



DATA PRIVACY NOTICE

Introduction

This Data Privacy Notice (hereinafter '**Notice**') provides information regarding how the Tribunal of Inquiry into Issues Relating to the Complaints Processes in the Defence Forces and the Culture Surrounding the Making of Complaints (hereinafter 'the **Tribunal**') stores and processes personal data.

Personal data will be treated with the appropriate standards of security and confidentiality, in accordance with the **General Data Protection Regulation** ((EU) 2016/679) (hereinafter '**the GDPR**') and the **Data Protection Act 2018** (hereinafter, the '**2018 Act**').

This Notice uses certain terms which have a particular meaning under the GDPR and 2018 Act. Please refer to the Definitions section of the Notice (below) for an explanation or definition of the relevant terms.

Background

The **GDPR** ((EU) 2016/679) came into effect on 25 May 2018. It provides for the standardisation of the right of European citizens to data privacy. The rights of data subjects and the obligations on data controllers and processors are set out in the GDPR. Such rights and obligations include, for example, the right to be provided with, and the obligation to provide, particular information in circumstances where personal data is collected from a data subject (**Article 12**) and from a source other than a data subject (**Article 13**). The 2018 Act gives further effect to the GDPR and transposes it into Irish law. Accordingly, the rights of the data subject and the obligations of the data controller are set out in the 2018 Act.

Definitions

- **'Consent'** of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.
- **'Controller'** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.
- **'Data Subject'** means the identified or identifiable natural person to whom the personal data relates – see also the definition of personal data below.
- **The General Data Protection Regulations (GDPR)** is an EU Regulation relating to data protection which came into force on 25 May 2018. The Regulation is available online.
- **'Personal Data'** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- **'Processing'** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- **'Special Categories of Personal Data'** means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data, data concerning health or data concerning a natural person's sex life or sexual orientation.

Purpose

The Tribunal is charged with investigating the matters provided for in its Terms of Reference from 1 January 1983 to the date of its establishment by Statutory Instrument [SI 304 of 2024], 20 June 2024. The Tribunal is tasked with inquiring, urgently, into a range of matters pertaining to the effectiveness of the complaints processes and the culture within the Defence Forces relating to complaints of abuse made by former or current members, civilian employees and civil servants of the Defence Forces. Further, it is tasked with investigating the nature and performance of the statutory role of the Minister for Defence/Department of Defence in the systems and procedures for dealing with complaints of abuse. The complaints involved are, principally, complaints of abuse which are defined in the Tribunal's Terms of Reference. Additionally, the Tribunal is to investigate the response to complaints in respect of the use of hazardous chemicals, within Air Corps' headquarters at Casement Aerodrome, Baldonnell, and to consider the adequacy of the complaints processes in light of such response.

This Notice relates to the processing of personal data for the purpose of undertaking this inquiry.

Data Controller

The Sole Member of the Tribunal is the Data Controller for all data relating to identified or identifiable natural persons which is processed for the purpose of conducting the Tribunal's inquiry and fulfilling its Terms of Reference.

Data Processors

Different categories of data processors will support the Tribunal in fulfilling its Terms of Reference, including:

- Counsel to the Tribunal;
- Solicitor to the Tribunal;
- An investigator to the Tribunal, appointed in accordance with section 6 of the Tribunals of Inquiry (Evidence) Amendment Act 2002;

- A member of staff of the Tribunal; and
- A person appointed by the Tribunal to provide advice or assistance to it in respect of any matter it considers necessary in carrying out its functions in fulfilling its Terms of Reference.

