



GRÚPA ATHBHREITHNITHE NEAMHSPLEÁCH - COSAINT  
INDEPENDENT REVIEW GROUP - DEFENCE  
DÍNIT DAOINE, DIGNITY OF PEOPLE

# FINAL REPORT TO THE MINISTER FOR DEFENCE

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INDEPENDENT REVIEW GROUP – DEFENCE (IRG-DF)



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# List of abbreviations

Abbreviation	Definition
ARW	Army Ranger Wing
ATCA	aid to the civil authority
ATCP	aid to the civil power
ERU	Emergency Response Unit
EU	European Union
FMC	Fisheries Monitoring Centre
GDPR	General Data Protection Regulation
HIQA	Health Information and Quality Authority
HR	human resources
HSE	Health Service Executive
IMG	Independent Monitoring Group
IRG-DF	Independent Review Group – Defence Forces
JTF	Joint Task Force
LOA	level of ambition
NATO	North Atlantic Treaty Organization
NCO	non-commissioned officer
ToR	Terms of Reference
UN	United Nations
USA	United States of America

# Glossary of terms

Term	Definition
Beasting	The imposition of arduous exercises, either in training or as punishment.
medical boarding	As stated in Defence Force Regulation A12, notwithstanding the provisions of the regulations governing the grant of sick leave and/or treatment or any extension thereof the Director may, at any time cause an member who in his opinion is suffering from a disease, injury or other disability which renders him unfit for service in the Permanent Defence Force, to be examined by a Medical Board composed of at least two Medical Officers of the Defence Forces. Where a member is examined by a Medical Board and found medically unfit for further service in the Permanent Defence Force steps will be taken to have him retired and discharged from the Permanent Defence Force pursuant to subsection 47(2) of the Defence Act, 1954, as amended.
mobbing	Refers to the victimisation and harassment of an individual after a minor conflict becomes escalated to an overblown and serious magnitude, such that the complainant of the minor conflict becomes a victim of systemic personal attacks and isolation at the hands of either a group or an individual in authority. The purpose of this is to ultimately isolate the individual and to make life so difficult that they resign their post, as it is no longer tenable.
redress of wrongs	The process of making a complaint pursuant to Section 114 of the Defence Act, 1954, as amended.
sick parade	Refers to the daily military formation at which individuals report to the medical officer as sick.
tubbing	Refers to the placing of an individual in a barrel, which may contain any combination of chemicals, oil, airplane fuel, deceased animal carcasses, or other substances, for the purposes of hazing or punishment.

# Foreword by the Chairperson

It has been a privilege to serve on the Independent Review Group – Defence Forces (IRG-DF). The IRG-DF has completed its work within 1 year, as required, despite the scale of the work involved.

I am privileged to have served as Chairperson of the IRG-DF and to have carried out a review in accordance with the Terms of Reference (ToR). Participants have come to me and have placed their absolute trust in me to listen, to hear, to examine and to make recommendations, having evaluated the material presented during the review process, with the aim that significant, immediate, effective action can now be taken in order to ensure that this initial Review will be the basis for radical change so that present and future experience will truly reflect the core values of the Defence Forces.

For many serving and former members of the Defence Forces, it has been a matter of huge pride to them to have served their country in a unique way. Their role over the past 100 years has been truly unique; the Defence Forces is expected to be ready to defend at all times and must be ‘mission-ready’, yet it is operating in a situation where the country is currently at peace.

What is obvious to me from my experience listening to participants is the fact that there is a stark and urgent necessity to modernise in order to strengthen our Defence Forces. The people of Ireland have held their Defence Forces in high esteem, but have expressed real concern about certain reported behaviours. My policy has been an open one, in that I have welcomed any participant who wished to come and be heard. This was done on the basis of confidentiality and anonymity.

I would like to thank the other members of the IRG-DF: Ms Jane Williams, Mr Don Hegarty, and Mr Simon Boyle SC, as well as Mr Mark Connaughton SC, who sat on the IRG-DF until August 2022.

I would particularly like to thank Micheál Martin TD – Tánaiste – Minister for Defence and Minister for Foreign Affairs; Mr Simon Coveney, the former Minister for Defence and Minister for Foreign Affairs; Ms Jacqui McCrum, Secretary General; Ms Clare Tiernan, Assistant Secretary General; and Ms Carol Bourke, Defence Forces Personnel Policy Branch), Department of Defence for their kind assistance at all times. I would also like to thank those in the Department of Defence who dealt with our queries, as well as the Defence Forces Chief of Staff and all current and former members of the Defence Forces who participated in this independent review.

Particular thanks is due to the organisation RaiseaConcern and its head, Mr Philip Brennan, who contributed greatly to the success of this project.

On both a personal and professional level I would like to thank the members of our independent Secretariat which included; Mr. Martin Cuffe, Ms. Paula Reynolds, Ms. Juliet Relihan, Mr. Marius Apostoaei and Mr. James Maguire, for their professionalism and dedication throughout the process.

A sincere thanks to all individual contributors for their conscientious participation in and assistance with this Review. My fervent hope is that the IRG-DF report will be the catalyst to help achieve real change. It is the hope the review recommendations will be fully implemented as soon as possible.

# Introduction

The Independent Review Group – Defence Forces (IRG-DF) approached this Review with complete openness as to what it might find.

The Canadian *Report of the Third Independent Review Authority to the Minister of National Defence* by the Honourable Morris J Fish, C.C., Q.C., dated 30 April 2021, was instructive.

Justice Fish set out at page 1(v) of the introduction that as a matter of principle, members of the Canadian Armed Forces should not be deprived of the legal rights and recourses available to civilians – and certainly not for reasons unrelated to the military’s operational requirements or maintenance of discipline, efficiency and morale – and that even where service members are justifiably deprived of civilian rights and recourses, the military system of justice should afford them alternative and effective rights of redress, fortified by independent and empowered oversight. Accordingly, the IRG-DF concludes that limitations on the rights of members of the Defence Forces in Ireland ought to take place for a limited period of time and for a specific purpose only.

Justice Fish hoped that his report would enable rapid implementation of the pressing reforms he recommended. He could see no reason, for example, to delay removal of the present duty of victims to report their victimisation to the chain of command, which he found impacted on their autonomy and, he felt, risked their exposure to reprisals/retaliation, ostracisation and pressure to withdraw their complaint.

The effect of the IRG-DF’s study of all the material made available to it and of international best practice in a number of jurisdictions, as well as its own listening, hearing, and analysis, independently

verified by other studies and this Review, reflects a significant gap between theory and practice in the Defence Forces. It is acknowledged that there are efforts to introduce compulsory continuing professional development courses for all members of the Defence Forces. However, a number of studies published before 2017 have indicated that, despite the best intentions to implement change/changes based on these previous reviews, the proposed initiatives have not resulted in the desired effects on the ground.

The challenge here is to translate theory into good practice. It is the view of the IRG-DF that this will require significant inputs in terms of human resources (HR) and legislative changes in order to assist this process, beginning with the appointment of individuals to the new roles of Defence Forces Head of Strategic HR and Head of Transformation. What the IRG-DF proposes in broad terms in this Review is a practical solution for how to introduce real change, which is an urgent necessity.

The key element will be to implement a successful culture change programme, led convincingly from the top, and including initiatives grounded in the vision of the future Defence Forces. In addition, a new governance and oversight structure will increase transparency and accountability. At the apex of the governance and oversight structure will be the new independent oversight body, holding the leadership of the Defence Forces to account for progress on the culture change programme. It is likely that significant investment in training will be required in order to promote awareness of unacceptable behaviours and to impart the skills necessary to address such behaviours in specific situations and in the broader groupings in the Defence Forces.

In undertaking this Review, the IRG-DF had an open-door policy. It was the IRG-DF's considered view that it would not ask participants (who came forward in confidence and were promised anonymity) whether or not they were members of any particular umbrella or other type of group or whether or not they were in litigation on any issue they discussed with the IRG-DF. Confidentiality, anonymity and the privacy of discourse with those who came forward was emphasised. Transcripts belong to the IRG-DF, as do notes taken (where applicable), and the reason for this is to protect the process itself.

The IRG-DF did not partake in fact finding in their engagement with any individual participant.

This report is presented in the hope that what we describe as the lived experience of many participants will afford a pathway for genuine and much-needed reform of our own Defence Forces, which is dear to the hearts of our people.

# Establishment of the Independent Review Group – Defence Forces

Following a Cabinet Meeting on Tuesday 25 January 2022, the then Minister for Defence, Simon Coveney, provided for the establishment of a judge-led Independent Review Group – Defence Forces (IRG-DF) to examine issues relating to sexual misconduct, bullying, harassment and discrimination in the Defence Forces. The IRG-DF was set up on a non-statutory basis; therefore, this report makes no factual or legal findings in relation to any specific case. The IRG-DF was supplied with and guided by the specific Terms of Reference.

The IRG-DF completed an interim report and this final report on schedule. The IRG-DF asked that the interim report not be published, as the work for the final report may have been compromised due to the ongoing nature of the analysis and information gathering being completed at the time.

The IRG-DF had a duty to determine pertinent and efficient recommendations stemming from its detailed analysis of a variety of areas such as systems, policies, procedures, workplace culture and appropriate legislative changes.

## Membership

The IRG-DF's membership is composed of independent external experts in their field. The IRG-DF is supported by the Secretariat, which is resourced by staff who were selected from a panel for temporary secondments to the IRG-DF after an expression of interest selection process from across the Civil Service.

The membership of the IRG-DF is as follows:

- Ms Bronagh O'Hanlon (Chairperson);
- Ms Jane Williams;
- Mr Don Hegarty (appointed July 2022);
- Mr Simon Boyle SC (appointed September 2022); and
- Mr Mark Connaughton SC (until August 2022).\*

\*Mr Mark Connaughton resigned from the IRG-DF in August 2022 owing to work pressures.

## Secretariat

The members of the IRG-DF commenced work on this Review on 25 January 2022. The group was assisted and supported in the initial stages of its establishment by the Department of Defence.

Owing to the independent nature of the IRG-DF, and following a Civil Service-wide expression of interest, the following members of the Secretariat were appointed:

- Mr Martin Cuffe, with responsibility for Research and Analysis;
- Ms Paula Reynolds, as Secretary to the IRG-DF;
- Ms Juliet Relihan, Research and Analysis;
- Mr Marius Apostoaei, Administration Support; and
- Mr James Maguire, Administration Support.

# Terms of Reference

## Overall aims of the Independent Review:

- To advise the Minister on whether the current legislative frameworks, policies, procedures and practices for addressing incidents of unacceptable behaviour in the workplace are effective.
- To independently assess whether the pervading culture in the workplace is fully aligned with the principles of dignity, equality, mutual respect, and duty of care for every member of the Defence Forces.
- To provide recommendations and guidance to the Minister on measures and strategies required to underpin a workplace based on dignity, equality, mutual respect, and duty of care for every member of the Defence Forces.

## Specific Terms of Reference:

1. To examine the legislative frameworks, policies, systems and procedures currently in place within the Defence Forces to address discrimination, bullying, harassment, sexual harassment and any form of sexual misconduct in the workplace.
2. To assess whether the legislative frameworks, policies, systems and procedures are aligned with international best practice and HR norms, and are deemed fit for purpose in efficiently and effectively addressing incidents of unacceptable behaviour in the workplace and make appropriate recommendations.
3. To examine the end to end process for making a complaint of unacceptable behaviour and assess whether there are any barriers to serving personnel from making a complaint and fully and actively engaging in the process and make appropriate recommendations.
4. To examine the extent to which reprisal, or the fear of reprisal, or the existence of any culture of silence or complicity, may play as a barrier to reporting, or investigating, as well as any indication of inconsistencies or challenges in the application of policies.
5. To undertake a benchmarking exercise against the quantitative research, undertaken as part of the External Advisory Group 2002 Report, 'The Challenge In the Workplace,' and include a review of how female members of the Defence Forces perceive themselves within the Organisation and additionally how female members are perceived by the Organisation.
6. To assess the effectiveness of training syllabi and awareness programmes for all ranks within the Defence Forces, including at entry level, appointees as Military Investigating Officers and Military Police, on workplace issues pertaining to dignity and equality, duty of care, discrimination, intimidation, bullying, harassment, sexual harassment and sexual misconduct.
7. To review the performance evaluation, and promotion systems in the Defence Forces from the particular perspective of how leaders are selected and trained on management skills and duty of care to personnel under their command.
8. To establish if an appropriate culture prevails within the Defence Forces across all ranks, which robustly promotes, supports and enables, a work place based on dignity and mutual respect with a non-tolerance approach for unacceptable behaviour in the workplace.
9. To invite the views and experiences from both current and former DF personnel, on a voluntary and confidential basis, of their experiences of the policies, systems and procedures currently

in place, both positive and negative, including workplace incidents of unacceptable behaviour, while noting that the final Report will not include any reference to, or provide any assessments or recommendations related to, any specific cases.

10. To invite the views and experiences of other parties who may be potentially involved in the complaints process, including Divisional and Commanding Officers who are ordinarily the first recipient of complaints; members of the Personal Support Service (PSS); Defence Forces Psychologist and Psychiatrist; members of the Defence Forces Medical Branch; and Military Investigating Officers, while noting that such engagements will be on a confidential basis.
11. To examine the statutory role of the Minister/ Department in the systems and procedures for dealing with complaints.
12. While noting that the Ombudsman for the Defence Forces Act, 2004 provides a mechanism for members of the Defence Forces to submit complaints against civil servants; to consider appropriate complaint mechanisms to enable civilian personnel, civilian employees and civil servants to make complaints of unacceptable behaviour by members of the Defence Forces in the workplace.
13. To advise whether further work is required to examine issues of an historical nature and to make any recommendations regarding how this might best be pursued.

A copy of the IRG-DF Terms of Reference is available at **Appendix 7**.

# Acknowledgements

The Independent Review Group – Defence Forces (IRG-DF) accepted the mandate given to it by the then Minister for Defence, Simon Coveney TD and the members of the IRG-DF look forward to presenting the report to Micheál Martin TD – Tánaiste – Minister for Defence and Minister for Foreign Affairs. The IRG-DF is very aware of the importance of this work to Ireland and to the people who dedicate their lives to the important role of serving in the Defence Forces.

The IRG-DF would like to express its gratitude to the Secretary General of the Department of Defence, Ms Jacqui McCrum, and the Defence Forces Chief of Staff, Lieutenant General Seán Clancy and senior leadership in the Defence Forces, who supported the IRG-DF with access to their organisations' knowledge and expertise.

The IRG-DF and the Secretariat wish to acknowledge the assistance received from various officials in the Department of Defence and members of the Defence Forces who provided both written and oral information as and when requested.

We would like to express our sincere thanks to the various representative organisations that took the time to assist us through written submissions, in-person meetings, and providing clarification and assistance on various issues throughout the Review process.

Most importantly, the IRG-DF members and the Secretariat particularly acknowledge with gratitude

the individual participants in this review. The vast majority of the submissions were by their very nature intensely personal, and in some cases extremely painful for the participants to share. It would therefore be inappropriate to acknowledge specific individuals, but we thank you for your personal engagement.

To all persons who made submissions in writing to the IRG-DF, including from the leadership of the Defence Forces, and who gave their time to meet with the group to share their story and their lived – and often traumatic – experience, we give our deepest and unreserved thanks. Without your essential contributions, this report would not have been possible.

We remain conscious of those individuals who for many reasons were unable to participate in our consultation process; their stories are no less important than those of the individuals who contributed to this report.

Go raibh míle maith agaibh go léir.

# Executive summary

The Independent Review Group – Defence Forces (IRG-DF) was set up to advise the Minister for Defence on whether the current legislative frameworks, policies, procedures and practices for addressing incidents of unacceptable behaviour in the Defence Forces are effective. The Review needed to independently assess the prevailing workplace culture with a view to advising if it was fully aligned with the principles of dignity, equality, mutual respect, and duty of care for every member of the Defence Forces.

Core to the IRG-DF's approach was the view from the perspective of members, current and past. All accounts were first hand reports of experiences. Survey data came from currently serving members. The basis of assessment is the lived experience of members, heard live by members of the IRG-DF and RaiseaConcern. The IRG-DF's open invitation brought current and past members to interviews with the IRG-DF members. The Minister's provision of RaiseaConcern's Confidential Contact Person service captured anonymised accounts of unacceptable behaviour. Through the Minister's office, these were shared with members of the IRG-DF on a confidential basis. None of these individual accounts are being disclosed to the Defence Forces leadership. No findings of fact were to be made on individual cases.

In addition, the IRG-DF engaged external expert organisations to independently assess the training provided in the Defence Forces for identifying, addressing and monitoring inappropriate behaviours in the workplace and compare it with effective and impactful training delivered elsewhere. An additional expert human resources (HR) company assessed the Defence Forces' policies on performance and promotion against good practice

elsewhere. The policies and procedures were assessed against current employment legislation and the standard public sector practices for modern HR management.

Based on these assessments, the IRG-DF was then tasked with responsibility to provide recommendations and guidance to the Minister for Defence on measures and strategies required to underpin a workplace based on dignity, equality, mutual respect, and duty of care for every member of the Defence Forces.

The Minister, on announcing the establishment of the IRG-DF, stressed the criticality of the Review in terms of ensuring that the Defence Forces is a safe workplace for all serving members while also reviewing issues of a historical nature.

The interviews and other inputs provide a significant and rich volume of insight and understanding on which the IRG-DF based its advice and recommendations to the Minister.

The enduring nature of issues around unacceptable behaviours in the Defence Forces was evidenced in the IRG-DF Perceptions and Experiences Survey and Benchmarking Report (2022) undertaken as part of the IRG-DF's Terms of Reference, with results showing a lack of significant change in the rates of people reporting having experienced bullying, harassment, discrimination and sexual harassment, with female members of the Defence Forces reporting increases in experience of sexual harassment in 10 of the 11 types of sexual harassment surveyed. These findings were reinforced through analysis of interviews undertaken with both serving and former members of the Defence Forces, where incidents of bullying, harassment, discrimination and sexual harassment

persist and cannot be said to be a feature of the past only. The two sets of interviews, undertaken by different teams and based on different approaches, delivered very similar outcomes.

Women are viewed as occupying a low status in the Defence Forces. Gender and particular hypermasculinities are strong organising forces in the culture. This is reflected throughout this Review, not only in individuals' lived experience as described to us, but also in the various forms of independent analysis undertaken. The problems that exist will not go away without immediate and significant steps being taken to address them.

Notwithstanding the role of the Defence Forces, neither men nor women in the Defence Forces are working in a safe working environment.

The overall findings of this Review are that the Defence Forces, as a place of work, is not fully aligned with the principles of dignity, equality, mutual respect, and duty of care. The prevailing workplace culture is one that is disabling when it comes to supporting dignity and respect in the workplace. The IRG-DF's analysis reveals a workplace where self-worth and value are negated and disrespect is a dominant feature in an organisation resistant to change. The reported practices appear to have created a lack of trust in leadership. This emerges strongly from the Perceptions and Experiences survey (2022) and the Benchmarking Report (2022) data which show that 50% of survey respondents are either 'very dissatisfied' or 'somewhat dissatisfied' with people senior to them. Cadets can be vulnerable and inexperienced. This can result in their being targeted by predatory older members who exploit such traits. Women, the lower ranks and those who challenge are also at risk.

In terms of the structure that are meant to reinforce and support a safe and healthy workplace, it is clear that the Defence Forces does not meet the modern standards of fit-for-purpose HR policies and practices. In assessing the effectiveness of the policies and procedures currently in place for both making and resolving complaints of unacceptable behaviours, the IRG-DF engaged external HR consultants to review the existing policies and stated procedures for dealing with complaints of unacceptable behaviours. The consultants concluded that these policies and procedures

were confusing and were out of date in terms of compliance with modern codes of practice on the management of unacceptable behaviours. The lack of trust in policies and procedures around making a complaint (or, more accurately, the lack of trust in some people whose responsibility it is to manage and investigate complaints) was a key feature of both sets of interviews and the survey responses from serving and former members of the Defence Forces. Survey respondents cited a clear lack of trust in the current procedures for making a complaint; the majority of respondents stated that they did not make a formal complaint of bullying, harassment, sexual harassment or sexual assault, and the main reason given for this failure to report was that there was no point. This sentiment was echoed through the interviews undertaken by the IRG-DF and Raisea concern, where respondents cited making a complaint as being career ending and reported experiencing intimidation and acts of retaliation when they did make a complaint. Oftentimes, retaliation took the form of charges being made against the complainant that had no basis in fact, with the sole aim of discrediting the complainant's reputation. Acts of retaliation feature heavily in the experience of those who engaged with the IRG-DF and reinforce the findings of an organisation that is deeply hierarchical in structure and culture, leaving many afraid to criticise or question leadership practices.

It is the view of the IRG-DF that there is an urgent requirement to reform the existing mechanisms for making a complaint of unacceptable behaviour, and the most critical need at present is to restore faith and trust in the complaints process itself. The IRG-DF believes that this requires independence as a fundamental guiding principle and a move away from the current system of 'officers investigating officers'. Given the serious nature of the complaints we have heard and the fact that these behaviours persist to the present day, the IRG-DF believes that this would be best achieved in the immediate term by referring the investigation of all complaints of unacceptable behaviour to an external, independent and suitably qualified organisation for a period of time – specifically, until such time as the internal system has been changed and has earned the trust of the members of the Defence Forces.

Additional reforms of the complaints procedure in its totality are required, and the IRG-DF is

recommending that the Minister introduce legislative reform in this regard. This will require setting aside the current redress of wrongs system as provided for under Section 114 of the Defence Act, 1954, in favour of a new and fit-for-purpose complaints management process overseen by the soon to be appointed Defence Forces Head of Strategic HR. Our analysis and assessment of the current culture in the Defence Forces shows deep, long-standing issues around unacceptable behaviours; a complaints handling system that is not fit for purpose; and legislative frameworks, policies, systems and procedures that are out of date and out of step with modern HR practice. In addition, there is insufficient dignity at work training, and where such training is provided it is not optimally delivered. The culture is not supportive of dignity at work or of modern leadership approaches. The existence of reprisals/retaliation for any challenges to inappropriate behaviours and the inability of the leadership to change the situation over the last 20 years points to the need for strong, independent oversight of the implementation of the needed changes. The Defence Forces struggle with gender, displaying hypermasculinities and pockets of deeply misogynistic attitudes and behaviours. The culture needs to be aligned with where the Defence Forces is headed rather than where it has come from.

