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**Tribunal of Inquiry into Issues Relating to the Complaints Processes in the
Defence Forces and the Culture Surrounding the Making of Complaints
(‘the Tribunal’)**

Established by the Government under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011 by statutory instrument signed by the Tánaiste and Minister for Defence on the 20th day of June 2024.

NOTICE OF PUBLIC SITTING OF THE TRIBUNAL

TAKE NOTICE that the Tribunal has fixed **Monday, 16th day of June 2025 at 10.30am**, as the intended hearing date for parties to address the Tribunal, should they wish to do so, in relation to the matters outlined below by reference to their written submissions.

The hearing will be held at the Tribunal’s premises situate at The Infinity Building, Third Floor, George’s Court, George’s Lane, Smithfield, Dublin 7, D07 E98Y.

I. Interpretation of the Tribunal’s Terms of Reference

(i) Interpretation of ‘abuse’

The word ‘*abuse*’ is defined in the Terms of Reference as meaning:

“discrimination, bullying, harassment, physical torture, physical assault, psychological harm, sexual harassment and any form of sexual misconduct (including sexual assault, aggravated sexual assault and rape)”.

The Tribunal was established, *inter alia*, to inquire into and report on the complaints processes in the Defence Forces in respect of ‘*complaints of abuse*’, to consider how the Defence Forces responded to ‘*complaints of abuse*’ and to investigate whether such

complaints were actively deterred or whether there was a culture that discouraged the making of complaints of abuse. The Tribunal is not concerned with whether claims of abuse are well-founded. Nevertheless, the Tribunal considers it necessary that all parties have a clear understanding of what each category of ‘abuse’ is interpreted by the Tribunal to mean.

Schedule One of this Notice sets out the Tribunal’s interpretation of each category of ‘abuse’ as that term is defined in the Terms of Reference.

(ii) Request for a broader interpretation of ‘abuse’

The Tribunal has received correspondence requesting it to adopt a broader interpretation of ‘abuse’ in order to encompass allegedly persistent violations of health and safety legislation by the Defence Forces.

The rationale provided to the Tribunal for the request seeking this broader interpretation of ‘abuse’ is based on the assertion that allegedly systemic failures relating to health and safety, in circumstances where the risks were known to the Defence Forces, repeated by the Defence Forces and were not remedied by the Defence Forces, amount to abusive treatment.

(iii) Interpretation of Term of Reference (iv)

The text of Term of Reference (iv) reads as follows:

“investigate whether Complaints of Abuse were actively deterred or whether there was a culture that discouraged the making of the Complaints of Abuse.”

‘Complaints of Abuse’ is a defined term in the Terms of Reference which means:

“complaints made by:

- serving or former members of the Defence Forces to the Defence Forces/Minister for Defence;*
- current or former civilian employees to the Defence Forces/Minister for Defence;*
- and*

- *current or former Civil Servants to the Defence Forces/Minister for Defence*".

The Tribunal in its interpretation of its Terms of Reference (available on the Tribunal's website) adopted an interpretation of this Term of Reference to mean that:

"If a complaint of abuse was not made, whether due to a perceived culture or a fear of retaliation or otherwise, such failure to complain at the relevant time, will not act as a bar to any person who wishes to give evidence to this Tribunal".

For the avoidance of doubt, the Tribunal interprets Term of Reference (iv) to encompass persons who allege that they suffered abuse but did not make a complaint to the Defence Forces and/or the Minister for Defence concerning such alleged abuse during the relevant period, either due to being actively deterred from doing so or due to a perception that there existed a culture that discouraged the making of such a complaint.

II. Application seeking an Extension of Time in respect of Order for Discovery

The Chief of Staff of the Defences Forces has indicated to the Tribunal that he intends to seek an extension of time within which to comply with the Tribunal's Order for Discovery dated the 28th day of January 2025.

Any application in respect of an extension of time within which to comply with any Order for Discovery will be heard by the Tribunal at its public sitting on the 16th day of June 2025.

Written Submissions

The Tribunal invites those who have made a statement to the Tribunal and/or who have been granted representation and who wish to address the Tribunal in respect of any of the matters set out at **I** and **II** above, or any other matter relevant to the Terms of Reference, to make submissions, in writing, to the Tribunal **by 5pm** on the **3rd day of June 2025**.

Written submissions **should not exceed 2,500 words** and should be sent to the Solicitor to the Tribunal by email to info@toidf.ie or by post to the Defence Forces Tribunal, The Infinity Building, Third Floor, George's Court, George's Lane, Smithfield, Dublin 7, D07 E98Y.

Notification of an intention to appear before the Tribunal should be furnished to the Solicitor to the Tribunal by email to info@toidf.ie or by post to the Defence Forces Tribunal no later than close of business on the **12th day of June 2025**.

