

# Reporting abuse in Defence

## Frequently Asked Questions

The Office of the Commonwealth Ombudsman (the Office), as Defence Force Ombudsman (DFO), receives reports of Defence abuse and is empowered to take appropriate action. We are an independent complaints mechanism (outside Defence and outside the chain of command) for those who are uncomfortable reporting abuse within Defence. Abuse in this context includes sexual abuse, serious physical abuse, or serious bullying or harassment which occurred between two (or more) people who were serving members in Defence at the time.

Our Frequently Asked Questions aim to assist reportee’s, or individuals acting on behalf of reportee’s, to engage with our Office and understand the options available to them.

Reporting abuse in Defence .....	2
Who can make a report? .....	2
Can I make a report on behalf of someone else? .....	2
How do I make a report? .....	2
Can I make a report anonymously	
I complained to the Defence Abuse Response Taskforce (DART)—can I also report my abuse to the DFO?.....	3
I already reported abuse to the Ombudsman—can I report a new incident of abuse?.....	3
I suffered abuse while employed by Defence, but I do not know the identity of the person(s) who abused me. Is it still possible for me to apply?.....	3
The Ombudsman’s jurisdiction.....	3
What is ‘abuse’? .....	3
What does ‘reasonable likelihood’ mean? .....	4
I experienced domestic violence in my relationship with another serving member. Is this within your jurisdiction?.....	4
I experienced abuse while I was in the Australian Defence Force Cadets. Is this within your jurisdiction?.....	4
Process .....	5
How will my report be assessed? .....	5
Will information be provided to Defence as part of this process? .....	5
I am still serving in Defence - will the Defence Force Ombudsman take any special precautions to make sure my privacy is protected? .....	5
What if I disagree with the outcome of the assessment process? .....	5
Does the Ombudsman make a finding in relation to my report of abuse? .....	6
What is the effect of the Ombudsman accepting my report of abuse?.....	6

## Reporting abuse in Defence

### Who can make a report?

The Ombudsman can receive a report of abuse in Defence by a reportee who was, at the time the abuse is alleged to have occurred:

- a member of the Australian Defence Force (Defence), or
- an Australian Public Service employee deployed outside Australia, or
- a Defence contractor engaged to provide services outside Australia, either in connection with an operation of the Defence Force or for the purpose of capacity building or peacekeeping functions by the Defence Force.

### Can I make a report on behalf of someone else?

A report of abuse may be made by a reportee, or by another person (an 'authorised representative') on their behalf. A reportee's authorised representative is someone who the Ombudsman is satisfied is:

- a trustee, guardian or administrator appointed under legislation, or by a court or tribunal order
- the holder of a power of attorney
- a legal representative
- someone who has legal or written authority (general or specific) to represent the reportee in relation to their report of abuse, or
- someone who the DFO is otherwise satisfied is authorised to make a report on behalf of the reportee.

There is no requirement to have legal representation to submit a report.

The reportee will need to complete our *Permission for another person to act on my behalf* form, which can be accessed on our [website](#).

### How do I make a report?

To report abuse to the Ombudsman, you will need to complete a Reporting Abuse Form, which is available on our [website](#). We may contact you in relation to your report and you may also be asked to provide further information or clarification where required.

If you have any questions about completing the form, please contact us via email at [defenceforce.ombudsman@ombudsman.gov.au](mailto:defenceforce.ombudsman@ombudsman.gov.au).

### Can I make a report anonymously?

Yes. You can make a report and not provide your personal details. The information in your report can assist in identifying systemic issues or areas of concern in Defence. However, it will not be possible to progress an assessment of your report without certain information, including your identifying details.

### I complained to the Defence Abuse Response Taskforce (DART)—can I also report my abuse to the DFO?

The Defence Force Ombudsman cannot respond to a report of abuse if it was dealt with by the DART. However, if you have new information you did not report to the DART, we will consider this information. If you contacted the DART after the cut-off date for complaints (31 May 2013) you can make a report of abuse to us. You can also report abuse which occurred after 11 April 2011 (abuse that was outside the DART's terms of reference), even if you had previously reported that abuse to DART.