Change is required to rebuild what is clearly broken in existing systems. The recommendations in this report are radical and, if implemented, will be far-reaching. A failure to implement the recommendations will mean a further regression and the Defence Forces' position could deteriorate beyond repair.

Government action now on the recommendations set in this review presents a real opportunity to reform progressively. An effective, positive reform will lead to a more robust Defence Forces, capable of expanding and of retaining personnel for the necessary defence of our sovereignty and safety.

# Chapter 1: Method

On 25 January 2022, the Minister for Defence, Mr Simon Coveney, announced the decision of the Government, based on his recommendation, “to establish a critical Independent Review to ensure that the Defence Forces is a safe workplace for all current serving members while also reviewing historical allegations”.

Over the past two decades, through the publication of numerous reports such as:

- *The Challenge of a Workplace (2002)* – The report of the External Advisory Committee on the Defence Forces chaired by Dr Eileen Doyle,
- The three reports of the subsequent Independent Monitoring Group (IMG) titled, *Response to the Challenge of a Workplace (2004)*, *Second Report of the Independent Monitoring Group (2008)* and *Third Report of the Independent Monitoring Group (2014)*,
- *Workplace Climate in the Defence Forces Phase 2: Results of the Focus Group Research (2016)* a qualitative study commissioned to investigate in more depth the results of the Defence Forces 2015 quantitative survey on organisation climate, and the,
- *Report of the Commission on the Defence Forces (2022)*.

The Government has invested significantly in understanding and supporting the Defence Forces’ human capability to provide effective defence of the State from armed aggression and to be a modern workplace providing dignity and respect to all members. In 2020, the Department of Defence began a review to assess the fundamentals of this effort, including the current position, progress and the future trajectory of the modernisation process. Following this review, the Commission on the

Defence Forces and the Independent Review Group – Defence Forces (IRG-DF) were established in 2021 and 2022, respectively. The focus for the IRG-DF is on the workplace environment for members of the Defence Forces with particular consideration to the current position regarding dignity and respect afforded to members. In addition, the Minister wishes to be advised on whether further work is required to examine incidents experienced in the past by former members of the Defence Forces. The Minister, having met with the Women of Honour group, as well as representative organisations including the Permanent Defence Forces Other Ranks Representative Association and the Representative Association of Commissioned Officers and other groups representing people who report suffering unacceptable behaviours in the past, set up the IRG-DF.

The task of the IRG-DF is to provide advice and recommendations to the Minister, based on a review of the current legislative frameworks, policies, procedures, practices and Defence Forces organisational culture, in order to establish whether they are effective in addressing incidents of unacceptable behaviour and in supporting a workplace that is fully aligned with the principles of dignity, equality, mutual respect, and duty of care for every member of the Defence Forces.

## 1.1 Objectives of the IRG-DF’s work

This Review examined the Defence Forces as a workplace. It did not assess its military capacity, strategy, outputs, value, structure, governance, or other aspects of the organisation. The focus was on the organisation’s maintenance of a workplace that underpins dignity, equality, mutual respect, and duty

of care for every member of the Defence Forces, and whether the organisation is effective in this regard.

The Terms of Reference (ToR) published by the Minister on 1 February 2022 specified 13 elements – including nine outputs in the form of assessment and advice to the Minister, three qualitative research processes to use in undertaking the work, and one piece of quantitative research – as inputs to the conclusions.

The output is this final report of the IRG-DF's findings, conclusions, advice and recommendations for the Minister. The IRG-DF did not make findings of fact in individual instances or cases.

The approach to the task as detailed in the ToR included the following specifications:

- Independence;
- Unbiased expertise;
- Access to external experts and research capability;
- Protection of the identities of complainants and any perpetrators;
- The possible provision of interim recommendations for immediate action;
- The conduct of business through oral and/or written engagement on a group basis and on an individual basis;
- A focus on current and former members of the Defence Force and Reserve Defence Force; and
- Interviewees providing their views on an entirely voluntary basis.

The focus was on the current position, measured against current standards, as experienced in the workplace by permanent members of the Defence Force and the Reserve Defence Force. The Review also focused on experiences reported by current and former members of the Defence Forces with regard to issues in the past, together with behaviours that started months or years ago and have continued to the present day.

The tasks included a review of the following dimensions of the Defence Forces: relevant legislation; organisational policies, procedures, and practices; and organisational culture, training, performance evaluation, and promotion as they contribute to workplace issues pertaining to dignity and equality, duty of care, discrimination,

intimidation, bullying, harassment, sexual harassment and sexual misconduct.

The output is in the form of a report to the Minister. It provides the Minister with the assessment he requires on the current position of the Defence Forces as a workplace that underpins dignity, equality, mutual respect, and duty of care for every member. It goes on to provide advice on the changes that are needed in order to amend legislative frameworks, policies, systems and procedures, as well as tackle unacceptable behaviours, implement vital culture change and examine the options for addressing past wrongdoing that have not been dealt with satisfactorily.

## 1.2 How we did our work

The IRG-DF recognised the scale of the task and the short time frame, and designed its approach to deliver within those constraints/requirements. The IRG-DF started by clarifying what it was expected to deliver and the methods by which it would deliver those. This scoping exercise identified five required characteristics, outlined in Sections 1.2.1–1.2.5.

### 1.2.1 Voluntary nature of disclosure to the Review

Those who came forward to the IRG-DF did so voluntarily. The IRG-DF did not have the power, or the desire, to compel people to contribute to its work; that would have gone against the ethos with which it undertook its work. The IRG-DF also did not develop a high profile out of concern that it could sensationalise the focus of its work. It set out to draw inputs through more subtle means, such as via word of mouth, representative organisations, the leadership of the Minister's endorsements and the use of social media. The challenge in having a voluntary method of data collection was ensuring that all who were willing to make contributions could find a route to be heard. It was also challenged by the need to assure people that their inputs would remain confidential, and enormous effort has gone into ensuring that. Not controlling the sample left open the possibility that we would not hear from a representative sample. The profile of those who responded to the survey has a higher proportion of female members than are currently serving (11% compared with 7%) but given the low overall numbers involved i.e. there are about 600

serving members who are female, this does not have an impact on the findings.

The voluntary participation of Defence Forces members was achieved by the use of an open-door policy, the multiple methods used for inputs, and the support mentioned of the Minister's exhortation to members to participate and the representative organisations joining that encouragement and disseminating invitations to participate.

The IRG-DF is very pleased and satisfied with the response rate and is very grateful to the individuals, groups, representative organisations, Defence Forces leadership, and the Department of Defence and the Minister for their voluntary inputs, disclosures and supports and the speedy responses to our requests for information and support.

### 1.2.2 Need for utmost confidentiality

The process of the work needed to be confidential and protect the identity of those who contributed by not disclosing their names or including descriptions or details of the incident(s) that happened. This arose from the understanding that current and former members would require this assurance before they would participate. It also arose from a duty of care to protect people who came forward from repercussions for them and for their careers if their disclosures were known. The IRG-DF benefitted from the work of Raisea concern, which addressed this issue from the beginning of its work, following the Minister's announcement on 6 October 2021 outlining the basis on which the Raisea concern Confidential Contact Person service would be available. This assurance included that the reports, individual and overall, would not be made available to the Defence Forces or its leadership. Interviewees who contacted us had heard of the confidentiality of the processes that the Minister had put in place.

An example of the care taken was in the use of meeting reports for the culture analysis work by TIO Consulting Ltd. Consultation with the principal of Raisea concern was undertaken to obtain permission in writing, from the individual complainants to allow the detailed account of their meeting with Raisea concern to be released to the TIO expert. This fulfilled the IRG-DF members' guarantee to Raisea concern, via the Department of Defence, that the interviews were for the members of the IRG-DF only and would not be shared outside the

group membership. The Principal of Raisea concern contacted the selected interviewees and obtained their permission in writing to allow the detailed account of their meeting with Raisea concern to be released to the TIO expert who was engaged by the IRG-DF to undertake a review of the existing culture in the Defence Forces. The release was also on the understanding that it would not be shared with or viewed by anyone else.

The IRG-DF has taken very considered and thorough care in this area through several methods designed to deliver on this undertaking of confidentiality. It does place a constraint on the IRG-DF's reporting, in that it would be usual in research reporting to use quotes from interviewees to illustrate a point or outline a description of an incident in order to provide those reading the report with a clearer picture of what happened. It also makes it challenging to describe the impacts of unacceptable behaviours, particularly when those impacts are psychological hurt and damage.

### 1.2.3 Type of review

The assessment is designed to be robust and comparable with an organisational review used to draw conclusions on the nature of the problems, the scale of the issues, the impact/importance of the issues, the causes of the issues and the basis for changes to remedy them. The Review is not an adversarial process of hearing evidence on charges brought, assessing guilt or innocence on the part of individuals and deciding on penalties of a criminal or civil nature. It is focused on the organisation; its processes, structures and policies; and the behaviours and other consequences that result from these. Its objective is to agree the problems and the solutions; it is not about finding fault, but rather about diagnosis and developing a plan for change. Its output is advice on actions needed in order to make changes that will remediate the problems and prevent them from returning. It is also to advise on what further work is required to deal with issues that happened in the past and were not addressed then, or were not addressed to the complainants' satisfaction.

### 1.2.4 Focus of assessment and standard for assessment

As mentioned in section 1.1, the ToR focus the IRG-DF's attention on the frameworks, policies, systems and procedures currently in place in the Defence

Forces to assess them against international best practice and HR norms and fitness for purpose in addressing incidents of unacceptable behaviour in the workplace. A specific focus is put on a key aspect of HR practices: the complaints process. The examination of the existing process for making a complaint, is a key element in modern HR reviews of unacceptable behaviours in the workplace. This is owing to the fact that the complaints process both serves as an early warning of issues in an organisation that require attention and is an important facility for employees to address issues they encounter.

The capability of key people in handling workplace issues of relevance is assessed through the effectiveness of the training syllabi. In the case of the performance evaluation and promotion systems, the focus is on how leaders are selected and trained on management skills and duty of care to personnel under their command. In organisational culture, the focus is on whether the culture robustly promotes, supports and enables a workplace based on dignity and mutual respect with a non-tolerance approach to unacceptable behaviour in the workplace. Regarding the statutory role of the Minister in the systems and procedures for dealing with complaints, the legal and administrative practices will be assessed with reference to comparable practices and standards. The final area is the assessment of the need for, and the form of, the further work required to address issues of an historical nature which will be based on the efficacy, time frame and accessibility of the different legal and other options available.

### 1.2.5 Basis of assessment

The ToR preclude the IRG-DF from making findings of fact in relation to individuals or individual cases. As stated in section 1.2.3, the Review does not apply legal standards of proof or fault.

The assessment is being made on the Defence Forces and its systems, practices, procedures and culture through the lens of those who work in it, have experienced its practices and its culture, and have complained or made judgements or have reflected on their experiences and observations, making those available to the Review. The strongest voices and viewpoints underpinning the assessment are those of current and past members. Most of these individuals comment on the positive and the

negative aspects of their experiences and their observations on having witnessed the experiences of others.

Serving in the Defence Forces is attractive as a career and a way of life to people who are motivated by public service. Many recognise the restrictions that being in a disciplined force apply. They also accept the additional burden of being subject to military law as well as the civil law. They enjoy military life and value the career they have. It is also fair to say that, because of the timing of the establishment of the IRG-DF, the impression may have been created that it is focusing specifically on inappropriate behaviour against women. With the publication of the invitation to make submissions, the survey and the information disseminated by the representative organisations, together with word-of-mouth and social media communications, it was made clear that the IRG-DF was interested in all aspects of inappropriate behaviours against all serving and former members of the Defence Forces. This, together with the cultural focus on the negative, the mistakes, and the impact of wrongdoing, makes it possible that the IRG-DF did not hear as much about the positives that are experienced by members of the Defence Forces. In addition, experts in relevant areas have been retained to give their opinion on the systems, policies and procedures, and culture of the Defence Forces compared with good employers elsewhere, using appropriate tools that they use for other organisations of scale. Given the importance of the work and the need for a clear basis for deciding how to tackle the triggers and the underlying causes of inappropriate behaviours, the IRG-DF has used multiple methods to give a robust and accurate picture of the current situation in the Defence Forces.

The basis for the IRG-DF's conclusions was carefully scoped at the beginning of the work through examining each of the ToR articles in detail, clarifying what was intended in each and drawing conclusions about the questions that are being asked and answered. With that understanding, each of the ToR articles was scoped to document what sources of information, intelligence and/or understanding would answer the questions. A method of obtaining those data was then developed, drawing on the expertise of the IRG-DF members and some external experts in certain areas. The IRG-

DF used multiple sources of data to answer most of the questions. This was not overkill, but a prudent practice to ensure robust findings. The ToR included direction on sources of data and understanding. The nature of some of the areas of research is that they are intangible; for example, the incidents and the impacts of unacceptable behaviours, or the culture and whether it contains or supports openness to equality and new ways of doing things. The authoritative sources on these areas are people with lived experience to disclose, informing our picture of the current position in the Defence Forces. Other sources include written documentation in the relevant areas. After the sources of data were identified, the method(s) for tapping those sources and the tools to be used were developed.

### 1.3 The inputs that informed our work

The IRG-DF designed its method, applying the analysis outlined in section 1.2.1 to 1.2.5, to develop a series of scoping documents for each ToR article which identified the questions to be addressed, the way they could be addressed and the output required on each. The IRG-DF took each of the areas scoped, identified the sources of understanding and insight that could be used to assess the Defence Forces' current position, and formulated a way of reviewing it.

The IRG-DF members identified that interviews, as specified in the ToR, were crucial in the construction of this report, as they would provide us with the lived experience of members and thus offer perspective and inspire thoughtful discussion and consideration by the IRG-DF. The qualitative data garnered from the interviews, and the subsequent transcripts, enabled the authors to avoid embellishment and to maintain the integrity of the content.

Accordingly, in our analysis of the transcripts we used a combined technique of inductive and deductive thematic analysis.<sup>1</sup> This combination of qualitative analysis techniques brought distinct advantages for this project. More complex and nuanced insights came from the inductive analysis, while the deductive analysis enabled us to identify

important themes that are crucial to this body of work.

#### 1.3.1 Interviews with serving and retired members

Members of the Defence Forces contacted the IRG-DF and volunteered to provide their lived experience to the IRG-DF on a confidential basis. They covered the aspects of their Defence Forces experience that they valued and enjoyed, and that motivated them. They also provided detailed accounts of their experiences that were inappropriate, unacceptable, damaging and hurtful, making them reconsider their commitment to the Defence Forces. A detailed account of the types of unacceptable behaviours these members experienced is included in Section 3.2. Many interviewees suggested ways in which the inappropriate behaviours could be prevented. These interviews were recorded in transcripts by a stenographer. All notation was anonymised and retained in secure locations. The interviewees were varied in terms of rank, gender, years of service, location in the country, age, role in the Defence Forces, duration of the inappropriate behaviour, types of inappropriate behaviour experienced, frequency of inappropriate behaviour, consequences of the inappropriate behaviour, whether they complained through official procedures, the result of taking such a complaint, and the impact of the inappropriate behaviour on them and its consequences for their career in the Defence Forces and their personal lives.

#### 1.3.2 A series of detailed reports from RaiseaConcern

In its role as the Confidential Contact Person, RaiseaConcern has prepared a series of detailed anonymised reports of interviews with complainants. These complainants were serving and former members of the Defence Forces who came forward to use the RaiseaConcern service that the Minister for Defence put in place on 6 October 2021. These complaints were also wide-ranging in their profiles, the inappropriate behaviours experienced, the consequences of those experiences for the complainants, and the subsequent impacts. Again, there are many descriptions of the positive experiences these individuals enjoyed in the Defence Forces, even with really rough/tough training and assessments, but they also reported the devastating experience that they were

<sup>1</sup> Jennifer Fereday and Eimear Muir-Cochrane, "Demonstrating rigor using thematic analysis: A hybrid approach of inductive and deductive coding and theme development," *International Journal of Qualitative Methods* 5, no 1 (2006): 80–92.

currently or had previously endured as a result of the inappropriate behaviour. These interviews are credible, detailed and significant. They have been a hugely valuable resource and a parallel corroboration of the direct interviews undertaken by the IRG-DF, providing the research with both triangulated data sources and methods.

### **1.3.3 Interviews with people with specialist expertise**

The IRG-DF undertook interviews with people with specialist expertise in relevant areas, ranging from HR management, to gender, to representational and support roles in comparable organisations. These provided useful domain knowledge, as well as experiential and comparative information to enhance the available understanding of good and leading-edge practices in the prevention of behaviour that is not consistent with dignity at work principles and standards of practice.

### **1.3.4 IRG-DF Perceptions and Experiences Survey and Benchmarking Reports**

The IRG-DF Perceptions and Experiences Survey and the Benchmarking Survey Report 2022 of serving members of the Defence Forces (both full time and reserve) provided an understanding of the current behavioural experiences, perceptions and attitudes within the organisation (see Appendices 1 and 2 for the full reports). The IRG-DF Perceptions and Experiences survey and Benchmarking Survey Report 2022 is largely a repeat of the 2002, The Challenge of a Workplace survey, and so provides a basis for benchmarking the changes in the 20 years since the original survey was carried out. The data from these surveys provide quantitative evidence of the incidence of a range of inappropriate behaviours, including bullying, harassment and sexual harassment, together with their impact and the degree to which these behaviours are observed by others. It also measured the use of the redress system by members who perceive they have been wronged, whether members discussed the behaviour with others, and the current attitudes and perceptions of Defence Forces members, including around females. This quantitative report echoes the findings of the two qualitative lived experience research studies mentioned in sections 1.3.1 and 1.3.2. Usefully, the Perceptions and Experiences Survey 2022 also provided a measure of the extent of the different behaviours covered as well as

the trend over the two decades since the 2002 Challenge of a Workplace survey was conducted.

### **1.3.5 Review of policies, systems and procedures**

The IRG-DF members and commissioned external experts undertook a review of the policies, systems and procedures related to the handling of complaints and discipline; interpersonal relations; gender; legislative frameworks; training syllabi; and performance evaluation and promotion systems in order to inform this Review. This gave a clear assessment of these policies, systems and procedures for their fitness for purpose and in comparison with good or best practice.

### **1.3.6 Research into other defence forces**

Research into other defence forces and how they have handled similar issues was undertaken. None of the defence forces researched offered a direct comparison because of Ireland's military neutrality and defence policy position, our experience as a colonised country, the history of our Defence Forces and our distinctive culture. Several Anglophone countries with recent engagement with issues of dignity at work and inappropriate sexual behaviour were selected for more detailed study. The issues and lessons learned from these other countries have been distilled in section 2.2 of this report and include analysis of the United Kingdom, Canada, New Zealand, Australia and the United States of America. Some useful insights have been obtained from this work, but we also maintain the understanding that solutions for Ireland will have to be developed with our unique situation in mind.

### **1.3.7 Submissions made following IRG-DF public call**

Several submissions were received from individuals, groups and representative organisations and agreed with the IRG-DF at an early stage in the process. These were very helpful and informative to the IRG-DF in its work. Many of those who made submissions came forward for interviews with the IRG-DF. These were very enlightening and afforded the IRG-DF members an opportunity to deepen their understanding of the original submissions. A copy of the IRG-DF's call for submissions is available at **Appendix 8**.

### 1.3.8 In-person interviews with Raisea concern complainants

A representative sample of Raisea concern complainants was selected by that organisation, and the selected complainants were asked to meet with the IRG-DF in follow-on interviews focused on their perceptions of the causes of inappropriate behaviour, as well as their suggestions for solutions to prevent or contain such behaviour, while also hearing of their lived experience and its impact on them.

### 1.3.9 In-person interviews and experiences with serving commanding officers; members of the Personnel Support Service; Defence Forces psychologist and psychiatrist; and medical and military investigating officers

The ToR (specifically ToR 10) suggested that the views of the first recipients of complaints could be informative. These interviews with initial complaint recipients, in common with all interviews, were conducted on a confidential basis. No individual cases were discussed and no individual details were revealed. These interviews gave a very useful perspective on the issues, processes and experiences of the interviewees. The Personnel Support Service (PSS) and the medical services were mentioned in many interviews, and so it was useful to hear the perspectives of those providing crucial well-being services and a professional Military Police function.

#### 1.3.10 Review of relevant reports

- To provide a background context to its work, the IRG-DF reviewed a wide range of documents and Government policies, including the *White Paper on Defence August 2015*<sup>2</sup>; *White Paper on Defence: Update 2019*<sup>3</sup>; *White Paper on Defence Implementation Programme - February 2021*<sup>4</sup>; *Report of the Commission on the Defence Forces (2022)*<sup>5</sup>; *Department of Defence and Defence*

2 Department of Defence, (2015) *White Paper on Defence*. Dublin, IRL. Department of Defence, 2015.

3 Department of Defence, (2019) *White Paper on Defence update 2019*. Dublin, IRL. Department of Defence, 2019.

4 Department of Defence, (2021) *White Paper on Defence Implementation Programme*. Dublin, IRL. Department of Defence, 2021.

5 Commission on the Defence Forces, (2022) *Report of the Commission on the Defence Forces*. Dublin, IRL. Department of Defence, 2022.

*Forces Strategy Statement 2021-2023*<sup>6</sup>; *“Building for the Future – Change from Within”: High Level Action Plan for the Report of the Commission on the Defence Forces; and Organisational Capability Review: Implementation Plan*. Relevant earlier documents (such as the *Response to the Challenge of a Workplace (2004)*<sup>7</sup>), *Second Report of the Independent Monitoring Group (2008)* *Third Report of the Independent Monitoring Group (2014)*<sup>8</sup>, *Workplace Climate in the Defence Forces Phase 2: Results of the Focus Group Research (2016)*<sup>9</sup> and various contextual documents and reports) were also reviewed and provided data and insight to the IRG-DF.

#### 1.3.11 Submission from Defence Forces leadership

The Defence Forces leadership made a submission to the IRG-DF outlining the initiatives that have been undertaken to address unacceptable behaviours and related matters.