Subject to any necessary redactions, the Tribunal will make available all submissions received from parties via the Tribunal's website (www.toidf.ie) in advance of the hearing.

Schedule One

The Tribunal's interpretation of each category of 'abuse', as that term is defined in the Terms of Reference, is as set out hereunder.

A. Discrimination

The Tribunal adopts the definitions of direct and indirect discrimination as provided for in the *Employment Equality Acts 1998 – 2021* which are summarised below.

(i) Direct discrimination occurs where a person is treated less favourably on any of the nine grounds (gender, civil status, family status, sexual orientation, disability, age, race, religious belief and membership of the Traveller Community) in a situation that exists, existed but no longer exists, may exist in the future or is imputed to a person. Discrimination may also occur by association when a person who is associated with another person is treated by virtue of that association, less favourably than a person who is not so associated is, has been or would be treated in a comparable situation.

(ii) Indirect discrimination occurs where an apparently neutral provision puts a person who is a member of one of the nine grounds (gender, civil status, family status, sexual orientation, disability, age, race, religious belief, membership of the Traveller Community) at a particular disadvantage due to being a member of that group, unless the provision is objectively justified by a legitimate aim and the means of achieving the aim are appropriate and necessary.

B. Bullying

The Tribunal adopts the definition of bullying as provided for in section 5 of *S.I. No. 17/2002 - Industrial Relations Act 1990 (Code of Practice Detailing Procedures For Addressing Bullying in The Workplace) (Declaration) Order 2002* which provides that:

"Workplace Bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or

others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is not considered to be bullying."

However, cyber bullying may occur as a result of a once-off incident.

C. Harassment

The Tribunal adopts the definition of harassment as provided for in section 14A (7) of the *Employment Equality Acts 1998 – 2021* which provides as follows:

"(a) In this section—

(i) references to harassment are to any form of unwanted conduct related to any of the discriminatory grounds, and

(ii) [...]

being conduct which in either case has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

(b) Without prejudice to the generality of paragraph (a), such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material."

D. Physical torture

The Tribunal adopts the definition of torture as provided for in section 1 of the *United Nations Convention Against Torture and the Criminal Justice (United Nations Convention Against Torture) Act 2000 (as amended)* insofar as it relates to physical torture as follows:

"... an act or omission done or made, or at the instigation of, or with the consent or acquiescence of a public official by which severe physical pain or suffering, is intentionally inflicted on a person—

(a) for such purposes as—

- (i) *obtaining from that person, or from another person, information or a confession,*
 - (ii) *punishing that person for an act which the person concerned or a third person has committed or is suspected of having committed, or*
 - (iii) *intimidating or coercing that person or a third person,*
- or*

(b) for any reason that is based on any form of discrimination,

but does not include any such act that arises solely from, or is inherent in or incidental to, lawful sanctions.”

E. Physical assault

The Tribunal adopts the definition of assault as provided for in section 2 of the *Non-Fatal Offences against the Person Act 1997 (as amended)* insofar as it relates to physical assault as follows:

“... the, without lawful excuse, intentional or reckless, direct or indirect application of force to, or causing an impact on the body of another, without the consent of the other.

‘force’ (within the meaning of the definition of physical assault) includes—

- (a) application of heat, light, electric current, noise or any other form of energy, and*
- (b) application of matter in solid liquid or gaseous form.”*

F. Psychological harm

The mere occurrence of psychological harm, howsoever caused, could not reasonably be said to be abuse. The other categories of ‘*abuse*’ as defined in the Terms of Reference involve some action on the part of a perpetrator. The linguistic context, therefore, suggests that ‘*psychological harm*’ should be interpreted to mean:

“A wrongful act which caused a complainant to suffer harm to the mind resulting in a recognised psychological injury. Recognised psychological injuries comprise those

identified in Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR)—‘Classification: Trauma - and Stressor-Related Disorders’—and include Post-Traumatic Stress Disorder, Acute Stress Disorder, Adjustment Disorders, Reactive Attachment Disorder, Disinhibited Social Engagement Disorder, Other Specified Trauma and Stressor-Related Disorder, and Unspecified Trauma and Stressor-Related Disorder.”

A complaint of psychological harm is, therefore, an allegation of a wrongful act which is said to have caused a recognised psychological injury.

G. Sexual harassment

The Tribunal adopts the definition of harassment as set out in section 14A (7) of the *Employment Equality Acts 1998 – 2021* which provides as follows:

“(a) In this section—

[. . .]

(ii) references to sexual harassment are to any form of unwanted verbal, non-verbal or physical conduct of a sexual nature,

being conduct which in either case has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

(b) Without prejudice to the generality of paragraph (a), such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.”

