



# Defence Forces Tribunal ~ Frequently Asked Questions

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## 1. What is a Tribunal of Inquiry?

A Tribunal of Inquiry is a body set up to inquire into matters that are of urgent public importance. It is purely a fact-finding and investigative body. At the end of its inquiry, a Tribunal sends a Report to the Oireachtas. The Report sets out the Tribunal's findings and makes recommendations for the future.

## 2. When was the Defence Forces Tribunal established?

The *Tribunal of Inquiry into Issues Relating to the Complaints Processes in the Defence Forces and the Culture Surrounding the Making of Complaints* was established, by statutory instrument dated 20 June 2024, by the Tánaiste and Minister for Defence. Its short title is the '*Defence Forces Tribunal*'.

## 3. Why was the Tribunal established?

An Independent Review Group (the 'IRG') recommended that a statutory fact-finding process be established in order to identify systemic failures, if any, in the Defence Forces' complaints processes for dealing with complaints of abuse. The Government acted on that recommendation and established this Tribunal of Inquiry. The Tribunal is tasked with inquiring, urgently, into several matters relating to the effectiveness of the complaints processes and the culture within the Defence Forces when dealing with complaints of abuse. The Tribunal is also investigating the response to complaints about the use of hazardous chemicals in Casement Aerodrome, Baldonnel.

#### **4. Is the Tribunal the same as the IRG?**

No. The Tribunal is an entirely separate and distinct body and its work is not connected in any way with the IRG.

#### **5. What period of time is covered by the Tribunal's inquiry?**

The Tribunal is tasked with investigating matters from the 1<sup>st</sup> of January 1983 until the 20<sup>th</sup> of June 2024.

#### **6. What is the Tribunal's status?**

The Tribunal is an independent body established pursuant to the Tribunals of Inquiry (Evidence) Acts 1921 – 2011.

#### **7. What are the Tribunal's Terms of Reference?**

- ❖ The Tribunal's Terms of Reference set out the scope of the Tribunal's work and list the various matters into which it must inquire and on which it must report. The Tribunal cannot investigate matters that fall outside the scope of its Terms of Reference.
- ❖ The Tribunal's principal task is to examine how complaints of abuse were handled in the Defence Forces for the period mentioned above (that is, from 1 January 1983 until 20 June 2024). It also has other matters to investigate and these are set out below.
- ❖ '*Abuse*', in this context, means discrimination, bullying, harassment, physical torture or assault, psychological harm, sexual harassment and any form of sexual misconduct (including sexual assault, aggravated sexual assault and rape).
- ❖ The full Terms of Reference are available at [www.toidf.ie](http://www.toidf.ie) and a summary of the matters into which the Tribunal must inquire is set out below.

**The Tribunal will examine and report on:**

- (i) whether the processes for dealing with complaints of abuse that were available to members of the Defence Forces and civilian employees and civil servants working within the Defence Forces and civil servants working in the Department of Defence, were appropriate and fit for purpose;
- (ii) whether these processes were followed; and
- (iii) what was the response to and outcome of complaints of abuse that were made and whether there were 'systemic failures' in the processes for dealing with those complaints.

**The Tribunal will also consider and report on:**

- (iv) whether making complaints of abuse was something that was actively deterred in the Defence Forces or whether there was a culture that discouraged people from making complaints of abuse; and
- (v) whether those who made complaints of abuse were subjected to any kind of retaliation or reprisal or intimidation or penalty.

**In addition, the Tribunal will investigate and report on:**

- (vi) the nature and performance of the statutory role of the Minister for Defence and the Department of Defence (going back to 1 January 1983) in the systems and procedures for dealing with complaints of abuse; and
- (vii) the responses to complaints about the use of hazardous chemicals within Air Corps' Headquarters at Casement Aerodrome, Baldonnell, and the adequacy of the complaints processes in the light of those responses.

**8. Will the Tribunal investigate actual complaints that were made and will it make findings in relation to those complaints?**

No. The Tribunal is concerned only with inquiring into the *processes* for dealing with complaints of abuse in the Defence Forces. It does not and *cannot investigate whether the actual complaints were well founded*. In other words, the Tribunal will not be investigating whether the matters that gave rise to a complaint of abuse occurred. Rather, it is concerned with how the Defence Forces responded to complaints of abuse after they had been made. For example, if a member complained about being assaulted, the Tribunal cannot investigate whether that alleged assault actually occurred. Its task is to examine what happened after the complaint about assault was made, what processes were involved and whether those processes were adequate. While it is not necessary for the Tribunal to know the name of a person against whom a complaint was made, it would be helpful for the Tribunal to know that person's rank and station and to receive information about how and to whom a complaint was made.

**9. If a person had reason to make a complaint to the Defence Forces during the period from 1 January 1983 to 20 June 2024 (the relevant period) but did not do so, can that person still provide a statement and/or information to the Tribunal?**

Yes. In addition to investigating the complaints processes, the Tribunal is inquiring into the culture surrounding the making of complaints of abuse in the Defence Forces during the relevant period. If a person did not make a formal complaint of abuse because of a fear of reprisal or a belief that it would serve no purpose, that information would be relevant to the Tribunal's inquiry and any such person is invited to submit a statement to the Tribunal.

**10. Who is leading the Inquiry?**

The Tribunal's inquiry is led by a Judge who is described as the 'Sole Member' of the Tribunal. She is Ms. Justice Ann Power, a Judge of the Court of Appeal and a former Judge of the European Court of Human Rights.