In October 2021, the Defence Forces Chief of Staff formed an Immediate Action Group (IAG) to address unacceptable behaviour, which brought together different specialist groups within the Defence Forces, including the PSS, the Gender Advisor and the Legal Service. The IAG set up a Multi-Disciplinary Response Team and developed an engagement plan aimed at four target audiences within the Defence Forces, with 10 key messages and the precis of “Fundamentals of a Positive Culture and Climate”.

The IAG took feedback from Defence Forces members and identified key themes to be addressed, including dignity in the workplace, the need for Defence Forces leadership to maintain a healthy workplace climate and to drive positive change, the

6 Department of Defence, Óglaigh na hÉireann, (2020) *Strategy Statement 2021-2023; “Building for the Future – Change from Within”*. Dublin, IRL. Department of Defence and Defence Forces, 2020.

7 Department of Defence, Óglaigh na hÉireann, (2008) *Second Report of the Independent Monitoring Group*. Dublin, IRL. Department of Defence and Defence Forces, 2008.

8 Department of Defence, Óglaigh na hÉireann, (2014) *Third Report of the Independent Monitoring Group*. Dublin, IRL. Department of Defence and Defence Forces, 2014.

9 MacMahon, J., MacCurtain, S., Harnett, C., (2016) *Workplace Climate in the Defence Forces Phase 2: Results of the Focus Group Research*, University of Limerick, 2016.

importance of reporting wrongdoing and ensuring accountability, and the enforcement of regulations. The IAG also engaged with external sources such as the Dublin Rape Crisis Centre and the University of Galway concerning a consent programme, and the New Zealand Defence Force concerning its Sexual Ethics and Respectful Relationships programme.

The IAG Response Team (RT) briefings were delivered across the Defence Forces (DF) from Oct '21 until they were paused in May '22. Over six thousand briefs were conducted, which provided organisation wide messages in relation to appropriate behaviours.

In tandem and as a follow on to the work of the Chief of Staff convened an Organisational Culture Standing Committee (OCSC), which has met on 12 occasions, focusing it's on four (4) areas: Communications Planning; a DF Organisational Survey; OCSC Workshop Development; and a review of DFR A7 (Interpersonal Relations).

A key pillar of the work to date has been the OCSC Communications Plan. The group prioritised five (5) key messages. Short videos based on these key messages were produced and socialised on all internal and external DF platforms on a staggered basis throughout Mar & Apr '22 and repeated in Jul & Aug '22. The videos were delivered by senior male leaders, which was a key message to senior leadership from serving female personnel in the DF. The videos were complemented with an 'It Stops Now' poster campaign, which was displayed on notice boards throughout all installations in the DF.

One of the key OCSC priorities was to conduct a baseline survey, which sought feedback on four (4) main parts of the DF system, these were; unacceptable interpersonal behaviour, the grievance management system, ethical behaviour, and personnel evaluation processes. This survey was launched in AUG '22 and remained open for four (4) weeks. In total over 870 responses were received, Empathy research, who conducted the survey presented the findings to the OCSC on the 14 SEPT '22. The results were stark in nature and as part of a 'Just Culture' in the organisation a briefing packing was developed and rolled out throughout the organisation so that all members were informed of the outcomes. These results will shape the work of the OCSC going forward.

Training was deemed a key focus area for the group, with an emphasis on education and acceptable behaviour. As part of the research for future workshops, members of the group conducted Bystander Intervention Training, online with University College Cork. Additionally, members of the group reached out to colleagues in the New Zealand Defence Forces (NZ DF) and correspondence was received from them in relation to training that they successfully conducted in this area. From this information a bespoke SERR training syllabus was developed by the OCSC. This training provides education on the need for positive allies and bystanders, while informing DF personnel on acceptable behaviours. Pilot workshops were completed in all formations, with a broad spectrum of personnel taking part. In conjunction with the training, a Continuum of Acceptable Behaviour has been developed that will ultimately be published as an Appendix to Admin Instruction A7 (see below). The SERR training is novel to the organisation and the uniqueness of the language used in it should evoke a conversation across the organisation, which it is hoped will change attitudes and behaviour. A business case for financial support for the delivery of the SERR training will be sought in early 2023.

One of the areas which the group has worked on is the production of a standardised A7 brief for all inductees in the DF. The new brief has been standardised to ensure that the key organisational messages on behaviour are delivered to new inductees. The brief went live on the 22 Nov '22. The OCSC have recommended that the most appropriate personnel to deliver the brief are the Company Commander and the Senior NCO of the training unit.

Separately to the work of the OCSC, a Support Team network was established, which was comprised of subject matter experts from the field of Mental Health to ensure that key messages in relation to access to services was being effectively communicated to the organisation. A series of videos was produced by this group and the first video went live on social media on the 10 SEPT '22 to coincide with World Suicide Awareness Day. The remainder of the videos will be released at regular intervals in the near future with the purpose of signposting personnel to the range of internal and external supports available.

Although the Defence Forces has had a Gender Equality and Diversity Advisor since 2012, based

on the many submissions from members to the IRG-DF, this has not had a discernible impact. The OCSC has established sub-committees in each brigade. The OCSC has also developed a bespoke Sexual Ethics and Respectful Relationship (SERR) workshop, which it has piloted across six locations in the Defence Forces in late 2022. Additional civilian staff and training resource supports are being sought to deliver this SERR workshop to all Defence Forces personnel. Formation. It remains to be seen if these developments will achieve greater results. The Secretary General and Chief of Staff, together facilitated and encouraged the establishment of a civil-military defence women's network outside the chain of command where female members of both the Defence Forces and the Department can come together and share experiences. It is not clear, however, how such issues feed into change. In response to the *Women of Honour* documentary, there were nine meetings between the Defence Forces Chief of Staff, the Minister for Defence and the Women's Network between September 2021 and January 2022. The Secretary General met with a cohort of serving members of the Defence Forces on 3 occasions in 2021 and on 1 occasion in 2022. The IRG-DF does not have information concerning any outcomes of these meetings or regarding subsequent meetings.

In response to a Workplace Relations Commission (WRC) ruling on discrimination in December 2020, the Defence Forces set up a Defence Forces Working Group on Certain Equality Matters with terms of reference covering legal issues, HR systems and procedures, and training and education requirements. The IRG understands that the working Group made extensive recommendations including with regard to issues around pregnancy; maternity and protected leave, appraisals, and safety, health and welfare issues. The Department was consulted on the Report in Q4 2021 and thereafter civilian-military management have been working collaboratively with an external legal firm to make the appropriate amendments to relevant policies, procedures and regulations with a preliminary focus on issues around pregnancy; maternity and protected leave, appraisals, and safety, health and welfare issues. At time of publishing this Report, the IRG understands that this significant body of work is nearing conclusion and will be submitted to the Tánaiste for his approval very shortly.

The General Staff set up a Working Group on Increasing Female Participation in the Defence Forces which produced a report in 2021. A further Standing Working Group (SWG) was subsequently established to oversee implementation of the recommendations contained in the 2021 report. Those recommendations cover recruitment and selection, training, and retention, and the initiatives that have resulted are set out in detail in the In the Defence Forces submission to the IRG-DF. The Defence Forces has held a survey of female members, but we do not have the results of that survey.

In 2016, the Defence Forces began implementation of a diversity and inclusion strategy; this was reviewed in 2020 by an independent assessor, who identified considerable areas of achievement but also significant areas where problems remained, notably the failure to increase the number of women in the Defence Forces and the absence of monitoring of minorities; the effect of member turnover on continuity and stability within the Defence Forces; and the need to further 'civilianise' certain aspects of the Defence Forces. The submission from Defence Force leadership outlines the matters which the assessor said need to be addressed, including the establishment of an Equality, Diversity and Inclusion Office (and oversight of this Office); review of grievance procedures; and measures to advance the inclusion of women, including a review of training and syllabi. We support such measures but do not know the extent to which they have been implemented.

The view of the IRG-DF is that the low number of women in the Defence Forces is caused by the failure, over the course of multiple decades, to properly recognise and value their role and contribution, in addition to the fact that they have suffered as a result of a deficient complaints system. Overcoming that negative historical legacy will require a profound and intensive process of reform and re-education. Despite the good intentions evident in the Defence Forces' initiatives outlined above, the IRG-DF's engagement with serving female members of the Defence Forces over the past year has not convinced us that significant results have been achieved to date.

The submission from Defence Force leadership also refers to a review of the complaints system, led by the HR Director DJ1, under four strands:

- System processes and training;
- Accountability and lessons learned;
- Oversight and monitoring arrangements; and
- Informing and awareness.

The submission does not identify the membership of this Review Group and in particular whether it has an external element. The submission also does not give details of any outcomes from that review.

The IRG-DF members are certainly of the view that a review of the complaints system is overdue and, indeed, is urgently needed. We are aware of the appointment of a new Head of Strategic HR, and we think this individual should be the one to design a replacement system, which will probably require radical amendment of Section 114 of the Defence Act, 1954 (as amended). However, given the extent of the dysfunction that we have identified from the multiple plausible claims by users of the current complaints system, we believe that a short-term reconfiguration of Administrative Instruction A7, Chapter 1 is essential.

The submission also described the PSS, which we acknowledge provides a well-developed support system for Defence Forces members, and which we refer to in section 3.4.2 in this report.

The submission discusses the reporting arrangements between the Military Police and An Garda Síochána in respect of alleged serious crimes, such as rape and aggravated sexual assault. The IRG-DF notes that Military Police personnel have undergone sexual and gender-based violence training and that a Defence Forces Victim Information Booklet (DF VIB) was launched in February 2022, which outlines victims' rights, including their right to report the alleged crime to An Garda Síochána. On the other hand, there is no protocol for contacts between the Military Police and An Garda Síochána, and so there is a consequent informality about such communications, which does not engender confidence.

In conclusion, the IRG-DF welcomes the initiatives of the Defence Forces leadership outlined in the submission, which show an awareness of the problems that exist and a willingness to address them. The problems outlined in the submission overlap to a degree with many areas of concern to the IRG-DF, notably discrimination against women, the absence of a soft skills aspect to training, the

problems in the complaints system, etc. Given that the submission refers to new developments, it is understandable that many of the initiatives and structures it presents are incomplete and ongoing. Some of these structures may be apt to address the concrete issues that the IRG-DF has identified in this report, but delivery of results is the key. What must be conceded is that the measures outlined in the submission are reactive and overdue; from the evidence that the IRG-DF has gathered, it appears that the problems these measures seek to address have been present for years, if not decades. The IRG-DF thinks that the achievement of the results that it would like to see would be greatly assisted by the complete reconfiguration of the complaints system for unacceptable behaviour and for administrative issues, together with the creation of an independent oversight body to monitor change, as we outline in sections 3.1.5 and 3.3.3 of this report.

### 1.3.12 Legal research

The IRG-DF commissioned expert legal research papers on matters such as, the examination of statutory provisions pertaining to dignity at work, and consideration of S114 and S169 of the Defence Act, 1954 (from Alison Fynes BL and Patrick O'Dwyer BL). These papers are included as Appendices 5 and 6 to this report.

## 1.4 The skill set available to the IRG-DF

### 1.4.1 IRG-DF members

#### Ms Bronagh O'Hanlon – Chairperson

Bronagh attended Trinity College Dublin, where she was awarded a Bachelor of Arts in Moderatorship in French and Irish, followed by a Higher Diploma in Education. After working in education for 13 years, she completed a Barrister-at-Law degree at the Honourable Society of King's Inns and practised as a barrister from 1989 until 2014, when she was appointed as an Ordinary Judge of the High Court of Ireland. She retired from that role in November 2021 and undertook her present role as Chairperson of the IRG-DF in January 2022.

Throughout her career, Bronagh has had a strong interest in implementing positive change and has had plenty of opportunity to practise in spheres where there was huge development towards better

practice. The pace of change throughout Bronagh's career, particularly in law, has been significant.

Bronagh has practised as an accredited mediator since 2005, when she trained under the Centre for Effective Dispute Resolution (CEDR) mediation system.

In the High Court, Bronagh presided over cases involving bullying, harassment and medical negligence; planning cases in Irish; and cases in the area of sports law, child abduction law, childcare, and family law, with broad experience in the entire area of personal injuries cases. This has given her great experience not only in list management, but also in the hearing and assessment of complex legal issues that arose in a broad spectrum of practice areas as outlined above.

### **Ms Jane Williams**

Jane's background is primarily in business, but one-fifth of her career has been spent working in the public sector with IDA Ireland and Forfás, and engaging with public sector organisations and issues. Her business is Sia Partners. Jane's functional strengths include governance, strategy, change management and strategic HR.

Jane served on the Commission on the Defence Forces from 2021 to 2022 and chaired the Staffing Sub-Committee that addressed the issues regarding staffing that feature in the Commission's report published in February 2022.

Jane has 34 years' experience in consulting with organisations in the public, private and voluntary sectors, including organisational review and facilitation work in situations where inappropriate behaviours, culture change and leadership team development are issues. These assignments required Sia Partners to design approaches to the issues, agree these with clients and then implement them. Many of the assignments required additional research and/or consultation, which Sia Partners also undertook.

Jane chaired the Pensions Board and its successor, the Pensions Authority (the regulator for occupational pensions), over a period of 6 years; she has also chaired the boards of two private companies: an Irish multinational medical device company and a technology SME. She has been a member of the boards of EirGrid plc, Forfás, Tyndall

National Institute, and others. She served as Chief Executive Officer of Forfás on an interim basis for 9 months. She was appointed Chair of the Top-Level Appointments Committee by the Taoiseach and served 5 years in total. She has also served on the National Competitiveness and Productivity Council, chaired the Small Business Forum and Services Forum', and was a member of the Decentralisation Implementation Group and the Wicklow County Enterprise Board, among others.

In addition to her role on the Top-Level Appointments Committee, Jane has served as chair or member of a number of significant selection boards for the most senior positions in the judiciary, policing, public health management, defence forces, sports organisations and charities.

Jane holds a degree in Business Studies from Trinity College Dublin and a master's in Psychology from Columbia University, New York, and is a qualified CEDR mediator.

### **Mr Simon Boyle SC**

Simon Boyle has been a Senior Counsel in practice at the Irish Bar since 1982. He is also a member of the Bar of England and Wales. He holds an honours Bachelor of Arts and Master of Laws degree from University College Dublin, and a diploma in French Studies from the University of Lyon. Since 2020, he has been a member of the Determination Panel of the Sea-Fisheries Protection Authority.

### **Mr Don Hegarty**

Don was awarded Chartered Companion status by the Chartered Institute of Personnel and Development in March 2022, having had Fellowship since 1990. He is former Personnel Director/ Company Secretary of Beamish and Crawford, a position he held for 13 years. He held the post of HR Director at GlaxoSmithKline in Cork for 12 years, and has been Chairman of the Pension Trustee Board for 6 years.

Don served as Employer Member of the Employment Appeals Tribunal for 10 years.

Don currently chairs the Pension Trustee Boards of both the Phillips 66 and the Irving Oil Pension Schemes.

### 1.4.2 External expertise

The IRG-DF engaged a number of external experts to assist with fulfilling its obligations under the ToR. Table 1 lists the individuals and organisations who contributed to the work of the IRG-DF, and whose specific expertise has assisted us in the formulation of our recommendations.

**Table 1: External experts engaged by the IRG-DF**

External expert	Area of expertise
Voltedge Management Ltd.	HR consulting
TIO Consulting Ltd.	Leadership; learning and development needs assessment
Professor Thomas Garavan	Professor of Leadership Practice and world-leading expert in leadership development, learning and development, and HR development.
Mr Pat O'Dwyer BL	Barrister with extensive expertise in employment law. Junior Counsel to the Barr Tribunal (2002–2006).
Ms Alison Fynes BL	Barrister with specific expertise in employment law.
Mr Colin Boylan	Director of Fresh Perspectives, a market research company with extensive expertise in quantitative and qualitative research methodologies.
Castlebridge Ltd.	Data protection experts
*Ms Susan Gilvarry	Solicitor to the IRG-DF

\* Ms Gilvarry acted as Solicitor to the IRG-DF until her appointment as Chairperson to the National Asset Management Agency Commission of Investigation.

### 1.5 Basis of assessment and analysis

Having listened at a deep level to what those who made contributions to our work said, wrote and communicated, noting not just the words, but also the contexts, the feelings that were expressed and the sense that each individual conveyed, we set about understanding the picture created by the

understanding gained. Our own reactions to each lived experience were also informative.

The analysis of the different data and insight methods has been undertaken using several insight methods, as appropriate. The survey delivered top-line results and analysis, which were then analysed further and presented to the IRG-DF to inform the research and conclusions. Further cross-tabulations gave additional insight, which informed the deliberative process. The transcripts of interviews have been analysed using content and then thematic analysis. The detailed Raisea concern interview reports have been analysed using discourse analysis, drawing out the context and the construction of roles and behaviours in the Defence Forces. This approach was also useful in the analysis of the notes of interviews conducted by the IRG-DF members. Thematic analysis was used by Raisea concern in its analysis of complaints brought to it. The thematic analysis also had a useful application in the analysis of the notes of interviews conducted by the IRG-DF itself.

The method of review detailed above delivered a significant volume of information, insight and understanding on the relevant aspects of the Defence Forces. This section summarises what emerged and its significance.

The research and consultation process included hundreds of hours of interviews and consultations; thousands of pages of transcripts, interview notes and submissions; and weeks of analysis of the findings. Subject matter experts were engaged to undertake reviews and analysis on key items relevant to the IRG-DF's terms of reference such as culture, training, HR policy and of the review method employed by the IRG-DF. Member-directed research delivered intelligence on a wide range of contextual subjects related to the core focus on the dignity and safety of the Defence Forces as a place of work.

This is the basis of our recommendations to the Minister as required in our ToR. It has been interrogated through the lens of the professional training, practice and experience of the IRG-DF members and the Secretariat. The different strands of the research have each delivered their individual results. The degree to which the different strands interrelate and the similarity in the findings between the different strands gives confidence in the results.

These different strands of research have then been triangulated to give a picture of the entirety of the legislative and structural systems, practices, procedures and performativity of the workplace behaviours and their context, as defined in the IRG-DF's ToR. It has been interesting to see the degree to which the different strands of research verify each other and contribute to the clarity of the whole picture. Individually, and together, the research and consultation provide a strong and convincing picture of the current position of the Defence Forces as a basis for identifying what must be retained, what must be changed and what should replace it. This gives the IRG-DF members' confidence in advising the Minister and in making recommendations for actions that will improve the situation if they are implemented well.

With the benefit of expert legal research papers from junior counsel on the impact of employment legislation on the functioning of the Defence Forces, the status of the complaints system and the role of the Minister and Ombudsman for the Defence Forces, the IRG-DF conducted a critical legal analysis of the dual complaints system currently in place. We considered the regulatory and statutory mechanisms required to improve it in both the short and long term, given the strong evidence we have from witnesses that a radical restructuring is required and the expert HR view that the current complaints system does not meet modern standards for a large organisation. We also considered the legal options for recommendations to address historical issues for both current and former members of the Defence Forces as requested under ToR 13.

Raisea concern framed its process to gain the trust and confidence of those who contacted it (the complainants) by taking the time at each stage in the engagement to explain the process, giving assurances on the sharing of the complainants' information, the purpose for which it would be used and the protection of their identities. These explanations and assurances were repeated when Raisea concern sent written guidance to Complainants in advance of interview and reiterated on the written records of interview. Drawing the complainants' attention to the independent supports available was also important, as the process of making a complaint can re-traumatise an individual.

Another feature of the process used was a strong emphasis on listening with empathy, without

being judgemental. Complainants were given full control of whom their experience was shared with. It was made clear from the outset that while a detailed written record of their experience would be completed, only an anonymised summary of this would be sent to the Minister for Defence in the first instance. Complainants agreed to this. It was clarified that the Minister would in turn provide these anonymised summaries to the IRG to inform their work and provide input for their report and recommendations. Protection of their identity was important to many complainants, but not to all. It was emphasised by Raisea concern that their work was being completed on behalf of the Minister only, and that experiences they shared would not be made available to the Defence Forces Chain of Command. This was important to those interviewed.

Interviews were conducted by two experienced Raisea concern professionals, at least one of whom was the same gender as the complainant. One led the interview and the other completed a written record. The written record was not a transcript of the words spoken, but rather captured the essence of the complainant's account of their experience. An anonymised summary of the detail was also prepared. Complainants were given the opportunity to edit and clarify content and add content they forgot to mention at interview prior to agreeing the content.

Raisea concern provided reports to the Minister on a periodic basis. Three hard copies of the first Interim Report were provided to the IRG-DF in April 2022 on a strictly confidential basis. No further circulation beyond the IRG-DF members was permitted. The significant volume of interviews was conducted over a period of more than 1 year. A thematic framework was developed from the collective experience of the Raisea concern team members based on repeated patterns of behaviour and reported failures disclosed to Raisea concern. This thematic analysis drew on Raisea concern's experience in dealing with the legislative and case law frameworks in the area of dignity and respect in the workplace and on the relevant codes developed by various State agencies. The emergent themes also identified potential causal factors. The commitment of Raisea concern to capturing the lived experience of the complainants was evident in the approach to the analysis and the identification of patterns of behaviour that traversed the individual incidents.

The richness and clarity of the experiences captured has made a significant contribution to understanding the behaviours, the issues, the triggers and the potential sources of change. The external expert engaged by the IRG-DF to review their research methods commended the analysis for the thoroughness of the manual approach by experienced and skilled interviewers.

In addition, the IRG-DF identified a cross-section of 17 complainants from this group, and RaiseaConcern secured the agreement of 15 of these individuals to meet in person with the IRG-DF. This gave the IRG-DF the opportunity to test its evolving thinking and seek elaboration and feedback on specific areas of interest. A further 30 complainants agreed that their detailed submissions could be examined as part of the IRG-DF's culture review. The IRG-DF would like to express its appreciation to all serving and former members of the Defence Forces who shared their experience via RaiseaConcern.

The data from all sources are very rich and wide-ranging. The analysis also compared the outcomes of the different strands of research looking for complementarity, contradiction or divergence. The work has benefitted from the different viewpoints provided by individuals in terms of point in time, level in the organisation, location in the country, age, role, and the like. The research drew from a broad spread of respondents, from current Defence Forces members through the survey, to a large number from the recent past through the interviews, to some from the distant past.