H. Sexual misconduct

The Tribunal interprets sexual misconduct as meaning adverse conduct, of whatever nature related to sex (including, sexual assault, aggravated sexual assault (as defined in the Criminal Law (Rape) (Amendment) Act 1990 (as amended)), and rape (as defined in section 2 of the Criminal Law (Rape) Act 1981 (as amended) and in section 4 of the

Criminal Law (Rape) (Amendment) Act 1990 (as amended)), and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed.

SUBMISSIONS ON BEHALF OF

THE MINISTER FOR DEFENCE

IN RELATION TO AN EXTENSION OF TIME

A. INTRODUCTION

1. By letter dated 22nd May 2025, it was notified to the Tribunal that it is the intention of the Minister to seek an extension of time in order to comply with the Order for Discovery and Protocols made against the Minister on 27th January, 2025 (“the Order”).
2. The material coming within the scope of the Order must be discovered to the Tribunal within 20 weeks of 27th January 2025. Therefore, as matters stand, the Minister is obliged to deliver the discovery ordered to the Tribunal on or before 16th June 2025.
3. The Minister is seeking a further period of **22 Weeks** from 16th June to comply with the Order and to provide the Tribunal with the documentation which it has deemed necessary to complete its important task.
4. These submissions propose to address the background to this application and outline the necessity for the same.

B. The Period of Time outlined in the Terms of Reference

5. (i) The Tribunal is tasked with investigating multiple complaints processes in the Defence Forces over four decades, from 1st January 1983 until 20th June 2024.
5. (ii) As stated in the Tribunal’s Opening Statement, “[t]hat is a significant period of time” and “the Tribunal’s task is a formidable one”.

5. (iii) The Minister refers by way of comparison to the remit of other Tribunals of Inquiry established in Ireland since the 1980s. A large number of these Tribunals focused on specific dates or incidents, on specific persons and / or on more limited time frames. Only one prior Tribunal of Inquiry focused on a period of investigation of 30 years.
5. (iv) The antiquity of the filing and storage systems used by the Department in the early part of this inquiry period in particular, which predate the use of electronic technology, together with the natural loss of corporate knowledge over the years, has proved a significant challenge to discovery process and has contributed to the time taken in respect of the search and retrieval of potentially relevant material.

C. The Scale of the Task

6. (i) The Order for discovery covers the following categories of material in the power, possession or procurement of the Minister:

Category One: all complaints of abuse made to the Minister under s. 114 of the Defence Act 1954 (Redress of Wrongs) over the period of 40 years;

Category Two: all notifications of complaints of abuse made to the Minister under s. 114 of the Defence Act 1954 (Redress of Wrongs) or otherwise over the period of 40 years;

Category Three: all documents relating to protected disclosures concerning complaints of abuse made to the Minister over a period of 10 years;

Category Four: all documents relating to notifications and reports to the Minister of complaints of hazardous chemicals over a period of 40 years.

It is significant that these categories further mandate the discovery of all *"files, statements, records of investigations and interviews, recordings, reports, determinations, notes, memoranda and records of written and electronic correspondence and communications of any kind."*

6. (ii) The Order for discovery also covers the following categories of material in the power, possession or procurement of the Minister:

Category Five: all documents, requesting changes in the Defence Forces Act 1954, and all amending Acts, and Regulations made thereunder, relating to relevant complaints processes.

Category Six: all documents, requesting changes in the Defence Forces Act 1954, and all amending Acts, and Regulations made thereunder, relating to the jurisdiction of the Military Police to investigate complaints of abuse.

Category Seven: all documents relating to investigations initiated by the Minister for Defence, into the complaints processes over a period of 40 years.

Again, it is significant that these categories further mandate the discovery of all *“statements, notes, records of investigations, reports, determinations, memoranda and records of written and electronic correspondence and communications of any kind”*.

6. (iii) The scale of the material coming within these categories is such that several thousand potentially relevant documents have been located and scanned to the Minister's document management system for review by legal counsel. These documents include the following:

- Redress of Wrongs
- A7 Complaints
- Litigation
- Legislation
- Correspondence with Representative Associations
- Protected Disclosures
- Ombudsman Reports and Investigations
- Ministerial Representations
- Workplace Relations Commission complaints
- Civilian complaints
- Reports of investigation of alleged incidents
- Material concerning investigations, reports into the complaints processes, and changes thereto, during the 40 year period.

6. (iv) The breadth and scale of the categories of discovery has therefore proven challenging since the making of the Order and the work conducted over the last five months in identifying discovery material, whilst expansive, is not yet completed as outlined below.

