

**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**

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 Three, considers that the Minister for Defence 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), (2) and (4) 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; and

WHEREAS the Tribunal further considers that in respect of the documents falling within category (3) 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 Protected Disclosures Discovery Protocol appended hereto at Schedule Two of this Order;

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

HEREBY ORDERS THAT the Minister for Defence does, within a period of twenty weeks from the date hereof, that is on or before the 16th day of June 2025, make discovery, on oath, of the following documents which are or have been in his power, possession or procurement:

(1) all complaint files relating to complaints of abuse, as defined in the Terms of Reference, made to the Minister for Defence pursuant to section 114 of the Defence Act 1954 (Redress of Wrongs) for the period from 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 and pleadings, including replies to particulars, contained on relevant litigation files which said litigation files are limited to the period 1 January 2006 to 20 June 2024 relating to complaints of abuse, as defined in the Terms of Reference;

(2) all documents relating to notifications to the Minister for Defence about complaints of abuse, as defined in the Terms of Reference, made pursuant to section 114 of the Defence Act 1954, and all amending Acts, or otherwise, for the period 1 January 1983 to 20 June 2024, to include, but not limited to, all statements, notifications, notes, records of investigations and interviews, reports, determinations, recordings, memoranda and records of written and electronic correspondence and communications of any kind and pleadings, including replies to particulars, contained on relevant litigation files which said litigation files are

limited to the period 1 January 2006 to 20 June 2024 relating to complaints of abuse, as defined in the Terms of Reference;

- (3) all documents relating to protected disclosures made to the Minister for Defence under the Protected Disclosures Act 2014, and where applicable the Protected Disclosures (Amendment) Act 2022, relating to any of the Terms of Reference (i) to (vii) of the Tribunal covering the period from 15 July 2014 to 20 June 2024, to include, but not limited to, all files, statements, notes, records of investigations, reports, recordings, determinations, memoranda and records of written and electronic correspondence and communications of any kind;
- (4) all documents relating to notifications and reports to the Minister for Defence of complaints of hazardous chemicals, as defined within the Terms of Reference, and the response thereto, for the period 1 January 1983 to 20 June 2024, to include, but not limited to, complaints files, statements, records of investigations and interviews, recordings, reports, determinations, notes, memoranda and records of written and electronic correspondence and communications of any kind and pleadings, including replies to particulars, contained on relevant litigation files which said litigation files are limited to the period 1 January 2006 to 20 June 2024 relating to complaints of abuse, as defined in the Terms of Reference;
- (5) all documents, requesting changes in the Defence Forces Act 1954, and all amending Acts, and Regulations made thereunder, relating to the complaints processes available to members of the Defence Forces 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, to include, but not limited to, submissions, memoranda, reports and written and electronic correspondence of any kind;
- (6) all documents, requesting changes in the Defence Forces Act 1954, and all amending Acts, and Regulations made thereunder, relating to the jurisdiction of the Military Police to investigate complaints of abuse, as defined in the Terms of Reference, for the period from 1 January 1983 to 20 June 2024, to include, but not limited to, submissions, memoranda, reports and written and electronic correspondence of any kind; and

(7) all documents relating to investigations initiated by the Minister for Defence, into the complaints processes, as defined in the Terms of Reference, for the period from 1 January 1983 to 20 June 2024, to include, but not limited to, all statements, notes, records of investigations, reports, determinations, memoranda and records of written and electronic correspondence and communications of any kind.

AND THE TRIBUNAL FURTHER ORDERS THAT, in respect of the documents falling within categories (1), (2) and (4) 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.

AND THE TRIBUNAL FURTHER ORDERS THAT, in respect of the documents falling within category (3) above, the Deponent shall, in accordance with the Protected Disclosures Discovery Protocol appended hereto at Schedule Two, 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: *27th day of January 2025.*

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
Third parties	Anonymised with no marker

Detail	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 Minister for Defence 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 Minister for Defence 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 Minister for Defence 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 Minister for Defence 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 Minister for Defence 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 Minister for Defence with a written consent from a Complainant to the effect that the Complainant's file should be identified to the Tribunal, the Minister for Defence 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 Minister for Defence 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

