



Does Defence handle
unacceptable behaviour
complaints effectively?

Defending Fairness

Contents

Contents.....	2
Executive summary.....	3
Key observations.....	5
Our recommendations.....	7
Recommendations.....	8
Part 1. Introduction and scope.....	11
Our role.....	11
Our inquiry.....	11
Part 2. Defence’s complaint handling framework.....	13
Handling complaints of unacceptable behaviour.....	16
Part 3. Issues arising out of inquiry.....	18
Improve and Commit.....	18
No effective case management system for handling complaints.....	18
Lack of quality controls or quality assurance processes to ensure complaints are handled fairly and consistently.....	22
Limited ability to identify and use lessons learnt from complaints.....	25
Design.....	27
Complaint policies are complex and not always accessible.....	28
Defence’s complaint handling framework does not effectively encourage complaints.....	31
Lack of training in managing complaints of unacceptable behaviour.....	39
Deliver.....	42
Unclear direction on resolving complaints at the lowest appropriate level.....	42
Inconsistent communication with complainants and respondents.....	45
Appendix 1: Understanding this report.....	50
Key definitions.....	50
Glossary of acronyms.....	51
Appendix 2 - Objective, scope and methodology.....	52
Attachment 1 - Defence Response to recommendations.....	55



Executive summary

“There are many more people who would submit complaints if they believed they would be treated fairly, with respect and compassion throughout the process.”

Response to Questionnaire – Question 21. Considering your experience - do you think the complaint handling framework effectively supports Defence members to make a complaint? Why or why not?

An effective process for handling complaints is critical for any organisation, especially for something as important as complaints of unacceptable behaviour. The Australian Defence Force (consisting of the Navy, Army and Air Force) and the Department of Defence (collectively ‘Defence’) are large and complex, employing over 70,000 personnel combined. In the past decade, Defence has undergone a cultural reckoning with a history of instances of abuse and unacceptable behaviour. With this history and the sheer size of Defence in mind, it is crucial for Defence’s complaint processes to work effectively, to encourage people to come forward knowing any complaints will be managed sensitively and seriously.

Defence is in a period of change and has taken positive steps to address and reduce unacceptable behaviour. We commenced this own motion inquiry to build on the findings of our previous report [‘Defence’s policies for receiving and responding to reports of abuse’](#) and to examine how the policies and procedures we evaluated in that inquiry work in practice. We wanted to evaluate the experiences of both the people who have complaints and those who administer the complaints framework. People are at the centre of any complaint process, even more so when the complaint process is about unacceptable behaviour.

As part of this inquiry, we visited 7 Defence establishments across the 3 services, conducted 33 interviews and roundtable discussions with Defence personnel and surveyed people who had experienced unacceptable behaviour. We reviewed Defence’s policies and procedures for managing complaints of unacceptable behaviour and reviewed complaint records. In the 2022–23 financial year, Defence received 1,165 complaints of unacceptable behaviour.¹

We heard, and found, that Defence’s complaint handling framework is not always working effectively for complainants or commanders and managers. Complainants and commanders and managers expressed frustrations with the current framework.

¹ *Defence Annual Report 2022–23 (2023)* ([2022–23 Defence Annual Report](#)), page 113.



While it does enable complaints to be made and investigated, it could be made to work better, in a way that also more strongly supports Defence's changes to improve its response to unacceptable behaviour.

In particular, we found that:

- there is no simple way to access information about how to make a complaint about unacceptable behaviour outside of Defence's internal network
- the lack of an option to make complaints outside the chain of command, and anonymously, is likely preventing some complaints from being made
- inconsistent record-keeping requirements mean that the story of a complaint cannot be understood from a single system, preventing meaningful oversight
- there is a lack of inbuilt mechanisms to ensure people are being treated fairly, with complaints handled appropriately and consistently
- it is not easy to get and use data on complaints to understand risks and patterns and drive continuous improvement
- a lack of training on complaint handling and complex policies and procedures risk unfair and inconsistent complaint processes and outcomes.

We recognise the steps Defence has taken, and continues to take, as well as the commitment of the Defence personnel we spoke to, who take unacceptable behaviour seriously and want a process for reporting and managing it that works.

Our recommendations aim to make Defence's policies and procedures work better for its people – especially people who have experienced an incident of unacceptable behaviour who look to the complaint process for resolution, respondents to complaints who deserve to be treated with fairness, and the Defence personnel, including managers and commanders, who are entrusted with handling the complaints.

Much of what we found in our inquiry will not be news to Defence. In some instances, Defence personnel across units and areas we spoke to were aware of the issues we found. While we make several specific recommendations, a key recommendation is the establishment of a specialised, centralised trained complaints unit with quality assurance at its core operating across all 3 services and the Department of Defence, enabling Defence to assure itself that the policies and procedures in place are being applied consistently and to facilitate continuous improvement.



Key observations

Why did we do this report?

In 2019 we conducted an inquiry into and reported upon the **appropriateness** of Defence's procedures for managing complaints of contemporary abuse. We found the policies and procedures were broadly appropriate.

As anticipated in that report, we wanted to look at the **effectiveness** of Defence's procedures for managing complaints of unacceptable behaviour in practice. This investigation has therefore focused on how the complaints are managed by commanders and managers.

How did we conduct our inquiry?

- We visited 7 Defence establishments across the 3 services and conducted 33 interviews and roundtable discussions with Defence personnel.
- We surveyed people in Defence who had experienced unacceptable behaviour.
- We reviewed Defence's policies and procedures for managing complaints of unacceptable behaviour.
- We reviewed some complaint records to test how complaints are being handled in practice.

What did we find?

While Defence has taken positive steps to address and reduce unacceptable behaviour, its complaint handling framework does not always work effectively and could be better.

In particular, we found that:

- there is no simple way to access information about how to make a complaint about unacceptable behaviour outside of Defence's internal network
- the lack of an option to make complaints outside the chain of command, and anonymously, is likely preventing some complaints from being made
- inconsistent record-keeping requirements mean that the story of a complaint cannot be understood from a single system, preventing meaningful oversight
- there is a lack of inbuilt mechanisms to ensure people are being treated fairly, with complaints handled appropriately and consistently

- it is not easy to get and use data on complaints to understand risks and patterns and drive continuous improvement, and
- a lack of training on complaint handling, combined with complex policies and procedures, risks unfair and inconsistent complaint processes and outcomes.

Key recommendation

While we make several specific recommendations, our key recommendation is the establishment of a specialised, centralised trained complaints unit with quality assurance at its core, operating across all 3 services and the Department of Defence, enabling Defence to assure itself that the policies and procedures in place are being applied consistently and to facilitate continuous improvement.

Next steps

Defence accepted all 9 recommendations in this report and advised that scoping work on implementing the recommendations, including timeframes, is expected to be completed in the first quarter of 2024. We will continue to discuss anticipated timeframes for implementation of the recommendations with Defence, and return to assess the action taken

Our recommendations



One recommendation to establish a centralised and specialised unit to oversee the complaint handling process.



One recommendation to prioritise the implementation of a new case management system for complaint handling.



One recommendation to improve quality control and assurance processes to ensure complaints are being handled fairly and consistently.



One recommendation to improve accessibility of information about the complaint handling framework.



One recommendation to address potential for bias and conflict of interest in the complaint handling process.



One recommendation to improve training for personnel involved in complaint handling.



One recommendation to provide clear and practical guidance on the direction to resolve complaints at the appropriate level.



Two recommendations to improve communication with complainants and respondents.

Recommendations

Recommendation 1:

We recommend Defence prioritise the implementation of the new Defence-wide case management system, ensuring it has the following features for complaint handling:

- records all actions, decisions and interactions relating to a complaint
- can produce data with sufficient granularity to enable trends to be identified
- stores, or includes direct links to, all documents created in the life of a complaint
- preferably contains built in workflows to guide personnel on the complaint handling process with the use of mandatory fields as quality controls
- has data entry fields designed to ensure consistent information is inputted
- includes a checklist of action to assure required complaint processes have been followed before a file can be closed.

Defence Response: Accepted

Recommendation 2:

We recommend Defence develop a quality control and quality assurance framework that:

- provides assurance that complaints are being handled in accordance with Defence's complaint handling framework
- ensures consistency in approach across the services and the Department of Defence, including by introducing internal and centralised oversight (see **Recommendation 3**)
- has a built-in regular review process to ensure quality controls and quality assurance are achieving the desired outcomes and are updated to address any emerging issues or areas of risk in compliance.

Defence Response: Accepted

Recommendation 3:

We recommend Defence create, or task an existing area with being, a centralised and specialised unit to oversee the complaint handling process Defence-wide, resourced appropriately to:

- serve as an internal centralised complaint mechanism (including receiving anonymous complaints), as another option for personnel independent from the chain of command



- conduct reviews of complaint records for quality assurance purposes
- analyse emerging trends and issues to continuously improve the complaint handling framework
- provide education, advice and oversight of the complaint handling process to all parties involved in complaint handling.

Defence Response: Accepted

Recommendation 4:

We recommend Defence make information about the complaint process easily accessible to all Defence personnel and consistent across the 3 services and the Department of Defence, including by:

- **publishing** information outside the Defence Protected Network on how to make a complaint and how a complaint will be handled
- making information accessible through a single pathway (such as a QR code)
- developing simple and easily digestible guidance on how to make a complaint about any incident of unacceptable behaviour, designed for situations where Defence personnel do not have access to other information.

Defence Response: Accepted

Recommendation 5:

We recommend Defence require personnel involved in the handling of a complaint to consider specifically whether a conflict of interest or bias, perceived or actual, exists in relation to the complaint, and keep a written record of this consideration and any accompanying risk mitigation. Defence should monitor and evaluate compliance with this requirement and the effectiveness of risk mitigation actions.

A complaints mechanism outside the chain of command, as recommended in **Recommendation 3**, will also assist to address actual and perceived conflict of interest issues.

Defence Response: Accepted

Recommendation 6:

We recommend Defence establish a requirement that any staff required to handle complaints of unacceptable behaviour receive training in the complaint process within a reasonable timeframe of undertaking the position. Defence should conduct an audit to ensure that personnel currently required to handle these complaints have received training on how to manage them.

Defence should ensure that a centralised area for managing the complaint process is also available as a resource for complaint handling staff to ensure they can seek assistance with the complaint process (see **Recommendation 3**).

Defence Response: Accepted

Recommendation 7:

We recommend Defence revise the Complaints and Alternative Resolutions Manual (CARM) to provide clear and practical guidance for what incidents of unacceptable behaviour are, or are not, appropriate for resolution at the lowest level. This should also:

- include practical examples
- ensure the complainant can raise any incident of unacceptable behaviour as a complaint under chapter 3 of the CARM at any time
- include a clear requirement that matters resolved at a lower level or using alternative dispute resolution are to be centrally recorded and reported, including what the incident was, what the outcome was and the reasons for the outcome.

