

**TRIBUNAL OF INQUIRY INTO ISSUES RELATING TO THE COMPLAINTS PROCESSES
IN THE DEFENCE FORCES AND THE CULTURE SURROUNDING THE MAKING OF
COMPLAINTS**

FOLLOWING RESOLUTIONS PASSED BY DÁIL ÉIREANN AND SEANAD ÉIREANN

**ESTABLISHED BY INSTRUMENT MADE BY THE TÁNAISTE AND MINISTER FOR
DEFENCE UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACTS 1921 to 2011, ON
20 JUNE 2024**

INTENDED ORDER FOR DISCOVERY

UPON ESTABLISHMENT by Instrument dated the 20th day of June 2024 (S.I. 304 of 2024) of a Tribunal of Inquiry into Issues Relating to the Complaints Processes in the Defence Forces and to the Culture Surrounding the Making of Complaints (hereinafter '**the Tribunal**') charged with investigating the matters provided for in its Terms of Reference from the 1st day of January 1983 to the 20th day of June 2024; and

WHEREAS the Tribunal, having regard to the Terms of Reference appended hereto at Schedule Two, considers that the Chief of Staff of the Defence Forces has documents within his power, possession or procurement that are relevant to the matters into which it is inquiring pursuant to the said Terms of Reference; and

WHEREAS the Tribunal also considers that it is necessary to make an Order for discovery and production of the said documents and material as set out hereunder; and

WHEREAS the Tribunal further considers that in respect of the documents falling within categories (1) to (11) hereunder, it is necessary and proportionate that the said documents be discovered with anonymisation or pseudonymisation, as appropriate, of names and other personal identifying information in accordance with the Discovery Protocol appended hereto at Schedule One of this Order;

THE TRIBUNAL, pursuant to section 4 of the Tribunals of Inquiry (Evidence) (Amendment) Act 1979,

HEREBY ORDERS THAT the Chief of Staff of the Defence Forces does, within a period of fifteen weeks from the date hereof, make discovery, on oath, of the following documents which are or have been in his power, possession, power or procurement:

- (1) all complaints files relating to complaints of abuse, as defined in the Terms of Reference, made pursuant to the Defence Forces Administrative Instruction A7 Chapter 2, and all later versions of Chapter 2, for the period 14 May 1996 to 20 June 2024, to include, but not limited to, all statements, notes, records of investigations and interviews, reports, determinations, recordings, memoranda and records of written and electronic correspondence and communications of any kind;
- (2) all complaints files relating to complaints of abuse, as defined in the Terms of Reference, made pursuant to Defence Forces Administrative Instruction A7 Chapter 1, and all later versions of that document, from the date of its entry into force up to 20 June 2024, to include, but not limited to, all statements, notes, records of investigations and interviews, reports, determinations, recordings, memoranda and records of written and electronic correspondence and communications of any kind;
- (3) all complaint files relating to complaints of abuse, as defined in the Terms of Reference, made pursuant to section 114 of the Defence Act 1954 (Redress of Wrongs) for the period 1 January 1983 to 20 June 2024, not covered by categories 1) and 2) above to include, but not limited to, all statements, notes, records of investigations and interviews, reports, determinations, recordings, memoranda and records of written and electronic correspondence and communications of any kind;
- (4) all documents relating to or referring to complaints of abuse, as defined in the Terms of Reference, for the period 1 January 1983 to 20 June 2024, to include, but

not limited to, all statements, notes, records of investigations and interviews, reports, determinations, recordings, memoranda and records of written and electronic correspondence and communications of any kind;

(5) all documents relating to complaints of abuse, as defined in the Terms of Reference, made to Personnel Support Service or a Barracks Personnel Support Officer for the period 1 May 1991 to 20 June 2024, to include but not limited to all statements, records of investigations and interviews, recordings, reports, determinations, memoranda and records of written and electronic correspondence and communications of any kind;

(6) all documents relating to complaints of abuse, as defined in the Terms of Reference, that were referred or reported to the Military Police, or that were investigated by the Military Police prior to being investigated by An Garda Síochána, in the period from 1 January 1983 to 20 June 2024, to include, but not limited to, reports, investigations, statements, notes, records of interviews, determinations, Courts Martial files and transcripts or records of proceedings, memoranda and records of written and electronic correspondence and communications of any kind;

(7) all documents relating to complaints of abuse, as defined in the Terms of Reference, arising from or leading to referrals or reports to An Garda Síochána in the period from 1 January 1983 to 20 June 2024, to include, but not limited to, reports, investigations, statements, notes, records of interviews, recordings, determinations, files and transcripts or records of proceedings, memoranda and records of written and electronic correspondence and communications of any kind;

(8) all documents relating to complaints of hazardous chemicals, as defined within the Terms of Reference, for the period 1 January 1983 to 20 June 2024, to include, but not limited to, statements, records of investigations and interviews, reports, determinations, notes, memoranda and records of written and electronic correspondence and communications of any kind;