D. The Complexity and Breadth of the Search and Retrieval Process

7. (i) Upon establishment of the Tribunal, the process of identifying and locating material commenced immediately within the Department. In October 2024, several hundred hard copy complaint files stretching back to January 1983 were transferred to counsel for assessment. An extensive search process was also commenced across multiple branches of the Department and this involved searching both hardcopy and digital material.
7. (ii) The Minister was allocated two documentary counsel to assist with this work. However, the scale of the discovery process was such that the Minister sought and secured four additional documentary counsel at the close of 2024 with a further five counsel allocated as of 29th April 2025. There are now eleven documentary counsel working on the discovery process. They are utilising a specialist discovery platform which was procured by the Minister in early 2025.
7. (iii) All material identified as potentially relevant, whether digital or hardcopy, is uploaded to the Department's electronic document container management system. These uploads are occurring on an almost daily basis and this has been the position in particular since the Order was made in January. The Minister has sought to assist the Tribunal in its work by applying broad search criteria and conducting expansive searches of the Department's branch and storage network. All material located is legally reviewed and categorised as either relevant, potentially relevant or non-relevant. Further, it is necessary to check and re-check the Department's document management system for new uploads of relevant or potentially relevant material prior to the release of discovery to the Tribunal. This is to ensure, to the best of the Minister's ability, that all relevant material in respect of an individual is released to the Tribunal in one tranche.

D. GDPR Issues and the Redaction of Discovery Material

- 8. (i) The discovery of the material pursuant to the Order, in particular, categories 1, 2, 3 and 4 raised significant issues with regard to the transfer of substantial personal data to the Tribunal.
- 8. (ii) During the months preceding the making of the Order, the Minister's legal team engaged in extensive discussions with the Tribunal culminating in the agreement of two detailed and complex protocols for the redaction of discovery material in order to ensure that it was fully and appropriately anonymised. One of these protocols related specifically to protected disclosures material and was requested by the Minister to be put in place in order to protect the confidentiality of the protected disclosures process, and in particular, the identity of the discloser, in light of the provisions of sections 16 and 16A of the Protected Disclosures Act, 2014 and the General Data Protection (EU) 2016/679.
- 8. (iii) Detailed schedules were agreed to both protocols providing *inter alia* for the anonymisation of the name of the complainant and the respondent and the pseudonymisation of the investigator, the mediator and locations, all using a numerical code. The focus is on removing potentially identifying data from the discovery material. These protocols reflect the important goal of ensuring compliance with the Minister's obligations under GDPR.
- 8. (iv) Following the making of the Order, the substantial task of the redaction of material by the Minister's legal team commenced. This process has been ongoing during February to May and it has had the effect of substantially increasing the time required to discover files to the Tribunal. The work of the redaction of the data is one of the most significant and time consuming issues which are legally required and that goes to the heart of the Minister's ability to meet his obligations under the Order.

E. Summary of Work to Date and Work to be Completed

- 9. (i) The Minister has endeavoured to provide discovery on a weekly basis to the Tribunal.

9. (ii) **14 Tranches** of discovery have been made to the Tribunal, commencing on 18th February 2025. This comprises **124 Files** (12,142 pages of redacted material). This material variously comes within categories 1, 2, 3 and 4 of the Order.
9. (iii) Commencing on 6th February 2025, the Tribunal has provided a variety of Consent Forms to the Minister outlining the names persons who are consenting to the provision of material to the Tribunal, with their identity unredacted. The Minister has received **139** forms, with **64** of these provided to the Minister in the last two months. In accordance with the protocols the Consent Forms have been afforded priority in the discovery process. Extensive searches are being carried out across the Department's branch network. Material located in respect of these names is uploaded almost daily and it is under review for relevance and, where relevant, for redaction. It is important to highlight that in respect of each of these files, whilst the identity of the complainant will be unredacted, all other relevant material on the files must be redacted in accordance with the protocols.
9. (iv) The Tribunal has been informed of the following in respect of the work on Consent Forms to date:
- Material has been discovered: **13** Individuals.
 - No relevant material has been located to date and searches are considered exhausted: **22** Individuals.
 - No relevant material has been located to date and searches are ongoing: **18** Individuals.
 - Material is located and under review: **86** Individuals.
9. (v) A substantial volume of material exists in potentially relevant material where consent forms have not been furnished to the Minister. Two of these remaining files are civilian complaint files comprising over 3,000 pages of material.
9. (vi) The Minister has confirmed that **63 protected disclosure files** have been identified as relevant, with 5 of these files relating to the issue of hazardous chemicals. In particular:

16 Protected Disclosure Files have been discovered [4,198 pages]

4 Hazardous Chemicals Protected Disclosure Files have been discovered to date [1,127pages]

3 General Hazardous Chemicals Protected Disclosure files have been discovered to date [2,020 pages].

The material in respect of hazardous chemicals disclosures (and the additional material in respect of these files) has been prioritised for discovery and the work on this material is near completion.

There remain **43** protected disclosure files (comprising over 11,000 pages) to be redacted and discovered. A large number of these files has associated material otherwise associated with these persons, which also requires review and, where relevant, redaction. This work has been prioritised firstly in relation to consent names and then non-consent files thereafter.