Defence Response: Accepted

Recommendation 8:

We recommend Defence ensure guidance for complaint handlers about communication with the parties to a complaint makes clear that as much information as possible should be disclosed to the parties to the complaint in line with privacy legislation.

Defence Response: Accepted

Recommendation 9:

We recommend Defence establish a process to quality assure a sample of complaints to ensure communication with complainants and respondents during the complaint is done in accordance with the Complaints and Alternative Resolutions Manual, gives outcomes with details of the decision, reasons for the decision and advice on their review rights, and there is a written record that this has occurred. Defence should take action where failures are identified.

Defence Response: Accepted

Part 1. Introduction and scope

Our role

- 1.1. The Commonwealth Ombudsman's role as the Defence Force Ombudsman (the Ombudsman) is established in Part IIA of the *Ombudsman Act 1976* (Cth).
- 1.2. The Ombudsman may investigate action on his or her own motion.² This includes action relating to a matter of administration by a Department or prescribed authority regarding the service of a member in the Australian Defence Force (ADF) or arising in consequence of a person serving in the ADF.
- 1.3. Under the *Ombudsman Regulations 2017* (Cth) (the Regulations) the Ombudsman may inquire into matters relating to complaints of abuse, including the effectiveness of Defence's policies and procedures for making and responding to such complaints as has been the focus of this inquiry.

Our inquiry

- 1.4. In August 2019, the then Ombudsman published a report on an inquiry into the appropriateness of Defence's policies for receiving and responding to reports of abuse - '[Defence's policies for receiving and responding to reports of abuse](#)' (the 2019 Report). In that report, the Ombudsman was largely satisfied Defence's range of policies and procedures were appropriate and supported making and handling reports of abuse.
- 1.5. In the 2019 Report, the then Ombudsman indicated we would use future inquiries to assess the effectiveness of the policies and procedures in practice.³
- 1.6. Defence's policies and procedures, including the policies for handling complaints of unacceptable behaviour, have been under scrutiny in recent years. In addition to our 2019 Report, other reports and inquiries have commented on or specifically considered the policies and procedures for handling unacceptable behaviour including:
 - The 2021 Preliminary Interim Report from the Interim National Commissioner for Defence and Veteran Suicide Prevention (the 'Boss Report') regarding ADF member and veteran deaths by suicide.

² *Ombudsman Act 1976* (Cth) s 19C(2)(b).

³ [Defence's policies for receiving and responding to reports of abuse, page 4.](#)



- The 2021 Inspector-General of the Australian Defence Force's (IGADF) own-initiative inquiry into the implementation of military justice arrangements for dealing with sexual misconduct in the ADF.
 - Defence's *Pathway to Change* strategy, initially from 2012–2017 in response to 6 independent reviews of an incident at the Australian Defence Force Academy (ADFA) and updated in 2017 – *Pathway to Change: Evolving Defence Culture 2017–2022* which identified Defence's cultural reform priorities, including strengthening accountability in leadership, inclusion and integration, ethics and workplace behaviours, and health, wellness and safety.
 - The 2022 interim report of the Royal Commission into Defence and Veteran Suicide (RCDVS) which identified over 50 previous reports, and more than 750 recommendations, that have examined the legislative frameworks, structures, policies, practices, culture or operational dimensions of the ADF and DVA.⁴
- 1.7. The Boss Report contained a recommendation (Recommendation 5.1) that the Australian Government independently evaluate the effectiveness of current ADF policies, practices and processes for preventing and reporting unacceptable behaviour. While our inquiry and subsequent findings address aspects of this recommendation, including assessing the effectiveness of the complaint system, enabling safe reporting and the satisfactory resolution of complaints, we have not assessed measures for prevention of unacceptable behaviour.
- 1.8. With this background and context in mind, we focused our inquiry on the policies and procedures for handling complaints of unacceptable behaviour by managers and commanders from a better practice complaint handling perspective. While ideally unacceptable behaviour would not occur, when Defence personnel believe it has occurred they need to be assured that they can report it and their report will be handled impartially, sensitively and effectively.
- 1.9. Further information regarding our methodology for this inquiry is available at **Appendix 2**.

⁴ Royal Commission into Defence and Veteran Suicide, [Interim Report](#), 11 August 2022, p 15.



Part 2. Defence's complaint handling framework

- 2.1. Defence's complaint handling framework is complex, containing many different levels of policy and guidance.
- 2.2. The framework is underpinned by the Defence Instruction Administrative Policy (DI ADMINPOL). The DI ADMINPOL is a general order under s 11 of the *Defence Force Act 1903* (Cth) and for the purposes of the *Defence Force Discipline Act 1982* (Cth) (DFDA). The DI ADMINPOL is issued by the Chief of the Defence Force and the Secretary of Defence and sets out the instructions relating to different policy domains of Defence. Non-compliance with a general order is an offence under the DFDA.⁵
- 2.3. The relevant sections of the DI ADMINPOL relating to complaints of unacceptable behaviour are:
 - the section 'AG4 - Incident reporting and management' (AG4), setting out the requirements for dealing with 'incidents' including incidents of unacceptable behaviour
 - the Interim Incident Reporting and Management Policy (IIRMPOL), which is a framework document giving instruction and guidance on how to report and manage incidents in Defence and forms part of the AG4
 - the section 'PPL7 - Required behaviours in Defence' (PPL7), setting out the required behaviours for Defence personnel including not engaging in unacceptable behaviour, and
 - Annex 3G to chapter 3 of the CARM, which sets out the different types of unacceptable behaviour, and forms part of the PPL7.
- 2.4. The DI ADMINPOL was replaced by the Defence Instruction issued on 25 July 2023. As this document had not been issued at the commencement of our inquiry, it was not assessed as part of the inquiry.
- 2.5. The CARM is the key policy document for handling complaints. Chapter 3 of the CARM is the central document for handling complaints of unacceptable behaviour and contains 'the responsibilities, notification, management of, and reporting of unacceptable behaviour by Defence personnel'. While all chapters relate to complaints, the main additional relevant chapters are chapter 2,

⁵ Section 29 of the *Defence Force Discipline Act 1982* (Cth).



covering workplace conflict which may include unacceptable behaviour and alternative dispute resolution options; and chapter 9, covering responding specifically to unacceptable behaviour constituting sexual misconduct.⁶

- 2.6. Commanders, managers and supervisors have additional guidance in policy documents, particularly the Good Administrative Decision-Making Manual (GADMMAN) which contains detailed guidance on making administrative decisions, and the Administrative Inquiries Manual for conducting inquiries under the *Defence (Inquiry) Regulations 2018* (Cth). In addition, there are numerous guidance materials produced by areas of Defence, including the Directorate of Privacy, Complaints and Resolution (DPCR) and the Sexual Misconduct Prevention and Response Office (SeMPRO). These provide guidance to all parties to the complaint and incident management process – commanders and managers, complainants and respondents.
- 2.7. While the DPCR is responsible for the CARM and the overall monitoring, reporting and management of unacceptable behaviour, there are additional stakeholders in the complaint process, for example:

⁶ Additionally, chapter 10 of the CARM was released in March 2023 containing policy on “Stop Sexual Harassment Directions”, a new mechanism enabling Defence members who have experienced sexual harassment to seek intervention. Given the policy had not commenced at the commencement of our inquiry, we have not assessed these directions in practice.



SeMPRO

- Assists Defence personnel affected by sexual misconduct, including taking 'restricted disclosures', which allow ADF members to confidentially disclose that they were subject to a sexual offence and access support without automatically triggering the notifiable incident requirements.
- Personnel subjected to sexual misconduct can contact SeMPRO for confidential counselling, and all personnel can contact SeMPRO for advice on managing and responding to sexual misconduct incidents.
- SeMPRO offers training on handling incidents of sexual misconduct and is the sponsor for chapter 9 of the CARM, which details the processes for handling complaints of sexual misconduct as a type of unacceptable behaviour.

Joint Military Police Unit (JMPU)

- Investigates all sexual offences and incidents of unacceptable behaviour that reach the threshold of 'notifiable incidents' under the IIRMPOL.
- Commanders and managers must refer sexual offences to JMPU. Commanders and managers are also strongly encouraged to seek advice from JMPU (and SeMPRO) when they receive a complaint of sexual misconduct on whether it reaches the threshold of a sexual offence.
- People who have experienced sexual misconduct can report directly to JMPU. As our inquiry was focused on complaints handled by managers and commanders and did not assess the handling of notifiable incidents, we did not assess JMPU's role in complaint handling.

Workplace Behaviour Adviser (WBA) network

- A network of personnel trained to provide personnel with support, information and options for the resolution of workplace behaviour issues and incidents, including policy advice about unacceptable behaviour management and dispute resolution. This service is available to complainants, respondents and managers and commanders handling complaints.
- The network is made up primarily of WBAs, who are Defence personnel undertaking the role on a voluntary basis in addition to their primary defence employment role. They are supported by WBA Coordinators, who are trained to offer additional support and are appointed by command and Dispute Resolution Managers to the position.
- The WBA network is trained, co-ordinated and managed by the Dispute Resolution Managers within the Directorate of Privacy, Complaints and Resolution who are nationally accredited to manage and conduct alternative dispute resolution.

'Sensitive / Strategic Issues Management' (SIM) teams

- Each of the 3 Services and Headquarters Joint Operations Command have an incident management team (referred to as variations of SIM teams) overseeing the incident reporting and management process. These SIM teams provide advice to their respective Command's for reporting and management. Other joint ADF Groups, such as Joint Capabilities Group and Military Personnel Organisation, have a SIM function resident within their Chief of Staff team function.
- There is not a SIM team for civilian Defence staff who are not in one of the services but each Defence Group has a Defence Incident Record Manager.
- SIM teams also receive updates on matters being investigated by JMPU.



Handling complaints of unacceptable behaviour

- 2.8. Under the CARM, the complaint handling process generally begins when the commander or manager becomes aware of the incident of unacceptable behaviour, either through a complaint being lodged by a complainant or a witness or by initiating it themselves. Once commanders, managers and supervisors identify or are notified of an incident of unacceptable behaviour, they must take action, even if there is no complaint from another person. This is referred to as a 'management initiated complaint'.⁷ Commanders and managers have a positive obligation to 'manage' any incident that is reported to them.⁸ Incidents of unacceptable behaviour are also 'incidents' for the purposes of the incident management requirements within Defence.
- 2.9. Defence personnel generally have a positive obligation to report 'incidents' to their manager or commander within 24 hours of commencement of duty.⁹ Defence personnel may meet their obligations to report unacceptable behaviour by doing so in accordance with the CARM and reporting the incident to the complainant's manager or respondent's manager.
- 2.10. Once they arise, complaints of unacceptable behaviour must be managed in accordance with chapter 3 of the CARM. As a broad overview of the complaint process, once the complaint is initiated the manager or commander will:

⁷ The CARM, chapter 3, part 2, section 3.2.0.3 'Complaints of unacceptable behaviour', paragraph 5.