### I already reported abuse to the Ombudsman—can I report a new incident of abuse?

The Defence Force Ombudsman **may not** consider a report of abuse if it relates to the same incident/s as were previously reported.

If a **new** incident of abuse is reported to the Ombudsman, we will assess it in accordance with our usual processes.

### I have participated in a common law claim against Defence. Can I still report abuse to the DFO?

Yes. You can make a report for abuse you experienced, even if you have already participated in a common law claim against Defence.

### I suffered abuse while employed by Defence, but I do not know the identity of the person(s) who abused me. Is it still possible for me to apply?

Yes. It is not essential that you know the identity of the person(s) who abused you.

However, you should provide as much information as possible in your report about the circumstances of the abuse, and the reasons you do not know the identity of the person(s) who abused you. For example, you may have not seen the face(s) of the person(s) who abused you, or you may have forgotten the name or the spelling of the name of the person(s) who abused you as the abuse occurred a long time ago.

Any information you can provide will help the Ombudsman to assess your report.

### My report of abuse happened a very long time ago and there were no witnesses. Can I still make a report of abuse?

Yes. We will consider all reports of abuse, no matter how old. We also understand that current or former serving members of Defence may not have records or evidence to prove the abuse occurred. We can accept reports of abuse we consider to be reasonably likely to have occurred.

## The Ombudsman's jurisdiction

The Ombudsman may take appropriate action in response to a report if satisfied it constitutes *abuse* which is *reasonably likely* to have occurred.

### What is 'abuse'?

'Abuse' includes sexual abuse, serious physical abuse and serious bullying or harassment. All reports will be assessed to determine whether the reported abuse meets this definition.

In assessing seriousness, the Ombudsman will consider a wide range of relevant factors, which can

include whether the conduct:

- involves a series of incidents which indicate a course of conduct
- is inflicted by officials acting in concert with others
- involves actual bodily harm being inflicted
- appears to include premeditation or consciousness of wrongdoing, and
- amounts to sexual harassment or discrimination on the basis of an attribute recognised by Australian anti-discrimination law.

The factors outlined above are not elements of a definition that must be satisfied in each instance, but rather factors to be considered as part of an objective assessment of each report.

### What does 'reasonable likelihood' mean?

*Reasonable likelihood* involves the concept that reasonable inquiries have been made to form the belief.

This is below the civil standard of proof ('on the balance of probabilities'), which is used when investigating administrative complaints and which requires fact-finding, evidence-gathering, and investigation. However, it is a higher standard of proof than 'plausible', which was used by the DART.

The Ombudsman will seek, and consider, any of the following that may be applicable to individual reports:

- further information from a reportee, such as medical records or police or Defence reports
- trend information about abuse which occurred at particular locations and times, and
- any information provided by Defence.

However, having regard to the nature of the abuse, an absence of any further or corroborating information will not prevent the Ombudsman from being satisfied it was reasonably likely to have occurred.

### I experienced domestic violence in my relationship with another serving member. Is this within your jurisdiction?

Matters of domestic violence are not within the Ombudsman's jurisdiction. The Ombudsman's jurisdiction is directed to a person's conduct in the workplace rather than a domestic relationship. The jurisdiction does not cover conduct which occurs within domestic relationships, or in a social setting disconnected from the workplace, even when both parties are members of Defence.

Service Police can take a report of a domestic violence incident. In addition, the Sexual Misconduct Prevention and Response Office (SeMPRO) can offer support to a member who has experienced domestic violence that involves an element of sexual misconduct.