9. (vii) **99** litigation files (including live litigation files) raising allegations of bullying and harassment within the Defence Forces have been identified as potentially relevant to the Tribunal's Terms of Reference. **21** of these files have been discovered. **11** litigation files raising allegations in respect of hazardous chemicals have been identified as potentially relevant to the Tribunal's Terms of Reference. **9** of these files have been discovered. The State Claims Agency is actively engaging with the Department in respect of 81 of these files with a view to locating material and ensuring that essential documents are furnished to the Tribunal.

9.(viii) The Minister has carried out a significant search and retrieval process in respect of categories 5, 6 and 7 of the Order. Substantial material (in both hard and soft copy) has been identified across multiple Departmental branches. It is intended that the assessment of this material will commence following the discovery of the material under categories 1-4 which are being prioritised with a view to assisting the Tribunal in progressing with its preparation for interviewing complainants.

F. Time Required to Complete Discovery

10. (i) The Minister's legal team, having deliberated carefully the scale of the task involved under the Order, has assessed that a further period of **22 weeks** from 16th June is required to complete the delivery of discovery material.
10. (ii) The Minister has sought to outline the work that is intended to be completed on a bi-weekly basis as follows:

Bi-Weekly Schedule¹	Discovery
Week 21	15 - 20 Consent Files
Week 22	20 Litigation Files
Week 23	15 - 20 Consent Files
Week 24	20 Litigation Files
Week 25	15 - 20 Consent Files
Week 26	20 Litigation Files 25 PD Files (3 Consent Names)
Week 27	15 - 20 Consent Files
Week 28	18 Litigation Files 8 PD Files
Week 29	15 - 20 Consent Files
Week 30	8 PD Files 30-40 Non-Consent Files
Week 31	Balance of consent Files
Week 32	6 PD Files 30 - 40 Non-Consent Files 2 x Civilian Complaint Files
Week 33	30 - 40 Non-Consent Files
Week 34	
Week 35	30 - 40 Non-Consent Files
Week 36	
Week 37	Category 5, 6 and 7 Material
Week 38	

¹ Commencing 16th June 2025 and based on current estimates of material

Week 39 Week 40	Category 5, 6 and 7 Material
Week 41 Week 42	Final Review of Discovery

G. Conclusion

11. (i) The Terms of Reference outline the matters of urgent public importance which the Tribunal must enquire into and the Tribunal has identified all of the relevant categories of documents that it requires for this purpose. The material in these submissions clearly falls within these parameters and the Minister is very anxious to ensure that the Tribunal is furnished with the said material, as no doubt, are all other relevant parties. In the view of the Minister, it is in the public interest for the Tribunal to be provided with these documents.
11. (ii) The Minister is very conscious of the time pressure on the Tribunal, and is committed to assisting it with its important task. For this, he requires additional time and respectfully asks for the time period sought to be granted by the Tribunal.

Diarmaid McGuinness SC

Sinéad McGrath SC

Ruth Mylotte BL

Karl Shirran BL

Dated 3rd June 2025

Word Count (2,422)

**Tribunal of Inquiry into Issues Relating to the Complaints Processes in the Defence
Forces and the Culture Surrounding the Making of Complaints
(‘Defence Forces Tribunal’)**

Discovery Extension

**Submissions on the Request by the Chief of Staff of the Defence Forces for an extension
of time within which to comply with the Tribunal’s Order for Discovery dated 28
January 2025**

Office of the Chief State Solicitor

Word Count: 1332

3 June 2025

1. The Defence Forces welcomes the opportunity, as an affected party, to make submissions on the Request by the Chief of Staff of the Defence Forces for an extension of time within which to comply with the Tribunal's Order for Discovery dated 28 January 2025.
2. By letter dated 9 May 2025, the Defence Forces informed the Tribunal that it was anticipated that it "*will be necessary*" for the Defence Forces to seek an extension of time within which to comply with the Discovery Order.
3. The Defence Forces is fully aware and cognisant of the need for the Tribunal to complete its task as expeditiously as possible having regard to its Terms of Reference and the Chief of Staff has expressed his commitment to assisting the Tribunal in doing so.
4. The Tribunal is aware that in advance of the formal establishment of the Tribunal, and again in advance of the furnishing of both the Notice of Intended Discovery and the Discovery Order, and as more fully set out below, the Defence Forces through the Defence Forces Liaison and Co-Ordination Office ("DF LCO") engaged proactively with the Tribunal and devised a plan and, sourced a team, to search, locate, recover and collate complaint files that fell within the Terms of Reference.
5. The Tribunal is aware that the challenge imposed by this task included the temporal extent of the Terms of Reference, the re-organisations undergone by the Defence Forces over the period and the fact that complaint files were located in different locations dispersed throughout the State.
6. The Tribunal is aware that in its Submissions on the Intended Discovery Order, the Defence Forces stated that the time frame of fifteen weeks provided for in the Intended Order was not sufficient to make discovery having regard to the breadth of the discovery sought, even under the suggested reformulation of the categories proposed by the Defence Forces. It will further be aware that the Defence Forces submitted that the Order be subdivided in terms of the discovery sought, with a Part A Order directing that discovery be provided in respect of Categories 1, 2, 3 and 8 (hazardous chemicals), within a first period of twenty weeks and a Part B Order directing that discovery of the