⁸ DI ADMINPOL, AG4 – Incident reporting and management (AG4), paragraph AG4.4. The DI ADMINPOL has now been replaced by the Defence Instruction issued 25 July 2023.

⁹ Unless an exception applies – see DI ADMINPOL AG4, paragraphs AG4.1-AG4.3. The DI ADMINPOL has now been replaced by the Defence Instruction issued 25 July 2023.



Assess the complaint to confirm whether it is to be handled by the commander or manager or must be referred to another body (i.e. a Public Interest Disclosure authorised officer, JMPU or SeMPRO (noting SEMPRO do not manage a complaint but provide support and advice)).



If the complaint is to be handled by the commander or manager, assess it to determine if the behaviour occurred, and if it did, whether it was unacceptable behaviour and whether it was minor or significant.



If the commander or manager needs more information to resolve the complaint, they will initiate a 'fact finding' often involving appointing Defence personnel from another unit or area.



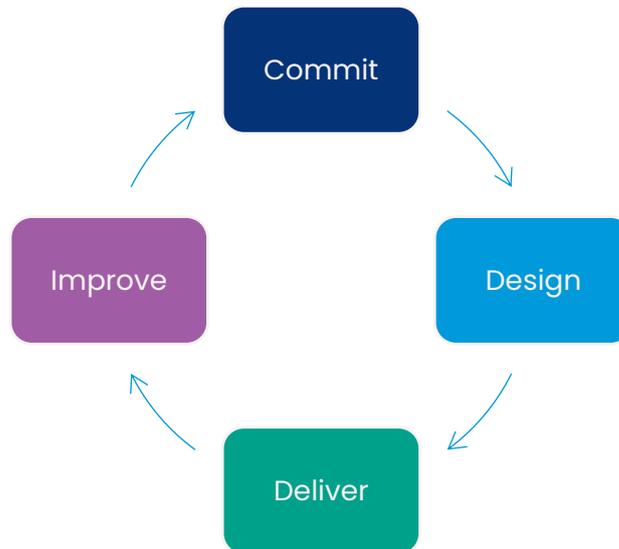
The commander or manager will assess the report of the facts provided by the fact finder and reach a view.



The commander or manager will deliver the outcome to the parties and will be responsible for implementing, or facilitating the implementation of, any outcomes.

Part 3. Issues arising out of inquiry

- 3.1. In assessing whether Defence's complaints handling policies and procedures are effective, we considered what an effective complaints handling system looks like with reference to our [Better Practice Complaint Handling Guide](#) and our experience handling complaints, including reports of abuse within Defence.



Improve and Commit

- 3.2. Strong complaint handling systems are underpinned by a commitment from staff to provide a quality complaints service; designed and delivered in a way that meets better practice principles and is continuously improving.
- 3.3. Effective complaint processes build in continuous improvement which begins with consistently recording complaints, identifying systemic issues through analysing data and quality assurance activities and regular reporting. Continuous improvement requires a commitment to improvement at all levels of the organisation.

No effective case management system for handling complaints

Defence's current computer systems do not help complaint handlers manage complaints effectively, negatively impacting the people involved in this process, Defence's ability to drive continuous improvement and meaningful oversight.

- 3.4. An effective complaint framework should be supported by a well-resourced system that facilitates end to end complaint management, contains meaningful data and uses data to identify complaint insights. An agency without this will struggle to use complaint data to identify areas of concern and drive improvements to better support people involved in the complaint process. A lack of an effective system also prevents meaningful oversight to ensure people are being treated fairly and their complaint is being handled appropriately.
- 3.5. An effective system must store all documents relevant to the complaint and accurately and consistently record key complaint data such as:
- when and how the complaint was made
 - the complainant's (and any respondent's) details
 - what the complaint was about
 - how it was resolved, and
 - all actions/interactions, decisions/outcomes and remedies/further steps.
- 3.6. In short, a good database must tell the complete complaint story with no relevant material excluded. The story must be clear and self-contained in the documents and information in the system so that subsequent scrutiny and review will be able to see how the complaint was handled.
- 3.7. From our review of the documents Defence provided and interviews with Defence personnel,¹⁰ we identified issues in Defence's current system for recording complaints of unacceptable behaviour.
- 3.8. When there is a complaint of unacceptable behaviour, the manager or commander and their team must use multiple systems, often duplicating information but also running the risk of entering different information in the different systems.¹¹

¹⁰ For further information regarding our inspection methodology see Appendix 2.

¹¹ All complaints of unacceptable behaviour must be reported in Defence's database 'ComTrack'. Reports must also be submitted in the incident management systems – in the Army, the Army Incident Management System (AIMS) is used, whereas in the Navy and the Air Force a Defence Incident Record (DIR) must be submitted to the Defence Policing and Security Management System. Both ComTrack and the incident management reports must be submitted at the initial complaint stage, when there are updates to the complaint, and at closure. Complaints that take longer to resolve require more updates. Other systems may also need to be used as part of the complaint reporting process. For example, if the complaint contains an injury there must also be a report to Defence and ComCare via Sentinel (for workplace health and safety).

- 3.9. None of these systems are case management systems capable of containing the primary documents in relation to the complaint. While a Defence Incident Record (DIR) may have attached documents, the primary complaint documents are filed in the document management system, Objective.

Defence personnel we interviewed expressed concern about the need to repeatedly enter the same information causing issues and making it more prone to human error.

- 3.10. The personnel we interviewed understood the need for reporting but saw the multiple reporting systems as administratively burdensome. ComTrack was viewed negatively, as staff did not receive useful information back in the same way they did from submitting incident reporting forms to the SIM teams. No Defence systems enable easy tracking of matters, so some units have implemented ad-hoc processes like creating their own excel spreadsheets to keep track of matters on hand, resulting in extra manual work.
- 3.11. The goals of both the incident reporting and ComTrack systems are positive. It is crucial to track complaints of unacceptable behaviour and report incidents of unacceptable behaviour as they occur. However, Defence's multiple systems requiring input of the same information and lack of a case management system makes complaint handling more difficult and hampers meaningful oversight of complaints.

Without an interrogable system, Defence is not able to effectively identify patterns of behaviour or identify trends in complaints.

- 3.12. The complaint files we reviewed varied significantly in the level and quality of detail provided. Some files contained only the final DIR setting out the steps taken, while others appeared to contain most documents we would expect to see, including emails, written records of conversations, fact finding briefings and records of the outcome. In some instances, files showed inaccurate dates recorded in ComTrack compared with the dates of events in the primary complaint files. In one case the outcome recorded in the ComTrack entry relating to unacceptable behavior was incorrect. Inaccurate recording of information is highly problematic as complaint data follows Defence personnel involved in the alleged unacceptable behaviour across the course of their Defence career, including being used in recruitment activity.



- 3.13. It was not clear whether the primary complaint documents were missing in some files because they did not exist, they existed but were not produced or because they were not filed correctly. The missing documents hampered our ability to review the complaint files in detail. Without a comprehensive case management system, Defence was not able to produce all relevant documents quickly and easily for specific complaints, and instead needed to draw from multiple different systems.

We were unable to use this data to determine whether complaints of unacceptable behaviour are being handled consistently across Defence.

- 3.14. Defence is developing a new case management system that will be used to manage complaints of unacceptable behaviour, replacing ComTrack, the DIR and the AIMS systems. Defence advised our Office in June 2023 that the new case management system will go live in June 2024. However, Defence initially advised us in April 2023 that it would be operational in November 2023, and previously Defence had advised the RCDVS that the system was expected to go live from December 2022.

Finding

- 3.15. Defence's current complaint reporting systems do not enable and support effective complaint management. It is crucial to report and track incidents of unacceptable behaviour. However, the current systems used are burdensome, and do not enable effective complaint handling or reporting.
- 3.16. There has been previous comment along similar lines by other reviewing bodies and agencies, and even within Defence. We understand Defence is planning to implement new software to replace the current system to enable end to end complaint management. Defence should implement a new system as a priority, noting the ineffectiveness of the current systems and that the project for commissioning a new system has been underway for some time.



Recommendation 1

We recommend Defence prioritise the implementation of the new Defence-wide case management system, ensuring it has the following features for complaint handling:

- records all actions, decisions and interactions relating to a complaint
- can produce data with sufficient granularity to enable trends to be identified
- stores, or includes direct links to, all documents created in the life of a complaint
- preferably contains built in workflows to guide personnel on the complaint handling process with the use of mandatory fields as quality controls
- has data entry fields designed to ensure consistent information is inputted
- includes a checklist of action to assure required complaint processes have been followed before a file can be closed.

Lack of quality controls or quality assurance processes to ensure complaints are handled fairly and consistently

There are no steps or checks explicitly built into Defence's complaint handling framework to ensure that staff are following processes.

- 3.17. An effective complaint system should have robust quality assurance and review processes including quality control check points.¹² This helps minimise human error to ensure that people are being treated fairly, with complaints handled appropriately and consistently within the agency's framework. It is especially important where complaint handling is decentralised, such as in

¹² Quality controls refer to mechanisms in place to ensure compliance with policies and procedures during the complaint handling process. Quality assurance is conducted after decisions have been made to retrospectively assess compliance.



Defence, with many people from different services and units responsible for handling complaints.

- 3.18. While there are several avenues for staff to seek advice on how to apply processes, quality controls and assurance processes are not built into Defence's complaint handling framework. Chapter 3 of the CARM includes a checklist for complaint handlers, however this is a guidance document only and staff are not required to use it to demonstrate they have followed procedures.

When we asked Defence what quality assurance processes are in place, Defence advised that complainants can seek review if dissatisfied with the process. This places an unfair burden on complainants.

- 3.19. We were also advised that there are external inquiry and review processes, such as that provided by our Office and IGADF's audit function. While complaint handling frameworks including such review mechanisms is important, the onus to ensure compliance should not be on complainants and external bodies. Defence should have internal quality control and assurance mechanisms in place.
- 3.20. In practice we observed that quality controls are conducted on an ad-hoc basis either by the command team handling the complaint or by the relevant service's SIM team. Some command teams we spoke to discussed checking consistency and quality on their own initiative, ensuring incidents are handled correctly during weekly or monthly forums with other command teams or seeking advice from personnel in the command team such as legal officers. Complaints are generally handled by a team rather than individually, so there are checks inherent in complaints being discussed collectively. Command teams also may receive feedback from the SIM teams on an ad-hoc basis if the SIM team identifies a missed step, but this is based on the content of the incident record rather than the primary complaint document/file. As there is a separate SIM team per service and no SIM team for the Department of Defence, the feedback provided may not be consistent across the services and the Department of Defence.