Purposes for Processing

The Tribunal will be required to process personal data for the purpose of carrying out its functions and this may include the processing of special categories of personal data (Article 9 of the GDPR and section 45 of the 2018 Act). The purposes for processing are as set out in the Terms of Reference and can be summarised as follows:

Purpose	Legal Basis
Conducting an inquiry into issues relating to the complaints processes in the Defence Forces and the culture surrounding the making of complaints.	<ul style="list-style-type: none"> • Article 6(1)(e) GDPR – processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. • Article 9(2)(g) GDPR - processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.
Preparing the Report of the Tribunal.	<ul style="list-style-type: none"> • Article 6(1)(e) GDPR – processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. • Article 9(2)(g) GDPR - processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific

	measures to safeguard the fundamental rights and the interests of the data subject.
Administration of the conduct of the inquiry into issues relating to the complaints processes in the Defence Forces and the culture surrounding the making of complaints.	<ul style="list-style-type: none"> • Article 6(1)(e) GDPR – processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. • Article 9(2)(g) GDPR - processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject. • Article 9(2)(j) GDPR – processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

Categories of Personal Data

The specific personal data, including special categories of personal data, which will be processed by the Tribunal will vary depending on the method or means of engagement with individuals during the conduct of the inquiry. The type of data which is likely to be processed by the Tribunal in carrying out its functions is set out below and may include:

Type	Example/Description	Source
Identity Information	<ul style="list-style-type: none"> • Name • Address • Email address • Phone number 	Directly or indirectly
Statements and related records	<ul style="list-style-type: none"> • Documents or statements provided to the Tribunal through direct engagement from individuals by email and/or by post. • Documents provided through group engagement by representative groups or otherwise. 	Directly
Reported complaints	<ul style="list-style-type: none"> • Documents received from the Department of Defence pursuant to an Order for Discovery, which have been anonymised and/or pseudonymised, as appropriate. • Documents received from the Defence Forces pursuant to an Order for Discovery, which have been anonymised and/or pseudonymised, as appropriate. • If applicable, documents received from such other person or entity pursuant to an Order for Discovery or otherwise, which have been anonymised and/or pseudonymised, as appropriate. 	Directly or indirectly

Correspondence	<ul style="list-style-type: none"> Copies of correspondence in electronic or physical format containing personal data of the sender and/or others. 	Directly
Staff/Expert Details	<ul style="list-style-type: none"> Details of individuals supporting the Tribunal in its work or experts engaged by the Tribunal in fulfilling its Terms of Reference. 	Directly

Recipients of the Data

The overall objective of the Tribunal is to examine the effectiveness of the complaints processes in the Defence Forces concerning workplace issues relating to discrimination, bullying, harassment, sexual harassment, sexual misconduct and the use of hazardous chemicals and related matters as provided for in its Terms of Reference [SI 304 of 2024]. In order to perform its function and fulfil its Terms of Reference, the Tribunal will hold public hearings and it will be necessary to share personal data included in Tribunal briefs with relevant parties (and their legal representatives, if any) for the purpose of conducting those hearings. This is a necessary function of the Tribunal.

Data Subject Rights

Various rights are associated with the Tribunal’s use of personal data, including:

- **Access:** A data subject is entitled have sight of the personal data that the Tribunal holds about that data subject. There are exceptions to this right. Access may be denied if, for example, making the information available would reveal personal data about another person, or if, by reason of law, the Tribunal is prevented from disclosing such information.
- **Accuracy:** The Tribunal aims to keep personal data accurate, current, and complete. If personal data held by the Tribunal is not accurate or has changed, a

data subject may contact the Tribunal (at the contact details provided below) to have such data updated.

- **Information:** A data subject has the right to receive information on the processing of their personal data by the Tribunal.
- **Objecting:** In certain circumstances, a data subject may have the right to object to the processing of their personal data.
- **Erasure:** A data subject has the right to erase their personal when, among other things, personal data has been unlawfully processed. While a data subject has a right to request to have their data deleted, the Tribunal may not be able to grant the request if such data is subject to the National Archives Act 1986 and no order has been made to dispose of this category of data under that Act.
- **Restriction:** A data subject has the right to request that the Tribunal restricts the processing of personal data.

Personal data held by the Tribunal will not be used for automated decision-making or profiling.