### **11. Is the Tribunal process like a trial?**

No, the Tribunal is not a trial. It is an inquisitorial process, not an adversarial one. The Tribunal is tasked with establishing or finding out the truth about the complaints processes within the Defence Forces in relation to complaints of abuse.

Some people will have relevant evidence about the complaints processes and will want to give that evidence to the Tribunal. Others may disagree with that evidence and may want to challenge it. The Tribunal must be fair to everyone who appears before it. It will consider all the evidence that it receives in order to find out or establish where the truth lies. Its objective is to make findings about the complaints processes, report on those findings and offer recommendations for the future.

### **12. What is the role of Counsel to the Tribunal?**

Counsel to the Tribunal's primary role is to collect the relevant evidence and to assist the Judge or 'Sole Member' by presenting that evidence at hearings and questioning the witnesses who come before the Tribunal.

### **13. Where will the Tribunal hold its public hearings?**

Public hearings will be held at the Tribunal's premises which are in Smithfield, Dublin. The address is The Infinity Building, Third Floor, George's Court, George's Lane, Smithfield, Dublin 7, D07 E98Y.

### **14. When will public hearings commence?**

The public hearings stage of the Tribunal's work will begin when the private investigative stage of its work has been completed. The investigative stage is expected to take several months.

**15. Can a person make a statement or a submission, anonymously, to the Tribunal?**

No. The Tribunal must act with fairness at all times and could not make findings on the basis of anonymous statements.

**16. How can a person make a statement or provide information to the Tribunal?**

This may be done by either sending in the written statement to the Tribunal or by filling out a form that is available on the Tribunal's website ([www.toidf.ie](http://www.toidf.ie)) and sending that form to the Tribunal. Statements or completed forms should be sent to the Tribunal's Solicitor at **Defence Forces Tribunal, Infinity Building, Third Floor, George's Court, George's Lane, Smithfield, Dublin 7, D07 E98Y.**

Statements or forms may also be sent by email to [info@toidf.ie](mailto:info@toidf.ie)

The Tribunal is asking any person who has information that is relevant to its Terms of Reference to contact the Tribunal's Solicitor and to give that information by close of business on **30 September 2024.**

**17. Does the Tribunal provide assistance to a person making a statement?**

If someone has a difficulty or a problem with writing a statement, there is a person available to the Tribunal who can help by taking down or transcribing what she is told. Anyone who has difficulty submitting a written statement may make an appointment with this person by calling the Tribunal office on (01) 539 1550.

**18. If a person submits a statement to the Tribunal, will that person be called for interview, and if so, when?**

A person who has submitted a statement that is relevant to the Tribunal's Terms of Reference, is likely to be called for interview by the Tribunal's legal team during the Autumn of 2024. If a person has a difficulty attending for interview at the Tribunal's premises in Dublin, then arrangements may be made to hold interviews in other locations.

**19. If a statement is submitted to the Tribunal will the person who made it be required to give evidence at the public hearings stage?**

If a person submits a statement to the Tribunal that is relevant to its Terms of Reference, such a person may be called to give evidence.

**20. If a person is called to give evidence at the public hearing phase, will that person be subjected to cross-examination?**

Any witnesses who give evidence to the Tribunal may be cross-examined on their testimony if what they say is being challenged.

**21. If a person is called to give evidence to the Tribunal, will this be in public?**

The Tribunal is a public inquiry so, generally, oral hearings will be held in public. However, the law permits a Tribunal to hold a hearing otherwise than in public if, in the opinion of the Tribunal, it is in the public interest expedient to do so for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given.

Some of the evidence that the Tribunal will receive may be particularly sensitive in nature and where an application is made for a hearing to be held otherwise than in public, the Tribunal will hear submissions from the relevant parties and will consider and decide on each application as it arises.

**22. Can a person submit a statement to the Tribunal without a solicitor?**

Yes. It is not necessary for a person to seek legal advice or have legal representation before submitting a statement or providing information to the Tribunal. Information about how to submit a statement to the Tribunal is available on the Tribunal's website: [www.toidf.ie](http://www.toidf.ie)

### **23. Who will have legal representation before the Tribunal?**

Although the Tribunal's inquiry is inquisitorial and not adversarial, those who have a sufficiently direct interest in the matters being inquired into may be granted representation by the Tribunal.

To date, full representation has been granted to the Defence Forces and to the Department of Defence which means that they will have legal representation at the investigative stage and the public hearings stage of the Tribunal's work.

The representative bodies listed below have been granted limited legal representation during the investigative stage of the Tribunal's work. A decision on their applications for representation during the public hearings stage has been deferred.

- (i) Permanent Defence Forces Other Ranks Representative Association (PDFORRA);
- (ii) Women of Honour;
- (iii) Defence Forces Justice Alliance;
- (iv) 34th Platoon Army Apprentice School Justice Group;
- (v) Air Corps Chemical Abuse Survivors;
- (vi) DF Whistleblowers Protected Disclosure Justice Group; and
- (vii) Defence Forces Lariam Justice Group.

Any additional applications, in writing, for representation during the Tribunal's investigative phase will be considered at the appropriate time.

Before the Tribunal may consider an individual person's application for legal representation, the Tribunal would need to see that individual's statement.

### **24. What is the timeline for completion of the Tribunal's work?**

The Tribunal must endeavour to complete its work within three (3) years from the date of its establishment which was 20 June 2024.



## **25. How can I keep up to date on Tribunal matters?**

The '*Notices*' section on the Tribunal's website ([www.toidf.ie](http://www.toidf.ie)) has up to date information regarding the Tribunal and it is advisable to check the website, regularly, for updates.

02 August 2024