## 1.6 Conclusions

The methods used were designed to meet the requirements of the ToR. The efficacy and speed with which the IRG-DF was able to engage with its role was significantly assisted by the availability of the RaiseaConcern report of interviews, and indeed the subsequent reports and the facilitation of further engagement with the complainants. Equally, the efficacy and speed with which Defence Forces management provided the IRG-DF with required documentation greatly assisted our capacity to commence reviews of policies, systems and procedures as required under our ToR. The openness and cooperation of interviewees and the trust that allowed them to disclose difficult events was remarkable. This is particularly so in the case of serving members who understood the potential

consequences if their participation were to be discovered.

The different methods employed produced a remarkably consistent picture of the areas of the Defence Forces that are the subject of this Review.

The IRG-DF commissioned a review of its methods, the conclusion of which confirmed that the research was well designed, the methods used to capture the information were appropriate and very comprehensive, the analysis was conducted well and the appropriate checks were undertaken. The inclusion of the IRG-DF Perceptions and Experiences Survey 2022 – a mainly qualitative method of data collection – brought a useful dimension to the methods. Both the data triangulation and the degree of congruence found are particular strengths of this Review.

# Chapter 2: Context

## 2.1 Role of the Defence Forces

The Defence Forces (Óglaigh na hÉireann) was formally established under the Defence Forces (Temporary Provisions) Act, 1923, with the Executive Council formally establishing Óglaigh na hÉireann on 1 October 1924.

As an organisation, the Defence Forces is a direct descendant of the Irish Free State Army, initially formed in 1922 following the War of Independence. It remained regulated by the Ministers and Secretaries Act, 1924, and related provisions,<sup>10</sup> until its repeal and replacement via the Defence Act, 1954. The Defence Act, 1954 (incorporating a number of subsequent amendments) remains in place to this day, and is currently cited as the Defence Acts 1954–2015.

Article 15.6.1 of the Irish Constitution provides the Irish Government with sole responsibility to raise and maintain an army within the State. Specifically, it prescribes that “The right to raise and maintain military or armed forces is vested exclusively in the Oireachtas.”

Article 15.6.2 of the Irish Constitution further prescribes that “No military or armed force, other than a military or armed force raised and

maintained by the Oireachtas, shall be raised or maintained for any purpose whatsoever”.

In terms of supreme command of the Defence Forces, this power is vested in the President of Ireland by virtue of Article 13.4 of the Constitution. The powers under this article are required to be regulated by law, which they are currently by virtue of the Defence Acts 1954–2015.

The Defence Acts 1954–2015 in turn provide for further civilian authority over the Defence Forces, with Section 17 of the Defence Act, 1954 vesting the military command of the Defence Forces, and all executive and administrative powers in relation to the Defence Forces, to the Government and the Minister for Defence.

The *White Paper on Defence August 2015* and the *White Paper on Defence: Update 2019* provides the current strategic policy framework for the Defence Forces and will remain in place until 2025.

The Defence Forces comprises<sup>11</sup>:

- The Army;
- The Air Corps;
- The Naval Service; and
- The Reserve Defence Force.

Ireland maintains a policy of military neutrality characterised by non-membership of military alliances and non-participation in common or mutual defence arrangements. The role of the Defence Forces in support of this national defence policy is defined across six key areas.

<sup>10</sup> Defence Forces (Temporary Provisions) Acts 1923 to 1954  
The Defence Forces (Temporary Provisions) Acts governed the operation of the Defence Forces prior to their repeal and replacement by the Defence Act 1954. Sect 8 of the Ministers and Secretaries Act 1924 established a Council of Defence to assist the Minister for Defence. This particular section was repealed by the DF Act 1954. The other provisions concerning defence matters were contained within the Defence Forces (Temporary Provisions) Acts 1923 to 1954.

<sup>11</sup> See Section 18 of the Defence Forces Act (1954)

### 2.1.1 Defend the State

A key role of the Defence Forces is to provide for the military defence of the State from armed aggression (albeit on a contingency basis), with the Government having ultimate authority in terms of assessment of the security and defence environment. The Commission on the Defence Forces noted that there was a clear disconnect from stated aims in the *White Paper on Defence August 2015* to balance expenditure with the capability to respond comprehensively to any risk of military aggression when required to do so, and the perception within the Defence Forces that it is not being adequately resourced to prepare for such a risk.

It is not within the IRG-DF's ToR to undertake any assessment in relation to the resourcing of the Defence Forces in terms of fulfilling its role in defence of the State, although it is worth noting that some members of the Defence Forces who have engaged with the IRG-DF have cited the lack of adequate resourcing as having a direct impact on morale within the organisation. The IRG-DF also acknowledges the Government's decision in 2022 to increase the Defence budget from €1 billion in 2022 to €1.5 billion in 2028.

### 2.1.2 Aid to the civil power

The role of aid to the civil power (ATCP), on a practical level, is to provide assistance to An Garda Síochána, when requested, in its responsibilities of providing security within the State by virtue of the Garda Síochána Act 2005 as amended by the Garda Síochána (Amendment) Act 2015. The assistance can be in the form of security or in some cases the military can temporarily supplant the civil power, as in a riot situation. ATCP in the form of Explosive Ordnance Disposal and specialist search assistance may also be provided. This assistance has been called on less frequently in recent years as the security challenges on the island of Ireland have changed and as An Garda Síochána has considerably enhanced its own armed capability.

The Defence Forces fulfil its ATCP role through deploying troops in order to assist the Prison Service and An Garda Síochána. Examples include providing security to prisons and prison escorts. In addition, the Commission on the Defence Forces noted the specific expertise of the Defence Forces in support of its ATCP role in areas such as chemical, biological, radiological and nuclear response, explosive

ordnance disposal, and the provision of engineer specialist search teams and their importance to the defence of national security.

The Commission on the Defence Forces also noted the need for greater clarity between the roles of the Garda Emergency Response Unit (ERU) and the Defence Forces' Army Ranger Wing (ARW) in order to ensure that there is a clear understanding of how they would interact in an operational situation.

### 2.1.3 Multinational peacekeeping and humanitarian relief

The Defence Forces has a long and proud tradition of participation in United Nations (UN) and UN-supported peacekeeping missions dating back to 1958 which have led to loss of life and serious injury.

In keeping with the Government-vested powers of command of the Defence Forces, decisions on committing the deployment of the Defence Forces to peacekeeping missions is taken by the Government on a case-by-case basis. Authorisation known as the 'triple lock' is required in advance of deployment and requires a UN Security Council Resolution, as well as Irish Government authorisation with approval from Dáil Éireann.

Overseas missions comprise UN and European Union-led operations, North Atlantic Treaty Organization (NATO) Partnership for Peace programmes, and Organization for Security and Co-operation in Europe operations.

According to the Department of Foreign Affairs, the largest deployment currently is with the United Nations Interim Force in Lebanon. The Defence Forces presently have personnel in Syria, Golan Heights, Israel, Sudan, Kosovo, Belgium, Mali, Bosnia, Austria, USA and Italy.

The Defence Forces also has a tradition of providing humanitarian assistance to local populations overseas, including:

- Provision of medical and dental care;
- Restoration and repair of essential services;
- Rebuilding and repair of local churches, mosques, schools, etc.; and
- Provision of assistance to local enterprise.

### 2.1.4 Maritime security and fishery protection

The Naval Service is the State's principal seagoing agency with a general responsibility to meet maritime defence requirements.

Owing to our island location, Ireland has a vast area of maritime and air responsibility.

The Naval Service has powers of enforcement under the following legislative frameworks:

- The Sea-Fisheries and Maritime Jurisdiction Act 2006;
- The Maritime Security Act 2004; and
- The Maritime Safety Act 2005.

The Naval Service is responsible for operating the State's Fisheries Monitoring Centre (FMC), and the fishery protection outputs of the Naval Service and the Air Corps are coordinated by the FMC.

In addition, the Naval Service is empowered to engage in drug interdiction operations when requested and, along with An Garda Síochána and the Revenue Commissioners, it forms the Joint Task Force (JTF) on Drug Interdiction. The Air Corps provides air support to the JTF when required.

### 2.1.5 Aid to the civil authority

The aid to the civil authority (ATCA) area of Defence Forces' work is in the contribution towards national resilience in dealing with emergencies and other demands on the State. The Defence Forces' ATCA role involves adherence to almost 50 memoranda of understanding and service level agreements with a wide range of local authorities. Examples range from providing flood victim relief to dealing with wildland fires and ensuring that COVID-19 pandemic restrictions are implemented. A particular issue is the degree to which the Defence Forces must reserve capacity to be able to fulfil its ATCA role. The Commission on the Defence Forces noted that it is likely that ATCA deployments will become more frequent as the impacts of climate change and other factors such as staffing levels in civil authorities or unfortunate concurrence of different factors.

### 2.1.6 Ceremonial duties

The Defence Forces participates in various national and State commemorative ceremonies throughout the year, including the Anniversary of the 1916 Easter Rising at the General Post Office, the 1916 Commemoration Ceremony in Arbour Hill, the

National Famine Memorial Commemoration, and the National Day of Commemoration. The level of participation by the Defence Forces is determined by the Department of Defence, in consultation with the Department of the Taoiseach and the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media.

### Conclusion

In summary, the Defence Forces plays an important role in providing assistance to An Garda Síochána, when requested, and internationally through UN and European Union (EU) peacekeeping missions. It has a proud and rich legacy of peacekeeping missions that is recognised and highly respected internationally. However, the *Report of the Commission on the Defence Forces* published in 2022 highlighted the challenges that exist within the various roles that the Defence Forces has, specifically the need to revise the role and purpose of the Defence Forces and reassess its priorities in relation to ATCP and ATCA. In addition, the report highlighted the requirement for a whole-of-Government needs assessment of Ireland's air and maritime services together with the need for coherency between the resourcing and scale of the Defence Forces and the intensity of peacekeeping requirements.

In its 2022 report, the Commission on the Defence Forces also called for a coherent policy framework, a clear statement of level of ambition (LOA) for the major roles assigned by Government, and consistency between policy, LOA and funding. This recommendation under LOA 2 has been accepted in principle by government.

The Commission on the Defence Forces has recommended that consideration be given to a step up to LOA 2 pending the more detailed policy debate and decision required for higher LOAs. LOA 2 represents enhanced capabilities which would involve building on the current capability to address specific priority gaps in the Defence Forces' ability to deal with an assault on Irish sovereignty and to support higher-intensity peacekeeping missions in addition to supporting crisis management and humanitarian relief operations overseas.

In outlining its vision for the Defence Forces and its values for the future, the Commission opined that this should encompass "a joint military force capable of providing the people of Ireland with a

safe and secure environment, and enforcing and protecting Ireland's sovereignty. It will uphold national values, reflect the diverse society that it serves, and remain poised to meet the challenges of an evolving and complex world"<sup>12</sup>.

The IRG-DF Review is focused on examining issues of unacceptable behaviours in the Defence Forces and does not have a remit in terms of making recommendations on the role of the Defence Forces. However, the IRG-DF Review findings clearly identify challenges in terms of ongoing unacceptable behaviours within the Defence Forces and the need for clearly communicated, leadership-driven values that reflect the values and diversity of the nation that it serves.

## 2.2 International comparisons: key learnings

In order to get an exhaustive and well-rounded view of the issues being faced in modern militaries across the globe, the IRG-DF examined the management of a broad range of unacceptable behaviours in the militaries of five jurisdictions: the United Kingdom, Canada, New Zealand, Australia, and the United States of America (USA).

The USA was only examined for its management of and response to sexual assault involving members of the armed forces. The other four jurisdictions were examined under the broad title of *unacceptable behaviours*. Each examination is organised under the following headings:

- 1. Background:** The timescale of how long issues have persisted, the breadth of the problems, and initial responses to same;
- 2. What they are doing:** After the initial response and assessment, the recommendations made and actions implemented;
- 3. Impact:** An assessment of the various actions and recommendations post-implementation and their effectiveness; and
- 4. Key learnings:** The takeaways from organisations that have experienced similar issues and are further down the line than the Defence Forces in terms of managing these issues.

A synthesis of the above information was used as a comparator to assess the current situation in the Defence Forces.

While there were many key points of consideration with regard to potential areas of reform and recommendations, a key learning was that Ireland is not an isolated case with regard to dealing with certain issues arising in the Defence Forces; there are similar issues, behaviours and challenges in the militaries of other jurisdictions, irrespective of their size, location or active military status.

A copy of the research of the various jurisdictions is set out in **Appendix 12**.

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12 Commission on the Defence Forces, *Report of the Commission on the Defence Forces, 2022*, pp iii

# Chapter 3: Findings

***Findings refers to the outcome of the multiple review methods designed by the IRG-DF to inform its assessment as detailed in Chapter 1: Method***

The purpose of the research and consultation work was to provide an objective and insightful understanding of the current position in the Defence Forces as a workplace with regard to equality, dignity and respect. The standard for assessing the need for change is described in Chapter 1: Method and is based on good to best practice in a modern organisation of scale in Ireland. With regard to culture, the assessment involved measuring the Defence Forces against the standards described in the literature on dignity and respect in other organisations of scale.

This chapter presents the findings in three sections. The first section (Section 3.1) describes the overall findings. These are important because they relate to a culture that enables the specific unacceptable behaviours mentioned in section 3.2. The second section (Section 3.2) addresses unacceptable behaviours. It details behaviours that have been known to exist for decades and that continue to exist and go unchallenged and unaddressed, or are even rewarded, despite the awareness and efforts to change them. The third section (Section 3.3) examines each of the ToR articles in relation to the assessment made on the basis of the findings and the current position relative to the desired position. In the course of our work, additional topics arose that were not specific to our ToR but which the IRG-DF considered important in the context of the future of the Defence Forces. These are addressed in the fourth section of this Chapter, 3.4.

## 3.1 Overall findings

The method of review detailed in chapter 1 delivered significant volumes of information, insight and understanding on the relevant aspects of the Defence Forces. This section will summarise what emerged and its significance.

The research and consultation process required carrying out hundreds of hours of interviews and consultations, which in turn generated thousands of pages of transcripts, interview notes and submissions and involved weeks of analysis of the findings. Consultation with subject matter experts enhanced the contextual understanding available to the IRG-DF. IRG-DF member-directed research delivered intelligence on a wide range of contextual subjects that focused on the dignity and safety of the Defence Forces as a place of work.

The research and consultation findings have underpinned the IRG-DF's deliberative process and consequently the IRG-DF's recommendations to the Minister. The process has been interrogated through the lens of the professional training, practice and experience of both the IRG-DF members and the Secretariat. The degree to which the different strands of the IRG-DF's research interrelate and the similarity in the findings between the different strands gives confidence in the results. These different strands of research have then been triangulated to give a clear picture of the legislative and structural systems, practices, procedures and performativity of the workplace behaviours and their context, as defined in the IRG-DF's ToR. It has been interesting to see the degree to which the different strands of research verify each other and contribute to the clarity of the whole picture. Individually, and together, the research and

consultation provide a strong and convincing picture of the current position of the Defence Forces as a basis for identifying what must be retained, what must be changed and what should replace it. This gives the IRG-DF members' confidence in advising the Minister and in making recommendations for actions that will improve the situation if they are implemented well.

Some females who communicated with the IRG-DF described their own positive experience, despite the toughness of the initial training, and stated that they had not experienced sexual assault or other forms of bullying or harassment. They attributed this to their keeping their heads down and batting off inappropriate comments. However, they also disclosed that they were aware of others who had experienced unacceptable behaviours. These disclosures are consistent with the results of the Perceptions and Experiences survey (2022) which shows that 88% of female respondents experiencing one or more forms of sexual harassment and that 46% reported experiencing unwanted physical contact/sexual assault. The implication is that not all female members experienced sexual harassment or sexual assault. The same conclusion can be drawn from the data on other forms of unacceptable behaviour. Bullying, harassment, discrimination and sexual assault are experienced by a higher proportion of people in the Defence Forces than is the case in other workplaces. But it is important to note that it is not a universal experience. It is also underreported, as evidenced in the IRG-DF Perceptions and Experiences Survey (2022). The Defence Forces shared some of its own survey data which seems to suggest their findings are similar to those of the IRG-DF Perceptions and Experiences survey 2022.

### 3.1.1 High-level findings

The Defence Forces is well regarded in Ireland for its decades of service in peacekeeping roles in Europe, Africa and the Middle East. Together with an ethos of service to Ireland, its service in emergency situations such as flood victim relief, dealing with wildland fires and responding to the impact of severe weather events is broadly recognised.

The Defence Forces has serving members who display strong commitment to the concept of the Defence Forces and its role. Members' loyalty is to their 'class' and colleagues, and then to the

organisation. They are skilled, well trained and practised in the core skills of military undertakings, be they peacekeeping on UN- or EU-authorized missions in trouble spots, or providing assistance to the Government or local authorities in emergencies or situations requiring particular skills.

There is an extremely strong focus on discipline and toughness in the Defence Forces. So-called 'soft skills' are not valued or considered relevant. Physical skills are considered the most important basis of assessment, with intellectual capabilities rated as much less important. Flexibility and alternative thinking is suspect. In training and continuing assessment, speed and an ability to carry heavy loads are the key measures of capability, irrespective of role. Difference or divergence from a perceived norm is not tolerated. All of these have implications for culture, workplace climate and behaviours.

### 3.1.2 Abuse of rank and power

A consistent and embedded theme is that some members of the Defence Forces management abuse their positions of power and command in their treatment of subordinates. There is widespread acceptance of the need for a command and control authority in a disciplined armed force. However, some members of Defence Forces management cross the line between appropriate and inappropriate exercise of military authority. This may manifest as trainee soldiers (either enlisted or cadets) being admonished in a threatening way by a superior, thus conveying the idea that the soldier is now owned by the Defence Forces and that the individual is in the total control of the superior. Such behaviour exemplifies this 'crossing the line' and is experienced as the undermining of the individuals' human dignity and the absence of respect for them. Helpfully, as mentioned earlier, this has been addressed by Justice Fish in a useful clarification of the situations in which it is permissible to exercise this level of control. Being subject to both military and civilian law does not imply such a loss of human rights as is generated by the behaviours exemplified in the lived experience of the people the IRG-DF has listened to and heard.

The impact on a recruit of a senior officer – who carries all the power of rank – looking for sexual favours in the workplace is another example of abuse. Still other examples of abuse include

the practice among some officers of requiring junior ranks to do personal favours. Many of the inappropriate behaviours covered later in this report cross the line into alleged abuse of power. (A list of examples is included in section 3.2 on unacceptable behaviours.)

This lack of clarity on where the line is represents a failure of training and development. Consciously abusing the power that rank brings in a military setting is a corrosive practice that undermines the basis of the organisation. It undermines the credibility of the leadership, it betrays the values that the organisation espouses and the commitment and dedication of the thousands of members who are committed to the role and purpose of the organisation, and it also betrays the respect the chain of command has in the belief that it is fair, respectful and acting in the interests of all.

Crossing the line takes another form when those in command and authority preside over processes that delay, dissuade or suppress issues or complaints about wrongdoing. These processes are important in any organisation in order to identify trouble spots and inform action to address them. Examples of reported behaviours intended to delay, dissuade or suppress complaints include cover-ups; falsification of evidence; intimidation of complainants and witnesses, ostracisation of complainants and witnesses; use of delaying tactics; acting unfairly; not allowing due process; and exercising, facilitating or encouraging unjust retribution. Another aspect of the control of reporting complaints is the 'counterclaim', where the complainant is threatened with being charged with fabricated charges in an attempt to persuade them to drop the charges. Some IRG-DF interviewees have been on the receiving end of these behaviours for years and have suffered a significant negative effect on their mental health as a consequence of a combination of psychological torture tactics.

As part of day-to-day operations, IRG-DF interviewees reported experiencing certain abuses of power by those in positions of authority. This was typified by treatment of more junior ranks in a manner that went beyond the level perceived as being necessary in order to train or prepare them for the experience of conflict or war. It involved commissioned officers and non-commissioned officers (NCOs) degrading and undermining trainees or lower ranks and undermining their entitlement

to dignity by engaging in bullying, mobbing, harassment and sexual harassment. A useful clarification distinguished between appropriate discipline to ensure orders were followed and mistreatment which was harmful without positive impact on compliance. Good leaders practiced the former and were respected for that judgement capacity. Most spoke of the mental and physical impacts they experienced as a result of this mistreatment. Many left the Defence Forces rather than tolerating this behaviour, which all those concerned knew was beyond that necessary for training and so was likely to be motivated by a desire to hurt and a desire to feel power over another human being.

A common perception among interviewees is that certain senior or commanding officers considered themselves elite and not accountable to anyone. A recurring criticism was the condescending, degrading and undignified manner in which these commanding officers addressed and treated the lower ranks. In describing the snobbery among them, one interviewee said that senior officers expected to be treated like royalty and expected subservience.

The following are some examples of those in positions of authority stepping over the line to engage in inappropriate behaviour and/or mistreatment:

- Disregarding the health and safety of subordinates around hazardous chemicals by ignoring safety precautions and the need for personal protective equipment;
- Operating in a family-unfriendly way, such as not facilitating breastfeeding, not allowing people time off to be with a child in hospital for an operation, or engaging in other forms of working time rigidity in order to hold power over others because they had the authority;
- Using/abusing the medical services or Personnel Support Service (PSS) by obtaining confidential information on members for no valid reason;
- Giving dirty duties or menial tasks that did not utilise a member's skills and qualifications, again as a demonstration of power over that member;

- Not accepting civilian doctors' medical certificates;<sup>13</sup>
- Abusing the performance assessment process;
- Getting more junior members to buy things or to perform house or interior repairs without compensation; and
- Publicly humiliating and criticising more junior members, and denying or withdrawing privileges without adequate reason.

The above behaviours are contrary to dignity and respect at work codes and legislation. In addition to causing short- and long-term pain and injury, both physical and psychological, this also has organisational consequences in terms of people leaving the Defence Forces, developing a lack of belief in and respect for the management of the organisation, and lowering the overall morale of the organisation. Experiencing unacceptable behaviours causes members to reconsider their position. For instance, of those who participated in the IRG-DF Perceptions and Experience Survey (2022), about one-half considered leaving the Defence Forces, and among complainants in the more recent cases of harassment, 20% have decided to leave. In the Perceptions and Experiences Survey (2022) undertaken for this Review, 50% of respondents were somewhat or very dissatisfied with their superiors in the Defence Forces and 35% were somewhat or very satisfied. It is reasonable to assume that the abuse of power detailed above is a contributor to these survey findings.