remaining categories be provided within a further period. It will be further aware that the Defence Forces clearly stated that it anticipated that if a period of fifteen weeks was ordered by the Tribunal, the Defence Forces would need to seek an extension of time to comply with the order.

7. The Tribunal did not accept the Defence Forces submission on the division of the proposed order into Part A and Part B and directed the Defence Forces make discovery of all of the material encompassed in the Order within a period of 22 weeks. This provided the Defence Forces with an additional two weeks to make discovery, on its time estimates, of all of the material encompassed in categories 4, 5, 6, 7, 9, 10, 11 and 12.
8. A consequence of the Discovery Protocol is that it became necessary for the Defence Forces to make requests and arrangements for additional counsel to be retained to carry out this redaction work (“redaction counsel”). Premises for this work were identified and equipped and an initial team of redaction counsel were retained, trained and started work. The terms of the Protocol were not finalised until the Notice of Intended Discovery with the result that redaction work that had been commenced had to be redone to address matters such as codes for DF locations.
9. In advance of the sending of the Notice of Intended Discovery, and as result of the work of the DF LCO it became apparent in mid – November 2024 that the number of relevant complaint files would be substantially greater than had been initially estimated. Sanction for additional redaction counsel was sought by the Defence Forces and was given in January 2025. In turn, the second cohort of redaction counsel had to be nominated, retained, trained and develop experience.
10. In addition, and to assist with the work of the Tribunal, requests have been made for priority to be given to files in respect of which persons have given “consent” to the Tribunal. The Defence Forces and the redaction counsel have given these files priority. The search for such personal files and their retrieval and collation and redaction has absorbed the resources of the DF LCO and redaction counsel, that would have otherwise been working on the Discovery files; and has absorbed resources in devising and effecting new systems of work.

11. The Defence Forces has delivered files to the Tribunal on a rolling basis in accordance with paragraph 5 of the Notes in Schedule 1 of the Order and in accordance with the without prejudice estimate of the number of files to be delivered as set out in correspondence with the Tribunal in January 2025.
12. The making of a unitary Discovery Order resulted, at least, in the likely doubling of the work of the DF LCO and redaction Counsel. It was apparent that the existing redaction counsel resources were insufficient and a request for additional Counsel and an accompanying business case was submitted by DF to the Department of Defence (“DOD”) and sanction for increased hours for existing counsel and a substantial extension of the terms of existing counsel and sanction of redaction counsel was made. It was necessary to seek nomination, retain counsel, train and as of today’s date most of the latest intake have been trained and are working on files. For a number of different reasons, there has been some attrition in the numbers of redaction counsel and therefore some counsel have been replaced with consequences for lost time in training new counsel. In addition, the premises for the extra redaction counsel had to be fitted out and provided with IT. The functionality of the IT resources, including the procurement and installation of specialist search software, have delayed, from time to time, the work of redaction counsel.
13. There is a real burden imposed on the Defence Forces by its GDPR obligations. The data rights of present and former members have to be vindicated. The resources available to the Defence Forces by way of redaction counsel is now clear. The working methods of the redaction team have been under continuous review as indeed have the hours and output of individual members of the team. The entire work of DF LCO and the redaction team were primarily directed to priority files for May 2025.
14. In summary, the Defence Forces co-operated proactively with the Tribunal in agreeing an elaborate redaction protocol to ensure compliance with GDPR and privacy rights. The Defence Forces have sought and obtained from the Department of Defence (“DOD”) and Department of Public Expenditure NDP Delivery and Reform (“DPER”) sanction for a total of now thirty-two redaction counsel to assist with redaction of files in accordance with the Protocol. The Defence Forces anticipate, with the availability of

data on productivity of redaction counsel and with a clearer view on the likely final number of files in respect of complaints, Military Police investigations and Court Martials, they will, as a reliable estimate, have substantially completed the Discovery process by **30 November 2025**. There is the possibility that an unanticipated volume of military police files and IT/resourcing issues may require a further extension.