- 3.21. As discussed above, our review of complaint records provided for this inquiry did not assure us the process is consistently followed. Complaint records were incomplete and lacking documentation of key steps in the process. We could not determine whether this is because the process was not followed in such instances or because records were not being kept in an interrogable form. Actions taken in the handling of complaints should be clearly documented and capable of scrutiny in quality assurance processes and by oversight agencies.

From our inquiry, we could not be satisfied that complaints are being handled fairly and in accordance with its complaint handling framework and that there is consistency in approach across the services and the APS. We think that Defence would also currently find it difficult to assure itself (and others) of this.

Finding

- 3.22. There is a lack of quality controls and quality assurance built into Defence's complaint handling framework. There are limited quality controls in place, mainly being in-unit checks and the SIM teams providing feedback on incidents on an ad-hoc basis. There is no formal quality assurance process outside of external review processes and the SIM teams' oversight.
- 3.23. With the introduction of Defence's new case management system in mid-2024, there is an opportunity for Defence to build in quality controls for complaint handling (including for example, the use of mandatory fields and clear quality check points). In the interim, Defence should introduce other quality control tools such as improving the existing checklist in chapter 3 of the CARM and making this a requirement for complaint handlers to complete when making decisions and keep with the complaint record for subsequent quality assurance activity.
- 3.24. We think Defence should introduce an internal and centralised quality assurance function that operates across all three services and the Department of Defence to ensure consistency across Defence. It will be important that technology can support such a function.





Recommendation 2

We recommend Defence develop a quality control and quality assurance framework that:

- provides assurance that complaints are being handled in accordance with Defence's complaint handling framework
- ensures consistency in approach across the services and the Department of Defence, including by introducing internal and centralised oversight (see **Recommendation 3**)
- has a built-in regular review process to ensure quality controls and quality assurance are achieving the desired outcomes and are updated to address any emerging issues or areas of risk in compliance.

Limited ability to identify and use lessons learnt from complaints

Defence does not capture complaint data in a way that enables staff to proactively identify areas for improvement or to remediate areas of concern.

- 3.25. Information received from complaints is extremely valuable. It allows agencies to see how healthy its organisational culture is and sometimes even identify and resolve issues early before they escalate. An effective complaint handling system must enable collecting and analysing this data on a regular basis to identify trends and emerging systemic issues across different areas or units and harness opportunities for continuous improvement, feeding this back to the relevant areas.
- 3.26. If an agency cannot do this, it is doing a disservice to itself and its staff by failing to identify and use the lessons learnt from complaints to proactively improve both its culture and the complaint handling experience for its people.
- 3.27. Defence advised its complaint policy documents are regularly updated when minor or significant changes are required and there is wide consultation across the services as part of the update process. Sources of input to these updates include external inquiries and user feedback. Defence's unacceptable behaviour complaint process underwent an internal review in 2018, but we were not advised of any plans for a review beyond the scheduled updates in 2023 to the CARM.



3.28. Defence has taken steps towards having a centralised complaints handling area with the establishment of the DPCR. However, much of the complaint process remains decentralised. While this decentralised approach has advantages, a lack of central oversight of complaints in a big-picture sense can hinder continuous improvement.

On a unit level, commanders said they identified trends and issues on a 'gut feeling' basis from their role in complaint handling but were not able to use data to do so.

3.29. We observed in site interviews that some teams felt they have a role in trend analysis, but their capacity to identify emerging trends is limited. In general, trends were observed on an ad-hoc basis. The SIM teams, by reading every incident report that comes in, will also identify trends but again are hampered by a lack of interrogable data.

3.30. We found that many of the issues we identified in site interviews and responses to our questionnaire were already readily apparent to Defence personnel. These are not new issues and could have potentially been identified if Defence had a centralised area to conduct their own internal reviews of the process, proactively seeking feedback, conducting complaint reviews for quality assurance and using the information gained to drive continuous improvement.

Finding

3.31. Defence's current approach to identifying and implementing improvements to the complaint handling process and trends and issues arising across different business areas or units is not effective. While the framework, including the CARM, is regularly reviewed and open to suggested changes, from what we have observed, changes to the complaint process are not informed by reviews of complaints and analysing trends, then feeding this information back into the process.

3.32. Defence should create or task and resource an existing team to be responsible for regularly reviewing the framework, with the goal of ensuring the policies and procedures in place are followed in practice and ensuring that any lessons from complaints are incorporated into changes to the complaint framework. This team should function across the services and the Department, so it is Defence-wide.



Recommendation 3

We recommend Defence create, or task an existing area with being, a centralised and specialised unit to oversee the complaint handling process Defence-wide, resourced appropriately to:

- serve as an internal centralised complaint mechanism (including receiving anonymous complaints), as another option for personnel independent from the chain of command
- conduct reviews of complaint records for quality assurance purposes
- analyse emerging trends and issues to continuously improve the complaint handling framework
- provide education, advice and oversight of the complaint handling process to all parties involved in complaint handling.

Design

3.33. An effective complaints handling framework is designed in a way that suits the work, structure and size of the organisation and the needs of its users. Our Better Practice Complaint Handling Guide sets out the key design principles that underpin an effective complaint handling model.



Complaint policies are complex and not always accessible

Defence's complaint policies are complex, difficult to navigate and not always accessible to staff.

- 3.34. For a complaint process to be effective, the policies and procedures governing the process should be easy to use and navigate for the people using them. Complex or unclear processes not only make complaint handling more difficult for the staff assigned such responsibility, but also increase the risk of unfair or inconsistent processes and outcomes for complainants and respondents.
- 3.35. Defence's complaint policies are complex and interlink with many different documents which are then overlaid with directions or orders for each service within the ADF. A manager or commander (and staff supporting them) need to possess an effective working knowledge of a high volume of detailed policies, directives and manuals to effectively manage a complaint, including incident management policies.¹³
- 3.36. From the site interviews we found that, while the commander or manager is responsible for handling the complaint according to the CARM, in practice it is handled by what is better described as the 'command team': Commanding Officers (COs) receive assistance from their Executive Officer (XO) and other personnel in the unit, including, for example, personnel officers and legal officers.

While views varied, many command teams observed the complexity and difficulty in navigating the various documents and determining what was required of them to handle complaints.

- 3.37. To counter the complexity, different services and directorates of Defence have produced guidance documents attempting to capture the entirety of the complaint framework. For instance, the Army units we interviewed relied heavily on the 'Playbook' as their guidance for handling incidents, rather than the CARM

¹³ This is because the incident or occurrence of unacceptable behaviour complained of must also be handled under the incident management policy requirements as well as the policy requirements for unacceptable behaviour.

directly, as the 'Playbook' incorporated service requirements.¹⁴ However, none of these documents capture all additional requirements for each service (and attempts to do so will likely make it too complex).

- 3.38. Other teams involved in the complaints handling process and the design of the framework also reflected on the large volume of policies and procedures and observed that this volume can cause issues with how effective it is in practice.
- 3.39. It is critical that people seeking to make a complaint can readily and independently access information on how to make a complaint and what the complaint handling process involves. Particularly where the incident involves unacceptable behaviour, making information easily accessible at all times empowers people, consistent with a trauma informed approach.
- 3.40. The framework documents and guidance including fact sheets for complainants are available on the Unacceptable Behaviour Complaints page of the Defence Protected Network (DPN - Defence's internal computer network), and links to the key framework documents are included in the mandatory annual workplace behaviour training.
- 3.41. Information outside the DPN is limited. For example, Defence's internet page on unacceptable behaviour advises those who have experienced unacceptable behaviour to seek advice from the WBA network, but does not provide them with a quick and accessible way to do so, or to make a complaint.
- 3.42. From our site interviews with commanders, a potential barrier identified for complainants accessing information about the framework is that they do not always have access to the DPN. Access to the DPN requires use of a Defence terminal which can be limited on base, and not all personnel have access to the remote system.

Lacking a simple way to independently find out where and how to complain when an incident of unacceptable behaviour occurs is a problem.

¹⁴ Chapter 3 of the CARM has a flowchart attempting to capture the process once a complaint is made or a commander or manager becomes aware of an incident, and a checklist for managers and commanders when handling a complaint. The services have created their own versions; for example the Army 'Playbook', which sets out the steps for command to handle different types of incidents (not just limited to unacceptable behaviour) and incorporates both the Defence-wide and Army-specific requirements. For sexual misconduct or sexual offences handled under chapter 9 of the CARM, SeMPRO created a portal on its website providing a step-by-step process, including information tailored to each party in the process.

- 3.43. While Defence personnel will be generally aware that such processes exist and will have received information about it in their annual workplace behaviour training, it may not be front of mind when an incident occurs and the knowledge is needed most.
- 3.44. Parts of Defence have already implemented ideas aimed at addressing this gap. ADFA explained it had created a poster with a QR code, positioned around the Academy that when scanned from any device links to information about the options and processes for reporting an incident of unacceptable behaviour. This initiative ensures that people can quickly find out where to go or where to find more information in the case of an incident occurring.
- 3.45. We are also conscious that there may be some circumstances where Defence personnel need to access information about the complaint handling framework but they do not have any access to the intranet or internet (for example potentially on training exercises). In such circumstances, we consider it is important that Defence personnel can still independently access basic information to assist them to initiate the complaint process if needed.

Finding

- 3.46. It is difficult to navigate the complex web of policies and procedures Defence personnel are required to comply with in handling complaints of unacceptable behaviour. The policies and procedures are lengthy, complex, and vary between the services.
- 3.47. Defence should consider where its various policy and procedural documents can be streamlined. When doing so, Defence may wish to consider an approach similar to that taken by SeMPRO's online portal providing information, support and advice on the steps in the process based on who the party accessing the information is (respondent, complainant etc.).
- 3.48. While there is a large amount of information on the DPN about the process, it can be hard to independently access information about the complaint handling framework and to find out how to make a complaint outside the DPN. People who have experienced an incident of unacceptable behaviour should be able to find information readily and independently about how to make a complaint, what will happen with it, and where to get support, when they need it.



Recommendation 4

We recommend Defence make information about the complaint process easily accessible to all Defence personnel and consistent across the 3 services and the Department of Defence, including by:

- publishing information outside the Defence Protected Network on how to make a complaint and how a complaint will be handled
- making information accessible through a single pathway (such as a QR code)
- developing simple and easily digestible guidance on how to make a complaint about any incident of unacceptable behaviour, designed for situations where Defence personnel do not have access to other information.

