulation 2016](#)

[Freedom of Information Act 1982](#)

[Australian Defence Force Publication \(ADFP\) 06.1.1 Volume 3 – Discipline Law Manual – Summary Authority and Discipline Officer Proceedings](#)

[Discipline Processing Steps](#)

[PMKeyS Online Library](#)

[IRMMAN](#)

RELATED CHAPTERS

[MILPERSMAN, Part 9, Chapter 2](#)—*Formal Warnings and Censures in the Australian Defence Force*

[MILPERSMAN, Part 9, Chapter 4](#)—*Protection Orders*

[MILPERSMAN, Part 9, Chapter 5](#)—*Court or Police Orders Restricting Access to Weapons or Firearms*

[MILPERSMAN, Part 9, Chapter 7](#)—*Reporting, Recording and Dealing with Civil Offences, Service and Civil Convictions and Diversionary Programs*

Sponsor: ASPPEC (DMPP)