15. The Defence Forces therefore requires an extension until **30 November 2025**.

PATRICK McCANN SC

DARREN LEHANE SC

ELIZABETH DONOVAN BL

CAROLINE A. CARNEY BL

**Tribunal of Inquiry into Issues Relating to the Complaints Processes in the
Defence Forces and the Culture Surrounding the Making of Complaints
(‘the Tribunal’)**

**Established by the Government under the Tribunals of Inquiry (Evidence)
Acts 1921 to**

**2011 by statutory instrument signed by the Tánaiste and Minister for
Defence on the 20th day of June 2024.**

**Filed and delivered on the day of June 2025 by Malcomson Law Solicitors
on behalf of Women of Honour**

Word Count: 1,745 Words

Submissions:

1. Pursuant to Notice of Public Sitting of the Tribunal scheduled for the 16th of June 2025, interested parties are invited to make submissions in respect of the existing terms of reference adopting a broader interpretation of ‘abuse’ in order to encompass allegedly persistent violations of health and safety legislation by the Defence Forces.
2. Interested parties are also invited to make submissions in respect of Application seeking an Extension of Time in respect of Order for Discovery. The Chief of Staff of the Defence Forces has indicated to the Tribunal that he intends to seek an extension of time within which to comply with the Tribunal’s Order for Discovery dated the 28th day of January 2025.
3. In this regard, the interested party known as “Women of Honour” as represented by Malcomson Law Solicitors, make the following submissions in support of such a broader interpretation of the word “abuse” and also in opposition to the Application seeking an Extension of Time in respect of Order for Discovery by and on behalf of The Chief of Staff of the Defence Forces.

**(A) Support a broader interpretation of the term “abuse” within the Defence
Forces Tribunal’s Terms of Reference-**

4. To support a broader interpretation of the term “abuse” within the Defence Forces Tribunal’s Terms of Reference, particularly to include systemic health and safety violations, the following reasoning is provided. Each point is grounded in legal, ethical,

and institutional frameworks, with references to relevant legislation, tribunal documentation, and best practice standards.

Legal Frameworks Support Broader Interpretation

A. Safety, Health and Welfare at Work Act 2005

5. This Act imposes a statutory duty on all employers, including the Defence Forces, to ensure the safety, health, and welfare of employees. Section 8(2)(g) requires employers to provide systems of work that are planned, organised, performed, maintained, and revised as appropriate to be safe and without risk to health. Persistent failure to comply with these obligations—especially where risks are known and unremedied—constitutes a breach of statutory duty and should be interpreted as institutional abuse. Reference: Safety, Health and Welfare at Work Act 2005, Sections 8 and 19.

B. Protected Disclosures Act 2014 (as amended)

6. This Act protects whistleblowers who report health and safety risks. Retaliation against individuals who raise such concerns is explicitly prohibited and is itself a form of abuse. If systemic health and safety violations are reported and ignored or punished, this constitutes both a breach of law and abusive treatment. Reference: Protected Disclosures Act 2014, Sections 5 and 12.

Psychological Harm as Defined by the Tribunal:

7. In the Tribunal's own interpretation (Schedule One of the Public Sitting Notice), "psychological harm" includes:

"A wrongful act which caused a complainant to suffer harm to the mind resulting in a recognised psychological injury."
8. Systemic exposure to hazardous environments (e.g. toxic chemicals at Casement Aerodrome) can lead to trauma, anxiety, and stress-related disorders.
9. If such exposure is known, repeated, and unaddressed, it meets the Tribunal's threshold of a "wrongful act" causing psychological harm. Reference: DSM-5-TR classification of trauma-related disorders; Tribunal's Public Sitting Notice, Schedule One, Section F.

Institutional Neglect and Culture of Silence:

10. Tribunal's Term of Reference (iv)

"Investigate whether Complaints of Abuse were actively deterred or whether there was a culture that discouraged the making of the Complaints of Abuse."
11. A culture that ignores or suppresses health and safety complaints fosters fear and silence. This aligns with the Tribunal's mandate to investigate systemic deterrents to reporting abuse. Reference: S.I. No. 304 of 2024, Term of Reference (iv).

Independent Review Group (IRG) Findings:

12. The IRG Final Report (2023) found that: Health and safety complaints, particularly in the Air Corps, were mishandled. Personnel feared retaliation or career damage for raising concerns. There was a pattern of institutional denial and lack of accountability. Reference: IRG Final Report to the Minister for Defence (2023), Chapter 3.4.1.

Comparative Jurisprudence and International Standards:

13. In international human rights law, systemic neglect of health and safety—especially when it results in harm—is recognised as a form of degrading treatment or abuse.
14. The European Court of Human Rights has held that failure to protect individuals from known environmental or occupational hazards can breach Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to private life). Reference: ECHR case law, e.g., Brincat and Others v. Malta (2014).