Defence's complaint handling framework does not effectively encourage complaints

3.49. A complaint handling system should be designed in a way that encourages complaints. Being able to raise a complaint is a fundamental human right and agencies must ensure their complaint handling frameworks remove all barriers that may impact a person's willingness to engage with the process. There should be multiple access points, including by phone, email, online form, post and face to face, and the ability to make anonymous complaints. The system must be fair and decisions made free from bias.

Chain of command and the complaint process

Complainants who for whatever reason do not feel comfortable with the chain of command are effectively left with nowhere else to go.

3.50. Broadly speaking, Defence's complaint framework requires a complaint to be made through the chain of command. The CARM provides that a complaint can be made by personnel in writing or verbally¹⁵ to their commander, manager or supervisor, unless the complaint is about one of these persons, in which case they are to complain to that person's supervisor. If they do not feel comfortable

¹⁵ The CARM chapter 3, part 2, section 3.2.0.3 'Complaints of unacceptable behaviour', paragraph 2.



doing this, they are advised to notify an alternative commander or manager within the same chain of command.

- 3.51. While complaints can be raised by anyone, the chain of command will be involved in the complaint handling process. Once a commander or manager becomes aware of an incident of unacceptable behaviour, they have an obligation to handle the matter as a complaint¹⁶, regardless of whether a complainant has come forward. The exception to this is allegations of sexual misconduct where the right to continue with the complaint lies with the person alleging to have suffered the sexual misconduct.
- 3.52. There are few alternative avenues available. In the case of sexual misconduct, under chapter 9 of the CARM complainants can report directly to the JMPU, civilian police or to a Public Interest Disclosure (PID) authorised officer. They may also make a restricted disclosure to SeMPRO. While SeMPRO provides a valuable service to complainants, it is not an investigative body, and any complaint will ultimately be handled by either the chain of command (for certain sexual misconduct incidents) or a Defence Investigative Authority such as JMPU (for sexual offences).
- 3.53. The complaint process appears to be centred around the chain of command for a few reasons. Defence is a hierarchical organisation and respect for the chain of command is paramount, the chain of command is 'on the ground' and in a position to handle the complaint quickly. As leaders in Defence, commanders, managers and supervisors are responsible for maintaining acceptable behaviour and effective relationships in the workplace.¹⁷ The commanders, managers and supervisors we interviewed took this responsibility seriously, and were committed to handling matters of unacceptable behaviour appropriately. We acknowledge that there are some benefits to having the chain of command responsible for managing incidents of unacceptable behaviour when they occur.
- 3.54. However, concerns were repeatedly expressed in responses to our questionnaire about approaching the chain of command with a complaint, including: fear of repercussions, retribution or victimisation, lack of trust, inaction and the possible adverse effect on personnel's career progression.¹⁸

¹⁶ Called a 'management initiated complaint'.

¹⁷ Fact sheet titled 'Guidance for Commanders, Managers and Supervisors', November 2021.

¹⁸ The following quotes are responses to question 11 in the questionnaire – "If you did not make a complaint about the incident, why?" and question 17 – "Before making the complaint, or when considering whether to lodge a complaint, did you know how to make your complaint and who to make the complaint to?"

“The issues that were raised were not acknowledged by chain of command. Members in the chain of command were also the ones involved in the unacceptable behaviour.”

“I raised my issues to the next in the chain of command. It was brushed aside and I was told to put it behind me and move on.”

- 3.55. There are inherent problems with having to make complaints to your chain of command, as they are responsible for both your future and, often, the future of the people you are complaining about. This is particularly so in the military as personnel are trained to follow orders and military discipline.
- 3.56. In response to our questionnaire, when asked how the complaint process could be improved, many respondents suggested an alternative complaint pathway outside the chain of command. Examples of suggested improvements included:¹⁹

“A separate unit to manage workplace complaints”

“Allowing members to make a complaint without the [chain of command]”

“Any and all complaints should go through an entirely different body to the [complainant’s] current command structure”

“Have some form of external group outside of the [Chain of Command]/Units that can investigate unacceptable behaviour.”

- 3.57. We note that the Boss Report recommended that Defence implement a mechanism to enable reports of unacceptable behaviour to be made outside the chain of command, and to protect the identity of the complainant or

¹⁹ The following quotes are responses to question 24 in the questionnaire – “Please tell us any areas where you believe the complaint process could be improved.”

witness.²⁰ We further note that the RCDVS in its 2022 interim report stated it would continue to gather evidence and form a view on this recommendation.²¹

Finding

- 3.58. The lack of an alternative option to the chain of command for making complaints is not in the interests of complainants and, in the absence of an alternative option, is detrimental to the effective making and handling of complaints as it discourages complaints from being made.
- 3.59. The current process means that complainants do not have an alternative independent avenue for making a complaint. It requires every manager and commander to be sufficiently capable and trustworthy for complainants, to have capacity on top of their core responsibilities to handle the complaint and to be free from bias or conflicts of interest – and to be perceived to be so by the personnel under their command.
- 3.60. We are not suggesting that the chain of command no longer has a role handling complaints: rather, we found that without an alternative place to go, people who suffer incidents of unacceptable behaviour and who believe that they cannot rely on their chain of command, for whatever reason, will not be able to report the incident. An alternative avenue for complaint making should be available (see **Recommendation 3** above).

Anonymous complaints

The ability to make an anonymous complaint is not built into Defence's complaint handling framework, leaving some units to take it upon themselves to establish methods to make and receive anonymous complaints.

- 3.61. From our examination of the Defence material there are no embedded alternative processes allowing for complaints to be made by phone or online

²⁰ Boss Report, page 165, recommendation 5.2.

²¹ Commonwealth, Royal Commission into Defence and Veteran Suicide, *Interim Report*, 11 August 2022, p 120–121.



(other than email). Some examples of the limited paths for anonymous complaint making include:

- making a protected disclosure through the PID process
- raising a complaint anonymously via support staff, such as a Defence chaplain, or using the Army Fair Go Hotline which allows communication through aliases and pseudonyms
- in interviews, one unit had established a method of receiving complaints including anonymous complaints via email to the XO, which personnel access via a QR code (to our knowledge these do not apply to all units)
- receiving complaints of incidents on feedback forms completed by personnel after training exercises (to our knowledge this does not apply to all units).

3.62. While we acknowledge the view, shared by some interviewed, that anonymous complaints may be difficult to progress, we consider that anonymous complaints are a valuable source of information and an important part of an effective complaint framework.

While action may not be able to be taken on the individual complaint, anonymous complaints can inform the agency about patterns and identify areas for improvement.

3.63. For instance, if there is an issue with a particular commander or manager not actioning complaints, receiving multiple anonymous reports (or sometimes even a single report) can highlight that issue and enable action. Anonymous complaints provide valuable information about systemic problems within an organisation, including with the complaint process itself, allowing the organisation to address them.

3.64. Anonymous complaints also enable personnel to disclose important information when they may otherwise feel at risk of reprisal, or do not wish to go through the complaint process. Anonymous complaints can provide Defence with important information about why personnel would not feel comfortable going through the complaint process. We obtained such information in our questionnaire, demonstrating that personnel are willing to provide this feedback anonymously.

3.65. In the civilian context, the importance of anonymous complaint pathways has been broadly recognised. The Respect@Work website, an initiative of the Australian Human Rights Commission and the Respect@Work Council developed in response to recommendation 48 of the National Inquiry into

Sexual Harassment in Australian Workplaces, notes that providing a range of reporting options including anonymous reporting is good practice.²² Similarly, Australia's law enforcement agencies offer the public the ability to make anonymous reports about sexual assault.²³

Finding

- 3.66. Defence's capacity to effectively manage complaints is reduced by not having an established process in its policies and procedures to receive and manage anonymous complaints.
- 3.67. This means Defence is missing out on valuable information where someone may wish to make a complaint without disclosing their identity. The ability to make anonymous complaints should be built into the process (see **Recommendation 3** above)

Conflict of interest and bias

Assessing any conflict of interest or bias is not a mandatory step in Defence's complaint handling process.

- 3.68. While there is written guidance around considering bias and independence in the fact finding and decision-making stages, the CARM itself does not contain strong direction on assessing conflict of interest or bias in the complaint process.
- 3.69. The process under chapter 3 of the CARM advises that it may be appropriate in some circumstances for a complaint to be managed by the next person higher in the command chain should a conflict of interest or bias arise and gives the example of a conflict due to a personal relationship, but this is not a mandatory

²² Respect@Work, Reporting Avenues ([Reporting avenues | Respect@Work \(respectatwork.gov.au\)](https://respectatwork.gov.au)).

²³ For example: New South Wales Police, Sexual assault reporting option ([Sexual Assault Reporting Option \(nsw.gov.au\)](https://nsw.gov.au)) and Queensland Police, Alternative Reporting Options ([Alternative Reporting Options | QPS \(police.qld.gov.au\)](https://police.qld.gov.au)).



step. Other Defence policies and procedures also contain some guidance on this point.²⁴

- 3.70. Defence's records showed no declared conflicts of interest by a manager or commander relating to managing a complaint of unacceptable behaviour for the 2020–2021 financial year and 2021–2022 financial year.
- 3.71. Defence advised it was likely that if a conflict arose, the complaint handlers would refer the matter to another commander or manager to handle and step back from the matter but would not necessarily document this. During our interviews managers and commanders said they actively consider bias in the process and aim to ensure the fact finding, including the appointment of the fact finder and the decision making, are free from bias or conflict. Interviewees generally understood independence and freedom from actual or perceived bias as elements of good administrative decision making.

Our review of the complaint files found limited documentation of decision makers turning their minds to bias when deciding if they should be involved in decision-making.

- 3.72. Not consistently and actively documenting consideration of bias and conflicts of interest when appointing fact finders and decision makers is not good practice. Such documentation can be simple and succinct. All aspects of the complaint process must be clear and transparent to the complainant, respondent and reviewers so they can have confidence in the action taken, especially in circumstances where the complaint is handled by the chain of command and may inherently have pre-existing relationships between the complainant or respondent and decision maker. Nowhere is this more important than when it comes to ensuring and demonstrating the complaint process is fair and free from bias (including perceptions of partiality).

²⁴ For instance, the GADMMAN refers to optional templates available on the DPN such as a 'Statement of Impartiality' which requires a fact finder to declare a bias or conflict that might affect their impartiality, and the template for appointing a fact finder states they complete this statement before they commence the fact finding and at its conclusion.