Our recommendations include introducing measures to address the practice of abuse of power, such as strong sanctions, an independent complaints system to facilitate reporting, a review of the training methods in the Cadet School to identify those who are likely to abuse their power, and basing training on dignity and respect. The full detail of these recommendations is to be found in Chapter 4.

### 3.1.3 Gender and the Defence Forces

#### Military organisations as gendered workplaces

There is a large and rich academic literature base on gender that has transformed our understanding of how biological sex is the basis for constructing

<sup>13</sup> This is provided for in DF legislation so a CO can legitimately refuse a medical cert from a civilian doctor and direct the soldier to see the DF medical officer who can either accept or refuse the sick leave

societal norms and roles, privileging some and disadvantaging and denigrating others. Its underpinning in sociology, psychology, anthropology, law, culture studies, feminist theory and other social science disciplines has contributed to agreement that gender is a central characteristic of social organisation. Society is gendered and creates norms and expectations based on gender, and this carries into the workplace. Workplaces, in turn, create roles that mirror the social roles in society (e.g. the senior male with a dedicated secretary or personal assistant mirrors the husband with a supportive wife at home). Gender roles evolve over time and are different from society to society. The example often quoted is that typewriters, when first introduced in 1868, could only be operated by men because they were machines and only men were considered capable of operating machines, but a century later women were the predominant users of typewriters in the workplace. So, our workplaces reflect the gender norms of our wider society at any given point in time.

From an early stage in its work, it became obvious to the IRG-DF that gender is very significant in the Defence Forces. This is most evident in the performance of what would be characterised as traditional and hierarchical masculinities, and forms of hypermasculinities. A catch phrase that is often heard is 'This man's army'. It speaks to a sense of ownership of the organisation and to it being an organisation of men, which excludes women. Much of the written documentation is from a bygone era when gender roles were very different. The written policies, behaviours, language and myths of the Defence Forces all provide evidence of culture of discrimination towards women. The detailed research and consultation process of this Review has provided insight into this area and made clear that gender discrimination is a serious issue and underpins many of the problems reported. This section provides a high-level outline of the dimensions of the issue and recommendations for changing this viewpoint, which is out of sync with Irish society in general.

Gendered organisations and occupations are important concepts for understanding behaviours in the Defence Forces. The Defence Forces places a huge emphasis on masculinity, identifying the Irish soldier as male, extremely strong, and a fast runner. Furthermore, the Irish soldier is lean and brave,

with physical and moral courage and integrity. He is loyal (to other soldiers, his class, his rank and his country) and is expected to give respect and to be selfless. These characteristics would fit many superhero characters of Marvel fame, as well as the strong male lead characters of movies and television, including the *Band of Brothers* series and most war movies. Such a characterisation can inspire and attract males who identify with that form of masculinity, but brings with it dangers that have to be managed, as this report identifies.

### Changing nature of work

Outside being a soldier, male gendered occupations include firefighting, priesthood, construction work and farming; female gendered occupations include teaching, nursing and cleaning. The last 50 years have altered the gender profile of many occupations and this caused some disturbance and readjustment for those in such occupations. Examples include the legal profession, medicine, politics, banking, accounting, and other occupations requiring a high standard of third- or fourth-level education.

The nature of work has changed significantly over that time too. One of the significant aspects has been the dramatic change globally in the rate of female participation in the labour force rising from 29.5% in 1970 to 59.8% in 2021. The total number of women in the labour force in Ireland is 1.2 million, 603 of whom work in the Defence Forces. These figures show that the rate of female participation in the labour force has increased in tandem with Ireland's accession to the EU, the ending of the marriage bar in the Civil Service, significant advances in educational attainment by females, and the growth and development of the Irish economy. Women have flocked to workplaces in sectors such as healthcare, service industries, and public service. No sector of employment has as low a percentage of female employees as the Defence Forces, which currently sits at 7%. The Defence Forces is an outlier in Ireland with such a low level of female membership.

Technology and the organisation of work, together with shifts towards the mechanisation of heavy work have changed the profile of work radically. Among the shifts has been a growth in demand for skills that are generally more associated with females, such as communication, relational skills, and team development and leadership.

In this context, heavy industry – which traditionally provided respected and well-remunerated employment for males – has declined relative to other sectors. Soldiering has retained its infantry and the demand in artillery for people who can manoeuvre heavy equipment, but the diverse nature of hybrid warfare requires a much wider range of skills than the traditional army required. There has been much analysis of the changing nature of warfare in military journals and now in the general media. War is increasingly being fought using guerrilla tactics, drones, civilians as human shields, electronically enabled intelligence, media manipulation, and reprisal killings of civilians, to name but a few examples, in addition to the more traditional approaches to warfare. This hybrid warfare, particularly when it comes to the use of drones, dramatically reduces the level of direct contact with the enemy. Guerrilla warfare also changed the nature of engagement between combatants. The roles to be filled in a modern army/navy/air force are much more diverse than was the case in the 1950's. It is not clear whether a peacekeeping defence force requires all of its members to achieve the physical standards that are currently set. This begs the question: Is it possible that the physical standards have more to do with the identity of masculinity and the desire to exclude women – which some elements in the Defence Forces favour – than the competencies required for most roles in the Defence Forces? This should be easy to test.

### The Defence Forces' gender norms

The ways in which gender roles are written about within the Defence Forces reveal attitudes and norms that would be associated with earlier time periods (from which Ireland has moved on). Physical and sexual norms reflect attitudes which predate modern norms and attitudes. Patriarchy, access to women's bodies, viewing women as sexual objects, and the belief that seniority brings 'privileges and protection' are attitudes that are supported by the notions about gender from the last century, or even the one before that. They have no place in a modern Irish workplace. The reality of modern Irish workplaces and attitudes among younger people around gender roles, family and work appear to be unfamiliar to many in the Defence Forces, with the absence of concepts like consent, respect and the

like. This impacts on men as well as women in the Defence Forces.

Patriarchy and hegemonic masculinity, as noted above, do not create a safe environment for men who are considered to be from 'lower ranks'. They suffer physical, emotional and other forms of denigration, bullying and harassment as a way of ensuring that they do not challenge or seek to take over from the 'ruling elite', under the guise of ensuring a disciplined force. They are also given restricted access to the training and experience which would equip them to operate at the more senior levels, based on loyalty tests to ensure that they will not seek to change the status quo.

It is not clear if efforts have been made to assess the adoption of gender mainstreaming as a strategy for improving the organisation's approaches and practices around gender. The university sector has adopted a model (the Athena Swan Charter, which has been successful in other Anglophone countries) to address the sector's issues around gender discrimination in its organisations, to the benefit of students and staff alike.

### **Misogyny in the Defence Forces**

Different sources available to the IRG-DF conclude that, at best, the Defence Forces barely tolerates women and, at its worst, verbally, physically, sexually and psychologically abuses women in its ranks. This is a reflection of the experience of those who currently serve or have served. Eighty-eight percent of female respondents in the IRG-DF Perceptions and Experience Survey (2022) reported that they have experienced one or more forms of sexual harassment, compared with 17% of male respondents. This starts at initial training in the Cadet School and in initial enlisted training. The main perpetrators of misogynistic behaviour were male officers or senior NCOs, but it also came from male peers and sometimes female officers/senior NCOs. Although not all behave in this unacceptable manner, the research showed the presence of serial perpetrators whose behaviour is not addressed and is, in fact, often rewarded.

An important message for balance was conveyed from some females who provided their experiences to the IRG-DF; they commented on their own positive experience, stating that despite the toughness of the initial training, they had not

experienced sexual assault or other forms of bullying or harassment. They put this down to their keeping their heads down and batting off inappropriate comments. They were aware of others who had experienced unacceptable behaviours, but they had not personally experienced this. These disclosures are consistent with the survey data that 88% of females reported experiencing one or more forms of sexual harassment and that 46% reported experiencing unwanted physical contact/sexual assault. The implication is that not all female members experienced sexual harassment or sexual assault. The same conclusion can be drawn from the data on other forms of unacceptable behaviour. Bullying, harassment, discrimination and sexual assault are experienced by a higher proportion of people in the Defence Forces than is the case in other workplaces. But it is important to note that this is not a universal experience. It is also underreported, as evidenced by the survey data. The Defence Forces shared some of its own survey data, undertaken shortly after the IRG-DF's survey, and the results from those data are almost identical to those from the IRG-DF survey data.

The streams of research and consultation that the IRG-DF has undertaken all triangulate to reveal a disturbing picture of the lived experience of women and men in the Defence Forces. It must be noted that men are also on the receiving end of unacceptable behaviours, ranging across the full spectrum, up to and including rape. However, statistics from the IRG-DF Perceptions and Experiences Survey (2022) and the recounting of lived experience, women are disproportionately targeted for misogynistic treatment throughout their careers simply because they are women. Examples of this lived experience include:

- Being verbally denigrated for being female in public and in front of others, including their classmates, and also in less public locations;
- Despite a lower physical standard set for women, being harassed for not meeting the male standard;
- Being refused access to courses because of the belief that women will become mothers and not continue their careers – a very convenient belief for limiting women's advancement, and an illegal practice;
- • Having an increased chance of experiencing some form of sexual harassment, with an

additional chance of experiencing unwanted physical contact/sexual assault;

- Being sidelined for career progression as a result of pregnancy and childrearing;
- Being excluded from roles and assignments in preference to less-qualified males; and
- Having their talents be underutilised and wasted while the organisation struggles to deliver on expectations.

### **An Irish soldier who is female**

The profile of an Irish soldier in the eyes of the Defence Forces, as evidenced through written documentation and behavioural practices, is a stereotypical Irish male who can carry very heavy weights and run fast. It is a very narrow set of criteria. Females are not considered soldiers, not because of their lack of capabilities to do the work of soldiering, but because the definition of a soldier in the Defence Forces is masculine. Like power sports and high-endurance sports, the key attributes that are focused on in military organisations are physical strength and competitiveness; however, unlike the Defence Forces, Sporting organisations like boxing and rowing have looked beyond their traditional gender norms at the medals that they could win if they included more women – and have succeeded in making these changes and secured medal success.

In the 40 years since women were first allowed to join the Defence Forces, it appears that no thought has gone into researching, thinking about or describing a Defence Forces soldier who is female. The Defence Forces appears to have adopted an ‘add women and stir’ model. No consideration appears to have been paid to identifying the capacities and strengths of female soldiers. No thought or preparation went into elements like uniforms, boots and facilities. The approach seems to have been (and, in many areas, continues to be) one of ‘Get in there and try to be as much of a man as you can be’. This lacks any talent management, insight or understanding of respective strengths and weaknesses, and is clearly inappropriate. The Defence Forces requires a model of an Irish soldier who is female and is managed by modern talent management approaches, as are her male colleagues. To be ‘female’ is to be considered an object rather than a full human being. As an object, ‘it’ has no human rights and deserves no respect or

equality, but is to be tolerated because the Defence Forces is required to ‘let women in’. This is not an approach towards gender that ensures that women are given equal treatment, integrated into the Defence Forces and fully embraced as members of the Defence Forces.

The enforcement of traditional gender norms in the Defence Forces makes the recruitment and retention of female personnel extremely challenging. It is a testament to the tenacity of the women who are currently serving in the Defence Forces, and to the male colleagues who have supported them, that they have navigated misogynist clusters and individuals well enough to remain in an environment which is hostile to women and unsafe for those without an unusually high capacity to counter or ignore the myriad ways in which the gender schema are designed to restrict, reject and punish them for being women.

This is a situation that cannot continue. The leadership and rank and file in the Defence Forces must shift their perspective to align with modern attitudes towards gender, the role of women in the Defence Forces, acceptable behaviour, and adopting equality not just as a value but also as a lived reality.

The specific recommendations include adopting measures to address the culture of misogyny and disrespect for all things female, including enforcing strong leadership support of a new culture; the long-overdue development of a sophisticated vision and strategy for the inclusion of females in the Defence Forces, consistent with UN Security Council resolution 1325; identifying unacceptable attitudes and beliefs about females at recruitment, performance reviews and promotion competitions; and conducting a review of the training methods and culture in the Cadet School to eliminate inappropriate methods, attitudes and culture from that vital development channel. The full detail of these recommendations is to be found in Chapter 4.

### **3.1.4 Class/rank**

Rank is a vital part of the hierarchy in a disciplined Defence Forces. Enlisted personnel have specialties within the military. They perform specific job functions and have the knowledge, skills and abilities to ensure the success of their unit’s missions. Officers manage enlisted personnel; they plan missions, provide orders and assign tasks.

Their role in leadership is to be problem-solvers, influencers and planners. This sounds like a division of roles and skills; however, many members who engaged with the IRG-DF reported the existence of a distinction – akin to the distinction between upper and lower classes in times gone by – between the class of officers who come through the Cadet School and officers who are enlisted members. Direct-entry officers who hold their rank because of their professional qualifications are not part of the ‘elite’. This class system pervades behaviours and attitudes throughout the Army and, at times, those in the Navy and the Air Corps as well. The class hierarchy was characterised as ‘the elite and the rest’ and ‘master and servant’, with all the snobbery, condescension and denigrating attitudes and behaviour that go with that. The separation of facilities by officers/enlisted members fed into the same class system. In modern Ireland, this is not only unacceptable and baseless as a way of managing or leading an organisation, but it is ineffective in fostering an organisation where status and respect are earned, not gained as an automatic entitlement of rank. According to the interviewees, it is clear that the many competent officers and NCOs held the respect of their staff through their positive and appropriate behaviours and the competence and respect they displayed to those under their command. Ireland has moved on from that bygone 1950’s era, combined with the competence our Defence Forces also needs to make that modernising change, from 1950’s beliefs and behaviours to those of today, a 70 year leap. This culture change must start in the Cadet School and be brought through the whole organisation. One option would be to have a common point of entry into the Defence Forces and basic training, with selection for specialist roles – including roles as officers – based on performance and demonstrated competencies.

This aspect of the Defence Forces’ current culture should be addressed in the culture change programme. The full detail of these recommendations is to be found in Chapter 4, section 4.7.1.

### 3.1.5 Insufficient internal and external oversight

In order to ensure the transformation of the Defence Forces to eliminate the unacceptable behaviours and make the organisation a safe workplace based on equality, where every member enjoys

dignity and respect, and where the practices of accountability and governance are comparable with best practices in the Irish public service, the IRG-DF believes that an independent oversight body is needed for a period of years. The full detail of these recommendations is to be found in Chapter 4, section 4.3.1.

### 3.1.6 Elements of culture

The Defence Forces is highly regarded in Ireland for its decades of service in peacekeeping roles in Europe, Africa and the Middle East. Together with an ethos of service to Ireland, its service in emergency situations (such as flood victim relief, dealing with wildland fires and the impact of severe weather events) is broadly recognised.

Based on the interviews and the survey data, serving members display a strong commitment to the concept of the Defence Forces and its role. The training, particularly in the Cadet School, produces loyalty to members’ classmates and colleagues, and to the organisation. However, the *esprit de corps* is reserved for those with whom members have trained. They are skilled, well trained and practised in the core skills of military undertakings, be they peacekeeping on UN- or EU-authorized missions in trouble spots, or providing assistance to the Government or local authorities in emergencies or situations requiring particular skills. The modern Defence Forces encourages loyalty to the organisation and its values. The new culture must address the distortions in loyalty that have been identified by this Review.

According to those who contributed to the IRG-DF’s work, there was a convincing and strong desire to rectify the faults in the Defence Forces. Many who had suffered at the hands of wrongdoers in the Defence Forces were still loyal to the organisation and its values. They wanted to see the perpetrators held to account for their wrongdoing, but, for most, the much more important outcome is the reform of the Defence Forces to embody the values it espouses (which it is not currently doing). This is also an area that the new culture can and should address.

Those who have left express that there was a real sense of loss in the discovery that the Defence Forces did not live up to its own purported values. In many there was a feeling of betrayal; they

had expected an honourable and principled organisation, but the reality was much more ordinary and unethical. For those who have suffered experiences of inappropriate and unacceptable behaviours, the impact on them was not just the physical hurt or the psychological torture, but the loss of belief in the good that they had expected from the Defence Forces. This let down cut deeply and lasted for long periods of time, and is still present in some who left (often involuntarily) many decades ago. The way that the Defence Forces deals with problematic issues is not appropriate; it is damaging to the individual and to the organisation and is inappropriate for the modern era (if it was ever appropriate to begin with), and must be reformed, quickly. The core to this is the proposed external and independent complaints handling system, together with the reform of the internal grievance system and the cultural change that will bring fairness, transparency and accountability to all of the Defence Forces. The proposed independent oversight body has a key role to play in this.

Many of those who came forward want to contribute to the reform and modernisation (from a HR viewpoint) of the Defence Forces so that the experiences they faced do not happen to others. Some just want to put it all behind them, and their submissions to the IRG-DF were a way for them to close the door and move on. Others want to see the perpetrators, who have not yet been held to account, being confronted with their wrongdoing and facing the consequences. Still others want a simple State apology for the wrongs done to them in a State organisation, where they were playing an important role on behalf of the State. These individuals want official recognition that they were wronged.

There is an inability or an unwillingness for the Defence Forces to change. Although highly skilled in defence, the culture and skill base of the organisation is not well equipped to implement change.

There is a strong desire among those the IRG-DF met during this Review process for the Defence Forces to take accountability, implement transparency, and to do things better than it has up to this point. This fits with the high standards that the organisation's values suggest and that the concepts of the soldier and the officer hold in the minds of many. However, the Defence Forces' values are undermined by the

perception that the senior ranks believe the law does not apply to them, thereby suborning the discipline that they seek to enforce.

The Defence Forces' focus seems to have been on maintaining a certain image and controlling the narrative. Very real problems of under-resourcing and poor utilisation of staff resources, with both under- and overloading of members, are reported. Careerism leads to most commissioned officers being focused on their own advancement rather than on the organisation's objectives and the leadership of their 'men'. Short duration in a role, just long enough to gather the 'points' necessary to be eligible for a promotion, results in a lack of continuity in leadership and reduced morale and effectiveness in many areas.

Everyone knows what is going on, but no one dares to admit it – except the brave individuals who come forward, only to face a barrage of abuse and criticism. Consequently, the 'dirty' secrets are never tackled. The IRG-DF recommends a culture change process based upon dignity and respect. The full detail of these recommendations is to be found in Chapter 4, section 4.7.1.

### 3.1.7 Patterns

There are significant issues with unacceptable behaviours, ineffective and corrupt systems to address wrongdoing, a culture which does not support dignity and respect, the absence of a strategic direction and purpose by which to steer and motivate the organisation, and outright abuse of power; Section 3.2 will cover the full spectrum of such behaviours. Both men and women in the Defence Forces are on the receiving end of inappropriate behaviours that range from plainly unacceptable to outright criminal offences.

The IRG-DF's initial impression was that there were individual and singular cases of unacceptable behaviour. The concept of current and historical cases is an example of this. However, an important finding of this Review is the diversity in the pattern of unacceptable behaviours that members of the Defence Forces have experienced. The types and patterns of unacceptable behaviours presented include those that:

- Are current and ongoing;
- Occurred in the past and were either once-off or occurred for a period of time;

- Started in the past (e.g. 10 years ago) and have continued to the present;
- Occurred on overseas missions but stopped when the individuals involved were back in Ireland;
- Started with a series of incidents in one place then ceased following a transfer, only to start again when word from the original site of the behaviours reached the new location;
- Break out periodically, often facilitated by alcohol;
- Involve a series of inappropriate behaviours (sexual harassment, harassment and psychological abuse) against several women by a single perpetrator who is protected with top cover; and
- Involve multiple methods of abuse used sequentially or together.

The word 'historical' is used by the Defence Forces to suggest, imply and/or assure that these bad behaviours are a thing of the past and are no longer an issue. Our Review has established that the binary divide into 'historical' and 'current' is inappropriate for the complexity of inappropriate behaviours encountered in the Defence Forces. Those who suffered abuse, regardless of what form it took, suffer the impacts of that abuse for a very long time, if not forever; for them, it is always present.

This pattern will be useful in monitoring, measuring and reviewing the changes being implemented by the Defence Forces Chief of Staff and the two new leaders, Head of Strategic HR and Head of Transformation.

### Conclusion

The IRG-DF concludes that the Defence Forces is unable (or unwilling) to make the changes that are needed to provide a safe working environment (notwithstanding the nature of the work of a defence force) that affords dignity and respect to members in compliance with the law and with good leadership and management practice.

## 3.2 Unacceptable behaviours

As set out in articles 8 and 9 of the ToR, the IRG-DF was tasked with examining the various elements of the culture and lived experience of unacceptable behaviours within the Defence Forces.

This section on unacceptable behaviours must be viewed in context. Rather than using the distinction of 'historical' versus 'current', the IRG-DF felt that 'retired members' versus 'serving members' was a better distinction. In this section, participants fall into both categories. The context therefore is that over the last 40 years, at a minimum, there have been reports of unacceptable behaviours. Some of the instances referred to in this section began more than 20 years ago. Some of the participants who have come to us are still serving, even having had significant difficulties as a result of an incident which can be described as having 'attached itself' to them, leading to a pattern of difficult experiences thereafter. That is to say, they may have been passively going about their daily work or enjoying their leisure time when an incident occurred with consequences for them.

It is not our intention to contribute to any diminution to the morale which must exist in order for the Defence Forces to function agilely to the highest possible standard in terms of its role. In the balance, we stress the great number of fine people in the Defence Forces who do their jobs to the very best of their ability. Unfortunately, the largely unspoken reality describes a number of unacceptable behaviours. It must also be noted and strongly stressed that the IRG-DF is not a fact-finding body, nor do we presume to find facts in this area. We must give weight to the sentiments expressed by the participants in this Review, stressing their own value systems, their loyalty to their country and their desire to ensure that the Defence Forces is a workplace underpinned by dignity and equality with zero tolerance for unacceptable behaviour for the benefit of all.

The IRG-DF has interviewed a large number of people and used the methodology described in Chapter 1 to triangulate these interviews with the Raisea concern Report (written in 2022), IRG-DF Perceptions and Experiences Survey results (see Appendix 1) and the Benchmarking Survey Report (conducted in 2022 and in 2002) (see Appendix 2), as well as against reports prepared by Voltedge Management Ltd. (see Appendix 11) and the *Review of Best Practices on Training of Defence Force Members on Workplace Misbehaviour* prepared by Professor Thomas Garavan on behalf of TIO Consulting Ltd. (see Appendix 4).