Precedent in Tribunal's Own Scope:

15. Term of Reference (vii) explicitly mandates the Tribunal to: “Investigate the response to Complaints of Hazardous Chemicals and to consider the adequacy of the Complaints Processes in light of the responses to same.”
16. This shows that the Tribunal already recognises systemic health and safety failures as a matter of urgent public concern.
17. Including such failures under the broader definition of “abuse” ensures consistency and completeness in the Tribunal’s investigative scope. Reference: S.I. No. 304 of 2024, Term of Reference (vii).

Conclusion:

18. A broader interpretation of “abuse” to include systemic health and safety violations is:
 - a) Legally justified under Irish and international law.
 - b) Ethically necessary to uphold the Defence Forces’ duty of care.
 - c) Consistent with the Tribunal’s Terms of Reference and interpretive guidance.
 - d) Supported by the findings of the Independent Review Group and the lived experiences of Defence Forces personnel.
19. It is therefore respectfully submitted that this Tribunal proceeds by adopting a broader interpretation of ‘abuse’ in order to encompass allegedly persistent violations of health and safety legislation by the Defence Forces.

(B) Opposition to the Application seeking an Extension of Time in respect of Order for Discovery by and on behalf of The Chief of Staff of the Defences Forces-

20. An extension of time for compliance with a Discovery Order in the context of the Defence Forces Tribunal of Inquiry could have a significant impact on the Tribunal's ability to complete its work within the statutory three-year timeframe mandated by its establishment.
21. The Tribunal was established on 20 June 2024 under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011. It is obliged to complete its work within three years, i.e., by 20 June 2027.
22. The Tribunal's investigative phase is heavily dependent on timely discovery of documents from the Defence Forces and the Minister for Defence.
23. These documents are essential for:
 - Reviewing complaints and institutional responses.
 - Preparing for interviews and public hearings.
 - Ensuring procedural fairness for all parties.

Potential Impact of Extensions:

24. The Tribunal initially ordered discovery to be completed by:
 - 2 July 2025 (Defence Forces)
 - 16 June 2025 (Minister for Defence)
25. Any extension beyond these dates would:
 - Delay the investigative phase, including interviews and analysis.
 - Postpone public hearings, which are contingent on full document review.
 - Compress the remaining timeline, increasing pressure on the Tribunal to conclude its work within the statutory limit.
26. Any further extension of time for discovery must be carefully balanced against the Tribunal's statutory obligation to conclude by June 2027. Delays in discovery risk cascading delays across all phases of the Tribunal's work and may necessitate legislative or procedural interventions to maintain the integrity and effectiveness of the inquiry. The Women of Honour would respectfully request that if such an extension of time be granted and delay be caused as a result, it would be desirable that the Tribunal extend the duration of the Tribunal to reflect the extension of time period.

The Extension of time sought will cause delay finalising draft Complainant Statements:

27. The Tribunal has agreed to accept Complainant statements from Women of Honour in draft form. The Tribunal has effectively allowed that statements may remain in draft form until complainants have had an opportunity to review the documents subject to discovery provided that the Tribunal's Consent Form has been completed by the individuals concerned.
28. The Tribunal confirmed that Malcomson Law will receive all relevant documents/files for each individual complainant before any interview takes place, but only after the Consent Form is submitted.
29. The Tribunal acknowledged that:
"If any other issues arise then, the individuals can amend their Statements to address those issues and that will allow the Tribunal to consider as to whether such individuals should be interviewed."
30. This approach allows complainants to:
Review the discovery material relevant to them.
Amend or finalise their statements accordingly.
Ensure their statements are informed and complete before any formal engagement with the Tribunal.

Conclusion:

31. If an extension of time is granted for the delivery of discovery, it will likely have a direct delaying effect on the finalisation of draft witness statements.
32. As outlined, the draft Statements are contingent on Discovery. Malcomson Law has indicated that many of the statements submitted are in draft form because the Complainants have not yet had access to relevant documentation (e.g. personnel files, complaint records, medical files). The statements may need to be amended or expanded once discovery is reviewed. Thus, finalisation is dependent on timely receipt of discovery.
33. Delayed Discovery will inevitably result if delayed finalisation of statements. Also, if discovery is delayed, Complainants will not be in a position to review the documents relevant to their cases. Malcomson Law will not be in a position to advise or assist in refining the statements. The Tribunal will not be able to assess whether individuals should be interviewed or called to give evidence.
34. Such delay may potentially/is likely to create a bottleneck in the investigative phase. This in turn, may create a knock-on effect in respect of the Tribunal's Timeline which requires work to be completed by 20 June 2027.

35. Delays in finalising statements due to late discovery could postpone interviews and hearings and compress the time available for public hearings, analysis, and report writing.
36. It is, therefore, respectfully submitted that this Tribunal refuse the Application seeking an Extension of Time in respect of Order for Discovery by and on behalf of The Chief of Staff of the Defences Forces.

Dated this 3rd day of June 2025

Raymond Bradley SC

Karl Sweeney BL

Signed: Malcomson Law

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