### I experienced abuse while I was in the Australian Defence Force Cadets. Is this within your jurisdiction?

The Australian Defence Force Cadets (ADF Cadets) is a community-based youth development organisation focused on Defence customs, traditions, and values. While the three ADF Cadet organisations are supported and administered by the ADF, under the *Defence Force Act 1903*, an ADF Cadet is not a member of the ADF. The Ombudsman is unable to receive reports of serious abuse in Defence by a reportee who was, at the time the abuse is alleged to have occurred, an ADF Cadet.

Reports of sexual abuse experienced in the ADF Cadets may be considered by the National Redress Scheme, depending on the circumstances of the case.

## Process

### How will my report be assessed?

Each report of abuse will be assessed as quickly as possible. We can accept reports where we are satisfied:

- the report constitutes abuse
- the abuse is reasonably likely to have occurred
- you were, at the time of the alleged abuse, an employee of Defence
- the alleged abuser was an employee of Defence, and
- there is a connection between the alleged abuse and your employment in Defence.

We will notify you of the outcome of our assessment process and whether we have accepted your report.

### Will information be provided to Defence as part of this process?

Yes. As part of the process, we will seek your consent to provide information about your report of abuse to Defence, so that it can provide information to assist us with the assessment process.

We will only do so with your consent. You may withdraw your consent at any time, and we will cease taking any further action. Not consenting, or withdrawing consent, may limit our ability to consider your matter further, although it does not prohibit you from providing your consent at a later time.

### I am still serving in Defence - will the Defence Force Ombudsman take any special precautions to make sure my privacy is protected?

The Ombudsman is aware of the additional sensitivities around requesting information from Defence in relation to reportee's who are currently serving and will not request any information from Defence without first contacting you and obtaining your consent.

Our Privacy Policy is available on our [website](#).

We will keep your personal information confidential, except for limited circumstances when required by law or Parliament. We will only provide limited necessary information (including your name) to Defence in order to obtain your relevant records from Defence.

This information will be provided directly to the Defence Response Unit (DRU), a secure cell within the Command Support Branch of the Australian Defence Force Headquarters which reports directly to the Chief of the Defence Force. The DRU treats this information with the strictest confidence and it will only be viewed by staff within the DRU.

### What if I disagree with the outcome of the assessment process?

If part or all of your report of abuse is outside of the Ombudsman's jurisdiction to take further action, you can request a review of the decision. A request for a review should be submitted within 28 days of the Ombudsman's decision being made. This should include additional information about the abuse you experienced. Should you require more time you are able to request an extension past 28 days.

Our policy is that we will review a decision only once, unless there are exceptional circumstances.

More information on the review process is available on our [website](#).

### Does the Ombudsman make a finding in relation to my report of abuse?

No. Consistent with the role of an Ombudsman, the Ombudsman does not propose to make findings of guilt or innocence, and does not have determinative powers. However, with your consent we can refer your report to Defence or another agency such as the Australian Defence Force Investigative Service or the Inspector General of the Australian Defence Force. These organisations are able to investigate incidents and make findings of guilt or innocence.

Further information about the case referral process is available on our [website](#).

### What is the effect of the Ombudsman accepting my report of abuse?

At any point during your contact with the Ombudsman, we will support you to access counselling with Open Arms - Veterans & Families Counselling. We can also assist with this referral **prior** to you submitting a report.

The Ombudsman may be able to assist by investigating the report of abuse and making recommendations to Defence. If the Ombudsman accepts your report as abuse, you will also be given the option to participate in our restorative engagement program.

Our acceptance of the report does not amount to a finding of fact or definitive proof the abuse occurred. In particular, our acceptance of a report does not necessarily meet the legal standard of proof required for other government agencies (such as the Department of Veterans' Affairs).

### Need more information?

More information about the restorative engagement program is available on our [website](#).

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If you are feeling distressed and need to speak to someone urgently, please call one of the 24-hour support services listed below:

Lifeline: **131 114**

Beyond Blue: **1300 224 636**

Open Arms - Veterans & Families Counselling: **1800 011 046**