For the purposes of our assessment, we have divided the concept of unacceptable behaviours into three distinct categories: Chapter 1 complaints, Chapter 2 complaints, and criminal behaviours.

### Chapter 1 complaints

Chapter 1 complaints deal with interpersonal relations in the Defence Forces and set out the Defence Forces' policy and procedures for dealing with sexual harassment, harassment and bullying.

### Chapter 2 complaints

Chapter 2 complaints deal with complaints made under Sections 114(1) and (2) of the Defence Act, 1954. Section 114 of the Defence Act, 1954 is the basis for the current redress system, which is known as the redress of wrongs.

### Criminal behaviours

Criminal behaviours refer to behaviours or acts (or sometimes the failure to act) that are deemed by statute or by the common law to be a public wrong and are therefore punishable by the State in criminal proceedings.<sup>14</sup> For the purposes of our specific ToR, we are narrowing the scope further to clarify that the criminal behaviour must necessarily involve a perpetrator and a victim.<sup>15</sup>

It is important to note that the IRG-DF found all of the participants who contributed to this analysis of the unacceptable behaviours within the Defence Forces to be credible, with stated altruistic motivations to prevent further harm to others and to promote better practices and behaviours in an organisation they felt a deep connection to. Many participants expressed their loyalty to the State and the Defence Forces.

A striking characteristic of the numerous interviews by the IRG-DF is the fact that many participants in this process prefaced their account of their experiences by remarking that there are many good, honourable members in the Defence Forces. This is not a fact-finding exercise, but the IRG-DF

noted the participants' sincerity in their desire to see root and branch reform immediately, leading to significant reform with immediate effect. The impact of the reform sought will hopefully result in dignity for all in the workplace and zero tolerance of bad behaviour.

## 3.2.2 Chapter 1 complaints

### It stops now?

On 4 April 2022, the Defence Forces launched its "It Stops Now!" bullying and harassment prevention campaign. This was the first in a series of key messages designed to signpost the way forward for the Defence Forces as an organisation with zero tolerance for bullying, sexual harassment or discrimination.

Despite this campaign, the examples outlined throughout Section 3.2 are indicative of the current lived experiences of participants of this Review.

### Bullying

In terms of the seriousness of this issue, it is seen as a constant, affecting many Defence Forces members to a serious degree. Thirty-five percent of respondents to the Benchmarking Survey (conducted in 2022) reported experiencing bullying, with higher levels reported among females, Navy personnel and Air Corps personnel. The types of bullying described ranged from behaviour leading to suicides (often characterised as 'accidental deaths') to serious physical assaults, very serious sexual assaults (including rapes), and the sexual targeting of new entrants, particularly (but not exclusively) members of the Cadet school during their first year. Verbal abuse is extremely common and used gratuitously in the giving of commands. The labelling of people by virtue of any distinguishing feature, be it the area they come from or any physical feature, can give rise to those people being continuously targeted.

Some examples of 'tubbing', 'beasting' or 'mobbing' were described. The allegation was made that people who tried to raise these issues were targeted by management, ultimately being removed from their employment. Mobbing has been described in detail by participants as being a particularly dangerous and completely unacceptable form of bullying.

<sup>14</sup> Danny Dorling et al., *Criminal obsessions: Why harm matters more than crime* (London: King's College London Centre for Crime and Justice Studies, 2008).

<sup>15</sup> Gaëlle L.M. Brotto, Grant Sinnamon and Wayne Petherick, "Victimology and predicting victims of personal violence," in *The Psychology of Criminal and Antisocial Behavior: Victim and Offender Perspectives*, eds. Wayne Petherick and Grant Sinnamon (Academic Press, 2017).

Many participants described in detail standing up for what is right and proper where wrongs had been perpetrated, or were perceived to have been perpetrated, by more senior officers/leaders, and participants allege that those of them who had tried to stand up for what is correct in their view were often subject thereafter, continuously and without cessation, to bullying, harassment, rumouring and destruction of their reputation, or were otherwise damaged by finding their career path completely blocked. Participants described an inability to get on courses which would have led to their promotion, and their perception is that this method of control, as they see it, was used as a weapon against those trying to do what is right. Some participants described being given tasks which were beneath their level of ability and skill, and this meant that they were being kept out of the areas in which they had specific skills and training; the effect of this punishment was that they were becoming increasingly less skilled until they reached the point where they were actually deskilled and could not keep their technical qualifications as a result.

Cadets become commissioned officers very quickly and often they have not worked sufficiently in the area which they are assigned to manage. As a result, the soldiers of lesser rank commonly have much greater experience in that particular area. The newly qualified officer is supposed to put into practice the theory they have learned, but in fact, they lack practical experience. That puts them in a very weak position in terms of having to command people who are often more experienced than they are by many years. As a solution to this, participants suggested that a set number of months of initial training would be sufficient and that it would be far more effective to place cadets in a normal group working with others until they have learned sufficient skills within the organisation, at which point they then ought to revert to the Cadet School for a further short period, and so on until their training courses are deemed to be complete, rather than the current system of cadets exclusively having the training before they gain any practical experience.

It has been noted that the percentage of females in the Defence Forces is very low (at 7%), and while many members are open to being subjected to abuse, this problem seems to be particularly acute in the case of female members. The perception among members is that officers protect officers and

that there can be no independent investigation of complaints, and the participants perceive a total lack of protection of their confidentiality.

From analysis of the participants' contributions, coupled with the Benchmarking Survey, there is a discernible pattern of bullying which can be generalised as follows:

- Mobbing;
- Beasting;
- Constant unwarranted or unfair criticism;
- Repeated assignment of demeaning tasks;
- Social exclusion and isolation;
- Verbal abuse and insults;
- Insulting, foul, violent and/or sexualised language;
- Being treated less favourably than colleagues in similar roles;
- Humiliation;
- Aggression;
- Deceit and dishonesty;
- Intimidation;
- Minimising of behaviour or issues reported;
- Shaming;
- Assignment of impossible or pointless tasks;
- Inconsistency around expectations and requirements;
- Repeated unfair shifting of blame to the individual;
- Facilitation of a culture that fosters a feeling of fear or uncertainty in the individual;
- Repeated denial of access to training courses in order to stymie career progression; and
- Blocking of access to extra duties with extra pay.

### **Harassment**

Like bullying, harassment is prevalent and extensive in the Defence Forces. It takes many forms, including threats. Much of the harassment described by participants is subtle and insidious. The pervasive and petty harassment of individuals is seen as completely unnecessary, points to a lack of emotional intelligence on the part of the alleged perpetrators, and has been described by participants as diminishing not only their confidence, but also their loyalty and belief in the organisation. Thirty-three percent of respondents to the Benchmarking

Survey (2022) reported experiencing harassment. This figure aligns with the findings of the interviews conducted by the IRG-DF in 2022. Participants have described the nature of this harassment as covering a great number of areas where abuse has taken place. It is gratuitous and unnecessary. The long-term impact of harassment was seen by participants as being very corrosive.

Participants have concluded that the *esprit de corps* in the Defence Forces has diminished or even disappeared in recent years, whereas in the past, the idea of serving one's country in terms of that ethos was more obvious and present.

They described the consequences of making a complaint, however innocuous or incidental, as being potentially career ending if and when such a complaint attaches to the member of the Defence Forces who made the complaint. Fear is described as being ever present and affecting people's behaviour not only in terms of avoidance techniques, but also in terms of affecting their sense of commitment to the organisation. These are significant and dangerous consequences. Part of the harassment, as viewed by participants, is that they are often unable to access courses at all if they complain, which means that their potential progress up through the ranks is effectively thwarted.

From analysis of the participants' contributions, coupled with the Benchmarking Survey, there is a discernible pattern of harassment which can be generalised as follows:

- Targeting of individuals once any form of complaint is made about any subject, irrespective of the seriousness or validity of the complaint;
- Gaslighting of members in order to isolate them;
- Unfair blame shifting;
- Public humiliation for minor infractions;
- Verbal abuse, such as making jokes or unpleasant remarks;
- Insulting, foul, violent and/or sexualised language;
- Written retaliation, including texts, emails and remarks on social media;
- Pushing or other forms of physical abuse that constitute physical harassment;
- Posing in a dangerous manner or making intimidating gestures;

- 'Punishing all to punish one'.

### Sexual harassment

As part of this Review, stark experiences of sexual harassment were shared which were highlighted throughout numerous reports (Raise a concern Report written in 2022 and the 2022 Benchmarking Survey) and through those who participated in this Review.

By virtue of the career that they have chosen and the training that they have received, members of the Defence Forces are deemed to be fairly resilient and robust. Nonetheless, it is the belief of the females who have participated in this Review that most (if not all) women members have experienced some type of incident in the form of sexual harassment or sexual assault, especially on overseas missions.

Highly qualified female members of the Defence Forces describe having been subjected to quite horrendous treatment in what points towards a misuse of power, regardless of their often very high level of professionalism, their high level of professional training, and, indeed, their commitment to the task at hand.

The objectification of members in this way rang true from the participants who described this process. As highlighted in section 3.1.3, 88% percent of females who responded to the Benchmarking Survey (2022) reported experiencing one or more forms of sexual harassment – the comparable proportion of males was 17% and almost half of females reported experiencing unwanted physical contact/sexual assault. The most common forms were offensive jokes/stories, sexist remarks and offensive comments about their physical appearance. Many of these situations as described pointed to a complete lack of a basic level of understanding of what is appropriate behaviour.

Although the IRG-DF understands that some work is under way in terms of improving family-friendly structures within the Defence Forces (and that is welcome), there currently appears to be no acceptance of motherhood as a concept. Pregnancy is described as being career ending, with examples of gratuitous commentary as to when a baby ought to be planned so as not to upset the system or organisation. Pregnancy is used to harass, and this is done in a very insidious way. One particular issue must be highlighted where a pregnant member

delivers a baby and has time off as a result, and then finds that taking 1 year of leave following the birth of their child has led to a situation where the member is deemed not to be capable of receiving an assessment for that year, thereby putting them at a huge disadvantage within the context of the existing promotional system. It is understood that as a result of a Workplace Relations Commission ruling in 2020, and following a report Q4 2021, from the Defence Forces Working Group examining the matters of the ruling, the Defence Forces with the support of the Department of Defence are updating the equality provisions focusing initially on matters relating to maternity, paternity and other forms of protected leave, in consultation with an independent legal firm. At the time of publication of this Report, the Group understands that this body of work is well advanced.

In terms of balance, the IRG-DF has heard from participants and stakeholders at length in relation to issues around pregnancy. It is a rather unique situation where the minute a female becomes pregnant, that can completely change her working life with the Defence Forces. We are told that if such a person is on board a ship, she must be placed elsewhere on shore for the duration of the pregnancy, as an example of this immediate effect. The difficulty described is that other colleagues take on the burden of that person's work. Some participants have come to us and have described being exceedingly humiliated by virtue of their pregnancy in the course of their work. They felt that they were asked to do tasks which were inappropriate, especially if they were at an advanced stage of pregnancy, and in some cases they felt that that caused danger for their unborn child. These are the descriptions of the lived experience of our participants. The counterbalance to that is to note that current or former officers have described the difficulties which they say had been brought about in part by the financial cuts which happened in 2012 and that there are not enough people to carry out the number of tasks allocated, which still have to be completed. It has been explained to us that in the past a commander could give some assistance to pregnant members who required it, but that more recently they have not had the leeway in terms of numbers of members.

From analysis of the participants' contributions, coupled with the Benchmarking Survey, there is a

discernible pattern of sexual harassment which can be generalised as follows:

- Using sexualised language;
- Regular and unwanted physical contact;
- Leering and staring;
- Sexual gesticulations to female members;
- Commenting on women's appearance;
- Queries about sexual orientation;
- Queries about personal promiscuity and active sex life;
- Displaying offensive or pornographic materials;
- Indecent exposure;
- Following female members around the barracks and paying them excessive/unwanted attention.

### 3.2.3 Chapter 2 complaints

#### Sexualised language

In the early decades of the establishment of the Defence Forces there was a zero-tolerance approach to using language that was deemed coarse or inappropriate. Currently, bad language and sexualised language are freely used in the Defence Forces, which denotes a poor culture and would not be acceptable in any modern organisation or workplace in Ireland. This needs to be simply stamped out with a zero-tolerance approach. Use of sexualised language contributes to loss of confidence in the Defence Forces in a situation where people today are better educated and join the organisation with better skills and therefore are much more employable in the private or public sector, outside the Defence Forces. It is not a barrier for a would-be employer to pay the buyout fee to enable people to leave the Defence Forces. As a result, people in the Defence Forces are accustomed to learning that colleagues have moved to better employment, and they themselves will not remain in the Defence Forces unless the culture is such that it empowers, protects and enhances their lives.

From analysis of the participants' contributions, coupled with the Benchmarking Survey (2022), there is a discernible pattern of sexual language which can be generalised as follows:

- Specific reference to female body parts during physical exercise;
- Specific reference to female genitalia

- Sexualised imagery being used in the presence of female members in front of a mainly male cohort;
- Violent language referencing rape and sexual assault;
- References to female body odour;
- References to sexual orientation;
- References to sexual promiscuity;
- Regular use of sexual slang and euphemisms;
- Sexual emojis in WhatsApp groups;
- Reference to menstruation as a reason for poor performance/attitude of female members; and
- Pre-employment, existing female members giving advance warning to potential recruits that the gender-based and violent language will be present in their career and to expect it as common practice.

### **Demeaning tasks**

Where a member of the Defence Forces finds themselves on the 'wrong side' of the current system, they allege that they are not allowed to carry out the tasks for which they have been trained, interviewees gave detailed descriptions of their lived experience of being subjected to demeaning or 'dirty' tasks. They stated that they are side-lined and forced to work in an area for which they are either much less well trained or not trained at all, and that they are held there for years, thus eliminating any possibility of securing promotion in the future.

Interviewees also allege that where a person is hardworking they can be called upon for extra duties because it is recognised that they will conscientiously carry out these duties. Simultaneously, the hard worker sees that their less-motivated colleagues are never asked to carry out such duties, or at least not often enough to help improve their standard of work. Where a person is extremely willing and able and is a hard worker, it is demeaning to give them extra duties in the knowledge that they will conscientiously carry out the extra duties, whereas less-motivated colleagues are very infrequently or never asked to do this. With proper oversight, this situation should not be occurring in the Defence Forces.

### **Dangerous tasks**

The nature of the work of the Defence Forces is, in and of itself, inherently dangerous; this fundamental risk highlights the need for strong health and safety policies and practices to be in place for each and every member of the Defence Forces and is an absolute matter of high priority. It is understood that on foot of complaints concerning health and safety in the Air Corps, a health and safety audit has been carried out.

Interviewees made numerous serious allegations of wrongdoing by serving or former members of the Defence Forces. For example:

- They described the organisation of chemicals as being poor and dangerous.
- They reported cases of cancers and infertility allegedly arising from poor work practices.
- They also reported cases of ongoing medical suffering in individuals affected by poor work practices.
- They highlighted a need to investigate several Air Corps personnel deaths both in the air and on the ground, as well as deaths arising from potential exposure to hazardous materials.
- They reported alleged lack of supervision in the Air Corps in the last 20 years in particular.
- They alleged very poor investigative processes in and around air accidents or near misses during the last 20 years.
- Some referred to an alleged cover-up of the 2004 air crash in Co Offaly.
- Finally, they alleged that between 1990 and 2011, eight people died in Air Corps air accidents.
- Interviewees allege that poor safety practices continue to be an issue in the Air Corps.

It is acknowledged that for a period of time in recent years an appropriately qualified civilian was employed to advise on the safe use of chemicals. However, following this period of time, it is alleged that individuals who were not suitably qualified were asked to complete safety checks for which they did not have the knowledge, skill or authority in terms of dealing with chemicals and hazardous materials.

The IRG-DF notes not just the range of allegations that have been made by interviewees, but also

the mismanagement of both the allegations and the subsequent investigations. There are several instances in the public domain of this poor practice in the past, and indeed there have been several allegations of this management practice being prevalent up to the present day.

### **Discrimination and discriminatory practices**

Discrimination against women has now been admitted to and accepted by the Defence Forces. The types of actions that constitute discrimination are also discussed in other sections of this report. Examples include:

- A high number of interviewees complained about their treatment both during pregnancy and on entering motherhood.
- Interviewees stated that if a female has an Administrative Instruction A7 complaint upheld, the filing of that complaint remains on her file permanently. It will be dealt with verbally through the other person complained of.
- Many interviewees complained about huge delays in processing complaints, which they alleged adversely affected the implementation of a practical and suitable solution to a problem.
- They complained that a woman's marital status and the number of children she has is noted on her file, whereas these details are not noted in the file of a male of equivalent rank.
- Interviewees noted difficulty with career structuring for line competitions, with a 12-year wait depending on the area of work where one finds oneself. This seems to occur in technical areas.
- Weak HR policies has been denoted as allegedly contributing to discriminatory practices.
- Interviewees described incidents of reprisals, which in and of themselves are a discriminatory practice.
- Interviewees reported instances of the isolation of a person of a different ethnicity and nationality, which they described as discriminatory and unacceptable in behavioural terms.
- They made allegations of poor HR practice in the context of recommissioning. They alleged that different types of interviews were conducted depending on the candidate, and that

such interviews also failed to take note of these candidates' previously good performance.

The IRG-DF was told that most training opportunities take place around the east coast and in Co Kildare, and that members of the Defence Forces located outside these areas may not even hear of potential training courses before they are closed for applications. It has been suggested that other camps could be used to train members of the Defence Forces; for example, courses on mountaineering skills could easily be delivered in Finner Camp, Co Donegal.

### **3.2.4 Impacts of unacceptable behaviours**

#### **Suicides**

Interviewees described extreme examples of health and safety norms and the alleged consequences in terms of physical injury and negative impacts on mental illness. They alleged that in the case of some suicides, they were told that if they were not denoted as 'accidental deaths' rather than suicides, there would be adverse consequences.

The historic rate of suicides within the Defence Forces is a cause for concern. The last major study examining suicide in the Defence Forces was conducted in 2005. This study found that 63 (8.5%) of the 732 member deaths that occurred between 1970 and 2002 were suicides. The Defence Forces needs to investigate deaths by suicide from 2002 to date, in line with international best practice, and identify appropriate action plans to deal with this issue.

Many interviewees described their experience of their training as literal torture and said that some members of their class took their own lives.

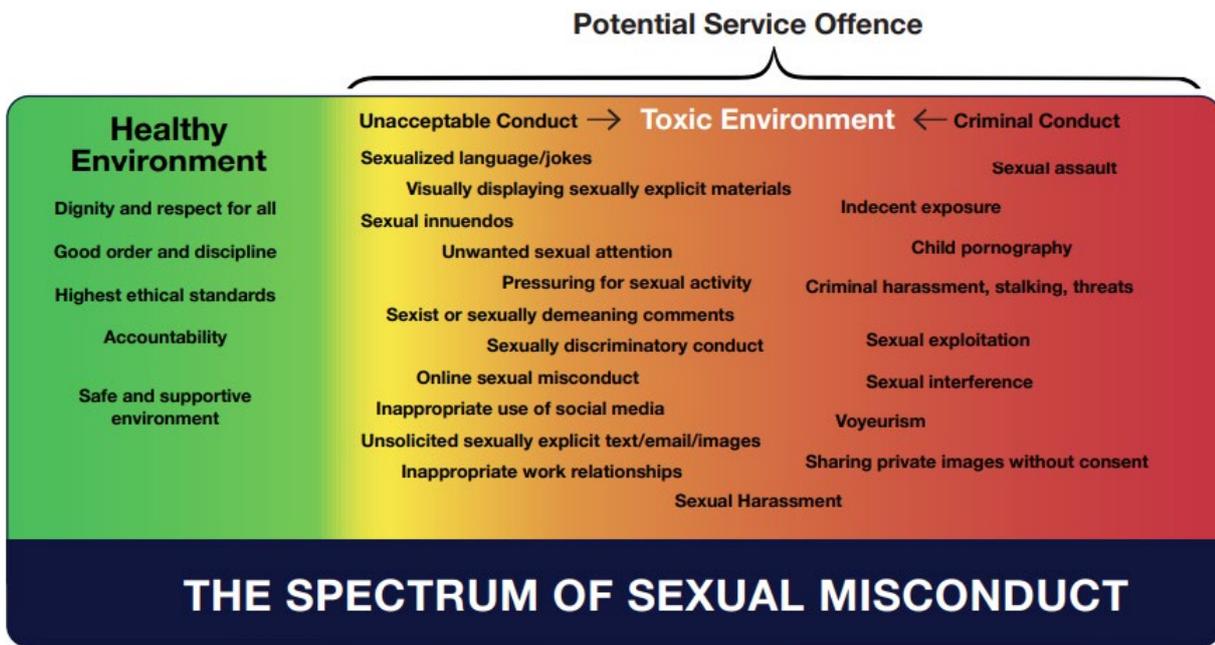
Again, it is alleged that the victims who complained were penalised for making their complaints and that the alleged perpetrators were moved to work elsewhere.

**Protected disclosures**

The Defence Organisation has assured the IRG-DF that these protected disclosures are being dealt with, and have previously been dealt with, in accordance with the law. While protected disclosures do not explicitly form part of the IRG-DF’s ToR, it should be noted that it has received extensive submissions from members of the Defence Forces who have grievances that do fall within the ToR, and notwithstanding the fact that separately and independently these members have made protected disclosures. The IRG-DF has not sought specific information from persons who have made protected disclosures; in addition, it has made it clear at all times that it cannot advocate for any individual member of the Defence Forces. However, the IRG-DF has noted these members’ grievances under the ToR of this Review, and rightly so.

**3.2.5 Criminal behaviours**

In order to contextualise the difference between a healthy environment and a toxic environment with regard to sexual misconduct, it is useful to look at the *Report of the Independent External Comprehensive Review of the Department of National Defence and the Canadian Armed Forces* by Justice Arbour published in 2022. Justice Arbour provided a useful definition of the offences that she described as “the spectrum of sexual misconduct”<sup>17</sup>. This was used to capture what the Canadian Armed Forces used to define sexual misconduct “without distinguishing between what is a crime, a form of harassment, and other prohibited activities”. This spectrum is set out in Figure 1.