3.73. Responses from personnel to our questionnaire raised concerns around potential bias in the chain of command indicating a reluctance to complain at all or a lack of trust that the matter would be handled appropriately. We understand from interviews that appointing fact finders from outside the unit is often already standard practice, but it should be built into the process and recorded for every complaint.²⁵

“[The] fact finding officer was a high ranking officer in the RAAF. He was completely removed from my Chain of Command, so he was unable to be influenced or intimidated by the person.”

Finding

3.74. There is no assurance that conflicts of interest are considered consistently in the complaint handling process. There is strong guidance on avoiding a conflict of interest and bias for decision makers and fact finders, but it is not a mandatory step in the process in the CARM and records are not kept. We find that overall Defence’s process for managing bias and conflicts of interest is not sufficiently effective in practice.



Recommendation 5

We recommend Defence require personnel involved in the handling of a complaint to consider specifically whether a conflict of interest or bias, perceived or actual, exists in relation to the complaint, and keep a written record of this consideration and any accompanying risk mitigation. Defence should monitor and evaluate compliance with this requirement and the effectiveness of risk mitigation actions.

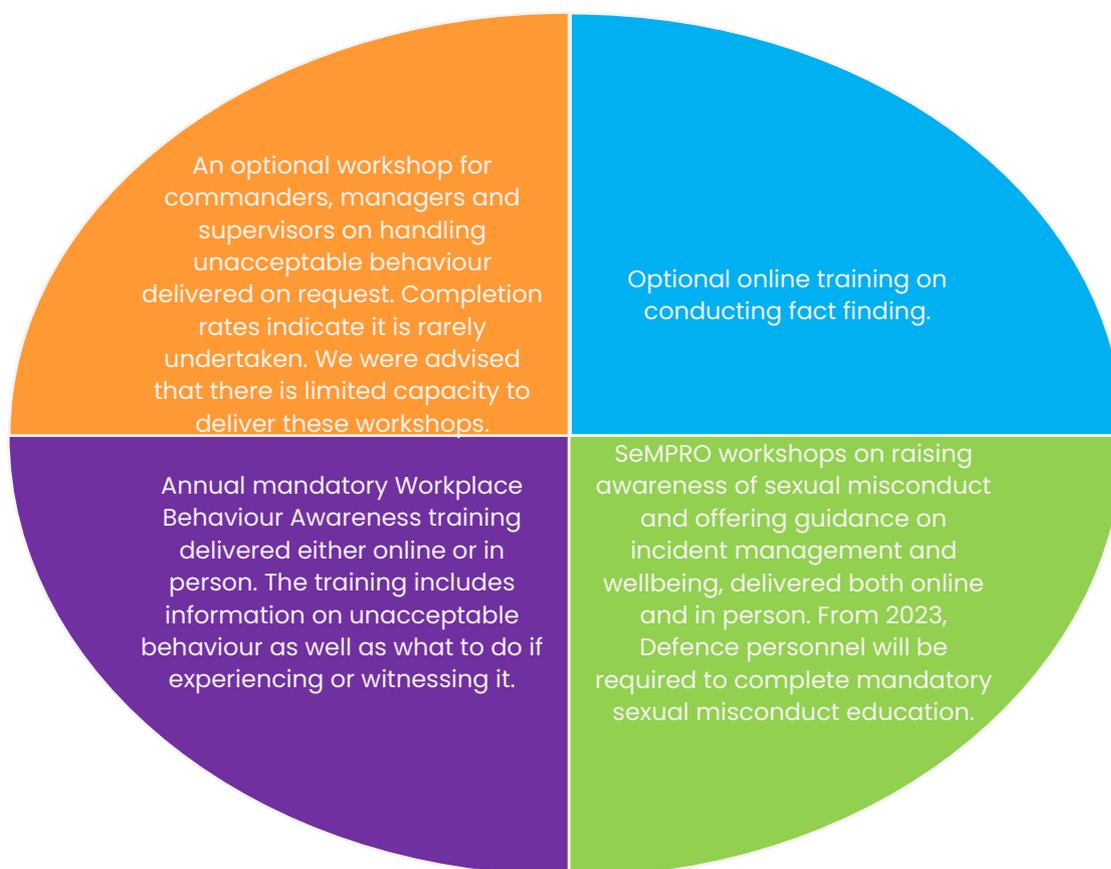
A complaints mechanism outside the chain of command, as recommended in **Recommendation 3**, will also assist to address actual and perceived conflict of interest issues.

²⁵ The following quote is response to question 15 in the questionnaire – “Were you satisfied that the complaint was handled impartially by both the decision maker and anyone else involved in the process (e.g. a fact finder)? Why or why not?” response given was ‘yes’.

Lack of training in managing complaints of unacceptable behaviour

A lack of training for the staff involved in the complaint process impacts its effectiveness, especially given the complaint framework is complex to navigate.

- 3.75. An effective complaint handling system must have staff who have been given relevant training. The training must be tailored to the particular function and should equip staff to enable, receive, manage, resolve and record complaints. Staff who are confident in the complaint handling process will better deliver processes, resulting in more consistent and fair outcomes for complainants and respondents.
- 3.76. Defence provides various forms of training about the complaint process and unacceptable behavior. Examples of this training include:



- 3.77. Throughout our interviews, personnel at the command level emphasised that the training to reach a command position (such as CO or XO) covers how to handle incidents, so by virtue of having reached command positions they will have a good understanding of the process.
- 3.78. In interviews some personnel involved in the complaint handling process outside of command positions advised they had not received training before reaching a posting that required them to manage aspects of the complaints process. The cycle of postings is a complicating factor that may limit the effectiveness of training because staff in these positions are posted for a limited period and rotate regularly. Corporate knowledge cannot be relied on, and given people are posted through these positions on a regular basis, training early in the posting for staff required to undertake these roles is important.

In interviews with support staff, we found that some staff involved in the complaint handling process stated they lacked training in managing aspects of complaints.

- 3.79. For instance, one officer advised that although they wanted to ensure they applied a trauma informed approach, they did not feel they had received enough information to know what this meant in practice or how to apply it. Others stated they received no training in vicarious trauma. Training does appear to happen on a unit level on an ad-hoc basis – one unit had taken the initiative to arrange for ‘accidental counsellor’ training for their staff.
- 3.80. Staff in the interviews were also conscious of the complexity of the complaint framework; one raised that where there is insufficient training, command may give incorrect information or guidance to the fact finder. Similarly, concerns were raised by Defence staff that an outcome may be based on the findings of a fact finder who has not been well trained and has provided inadequate information upon which the decision is based.

When considering the mode of delivery for training, interviewees and responders to the questionnaire raised that online delivery of mandatory training may not always be effective, in reference to the mandatory annual workplace behaviour training.



- 3.81. From repeated comments in interviews, we concluded that the online mandatory training is not seen as particularly effective because:
- it does not hold or engage personnel attention
 - it has the potential to be undertaken as a perfunctory ‘tick and flick’ or ‘click through’ exercise
 - the time between delivery of training and an incident occurring means a person’s ability to remember details may be limited, and
 - personnel and particularly members of the ADF are often time poor, are provided great amounts of content to learn as part of their normal duties (in addition to online training) with the result that the person is overwhelmed and does not absorb the information.

Finding

- 3.82. Delivery of training for complaint handlers specifically on the management of complaints can be improved to ensure that all staff with a role in managing complaints are sufficiently trained. Some command unit staff in support roles (adjutants, personnel officers etc) felt they had insufficient training in how to follow the process. In improving training, Defence should turn their mind to the most effective method of delivery.
- 3.83. While commanders in the ADF felt that by virtue of being in the command position they will have received training on how to handle the complaints, Defence would benefit from ensuring they, along with staff in their command teams who are also involved in the complaint handling process, have specific training on how to handle incidents of unacceptable behaviour. For instance, the optional workshop for managers and commanders has good content but has low uptake and capacity for delivery.



Recommendation 6

We recommend Defence establish a requirement that any staff required to handle complaints of unacceptable behaviour receive training in the complaint process within a reasonable timeframe of undertaking the position. Defence should conduct an audit to ensure that personnel currently required to handle these complaints have received training on how to manage them.

Defence should ensure that a centralised area for managing the complaint process is also available as a resource for complaint handling staff to ensure they can seek assistance with the complaint process (see **Recommendation 3**).

Deliver

- 3.84. An effective complaints handling system requires delivering quality complaint handling throughout the life of the complaint. People's experience with the complaint process can be as important for ensuring its effectiveness as the actual outcome of the complaint.

Unclear direction on resolving complaints at the lowest appropriate level

The application of Defence's directive to resolve matters at the lowest appropriate level appears to vary widely, potentially resulting in inconsistent reporting of complaints by different units.

- 3.85. One of the key obligations for Defence personnel under chapter 3 of the CARM in relation to unacceptable behaviour is to 'take steps to resolve workplace conflict at the lowest level, where appropriate'²⁶ and links to chapter 2 of the CARM.²⁷ Where a person believes they have been subject of unacceptable behaviour they are told to 'attempt self-resolution at the lowest appropriate level in the circumstances.'²⁸ This instruction is repeated in Defence's guidance material.²⁹
- 3.86. While the CARM and the guidance material acknowledges that self-resolution is not always appropriate, and it is explicitly stated in chapter 9 of the CARM that there are very few sexual misconduct matters that will be appropriate for resolution under chapter 2, based on our site interviews and the responses to the questionnaire, how different units apply this directive appears to vary widely.

²⁶ The CARM, chapter 3, part 1, section 3.1.0.3 'Obligations of Defence personnel', paragraph 1.f.

²⁷ Chapter 2 itself sets out the options for alternative dispute resolution of workplace conflict, which can include unacceptable behaviour. The escalation pathway suggested in this document and in guidance produced by Defence is that parties should: ask for the behaviour to stop, ask for the behaviour to stop with a third party present, pursue Alternative Dispute Resolution (ADR) under chapter 2 part 2 of the CARM (including, for example, mediation), make a complaint under chapter 3.

²⁸ The CARM, chapter 3, part 1, section 3.1.0.4 'A person who believes they have been the subject of unacceptable behaviour', paragraph 1.

²⁹ For instance, a fact sheet titled 'Unacceptable Behaviour Guidance for Complainants' dated November 2021 states that 'Your Commander or Manager will expect you to have attempted self-resolution, or supported self-resolution, where practical, before making a complaint.'