PROTECTED DISCLOSURES DISCOVERY PROTOCOL*

<u>Detail</u>	<u>Marker</u>
Reporting Person Name. Includes suffix, initials, nicknames.	Anonymised – Marker “RP” to be inserted.
Persons Concerned: ** Respondent Name (if any). Includes suffix, initials, nicknames.	Anonymised – Marker “PC” to be inserted. Where there are multiple persons concerned within a Protected Disclosures file, each to be distinguished by PC and number, e.g. PC1, PC2, etc., for the purposes of that file only.
Persons Concerned: Persons associated with the Respondent (if any). Includes suffix, initials, nicknames.	Anonymised – Marker “PA” to be inserted. Where there are multiple associated persons concerned within a file, each to be distinguished by PA and number, e.g. PA1, PA2, etc. for the purposes of that file only.
Third Party Name mentioned in the Report. To include: Witnesses, Colleagues, Doctors/Medical Persons, Civil Servants/Officials, Other Data Subjects.	Anonymised- Marker “TP” to be inserted.
Other Identifying Data to be redacted. Includes, but not	Anonymised with no marker

limited to, units, date of birth, any DF personnel number, any identifying number such as PPSN, home address, phone number, email address, signature, family identifiers, dates of career milestone events such as enlistment, promotion or retirement.	
Investigating Officer(s) / Decision Maker(s)	Anonymised but subject to an individual numerical code (e.g. IO1 or IO2) which is visible so that the Tribunal can detect whether the same investigating officers/decision makers are involved in more than one Protected Disclosure, and which enables the Minister for Defence identify those investigating officers/decision makers to the Tribunal should that prove necessary.
Locations i.e. the barracks, or equivalent location, where the Reporting Person is based/where the Protected Disclosure relates to.	Anonymised but subject to an individual numerical code (e.g. L1 or L2) which is visible so that the Tribunal can detect whether the same locations are involved in more than one Protected Disclosure, and which enables the Minister for Defence identify those locations to the Tribunal should that prove necessary.
Dates (other than those as redacted above)	Included***
Ranks	Included***
Civil Service Grade / Position e.g. Head Fitter	Included***
Gender	Included***

* This Protocol and Note is at all times subject to the provisions of the Protected Disclosure Act, 2014 (as amended) and in particular sections 6A, 16 (1) and 16A thereof. In particular, it is subject to the obligation of the Minister for Defence to fulfil the statutory requirements to protect the identities of reporting persons and/or persons concerned and/or third parties. This statutory obligation may require additional redactions in respect of a particular file and could extend to the narrative of the wrongdoing where the same is directly or indirectly identifying. These instances of redaction will be marked as a statutory necessity with the marker 'SN'.

** A 'person concerned' is defined in section 3(1) of the Protected Disclosure Act 2014 (as amended) as meaning "*a natural or legal person who is referred to in a report as a person to whom the relevant wrongdoing is attributed or with whom that person is associated*".

*** Additional redactions may be required in accordance with the Protected Disclosures Act, 2014 (as amended) where the information would directly or indirectly identify the reporting person, persons concerned or third parties. These will be marked with the marker 'SN'.

NOTE

1. The Minister for Defence will provide contemporaneously with delivery of a Protected Disclosures file, the information that the reporting person has made any other relevant Protected Disclosure which has been or is yet to be furnished to the Tribunal. The Minister for Defence will identify these files to the Tribunal by reference to their appropriate number subject to the relevant statutory duties of the Minister.
2. The Minister for Defence will provide contemporaneously with delivery of a Protected Disclosures file, the information that the person concerned has been a person concerned in another relevant Protected Disclosure which has been or is yet to be furnished to the Tribunal. The Minister for Defence will identify these files to the Tribunal. The Minister for Defence will identify these files to the Tribunal by reference to their appropriate number subject to the relevant statutory duties of the Minister.

3. The Minister for Defence will provide contemporaneously with delivery of a Protected Disclosures file, the information that the Location is a Location in another relevant Protected Disclosures file which has been or is yet to be furnished to the Tribunal. The Minister for Defence will identify these files by reference to their appropriate number to the Tribunal subject only to the relevant statutory duties of the Minister.
4. 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 reporting person or investigating officer, as appropriate. Where the file does not state the location the Minister for Defence will make that information, i.e. the relevant numerical code for the location, available with delivery of the file.
5. Where a file does not state the relevant barracks or equivalent location but states a more specific location, the Minister for Defence 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.
6. Within a short time after the making of this Order, the Minister for Defence will deliver files to the Tribunal and thereafter will continue to deliver files on a regular basis until the Minister's obligations have been met.
7. Where the Tribunal supplies the Minister for Defence with a written consent from a reporting person to the effect that the reporting person's identity and their Protected Disclosure(s) should be identified to the Tribunal, the Minister for Defence will prioritise the delivery of that file (if it has not already been delivered), otherwise anonymised as set out above (i.e. save for the identity of the reporting person), and

will confirm that the file relates to the particular reporting person from whom the consent has been received.

8. Should the Tribunal require the Minister for Defence to identify investigating officer(s), decision maker(s), or location(s), this will be the subject of a further Order for Discovery and parties affected by same will be notified.

Schedule Three

TERMS OF REFERENCE

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

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