For further information concerning data subject rights, please see the Data Protection Commissioner's Guide to Data Subject Rights [here](#).

Data Minimisation

The Tribunal will only collect and process personal data if it is necessary for the purpose of fulfilling its Terms of Reference. The Tribunal will only collect and process personal data insofar as it is adequate, relevant, and limited to what is necessary for the purposes of carrying out its functions (pursuant to Article 5(1)(c) of the GDPR).

Retention of Personal Data

Personal data provided to and processed by the Tribunal will be subject to the National Archives Act 1986 and Part 15 of the Civil Law (Miscellaneous Provisions) Act 2011, as amended, which provide that no Tribunal record (subject to limited exception) shall be

disposed of without authorisation from the Director of the National Archives. The Tribunal will comply with any instruction or authorisation received in that regard.

Relevant guidance from the National Archives can be found [here](#).

Third Parties

Where personal data is held by the Tribunal about a person who did not engage, directly, with the Tribunal, that person is termed a **'third party'**.

A third party's personal data may be contained in the records provided by data subjects who contact the Tribunal with information in relation to a complaint of abuse or otherwise. Personal data about a third party, including, special category person data, may also be contained in other documents which the Tribunal receives, such as, through anonymised and/or pseudonymised information received in compliance with an Order for Discovery made by the Tribunal.

Third Country Data Transfer

None of the personal data processed by the Tribunal will be transferred by the Tribunal to a country outside of the European Economic Area.

Integrity and Confidentiality

The Tribunal will process personal data in a manner that seeks to ensure the appropriate level of security and confidentiality for the personal data. To achieve this end, the Tribunal will have in place security measures to protect against accidental or deliberate harm, loss, or dissemination of the personal data. The Tribunal will also encrypt personal data that is stored on its computers and other electronic devices. It will store, securely, all hard copy data and will restrict access thereto solely to the extent necessary.

Data Protection Officer

The GDPR requires the Tribunal to designate a Data Protection Officer (DPO). Article 39 of the GDPR states that the data protection officer “*shall have at least the following tasks*”:

- (i) to inform and advise the controller and processors, who carry out processing, of their obligations pursuant to the GDPR and to other Union or Member State data protection provisions;
- (ii) to monitor compliance with the GDPR, with other Union or Member State data protection provisions and with the policies of the controller or processor in relation to the protection of personal data, including, the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;
- (iii) to provide advice, where requested, as regards the data protection impact assessment and monitor its performance pursuant to Article 35;
- (iv) to cooperate with the supervisory authority; and
- (v) to act as the contact point for the supervisory authority on issues relating to processing, including, the prior consultation referred to in Article 36, and to consult, where appropriate, with regard to any other matter.

The Data Protection Officer should be contacted in relation to data protection rights.

Contact Details

The Tribunal’s Data Protection Officer may be contacted by email and/or post as detailed below:

Email: dpo@toidf.ie

Post: Data Protection Officer, Defence Forces Tribunal, Infinity Building, Third Floor, George’s Court, George’s Lane, Smithfield, Dublin, D07 E98Y.

The Tribunal will, on a regular basis, review and, as it considers it appropriate to do so, update, the policies and procedures.

The Tribunal strives to meet the appropriate standards when collecting and processing personal data. If a data subject has a query or complaint about the use of his/her personal data by the Tribunal, the Data Protection Officer (details below) is available to assist in the first instance. While data subjects have the right to make a complaint in respect of the Tribunal's compliance with the GDPR and 2018 Act to the Data Protection Commission, they are requested, in the first instance, to contact the Tribunal's Data Protection Officer so as to afford the Tribunal an opportunity to address any concerns. The Data Protection Commission can be contacted at:

www.dataprotection.ie

info@dataprotection.ie

Telephone: (0761) 104 800; Lo-Call 1890 25 22 31.

Postal Address: 21 Fitzwilliam Square South, Dublin 2, D02 RD28.