**Figure 1: The spectrum of sexual misconduct<sup>16</sup>**

16 Arbour, L., (2022) Report of the Independent External Comprehensive Review of the Department of National Defence and the Canadian Armed Forces. Montréal: pp. 68.

17 Arbour, L., (2022) Report of the Independent External Comprehensive Review of the Department of National Defence and the Canadian Armed Forces. Montréal: pp. 68.

### Child sexual abuse

In considering grievances reported by people who have had unresolved issues dating back over 40 years in some cases, the IRG-DF notes that a considerable volume of material exists in relation to allegations of sexual abuse. Many of the incidents that are reported to have taken place concern minors and are alleged to have taken place on Defence Forces property. The Department of Defence has assured us that An Garda Síochána has been involved in investigating these incidents and that two of the complaints were submitted to the Director of Public Prosecutions, but the IRG-DF is not aware of any prosecutions. Our understanding is that Tusla – the Child and Family Agency, the Garda Síochána National Protective Services Bureau and a senior counsel have all been involved in examining these issues. The Department of Defence has indicated to us that a process has been put in place to address these matters. It is anticipated that the senior counsel’s report on the matter will be presented to the Minister for his consideration in due course. The IRG-DF received the report on Friday 27th of January from the Department and we understand it will be considered in due course. Depending on the outcome of this process the Minister for Defence may then set further processes in motion.

The IRG-DF has assumed responsibility for recording the above allegations and for recommending that victims of any child sexual abuse engage with the appropriate mechanisms of the State (i.e. An Garda Síochána and/or Tusla), as appropriate.

### Rape and sexual assault

Some members of the Defence Forces, regardless of their gender or sexual orientation, have found themselves in dangerous situations after they were invited to partake in sexual activity by a person who was often of higher rank, and, in some cases, by a person or persons who were under the influence of alcohol and/or drugs.

Apart from the horrendous nature of the alleged rapes and sexual assaults suffered and described in great detail to the IRG-DF, what happened afterwards is of equal concern. Instead of delivering a proper, modern, streamlined and skilled response to the complainant, the individual was often told to

bury the complaint, or they were asked whether they seriously wanted to complain formally.

Bungled investigations that last for years are the order of the day. The Defence Forces reported that no sexual harassment cases were officially recorded (closed or pending) through the formal complaints process over the period 2019–2021. This would appear to confirm the narrative that there is a lack of reporting of incidents rather than a lack of incidents. These ‘zero incidence’ figures are not comparable with figures reported in other military organisations of similar size internationally, or in other organisations of similar size in Ireland.

It should be noted that complaints of this nature may bypass the formal procedures process and be reported directly to the Military Police e.g. in 2021 two (2) complaints of sexual assault were made directly to the Military Police.

Following a complaint, the victim often has to buy out their service. They also often subsequently learn that only a fine was imposed on the alleged perpetrator and that the alleged perpetrator was promoted. In contrast, the victim is left completely unsupported to suffer the abuse for life, with no proper closure.

The IRG-DF was given examples of serious sexual incidents where a complaint was made, and where the perpetrator was charged but was allowed to leave the Defence Forces. The perception of interviewees was that the Defence Forces is more concerned about what effect a sanction might have on the career of the alleged perpetrator, but that it has no concern about the effect on the alleged victim. There is a higher risk of rape and sexual assault incidents occurring while members are on overseas duties. It must be taken into account that in many overseas environments bedrooms are side by side and that the cohort of female members is very small and isolated.

From analysis of the participants’ contributions, coupled with the 2022 Benchmarking Survey, there is a discernible pattern of rape and sexual assault which can be generalised as follows:

- Interviewees reported sexual assaults taking place in:
  - » Barracks;
  - » Mess;

- » Naval boats;
- » Swimming areas;
- » Shower facilities; and
- » Abroad on tours.
- Advices are given to female members of the Defence Forces to maintain two locks on their cabin or bedroom doors if there has been an attempt to assault or forcibly enter their sleeping quarters in the past.
- Interviewees reported barricading of quarters to prevent sexual assault.
- Interviewees reported grooming of younger recruits by senior officers.
- Interviewees reported repeated and regular incidents of drinks (alcoholic and non-alcoholic) being spiked by various drugs.
- Interviewees reported predatory behaviour targeting females in situations where alcohol is present.
- Interviewees reported the prevention of members being informed pre-tour about the availability of rape kits because “it creates victims”.
- Interviewees reported incidents of compromising intimate images of female members being taken by surreptitious means, i.e. hidden cameras in showers and bathrooms, or pictures taken when female members were inebriated and unable to provide informed consent.

### Physical assault

The IRG-DF has heard graphic descriptions of alleged physical assault. Women have described being subject to weekly punishment particularly when on career development or promotional courses. They then go on to describe being subjected to weekly punishment from their male colleagues, due to their gender, in terms of physical and mental torture.

Physical abuse and assault are by no means confined to one gender. Male-on-male abuse is alleged where an ordinary member of the Defence Forces can be demeaned, humiliated, or severely physically assaulted to the point of doing damage to the person’s limbs, and although the alleged perpetrator is removed, that is not the end of the abuse for the victim. Retaliation can come in the

form of another physical assault from a different person of senior rank.

Graphic details of very severe alleged physical assaults have been presented to the IRG-DF by participants. These have occurred over the last 40 years, and continue to the present day. The interviewees point to significant alleged trauma and life-changing damage for those who have suffered. There is a high level of credibility in and around the descriptions heard from participants. This was particularly important (prior to 2010) in situations where individuals aged under 18 years joined the Defence Forces, meaning that the Defence Forces was in loco parentis and thus had an extra duty of care given that it was training minors. In certain cases, the participants allege that their pleas for help were ignored, despite assurances to the contrary. They allege real suffering as a result. Victimisation is alleged to have occurred and to continue, particularly against people from the northern counties of Ireland, and participants have described being under continuous pressure once targeted. The targeting appeared relentless in their descriptions.

The following examples were given:

- The training including violence;
- Being kicked while exercising;
- Being kicked in the stomach while doing sit-ups;
- Being punched in the stomach while parading;
- Being kicked in the groin;
- Being targeted with sadistic violence for officers’ perceived pleasure; and
- The danger of physical assault to male and female members in shower facilities.

Clearly, the IRG-DF has not only listened to but heard and considered the strength of the allegations made in this area by participants. The honourable way in which they have told their stories points to a high level of probability that these allegations are true. We are not applying a legal standard of proof, but they came across as highly plausible and very concerning.

There was absolutely the possibility of relief for those who alleged that they had suffered significant trauma as a result of this alleged abuse. Participants have alleged that violence was gratuitously perpetrated without any trigger beforehand.

### Independent complaints system

Under inappropriate behaviours, the vast majority of complainants pointed to the need for an independent complaints system. Our recommendations reflect this.

### Conclusions

The implication of this area of study is that there must be amendment of the legislation governing this area; the setting up of an interim independent complaints system; the introduction of definitions in line with updates to systems management; and overall improvement in systems management throughout the Defence Forces, covering data systems, confidentiality and the collection of annual reports on the statistics and data pertaining to the various complaints received.

The essential point to make is that, under the remit of ToR 13, the IRG-DF believes that a fact-finding body is needed. In tandem, we are recommending a restorative justice process, also under the remit of ToR 13.

The full detail of these recommendations is to be found in Chapter 4.

## 3.3 Findings specific to the Terms of Reference

This section addresses the findings on each of the specific terms of reference in number order.

### 3.3.1 ToR 1: Overview of existing Legislative framework to address discrimination, bullying, harassment, sexual harassment and sexual misconduct

The legislative framework currently in place in the Defence Forces to address discrimination, bullying, harassment, sexual harassment and any form of sexual misconduct consists of four main elements and one related procedure. The elements are:

- Administrative Instruction A7, Chapter 1;
- Section 114 of the Defence Act, 1954, as amended;
- Section 169 of the Defence Act, 1954; and
- The Ombudsman for the Defence Forces, established under the Ombudsman (Defence Forces) Act 2004, as amended.

An unconnected but parallel procedure is the making of a protected disclosure under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, and which is dealt with under ToR 11.

### Administrative Instruction A7, Chapter 1

The initial procedure to deal with complaints of discrimination, bullying, harassment, sexual harassment or any form of sexual misconduct is Administrative Instruction A7, Chapter 1, which is titled "Interpersonal Relationships in the Defence Forces 2013".

It begins by referring to various pieces of non-military legislation which also apply to the Defence Forces, including the Employment Equality Act, 1998 and the Equality Act 2004, and the statutory code of practice on bullying and harassment made under those Acts, as well as to the Safety, Health and Welfare at Work Acts 1998, the Safety, Health and Welfare at Work Act 2005, and the Industrial Relations Act, 1990. It also refers to statutory codes of practice for harassment, sexual harassment and discrimination at work published by the Equality Authority (2012)<sup>18</sup>, and for bullying published by the Labour Relations Commission (2002)<sup>19</sup> and by the National Authority for Occupational Safety and Health (2012).

The chapter goes on to make the following general statement of policy: "It is Defence Forces policy that all members have a right to be treated with respect, equality and dignity and to carry out their duties free from any form of sexual harassment, harassment or bullying."<sup>20</sup>

The Administrative Instruction refers to the Dignity Statement of the Defence Forces, which is included later in the Administrative Instruction document.

The general statement also states that complaints of sexual harassment, harassment or bullying should normally be dealt with under Chapter 1, but

18 S.I. No. 208/2012 - Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012.

19 S.I. No. 17/2002 - Industrial Relations Act 1990 (Code of Practice Detailing Procedures For Addressing Bullying in The Workplace) (Declaration) Order 2002

20 Interpersonal Relationships in the Defence Forces (2013), The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying, Administrative Instruction A7, Chapter 1, Para 107

if initiated under the redress of wrongs procedure, then they are dealt with under Chapter 2 of the Administrative Instruction.

Section 3 of Chapter 1 deals with unacceptable sexual behaviour, giving a comprehensive list of examples of such behaviour.

Section 4 deals with discrimination, both direct and indirect. It states that complaints of discrimination not involving sexual harassment, harassment or bullying should be dealt with under the Section 114 procedure, i.e. the Chapter 2 redress of wrongs procedure.

Section 5 is concerned with sexual harassment and harassment. It refers to the definition of sexual harassment in the Equality Act 2004. It points out that it is “illegal and constitutes unacceptable behaviour in the Defence Forces. Sexual harassment which amounts to a sexual assault is a criminal offence and will be dealt with as such. Sexual harassment may be committed by a person of the same sex as the victim”<sup>21</sup>.

Examples of sexual harassment given are physical, verbal, and non-verbal conduct of a sexual nature, and sex-based conduct. Section 5 also discusses the common features of sexual and non-sexual harassment. It defines harassment as “any form of unwanted conduct related to any of the discriminatory grounds (other than gender) and the conduct has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person”<sup>22</sup>, and goes on to give examples.

Section 6 deals with bullying. It quotes the definition of bullying from the Government Taskforce on Prevention of Workplace Bullying (2001):

Bullying is defined as 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<sup>23</sup>.

It then proceeds to give a non-exhaustive list of examples of behaviours that constitute bullying, including cyberbullying.

Section 7 of Chapter 1 sets out the procedures for dealing with these types of unacceptable behaviours. It outlines an informal approach, where the victim approaches the wrongdoer directly or with the assistance of a third party or a Designated Contact Person (i.e. a member of the Defence Forces who has received special training for that role), and a formal approach, which is dealt with by the chain of command either through a legal or an administrative procedure depending on the nature of the incident and behaviour. Complainants are encouraged to use the informal approach where possible.

In the formal approach, the complaint is made in writing to the complainant’s commander. (It is noteworthy that, unlike the redress of wrongs procedure outlined in the next section, there is no distinction made between officers and enlisted personnel.) In what are described as particularly sensitive cases, the commander may submit a request that an officer who is specially trained in harassment claims assist the commander. Confidentiality and privacy should be maintained and “retaliation against a person for making a

21 Interpersonal Relationships in the Defence Forces (2013), The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying, Administrative Instruction A7, Chapter 1, Para 124

22 Interpersonal Relationships in the Defence Forces (2013), The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying, Administrative Instruction A7, Chapter 1, Para 129

23 Interpersonal Relationships in the Defence Forces (2013), The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying, Administrative Instruction A7, Chapter 1, Para 132

complaint or for coming forward as a witness will be treated as a disciplinary offence"<sup>24</sup>.

Section 7 continues by outlining in detail how a written complaint should be made and the time limits that apply. The commander carries out a preliminary investigation to see whether the situation can be dealt with informally and, if not, whether it requires a formal legal process or an administrative one. If the commander determines that it constitutes a criminal offence or a military offence, he or she refers the matter to An Garda Síochána or the Assistant Provost Marshal for investigation by the Military Police.

If the commander determines that the administrative process is appropriate, then he or she investigates the complaint. If the commander determines that the complaint is well founded, he or she may impose the following sanctions:

- Counselling and/or retraining in respect of the behaviour, which may be recorded or unrecorded;
- Caution about future conduct, which may be recorded or unrecorded;
- Rebuke, which may be recorded or unrecorded;
- Posting within the unit;
- Recommendation to superior authority for posting to another unit;
- Recommendation regarding suitability for promotion or particular appointment(s); or
- Recommendation regarding continued service in the Defence Forces.

There are specific procedures to be followed in situations where the complainant and the alleged wrongdoer are from different units.

A party against whom one of the administrative sanctions is imposed has a right to appeal to a superior authority (i.e. superior to the commander) to review the decision. That superior authority may affirm the decision, quash it, or affirm it with a lesser penalty.

Where a complaint is upheld a record of it is placed on the personal file of the complainant but only on that of the wrongdoer in certain circumstances,

<sup>24</sup> Interpersonal Relationships in the Defence Forces (2013), The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying, Administrative Instruction A7, Chapter 1, Para 150

which do not appear clear from the references in Administrative Instruction A7.

Significantly, Chapter 1 then provides that the procedures it outlines do not limit or affect the exercise of the rights of any individual as provided for in Section 114 of the Defence Act, 1954, as amended.

#### **Relationship of Administrative Instruction A7, Chapter 1 with the redress of wrongs procedure under Section 114 of the Defence Act, 1954 and Administrative Instruction A7, Chapter 2**

Prior to the introduction of Administrative Instruction A7, Chapter 1 (as outlined above and published in 2013), the redress of wrongs procedure, established by Section 114 of the Defence Act, 1954, was the only grievance procedure available to members of the Defence Forces. The detailed procedure that governs redress of wrongs is Administrative Instruction A7, Chapter 2, as this section will discuss. The intention of Administrative Instruction A7, Chapter 1 is clearly to provide a separate procedure for complaints of sexual harassment, harassment and bullying. Redress of wrongs is still available to members to pursue such complaints, but it is clearly intended that they should take the Chapter 1 route. The redress of wrongs procedure remains mandatory for all other complaints, especially ones that could be characterised as administrative, e.g. those regarding promotions, courses or overseas postings.

Administrative Instruction A7, Chapter 1 is not based on Section 114 of the Defence Act, 1954 and appears to have no statutory basis. The following is stated at the end of the chapter: "This administrative instruction, made pursuant to Defence Forces Administrative Instruction A7 is issued by direction of the Minister for Defence and published for the general information and guidance of members of the Defence Forces"<sup>25</sup>.

It is signed by the then Defence Forces Deputy Chief of Staff (Support).

It follows, therefore, that Administrative Instruction A7, Chapter 1, as a procedure created by the

<sup>25</sup> Interpersonal Relationships in the Defence Forces (2013), The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying, Administrative Instruction A7, Chapter 1, Para 170

direction of the Minister, can be amended by a similar direction.

Because Administrative Instruction A7, Chapter 1 is not made pursuant to Section 114 of the Defence Act, 1954, there is no requirement to notify a complaint made to the Minister or the Ombudsman. A complainant under Chapter 1 does retain the right to make a complaint to the Ombudsman for the Defence Forces under Section 6 of the Ombudsman (Defence Forces) Act 2004.

### **Section 114 of the Defence Act, 1954: Redress of wrongs**

Section 114 of the Defence Act, 1954 reads as follows;

114.—

1. If an officer thinks himself wronged in any matter by any superior or other officer, including his commanding officer, he may complain thereof to his commanding officer and if, but only if, his commanding officer does not deal with the complaint to such officer's satisfaction, he may complain in the prescribed manner to the Defence Forces Chief of Staff who shall inquire into the complaint and give his directions thereon.
2. If any man thinks himself wronged in any matter by any officer, other than his company commander, or by any man he may complain thereof to his company commander, and if he thinks himself wronged by his company commander either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof in the prescribed manner to the Defence Forces Chief of Staff, who shall inquire into the complaint and give his directions thereon.
3. Every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of, and shall in every case inform the

complainant in the prescribed manner as to what action has been taken in respect of the matter complained of.

- (3.1) The Defence Forces Chief of Staff shall cause every complaint seeking redress of wrongs under this section that is made in writing to be notified to the Minister and the Ombudsman for the Defence Forces as soon as practicable following the making of such complaint.
- (3.2) Where the Ombudsman for the Defence Forces has made a notification in writing in accordance with section 7 of the Ombudsman (Defence Forces) Act 2004, that section 5(1)(c), section(1)(d)(ii), section 5(1)(e)(ii) or section 5(1)(g) of the Ombudsman (Defence Forces) Act 2004 applies to a complaint made under that Act by an officer or a man, the officer or the man, as the case may be, may submit that complaint to the Minister for determination by him or her.
- (3.3) The Minister may make regulations concerning the manner in which a notification referred to in subsection (3A) of this section and a report on such notification are to be made and the manner in which a complaint is to be submitted under subsection (3B) and without prejudice to the generality of the foregoing, the regulations may –
  - A. Specify a period or periods within which such reports are to be submitted and complaints referred, and
  - B. The form and content of such notifications, reports and submissions.
3. The Minister shall make regulations providing for the personal submission, by any person subject to this Act, of any grievance to such officer and on such occasions as may be prescribed by such regulations.
4. This section shall not apply to –
  - A. any determination made, punishment awarded or compensation order made under section 177C, 178C or 179C
  - B. the decision of a summary court-martial under section 178G following an appeal under section 178E

Section 114 outlines that a complaint should be made to a commanding officer in the case of a complaint by an officer, and to a company commander in the case of an enlisted person. If it cannot be resolved at that level it proceeds up the chain of command, with the ultimate decision being made by the Defence Forces Chief of Staff.

Administrative Instruction A7, Chapter 2 outlines in detail the redress of wrongs procedure, including related time limits. If a member of the Defence Forces opted to pursue her or his complaint of bullying, sexual harassment or harassment via the redress of wrongs procedure rather than Administrative Instruction, Chapter 1, it is this procedure in Chapter 2 which would apply.

### **Sections 169 and 192 of the Defence Act, 1954, as amended**

Section 169 of the Defence Act, 1954 appears in the part of the Act dealing with military offences by members of the Defence Force who are subject to military law (all members of the Permanent Defence Force and members of the Reserve Defence Force in certain circumstances). However, Section 169 deals with offences punishable by ordinary law; it reads:

169.—

1. Subject to the provisions of this Act, every person who, while he is subject to military law commits any of the offences referred to in this section shall be deemed to be guilty of any offence against military law and, if charged under this section with any such offence (in this Act referred to as a civil offence) shall be liable to be tried by court-martial.
2. Where a person charged under this section is convicted by a court-martial of treason or murder, he shall be sentenced to imprisonment for life.
3. Where a person charged under this section is convicted by a court-martial of an offence other than treason or murder, he shall be liable to be punished as follows:
  - A. If he is convicted of manslaughter, be liable to imprisonment for life or any lesser punishment awardable by a court-martial;
  - B. If he is convicted of rape, rape under section 4 (within the meaning of the Criminal Law (Rape) (Amendment) Act 1990 or aggravated sexual assault (within the meaning of the

Criminal Law (Rape)(Amendment) Act 1990), be liable to imprisonment for life or any lesser punishment awardable by a court-martial.

The effect of subsection 3(b) is to give the court martial system jurisdiction to try a member of the Defence Forces with the most serious offences of rape and aggravated sexual assault. That jurisdiction is limited by the provisions of Section 192 (3A) of the Act, which reads as follows:

- (3.1) In the case of rape, rape under section 4 (within the meaning of the Criminal Law (Rape) (Amendment) Act 1990) or aggravated sexual assault (within the meaning of the Criminal Law (Rape) (Amendment) Act 1990), where the offence was committed by a person subject to military law who was neither on active service nor dispatched for service outside the State for any purpose specified in section 3 of the Defence (Amendment) 2006 when the offence was committed, a general court-martial may try any person subject to military law on a charge of having committed that offence where-
  - A. The person in respect of whom the offence was committed is, or was when the offence was committed, subject to military law, and has consented in writing to the trial of the offence by court-martial, and
  - B. The Director of Public Prosecutions has given his prior consent.

While this provision limits the jurisdiction of a court martial to try these most serious offences, it remains the case that in certain circumstances they may be dealt with by that court. It is not clear to the IRG-DF why this jurisdiction should be retained at all by the court martial system, given the greater experience of An Garda Síochána, the prosecution authorities and the civil courts in dealing with these offences.

### **The Ombudsman (Defence Forces) Act 2004**

Under this Act, the Ombudsman is given extensive powers to investigate complaints by serving and former members of the Defence Forces. In effect, it grafts a form of appeal onto Section 114 of the Defence Act, 1954.

Section 4 of the Ombudsman (Defence Forces) Act 2004 concerns the functions of the Ombudsman, in relation to which Section 4(2)(d) provides:

Subject to this Act, the Ombudsman may investigate any action that is the subject of a complaint made by a person affected by the action if, having carried out a preliminary examination of the matter, it appears to the Ombudsman that

- A. the action has or may adversely affect the complainant,
- B. the action was or may have been –
  - (i) taken without proper authority;
  - (ii) taken on irrelevant grounds;
  - (iii) the result of negligence or carelessness;
  - (iv) based on erroneous or incomplete information;
  - (v) improperly discriminatory,
  - (vi) unreasonable, notwithstanding consideration of the context of the military environment;
  - (vii) based on undesirable administrative practice, or
  - (viii) otherwise contrary to fair or sound administration
- C. the action was not an order issued in the course of a military operation, and
- D. in the case of a serving member of the Defence Forces, the matter is not likely to be resolved and a period of 28 days has expired since the complaint was made under section 114 of the Act of 1954.