- 3.87. In interviews, personnel responsible for handling complaints, including managers and commanders, often referred to the overriding principle to resolve matters at the lowest appropriate level. However, there was some confusion around the thresholds and what was appropriate for resolving at a lower level. There was also confusion around how to practically apply the principle that once a manager or commander becomes aware of an incident, they are obligated to handle it as a complaint³⁰ and subsequently whether the incident was required to be reported.³¹
- 3.88. For example, in one unit with a low number of complaints being reported, it appeared this was at least in part due to incidents of unacceptable behaviour or conflict being resolved at a 'low level' but not being reported as an incident in accordance with the CARM. However, other units that reported and managed every incident under chapter 3 raised concerns about 'overreporting' for minor unacceptable behaviour or workplace conflict, but they wanted to embed a reporting culture and ensure that they complied with policy requirements which states that any incident of unacceptable behaviour must be reported, no matter how it is resolved.
- 3.89. Evidence gathered in our questionnaire responses indicated that while some personnel did support resolving complaints at the lowest appropriate level, others responded that this instruction had led to complaints not being actioned, not being reported or remaining unresolved.³²

³⁰ Personnel are encouraged under chapter 2 and 3 of the CARM to seek advice from their supervisors if they would like advice about an incident of unacceptable behaviour. This conflicts with the requirement for the supervisors, managers, and commanders to, once they become aware of an alleged incident of unacceptable behaviour, handle it as a complaint under Chapter 3 of the CARM (including following any incident reporting requirements for the service). This is noted in the 'Unacceptable Behaviour Guidance for Complainants' fact sheet dated April 2019, instructing complainants that if they tell their supervisor, the matter will need to be handled in accordance with Defence policy on unacceptable behaviour.

³¹ Chapter 2 of the CARM also states that the commanders, managers and supervisors must follow Defence policies and procedures for reporting allegations and complaints of unacceptable behaviour under the chapter 3 part 4 of the CARM, including creating ComTrack records and Defence Incident Records.

³² The following quotes are responses to question 12 in the questionnaire – "Did you experience any difficulties or challenges in making the complaint?", question 11 – "If you did not make a complaint about the incident, why?", and question 15 – "Were you satisfied that the complaint was handled impartially by both the decision maker and anyone else involved in the process (e.g. a fact finder)? Why or why not?"

“My superior advised me not to submit until trying to resolve it at the lowest level. The process of trying to resolve it at the lowest level was stressful.”

“Solving things at the lowest possible level is used as the reason not to report.”

“I believe there are a lack of reports being initiated under the reason of 'solving the problem at the lowest level' but this removes the ability to track any possible pattern when personnel or posting location change.”

- 3.90. Given the instruction is to resolve matters at the lowest *appropriate* level, Defence rightly considers that there are unacceptable behaviour matters that are not appropriate for any form of self-resolution.

However, for this instruction to be effective, personnel handling the complaints need to be confident in what unacceptable matters are and are not appropriate for self-resolution and these incidents must also be reported to enable effective oversight.

- 3.91. For instance, if there is a pattern of repeated unacceptable behaviour resolved at the 'low level' and unreported, this will not be captured and may remain unidentified. In addition, people who experience incidents of unacceptable behaviour need to be confident that if they raise an issue, it will be taken seriously, and that they will have the option to make a complaint.

Finding

- 3.92. Defence's complaint handling framework does not provide sufficient direction on where it is appropriate to resolve an incident at a 'lower level', creating confusion for personnel in applying the framework as intended. We do not want to discourage the use of alternative dispute resolution or early resolution of incidents at a lower level, but these types of resolution mechanisms are only appropriate for some incidents.
- 3.93. The process for handling matters at the lowest appropriate level as it currently exists is ineffective, as the policies and procedures do not provide

practical guidance and examples on which matters are appropriate for low level resolution and how to implement that type of resolution.

- 3.94. The guidance is also unclear on how matters resolved at the lowest appropriate level are to be reported, and it is likely that incidents of unacceptable behaviour are going unreported because they are not being considered as a 'complaint'. The lack of reporting and recording where an incident is resolved outside of the complaint process in chapter 3 of the CARM means that Defence is missing vital information about the prevalence of unacceptable behaviour. It makes it harder to identify areas with a problem with unacceptable behaviour as the complaint statistics may be misleading. In addition, without oversight, Defence cannot assure itself these matters are being handled appropriately for the type of incident.



Recommendation 7

We recommend Defence revise the Complaints and Alternative Resolutions Manual (CARM) to provide clear and practical guidance for what incidents of unacceptable behaviour are, or are not, appropriate for resolution at the lowest level. This should also:

- include practical examples
- ensure the complainant can raise any incident of unacceptable behaviour as a complaint under chapter 3 of the CARM at any time
- include a clear requirement that matters resolved at a lower level or using alternative dispute resolution are to be centrally recorded and reported, including what the incident was, what the outcome was and the reasons for the outcome.

Inconsistent communication with complainants and respondents

Our interviews with Defence personnel and our questionnaire indicated that communicating updates and outcomes to complainants and respondents is inconsistent and ineffective.

- 3.95. Effective communication is essential for proper complaint handling. Good communication involves clear and timely updates to both the complainant and the respondent during the life of the complaint and a clear outcome



communicated, with reasons for the decision. Review pathways should also be clearly communicated should anyone disagree with the outcome. Failure to provide this information results in an unfair complaint handling process.

- 3.96. Defence's policies and procedures require the parties to be informed about the progress of the complaint, advised once the outcome has been decided and informed of their review rights.³³
- 3.97. The GADM MAN, while not specific to unacceptable behaviour complaints, also provides guidance on keeping complainants up to date and how to advise parties of an outcome to an administrative decision. The GADM MAN intranet page contains template documents for delivering outcomes to both complainants and respondents. In addition, there are good guidance documents for complaint handlers produced by the DPCR.³⁴

We found cases where there was no record that people had been advised of their review rights, even when a written outcome letter was on the file.

- 3.98. From our review of Defence's complaint files, there were often limited records of what detail was included when the outcome was communicated. In some cases, the evidence in the file was solely the final DIR stating that the outcome had been given verbally. Other records showed that while the complainant was advised whether the incident was substantiated, the outcome was not communicated to the complainant for 'privacy reasons'. In other complaint records, it appeared the respondent was only made aware of the complaint when being interviewed by the fact finder.
- 3.99. Given the records we were provided were incomplete, we could not determine whether these documents were not included because the communication did not occur, the records were not kept, or they were kept and Defence had not provided them. Regardless of the reason why, not having documentary evidence of the outcome and the reason for it is not better practice and a major administrative oversight.

³³ The CARM chapter 3, part 3, section 3.3.0.5.7 'Keeping parties informed'.

³⁴ For example, a fact sheet on 'Providing information to complainants, respondents and impacted personnel' contains detailed guidance on what information can be given to the parties, including that complainants should be provided with as much information as possible about the outcome.

3.100. The lack of effective communication may be caused by Defence personnel's lack of knowledge about the requirements of the policies and procedures. The policies, procedures and guidance are clear about what needs to be provided to the parties.

We found that Defence could do better by clearly and consistently conveying to those involved in the complaint framework what is required when communicating with complainants and respondents, and checking to ensure that these policy requirements are followed.

3.101. A team we interviewed advised that, in their experience, approaches taken to advising of an outcome were inconsistent, and advising of review and external complaint options was a frequently missed step. In another example, a member we interviewed became aware of a complaint made about them when they received an outcome minute stating that a complaint had been made that was deemed unsubstantiated, but which could be re-opened later if the complainant wished to do so. The member was not aware of the complaint before this point or provided with any details about the subject matter of the complaint, nor given the opportunity to make any representations in the matter in their own interests.

3.102. Our questionnaire asked about progress updates during the complaint handling process. Responses received stated that outcomes were communicated in writing or verbally with varying levels and quality of content. In some cases, no updates or details of the outcome were given and personnel advised they were not given information about their rights and available options should they disagree with the decision along with avenues for support.³⁵

"Following the initial complaint, the complainant should be updated on the process of the investigation and, if nothing else, be given a written copy of the decision in the matter. It is unacceptable that I had to guess the outcome of the complaint process which I instigated..."

³⁵ The following quote is a response to question 24 in the questionnaire - "Please tell us any areas where you believe the complaint process could be improved."

The personnel responsible for the complaints need to engage with privacy as an enabler of disclosing information, and there should be oversight ensuring that as much information as possible is being given to the people involved in a complaint.

3.103. From interviews, it was clear that privacy considerations were a driving factor when deciding not to give information about the complaint and the outcome to the people involved. However, privacy legislation should function to enable disclosure of information. There is guidance already produced by the DPCR on disclosing information, with a preference to disclosing as much information as possible.

Finding

3.104. Defence is not always communicating effectively with complainants and respondents. Complainants and respondents may not always be kept up to date on the progress of their complaint, advised of their review rights or in some circumstances even informed of the existence of or outcome of the complaint.

3.105. Good communication during and following a complaint is crucial to ensuring the effectiveness of the complaint process. Defence should review its own complaint files to ensure that complainants and respondents are receiving complete outcomes to their complaints, with reasons for the decision and information about the review rights. Privacy legislation should be used as an enabler to providing information rather than a blocker.

3.106. The requirements in the policies and procedures are clear in what needs to be provided to complainants and respondents at the conclusion of a matter. However, Defence needs to assure itself that this process is being followed. In the event the process is not regularly being followed and documented, Defence should consider whether to implement a requirement that outcomes are to be given in writing.

3.107. By checking complaint files for compliance with the requirements for updates, communicating decisions and review rights, Defence will ensure that communication with the people involved in a complaint is as effective as possible.



Recommendation 8

We recommend Defence ensure guidance for complaint handlers about communication with the parties to a complaint makes clear that as much information as possible should be disclosed to the parties to the complaint in line with privacy legislation.



Recommendation 9

We recommend Defence establish a process to quality assure a sample of complaints to ensure communication with complainants and respondents during the complaint is done in accordance with the Complaints and Alternative Resolutions Manual, gives outcomes with details of the decision, reasons for the decision and advice on their review rights, and there is a written record that this has occurred. Defence should take action where failures are identified.