- (9) all notifications to the Health and Safety Authority of incidents in the workplace concerning hazardous chemicals in respect of which complaints of hazardous chemicals, as defined in the Terms of Reference, were made, and all responses thereto, in the period from 1 January 1983 to 20 June 2024;
- (10) all documents relating to investigations initiated by commanding officers of their own volition into abuse, as that term is defined in the Terms of Reference, or incidents of retaliation, reprisals, intimidation against persons who made complaints of abuse or the imposition of a penalty or burden upon such persons, to include, but not limited to, all statements, notes, records of investigations and interviews, reports, determinations, memoranda and records of written and electronic correspondence and communications of any kind for the period from 1 January 1983 to 20 June 2024;
- (11) all protected disclosures made pursuant to the Protected Disclosures Act 2014 and the Protected Disclosures (Amendment) Act 2022 by any serving or former member of the Defence Forces, current or former civilian employee of the Defence Forces or current or former civil servant to the Defence Forces, in respect of the handling of complaints of abuse and/or complaints of hazardous chemicals, as defined in the Terms of Reference, and/or reports of retaliation, reprisals, intimidation, or the imposition of a penalty or burden on a person as a consequence of making a complaint of abuse, or actions or behaviour intended to deter the making of a complaint of abuse covering the period from 15 July 2014 to 20 June 2024;
- (12) all versions of Administrative Instruction A7, Chapter 1 and Chapter 2 since those procedures first came into force up to 20 June 2024; and
- (13) all documents, to include submissions, memoranda, reports, and written and electronic correspondence of any kind, from the Chief of Staff, Deputy Chiefs of Staff and/or General Officers Commanding, to the Minister for Defence and/or Department of Defence requesting amendments to the Defence Forces Act 1954,

and all amending Acts, and Regulations made thereunder, relating to the complaints processes identified at A, B, and C of the Terms of Reference insofar as they concern complaints of abuse, as defined in the Terms of Reference, for the period from 1 January 1983 to 20 June 2024, together with any assessments in respect of the efficacy and functioning of the said complaints processes.

AND THE TRIBUNAL FURTHER ORDERS THAT, in respect of the documents falling within categories (1) to (11) above, the Deponent shall, in accordance with the Discovery Protocol appended hereto at Schedule One, anonymise or pseudonymise, as appropriate, all names and other information which might lead to the identification of persons.

Signed

Pádraig Mac Criostail
Tribunal Registrar

Date of Perfection:

To: Ms Maria Browne
Chief State Solicitor
Office of the Chief State Solicitor
Osmond House
Little Ship Street
Dublin 8
D08 V8C5

Schedule One

DISCOVERY PROTOCOL

Detail	Marker
Complainant details	Anonymised – Marker “C” to be inserted. Where there are multiple complainants within a file, each to be distinguished by C and number, e.g. C1, C2, etc. for the purposes of that file only.
Respondent details	Anonymised – Marker “R” to be inserted. Where there are multiple respondents within a file, each to be distinguished by R and number, e.g. R1, R2, etc. for the purposes of that file only.
Investigating officer(s) / decision maker(s)	Anonymised but subject to an individual numerical code which is visible so that the Tribunal can detect whether the same investigating officers/decision makers are involved in more than one complaint, and which enables the Minister for Defence identify those investigating officers/decision makers to the Tribunal should that prove necessary.
Mediator(s)	Anonymised but subject to an individual numerical code which is visible so that the Tribunal can detect whether the same mediators are involved in more than one complaint, and which enables the Minister for Defence identify those mediators to the Tribunal should that prove necessary.
Locations i.e. the barracks, or equivalent location, where the complainant is based and where the complaint is handled.	Anonymised but subject to an individual numerical code which is visible so that the Tribunal can detect whether the same locations are involved in more than one complaint, and which enables the Minister for Defence identify those locations to the Tribunal should that prove necessary.
Witnesses	Anonymised with no marker

Detail	Marker
Third parties	Anonymised with no marker
Other identifying data (such as, but not limited to, units, date of birth, personnel number, home address, phone numbers , email addresses, signatures family identifiers)	Anonymised with no marker
Dates (other than date of birth)	Included
Ranks	Included
Gender	Included

NOTES

1. The Defence Forces will provide contemporaneously with delivery of a file, the information that the Respondent has been a Respondent in another complaint previously furnished to the Tribunal, and identify which file(s) previously delivered relate to the same Respondent.
2. The Defence Forces will provide contemporaneously with delivery of a file, the information that the complainant has been a complainant in another complaint previously furnished to the Tribunal, and identify which file(s) previously delivered relate to the same complainant.
3. Locations equivalent to barracks, for the purposes of this Order, include for example, locations such as the Military School, Casement Aerodrome and Camp Shamrock. Location will be identified in the manner described above, irrespective of whether the file includes references to more specific location(s) or does not specifically state the location. Where the file does state the location, the relevant numerical code will be applied to the location only once in a file, being the first time it is stated in the file in reference to the complainant or investigating officer, as appropriate. Where the file

does not state the location the Defence Forces will make that information, i.e. the relevant numerical code for the location, available with delivery of the file.

4. Where a file does not state the relevant barracks or equivalent location but states a more specific location, the Defence Forces will identify the relevant barracks or equivalent location and redact the first reference in the file to the more specific location with a visible marker corresponding to that relevant barracks or equivalent location.
5. Within a short time after the making of this Order the Defence Forces will deliver files to the Tribunal and thereafter will continue to deliver files on a regular basis until their obligations have been met. Where the Tribunal supplies the Defence Forces with a written consent from a Complainant to the effect that the Complainant's file should be identified to the Tribunal, the Defence Forces will prioritise the delivery of that file (if it has not already been delivered), anonymised as set out above, and will confirm that the file relates to the particular Complainant from whom the consent has been received.
6. Should the Tribunal require the Defence Forces to identify investigating officer(s), decision maker(s), mediator(s) or location(s), this will be the subject of a further Order for Discovery and parties affected by same will be notified.

Schedule Two

TERMS OF REFERENCE

The Tribunal's Terms of Reference are available at the following link:

<https://www.toidf.ie/terms-of-reference/>