



Submission by the  
Commonwealth Ombudsman

**REVIEW OF MENTAL HEALTH IN THE ADF  
AND TRANSITION THROUGH DISCHARGE**

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## INTRODUCTION

The Commonwealth Ombudsman safeguards the community in its dealings with Australian Government agencies by:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action
- developing policies and principles for accountability, and
- reviewing statutory compliance by law enforcement agencies with record keeping requirements applying to telephone interception, electronic surveillance and like powers.

As Defence Force Ombudsman, my office receives complaints from current and former serving members of the ADF about all aspects of their service. Although the number of complaints to our office is a small proportion of the number of current and former ADF personnel, these complaints represent problems which have not been able to be resolved at several levels within the ADF and the Department of Defence. The numbers of approaches received in the last four years are in the following table:

<b>Agency</b>	<b>2004–05</b>	<b>2005–06</b>	<b>2006–07</b>	<b>2007–08</b>
Australian Army	190	169	145	138
Royal Australian Air Force	69	80	57	48
Royal Australian Navy	78	54	50	59
Department of Veterans' Affairs	216	276	256	139

## RESPONSE TO TERMS OF REFERENCE

My office does not receive many complaints from ADF members which are specifically about a member's mental health needs, whether in response to a diagnosed mental illness or otherwise.

However we do receive complaints about matters that are linked to mental health problems, in particular where a member's service is terminated as a result of being found medically unfit because he or she has a mental illness. Although we appreciate that the ADF may terminate the service of members who are not medically fit to serve, I would like to raise some specific matters around the termination of service in these circumstances.

### Reasons for termination

Where a member is classified as medically unfit for reasons of a mental illness, he or she may be given an option, or a suggestion, that he or she discharge at their own

request, rather than be discharged for medical reasons. This may be done for a variety of reasons, including the health of the member.

For example, we received a complaint by an ex-member who had been advised to discharge from recruit training at his own initiative despite being assessed as medically unfit for psychological reasons. In this case, a senior medical officer had advised that it would be better for the recruit's mental health, in particular to manage his anger, if he were able to leave at his own request, and that option was made available to him. However, at the time, the senior medical officer also recorded that it was highly unlikely the member would be accepted by Defence if he were to re-enlist.

Unfortunately, being discharged at his own request rather than on medical grounds led the person to believe that he would be eligible for re-enlistment, and he approached this office when his re-enlistment application was rejected.

While the sensitivities surrounding termination for psychological reasons must be considered, so too must the long term expectations of the individual and the impact of conflicting or insufficient information. Where there are concerns about the psychological consequences of a formal recording of psychological reasons for termination, we suggest that the ADF find and use alternative methods of managing the member's expectations about future service.

### **Administration of mental health terminations**

Complaints to our office show that simple errors of administration may be made during any type of discharge from the ADF. However these errors can have a disproportionate effect if they occur during a termination for mental health reasons.

A complaint was made to this office from a former member of the Army Reserve who had been subject to a medical termination based on psychological assessment. The central issue of the complaint related to the effective date of his termination, which passed before he was presented with the Termination of Service Decision, in contradiction to Defence instructions on terminations. In effect, he was given the final advice of his termination after it had occurred. This resulted in the removal of his ability to lodge a Redress of Grievance about the matter, as he was no longer a Defence member.

Although this was an administrative error, we would like to point out the greater potential for the negative impact of administrative errors on a member who is being terminated for psychological reasons, who may be more vulnerable. Perhaps the ADF could consider putting in place an additional level of quality assurance for the administration of terminations made on mental health grounds.

### **Passing information to the Department of Veterans' Affairs**

As with all ex-ADF members who may receive services from DVA, the timely passing of accurate information from Defence to DVA is critical. In cases of mental illness where ongoing medical treatment is required, the information is important in ensuring a seamless provision of medical services.

In recent years our office has noted an improvement in the flow of medical information from Defence to DVA (see our 2006-07 annual report). However we still receive occasional complaints on this issue, including those relating to mental health. For example, we received a complaint about a delay in Defence providing information to DVA about the service cause of an ex-member's Post Traumatic Stress Disorder.

In this case, DVA was unable to grant benefits without Defence acknowledging the condition to be service related, but Defence had encountered difficulty in releasing sufficient information as the event had been classified. The delays in obtaining this information, along with Defence warnings of legal action should the ex-member release the specific classified information to DVA, placed additional stress and hardship on the ex-member and his family.

While the protection of classified information is essential, it should not be an impediment to an individual's benefits or treatment. Defence and DVA may be able to negotiate a method of acknowledging service causation of medical conditions without detailing specific information when related to classified events. The same concern about access to information would also arise for those treating mental illness resulting from classified events.

### **Re-enlistment and Continuous Full-time Service**

I note that the terms of reference for this review appear to assume that the transition from ADF service to civilian life operates as a one-way street. However, we receive numerous complaints from members who have re-enlisted or are attempting to re-enlist, or who are now Reserve members undertaking periods of continuous full-time service.

Our observation is that members who leave and re-enter the ADF may do so in several different ways, over some years, and possibly on several occasions. In cases of discharge because of mental illness there is a possibility that a member may fully recover and be able to re-enlist.

It appears that administrative errors become more likely where there are multiple re-enlistments or periods of continuous full-time service. We have received complaints about timely access to records and information, particularly medical records. We suggest that all discharge and transition processes, even those for mental health reasons, address the possibility of future re-enlistment or continuous full-time Reserve service.

### **Conclusion**

The correct administration of terminations from the ADF is important for all members, but particularly for those with mental health problems, as the potential impact of errors is likely to be greater. The decision to terminate a member for psychological reasons is not taken lightly. Once that decision is made it may be necessary to manage the termination with an additional level of care and scrutiny.