Appendix 1: Understanding this report

Key definitions

- ‘Defence’: We use the term ‘Defence’ when referring to the Department of Defence and the three services of the Australian Defence Force (ADF) collectively. When we refer to the ADF, this is the three services – the Royal Australian Navy (Navy), the Australian Army (Army) and the Royal Australian Air Force (Air Force).
- ‘Incident’ – Under the DI ADMINPOL AG4 (noting the DI ADMINPOL has now been replaced by the Defence Instruction) – Incident reporting and management, an ‘incident’ is any non-routine event that may have an effect on Defence, and explicitly includes all complaints made by Defence personnel, ADF cadets and members of the public where the complaint is about Defence or Defence personnel. All occurrences of unacceptable behaviour meet the definition of ‘incident’.
- ‘Complaint’ – chapter 3 of the CARM states that a complaint ‘occurs when a person involved in an incident notifies their commander, manager or supervisor.’ ‘Involved in an incident’ is defined further and includes a person who believes they have been subject to any form of unacceptable behaviour; the person alleged to have behaved unacceptably; or any person that has a connection with the incident of unacceptable behaviour, including witnesses.
- ‘Abuse’ is defined in regulation 5 of the Regulations as sexual abuse, serious physical abuse and serious bullying and harassment.
- ‘Commander’ is defined in the CARM chapter 1 as ‘a Defence member³⁶ who is an officer and, by virtue of a delegation or instrument of appointment, exercises authority and holds responsibility for other assigned Defence members’.
- ‘Manager’ means ‘Defence personnel³⁷ or external service providers who direct a range of human and physical resources and their associated financial responsibilities to achieve corporate objectives. A manager may perform the role of a first-level supervisor where they have immediate subordinates, or of a second-level supervisor where they have Defence personnel supervised by those subordinates.’
- ‘Supervisor’ means any Defence personnel or external service provider who has direct or line supervisory responsibilities.

³⁶ A defence member is defined in the *Defence Act 1903* s 4 as any officer, sailor soldier or airman or woman.

³⁷ Defence personnel includes defence employees, defence civilians, defence members.



Glossary of acronyms

Throughout this report we use acronyms for various terms, mainly in relation to Defence. We have defined acronyms at its first use in the report, but for ease of reading have included the list below.

- **ADF** – Australian Defence Force, being the 3 services, the Navy, the Army and the Air Force
- **ADR** – Alternative Dispute Resolution
- **AIM** – Administrative Inquiries Manual
- **AIMS** – Army Incident Management System
- **CARM** – Complaints and Alternative Resolutions Manual
- **CO** – Commanding officer
- **DI ADMINPOL** – Defence Instruction – Administrative Policy. Specific sections referenced are AG4, which refers to the ‘Incident reporting and management’ provisions under the Administration and Governance Policy Domain in Annex C, and PPL7 which refers to the ‘Required Behaviours in Defence’ provisions under the People Policy Domain in Annex J. This document has now been replaced by the Defence Instruction issued 25 July 2023.
- **DPCR** – Directorate of Privacy, Complaints and Resolution
- **DFDA** – *Defence Force Discipline Act 1982* (Cth)
- **DPN** – Defence Protected Network
- **GADMMAN** – the Good Administrative Decision Making Manual
- **IGADF** – Inspector-General of the Australian Defence Force
- **IIRMPOL** – the Interim Incident Reporting and Management Policy
- **JMPU** – Joint Military Police Unit
- **PID** – Public Interest Disclosure
- **RCDVS** – Royal Commission into Defence and Veteran Suicide
- **SeMPRO** – Sexual Misconduct Prevention and Response Office
- **SIM team** – Sensitive/ Strategic Issues Management teams. Each service has its own Sensitive/ Strategic Issues Management team with a slightly different name, but for ease of reference we have referred to them collectively as the “SIM teams”. The different teams are the Navy Sensitive Issues Management team, the Army Sensitive and Strategic Issues Management team and the Air Force Strategic Issues Management team
- **WBA Network** – Workplace Behaviour Adviser Network
- **XO** – Executive officer
- **YOUTHPOLMAN** – the Youth Policy Manual



Appendix 2 – Objective, scope and methodology

- Following our finding in the 2019 Report that we were largely satisfied that Defence’s policies and procedures used for handling complaints of abuse were appropriate, our objective in this inquiry was to assess how effective the policies and procedures for managing complaints of unacceptable behaviour are in practice, as used by the managers and commanders responsible for the process.
- Throughout the report we refer to ‘unacceptable behaviour’ rather than the term ‘abuse’. The definition of ‘abuse’ under the Regulations includes behaviour that is under Defence’s definition of unacceptable behaviour, but unacceptable behaviour is broader than ‘abuse’. Unacceptable behaviour is defined in Annex 3G of chapter 3 of the CARM as ‘unreasonable conduct... that is offensive, belittling, abusive or threatening to another person, or adverse to morale, discipline or workplace cohesion.’ It specifies the 7 types of unacceptable behaviour, although notes that this is not an exhaustive list.³⁸ The 7 types of unacceptable behaviour are:
 - harassment
 - workplace bullying
 - any form of sexual misconduct
 - discrimination (in all its forms)
 - abuse of power
 - conflict of interest and inappropriate workplace relationships
 - violent behaviour.
- As these definitions differ, when looking at the process for unacceptable behaviour complaints and in sampling complaint files, we focused on five types of unacceptable behaviour: harassment, workplace bullying, any form of sexual misconduct, abuse of power and violent behaviour.
- Defence is a large organisation with many policies and procedures that are used in the complaint process for unacceptable behaviour. To focus our inquiry on the central unacceptable behaviour complaint process, we did not consider how the

³⁸ Chapter 3, Annex 3G, section 3.0.0.G.4.2 ‘Specific types of unacceptable behaviour’, Complaints and Alternative Resolutions Manual.



policies and procedures are applied by the Australian Signals Directorate, or external or outsourced service providers (i.e., contractors). We did not assess:

- the management of complaints that rise to the level of an offence under the *Defence Force Discipline Act 1982* (Cth) or civilian or criminal offences as handled by Defence Investigative Authorities including the JMPU³⁹
 - the management of incidents of unacceptable behaviour considered 'disclosable conduct' under the *Public Interest Disclosure Act 2013* (Cth) as handled by authorised officers
 - specific handling of complaints involving a minor under 18 in accordance with the Youth Policy Manual (YOUTHPOLMAN)
 - the handling of notifiable incidents as defined by the *DIADMINPPOL AG4 - Incident reporting and management*, including sexual offences as defined in the CARM chapter 9.⁴⁰
- Our methodology included a desktop review of the complaints handling framework and guidance documents, and a review of a sample of complaint files. We requested a sample of closed complaint files between the 2020–22 financial years, to ensure that the records would be of contemporary complaint handling. We requested files from the APS and the 3 services in the ADF and the APS, across a range of locations in the services. Defence facilitated remote access to their network, the Defence Protected Network (DPN), including access to the intranet, to assess their documentation and complaint files.
 - To seek views of those responsible for administering and using the framework, we visited 7 Defence sites, including bases with units from each of the three services, and performed 33 interviews and round table discussions with personnel, including interviews conducted virtually. We interviewed commanders and teams involved in the complaint process within units across the 3 services, support staff in those units including personnel officers, legal officers and WBAs.
 - We also interviewed personnel involved in the administration of the complaint framework, including personnel from the incident management teams within the services, representatives from SeMPRO, personnel from the DPCR

³⁹ The Defence Force Ombudsman is not authorised to investigate action taken in connection with proceedings against a member for an offence arising under any law relating to the discipline of the Defence Force: *Ombudsman Act 1976* (Cth) s 19C(5)(d).

⁴⁰ The CARM, chapter 9, part 5, section 9.5.0.1 'Defence personnel reporting obligations', paragraph 10. This includes sexual offences, intimate image abuse and stalking.



responsible for the WBA Network and dispute resolution and those responsible for the complaint framework itself, in particular the CARM. The DPCR were also our central point of contact throughout the inquiry.

- As with the 2019 Report, our assessment of Defence's written materials, including policies and procedures, is based on how they existed at the time of inquiry. We are aware that Defence regularly reviews its policies and procedures – for example, all chapters of the CARM are due to be revised and updated in 2023 and may differ from what we reviewed at the time of this report's publication.
- Our observations from the sample of complaint files are based on the information we were provided. Some complaint files we were given access to appeared to be incomplete – while some contained key primary documents, including emails, records of conversation, and/or decision letters, other files consisted solely of a DIR detailing action taken. As we were unable to perform a detailed assessment of those complaint files, we limited the number of complete complaint files reviewed overall.
- To ensure we had the perspective of those who had experienced incidents of unacceptable behaviour, we sought information about the experiences of current personnel who had experienced an incident of unacceptable behaviour after 1 July 2020 through a voluntary anonymous questionnaire, made available to all Defence personnel at bases we visited. The questionnaire asked for information about their experiences making a complaint, or in the event they did not make a complaint, information about why they chose not to.
- We thank Defence for their co-operation, and for facilitating access to personnel, sites, systems, and files during this inquiry. Throughout this report, we include quotations from responses to our questionnaire. Participants were advised in completing the questionnaire that de-identified information may be included in our report. We thank those who entrusted our Office with information about their personal experiences.
- While we are focused on where Defence can improve the effectiveness of its complaint framework, we acknowledge aspects of the process that are working well. For instance, we reviewed some documentation relating to support for complainants and respondents, and interviewed various parties that provide support to complainants and respondents – including WBAs, support officers, personnel officers, SeMPRO and chaplains. We found overall that it appears Defence has several options for complainants and respondents to seek support during the process. Even where the information in the complaint file was limited, it stated that the complainant was offered access to specific support services. This is a positive aspect of the process and appeared to be working well.



Attachment 1 – Defence Response to recommendations



OFFICIAL



Australian Government

Defence

PO Box 7900 CANBERRA BC ACT 2610

EC23-004757

Mr Iain Anderson
Defence Force Ombudsman
Commonwealth Ombudsman
GPO Box 442
Canberra ACT 2601

Dear Mr Anderson

Defending Fairness: Does Defence Handle Unacceptable Behaviour Complaints Effectively.

Thank you for your correspondence of 6 November 2023, regarding your draft report into the effectiveness of the Australian Defence Force and Department of Defence (Defence)'s policies and procedures for managing complaints of contemporary abuse.

Defence supports the nine recommendations included in the draft report. These recommendations support the continued implementation of complaint mechanism reform to provide assurance of Defence's commitment to reducing the instances of unacceptable behaviour and ensuring they are managed appropriately. As per your request, we have attached the Department's feedback on the report in relation to errors of fact or omissions.

We would like to express our gratitude to your staff who have liaised and worked with Defence throughout this inquiry.

The Defence point of contact is Deputy Secretary Defence People, Justine Greig, who can be contacted on 02 5108 5943, or justine.greig@defence.gov.au.

Yours sincerely

A handwritten signature in black ink that reads "Greg Moriarty".

Greg Moriarty
Secretary

7 December 2023

A handwritten signature in black ink that reads "Angus J Campbell".

Angus J Campbell, AO, DSC
General
Chief of the Defence Force

7 December 2023

Attachment:

- A. Commonwealth Ombudsman - Draft report into effectiveness of handling complaints of unacceptable behaviour, with Defence's comments on errors of fact or omissions

OFFICIAL

- B. Defence Response to recommendations from Commonwealth Ombudsman Own Motion Inquiry into the Effectiveness of policies and procedures of managing complaints of contemporary abuse