It is evident that, subject to the military order exclusion (subsection (c)) and the time requirements (subsection (d)), the Ombudsman is given wide scope to investigate complaints.

One limitation on the Ombudsman's investigatory power arises from Section 114 (3B) of the Defence Act, 1954, which provides that if the complaint is of a certain type (e.g. concerning State security), the Ombudsman may decline to hear it and may refer it instead to the Minister, but that situation should only arise very rarely. In that case, as subsection (3A) of Section 114 makes clear, the Minister should have already received a copy of any written complaint made pursuant to the redress of wrongs procedure.

Following receipt of the complaint, the Ombudsman may decide not to carry out an investigation if the complaint is trivial or vexatious; the complainant lacks sufficient interest in it; satisfactory measures to remedy it have been taken or are proposed; or the complainant has not taken reasonable steps in respect of it, or if they have, they have not been refused redress.

A serving member of the Defence Forces may make a complaint to the Ombudsman if the action in question was taken by or on behalf of another serving member of the Defence Forces, a former member while serving, or a civil servant (Section 6 (1)). A former member of the Defence Forces may do so if the action was taken by or on behalf of a serving member of the Defence Forces, a former member while serving, or a civil servant (Section 6 (2)). In either case, he or she must do so not later than 12 months from the date of the action concerned or the date on which the complainant became aware of the action, whichever is the later (Section 6 (3)).

Where the Ombudsman conducts an investigation into the action, they send a statement in writing of the results of the investigation to the Minister and all persons concerned with the complaint (Section 7). If the action is one that adversely affects the complainant and falls within subparagraphs (i) to (viii) of Section 4(2)(b), the Ombudsman may recommend to the Minister that the action in question be further considered, that measures be taken to remedy the adverse effect, or that reasons be given to the Ombudsman for taking the action. In addition, the Ombudsman may request the Minister to notify them within a specified time of a response to the recommendation.

If the complaint is that the complainant has been penalised for making a protected disclosure under the Protected Disclosures Act 2014, the Ombudsman is not prevented from carrying out an investigation (Section 4 (3A)).

**Role of the Minister in the complaints procedure under Administrative Instruction A7, Chapter 1; under Section 114/Administrative Instruction A7, Chapter 2; under the Ombudsman (Defence Forces) Act 2004; and under the Protected Disclosures Act**

### 2014 and the Protected Disclosures (Amendment) Act 2022

The Minister has no role under Administrative Instruction A7, Chapter 1, dealing with sexual harassment, harassment and bullying; it seems that they do not get notice of the complaint. Under Section 114, the Minister is notified of every redress of wrongs complaint made in writing and receives status reports on the progress of dealing with such complaints and the complaint itself may end up being referred to the Minister via the Ombudsman in very limited circumstances. In addition, the Ombudsman, following an investigation of a matter adversely affecting a serving or former member of the Defence Forces, may make a recommendation to the Minister, on the basis of which the Minister may need to take action. Another way that the Minister may become involved in complaints is where a protected disclosure is made. Such a disclosure does not have to have a connection with the complaints procedure, although many will have been through the process. The Protected Disclosures Act 2014 merely provides whistle-blowers (who certainly predate the Act) with protection from dismissal or retribution, but how the disclosure is dealt with will depend on its nature. One weakness of the Protected Disclosures Act 2014 was the absence of time limits for action and feedback in relation to the complaint. On 1 January 2023, with the commencement of the Protected Disclosures (Amendment) Act 2022, the timeliness of the response required of the Minister on receipt of a protected disclosure increased significantly. Under Section 6A of the Protected Disclosures Act 2014 (as amended by Section 9 of the Protected Disclosures (Amendment) Act 2022), the Minister and the Department of Defence will be obliged to acknowledge receipt of a protected disclosure within 7 days and thereafter the Commissioner to nominate a designated person to deal with it. That person must carry out an assessment of the protected disclosure, including seeking any additional information necessary from the complainant. If the nominated person considers that there is *prima facie* evidence of the wrongdoing, he or she shall take appropriate action. The designated person must provide feedback to the complainant within 3 months of the acknowledgement of the protected disclosure, with further updates at every 3 months thereafter.

### 3.3.2 ToR 2: Policies, systems and procedures to address bullying, harassment, sexual harassment and sexual misconduct

#### Introduction

Policies, systems and procedures (hereafter referred to as ‘the policies’) are key to effective HR practice, are required of employers under the law and are a vital resource to employees when they find themselves on the receiving end of unacceptable behaviours or in situations which are unsafe.

In accepting the nature of a soldier’s work as dangerous, there continues to be a responsibility on his or her employer to provide a safe working environment where dignity and respect are experienced by all, whether on peacekeeping missions, in combat zones or on duties assigned by the Government at home.

The specification in the ToR is as follows: “To assess whether the legislative framework, policies, systems and procedures are aligned with international best practice and HR norms, and are deemed fit for purpose in efficiently and effectively addressing incidents of unacceptable behaviour in the workplace and make appropriate recommendations.”

#### Sources identified for assessment

- A. Independent assessment of the core HR policies by a professional HR consultancy of the relevant policies, systems and procedures as to how appropriate they are relative to modern standards for a large national organisation;
- B. The lived experience of serving members and former members of the Defence Forces in their engagement with these policies, as implemented and practised; and
- C. The IRG-DF’s independent hosting and analysis of a survey on the use of the HR systems for those seeking redress against unacceptable behaviour.

These three sources are triangulated to deliver a clear picture of the current situation, based on three different approaches to the same subject, in order to answer the following questions:

1. Are the policies, systems and procedures fit for purpose and comparable to other modern employers of scale in Ireland?
2. Is the experience of those who have suffered unacceptable behaviours while working in the

Defence Forces (either in Ireland or overseas) and who have sought redress through the HR systems a positive one in addressing their wrong and in improving the organisation so that it delivers a safer working environment that affords dignity and respect?

3. Does the current set of policies, systems and procedures serve the needs of all serving members of the Defence Forces?
4. What impact is the current situation having on the members, where the policies have not delivered an outcome they can accept?

We note that under ToR 13, we are tasked with advising the Minister whether further work is required to examine issues that arose with former members during their time as serving members of the Defence Forces and to make recommendations regarding how such issues might be pursued. Section 3.3.10 in this report addresses the need for former members of the Defence Forces, following discharge, to have a means of addressing wrongs they have suffered which have not yet been dealt with.

### Findings

An independent assessment was made by Voltedge Management Ltd., which examined the following policies given to the IRG-DF:

1. Equality, diversity and equal status policies;
2. Officers complaints policies;
3. Restatement of Defence Forces regulations on discipline;
4. Supplementary guidelines for the investigation of a redress of wrongs; and
5. Supplementary administrative guidelines to A7, Chapter 2, "Complaints Procedures".

Voltedge Management Ltd. looked at the following nine dimensions for each of the policies examined:

1. Compliance with employment legislation and best practice;
2. Compliance with health and safety legislation;
3. Structure of the policy in relation to subsections, the language used, the descriptions used, the information provided and the additional reference material noted;
4. Comprehensiveness in the information provided for the employee, personnel in positions of

authority and other stakeholders outside the organisation;

5. Good practice principles and guidance set out in codes of practice available from the Workplace Relations Commission (WRC) and Government bodies;
6. Terminology used with regard to equality, diversity and inclusion principles;
7. The General Data Protection Regulation (GDPR) and overall data privacy and confidentiality;
8. Standard practices and procedures in relation to raising a complaint and dealing with an appeal; and
9. The Workplace relations Commission (WRC) Code of Practice on Disciplinary and Grievance Procedures (SI No. 146 of 2000).issued in May 2010.

In assessing the Defence Forces, Equality, Diversity and Equal Status Policies, Issued by Human Resource Management Section on behalf of the Deputy Chief of Staff (Support), November 2007, Voltedge Management Ltd. found that in many instances, "the information provided is out of date and not as inclusive as it needs to be, and found professionally, that therefore, these two policy documents have significant room for improvement, are not up to date with current legislation or practices and therefore, do not reflect a 'fit for purpose', status for a large modern day organisation", (See Appendix 3 for full report on review of policies by Voltedge Management Ltd).

Voltedge Management Ltd. further formed the professional opinion that the Defence Forces Administrative Instruction A 7 Chapter 2 Complaints under Section 114 (1) & (2) of the Defence Act 1954 under Section 114 of the Defence Act, 1954 (as amended) "left significant room for improvement, is not up to date with changes in best practice and does not currently reflect an, 'fit for purpose', status for a large modern day organisation".

Voltedge Management Ltd. further formed the professional opinion that the assessment of the Defence Forces Administrative Instruction A 7 Chapter 2 Complaints under Section 114 (1) & (2) of the Defence Act 1954, "left significant room for improvement, is not up to date with changes in best practice and does not currently reflect a fit for purpose status for a large modern day organisation",

(See Appendix 3 for full report on review of policies by Voltedge Management Ltd).

Furthermore, regarding the assessment of Administrative Instruction, A7, "Discipline", Voltedge Management Ltd. stated:

Overall, it is hard to find supporting evidence that this policy has been updated in any meaningful or progressive manner within the last forty years. The structure and sections of the policy do not take account of the more updated sections that have been reviewed separately as part of this external review process. This policy, while 'termed', 'Discipline', also explores areas relating to grievances and complaints. Overall, this is very confusing and very difficult to follow or comprehend. (See Appendix 3 for full report on review of policies by Voltedge Management Ltd.)

Its analysis continues:

The disciplinary and grievance policies within an organisation remain two of the most critical policies that all employees and managers should have a full understanding of, as well as a good working knowledge of how they operate. This policy does not meet this requirement. It is confusing, disjointed and most definitely out of date and shows no relevance to current day best practice or management practices. (See Appendix 3 for full report on review of policies by Voltedge Management Ltd.)

Therefore, Voltedge Management Ltd. concludes that this policy document must be rewritten in its entirety and is not up to date with changes in best practice or current legislation, nor does it reflect a 'fit-for-purpose' status for a large modern organisation.

Voltedge Management Ltd. also found that guidance document – admin of redress of wrongs, A7 Chapter 2 Complaints Procedures, as a chapter of the wider policy is well documented and provides well-structured guidance. Voltedge Management Ltd. suggests the importance of an independent person

to work as an investigator, free from any conflict of interest, and that such a person should not be tasked with seeking to find redress or to resolve the complaint, which Voltedge sees as being the role of the reporting officer or the person reviewing the complaint once it has been escalated to them, and that the reporting officer or other person reviewing the complaint is charged with making an informed decision based on the evidence available to them and the details in the investigator's report.

In summary Voltedge Management Ltd. concluded that this policy document<sup>26</sup> has significant room for improvement, is not up to date with changes in best practice and does not currently reflect a 'fit-for-purpose' status for a large modern organisation.

Guidance has been provided in the assessment reports (See Appendix 3 for full report on review of policies by Voltedge Management Ltd.), on the actions which would improve these policies and ensure they are fit for purpose. At present, the policies and procedures are difficult to access and are in long, complicated documents written in technical HR language. They are not compliant with legislation, nor are they compliant with modern HR thinking and practice. The recommendation is that external expert resources be made available to assist the Defence Forces in updating and modernising the policies, in getting agreement from the relevant stakeholders and in enabling the roll-out of a briefing campaign to ensure that all members are aware of the new policies and can access them on a central system from anywhere. All of this should be carried out under the leadership of the Head of Strategic HR and Head of Transformation (to be appointed), but it is recommended that the HR Director report to an independent oversight body.

### Experiences from the consultation

Examples that illustrate the experiences of many members in terms of the application of policies not always being in keeping with the written word or their intent include the following:

- The superior officer is not fully aware of the detail of the policy but proceeds to make a decision without checking.

<sup>26</sup> DJ1 Guidelines on the Investigation of a Redress of Wrongs: Dated 24 Jul 2015

- It is alleged that the policies are ignored, distorted, or not consulted on occasion in order to suit the outcome that the superior officer wants to achieve.
- When complaints are put forward, the receiving officer may try to dissuade the complainant from filing their complaint.
- Where a member of the Defence Forces is persistent in making a complaint, counter-complaints or charges may also be brought against the member in order to persuade them to drop their complaint (this aspect is covered in greater detail under section 3.1.2 Abuse of rank and Power and Section 3.3.4 Reprisals/Retaliation).
- The experiences of women in the Defence Forces are reported on elsewhere, but the unacceptable discriminatory behaviour is allowed to continue because the policies are not clear enough, are not communicated adequately or are not seen to be the norms in practice.
- The perception of many is that the policies are there to protect the organisation and to facilitate the maintenance of the chain of command, rather than to protect those working in the Defence Forces or to give clarity in specific situations.
- Excessive reliance on rank is described as having created an unacceptably wide gap between enlisted personnel and commissioned officers.
- Where policies are not fit for purpose, there appears to be no penalty in any event, or non-implementation, which gives the strong appearance of such policies being optional. The perception of participants, current members and past members is that they feel that those breaking these policies appear to have 'top cover', where they appear to be rewarded and promoted rather than sanctioned.

Complete modernisation of these policies and effective communication to all, coupled with proper implementation, will only be effective in conjunction with a culture change and training for all members in the new modern system, and when penalties are put in place for wrongdoing and abuse of power.

### Survey findings

The IRG-DF Perceptions and Experiences Survey (2022) showed a widespread lack of confidence in the policies around unacceptable behaviour. Only 23% of respondents who had experienced bullying reported these cases, and most of these individuals (80%) reported dissatisfaction with the outcome of having reported a case. The most common reason given for not reporting a case was that there was 'no point'. Those who suffered unacceptable behaviours found that this had an impact on them, and in one-third of cases, this was severe and the bullying is continuing. More than one-half have considered leaving the Defence Forces, and among those who have reported cases which occurred in the last 2 years, 31% have decided to leave.

### Analysis

These findings indicate that the policies designed to protect staff in the Defence Forces from unacceptable behaviours are not effective and do not produce the necessary protections. Not surprisingly, with the scale of unacceptable behaviours and the impact this is having on retention of personnel, 31% of members who have reported instances of unacceptable behaviours are planning to leave the Defence Forces. The main perpetrators of unacceptable behaviours are perceived to be of a higher rank. Two-thirds of those surveyed had observed what they perceived to be unacceptable behaviours, showing that there is a high degree of awareness of the potential risk of being on the receiving end of these types of behaviours.

The questions about members' attitudes and perceptions showed strong belief in the members' own value to the Defence Forces, but less certainty about their future in the organisation, particularly in the case of female participants. Two-thirds of respondents were satisfied with their relationships with their colleagues, but one-half were dissatisfied with senior ranks, their work conditions and their prospects for the future. These findings suggest that the practices around retention, feedback to members and the opportunities within the Defence Forces need improvement.

## Recommendation

The current policies, systems and procedures are not fit for purpose for a modern public service organisation of scale. These must be updated, communicated to members and included in training programmes in order to increase awareness of the changes. In order to accomplish this, it is recommended that the Defence Forces should retain an external HR consultant to help deliver the updated policies, complementing work that is under way on the associated legislative frameworks. Appropriate briefing and training on the implementation of the new frameworks and policies is as vital as the drafting of suitable and clear documents. Although this sounds like an administrative recommendation, the process of doing this work and communicating it will signal that real change is coming. The full detail of these recommendations is to be found in Chapter 4, section 4.4.1.

### 3.3.3 ToR 3: Complaints handling processes for serving members

#### ToR requirement

ToR 3 reads as follows: “To examine the end to end process for making a complaint of unacceptable behaviour and assess whether there are any barriers to serving personnel from making a complaint and fully and actively engaging in the process and make appropriate recommendations”.

To address the requirements of the ToR, the IRG-DF drew from the interviews and reports the insights on the experience of members of the Defence Forces engagement with the existing complaints processes. The survey results contributed data that showed the experiences of currently serving members with the complaints procedures. An independent assessment of the relevant policies and procedures was commissioned and delivered a very clear outcome. With this evidence it was clear that change was needed. The issue of how to do the urgent action legally was tackled through the internal expertise and some external legal research. The following summarises the outcome of that work.

The following outlines the complaints process in the Defence Forces:

- The Defence Forces’ policies and procedures regarding interpersonal relationships and unacceptable behaviour are outlined in Defence Forces Administrative Instruction A7. Complaints of unacceptable or inappropriate behaviour are dealt with by the military chain of command either through the legal/disciplinary process or by administrative action.
- Administrative Instruction A7, Chapter 1, “Interpersonal Relationships in the Defence Forces”<sup>27</sup>, is the Defence Forces’ policy document which deals with sexual harassment, harassment and bullying. These complaints are dealt with at different levels, either by way of an informal approach or through a formal process. Specially trained Designated Contact Persons are available to assist complainants. The formal procedure requires that a complaint is made in writing.
- Chapter 2 of Administrative Instruction A7 provides another formal mechanism for individuals, under Section 114 (1) and (2) of the Defence Act, 1954, to seek redress of wrongs or to make a complaint. Complaints may be submitted orally or in writing to the complainant’s commanding officer or, in cases where the complainant feels that they have been wronged by their commanding officer, they may submit their complaint to the Defence Forces Chief of Staff.
- Under this mechanism there exists further recourse for the complaint to be referred to the Ombudsman for the Defence Forces for review and recommendation, if appropriate.
- In the event that a complaint of a criminal nature is reported, the standard procedure is that the matter is investigated immediately by the Military Police. Where allegations of serious criminal incidents among serving members are brought to the attention of the Military Police, they are traditionally passed to An Garda Síochána for consideration and investigation. This is the current policy; however, it is not always observed in practice.

<sup>27</sup> Defence Forces Administrative Instruction A7, Chapter 1: Interpersonal Relationships in the Defence Forces 2013: The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying

## Summary of documents

Table 2 shows a summary of related documents reviewed in assessing the current complaints and discipline policies and processes.

**Table 2: Summary of documents reviewed**

Title of document	Purpose of document
2 Defence Forces Administrative Instruction A7, Chapter 1: Interpersonal Relationships in the Defence Forces 2013: The Defence Forces Policy and Procedures dealing with Sexual Harassment, Harassment and Bullying	The aim of this Administrative Instruction is to set down policy and procedures regarding interpersonal relationships in the Defence Forces in order to deter unacceptable behaviour and promote a service environment based on mutual respect, equality and professionalism.
3 Defence Forces Administrative Instruction A 7 Chapter 2 Complaints under Section 114 (1) & (2) of the Defence Act 1954	The procedures contained in this section shall be used where an officer of the Permanent Defence Forces, thinking himself/herself wronged in any matter by any superior or other officer, including his/her commanding officer, seeks redress under Section 114 (1) of the Defence Act, 1954.
4 Defence Force Regulations A7 Discipline, Fifth Reprint, October, 1984.	This document is a restatement of the Defence Forces' regulations on discipline.
5 DJ1 Guidelines for the Investigation of a Redress of Wrongs: Dated 24 Jul 2015 for	This document contains supplementary guidelines for the investigation of a redress of wrongs.
6 DJ1 Guidelines on the administration of Redress of Wrongs Applications, dated May 2013	This document contains supplementary administrative guidelines to A7, Chapter 2, "Complaints Procedures".

The IRG-DF commissioned Voltedge Management Ltd., a HR consulting firm, to assess several policies and procedures to determine if they are good or very good and if they are fit for purpose for a modern organisation.

That review was based on assessing if each of the policies meets the following criteria:

- Is the policy and procedures good or very good?
- Is the policy fit for purpose in a large modern organisation?
- The following dimensions were considered in the review of this policy:
  - » Compliance with employment legislation and best practice;
  - » The Code of Practice on Grievances and Disciplinary Procedures<sup>28</sup> issued in May 2010;
  - » Structure of the policy in relation to subsections, the language used, the descriptions used, the information provided and the additional reference material noted;
  - » Comprehensiveness in the information provided for the employee, personnel in positions of authority and other stakeholders outside the organisation;
  - » Good practice principles and guidance set out in the various codes of practice available from the Workplace Relations Commission and Government bodies;
  - » The GDPR and overall data privacy and confidentiality; and
  - » Standard practices and procedures in relation to raising a complaint and dealing with an appeal.

Each of the policies listed in Table 2 was reviewed and an overall assessment was made, together with recommendations to bring them into compliance and/or up to date. One policy was well documented, and provides well-structured guidance; the others fell short on these criteria. Detailed suggestions for improvement are made and should be helpful to the Defence Forces in remediating these policies. The complaints policies fall short of the standards set in the ToR in terms of their accessibility by members of the Defence Forces, their compatibility with good practice, the consistency within and between documents, and possibly their tone in terms of

<sup>28</sup> Code of Practice on Disciplinary Procedures (S.I. No. 117 of 1996)

aspects such as respect. Copies of the Voltedge Management Ltd. reports are included in **Appendix 3**.

The IRG-DF has drawn on the consultation and research sources to assess the current efficacy of the Defence Forces' complaints process, and its findings are as follows.

Important findings from the Perceptions and Experiences Survey (2022) indicate that the Defence Forces' complaints process has several failings which act as a barrier to serving personnel's ability to make a complaint and to fully and actively engage in the complaints process at the level that would be considered normal. It follows that the current complaints process would not support the changes in culture and HR management practice announced by the Minister on 13 July 2022, which are intended to provide support to management in identifying hot spots of unacceptable behaviour, provide trend analysis to inform the leadership of the nature of the issues, and formulate recommendations to counter them.

The IRG-DF Perceptions and Experiences Survey (2022) also delivered several significant findings of relevance to the complaints process. Three-quarters of incidents of harassment were not reported, with the main reason given being that there was 'no point' in doing so. Of those who experienced harassment but did not report this, 71% were aware of the reporting procedures, so this was not the cause of the low level of reporting. Of those who did report incidents of harassment, most found the process to be complex and almost 80% were dissatisfied with the outcome. Of the complaints made, 20% are still under investigation, indicating a longer time frame to conclusion than would be considered good practice. A similar pattern exists for those survey respondents who reported being bullied, with only 23% reporting the incident. Most respondents with experience of being bullied also reported being dissatisfied with the outcome of the reporting/complaints process.

Another important attribute of a good complaints system is that it provides a basis to hold wrongdoers to account. Of those who responded to the IRG-DF Perceptions and Experiences Survey (2022), approximately 50% believe that the perpetrators of bullying, discrimination, etc. in the Defence Forces can 'get away' with such behaviours and that there is a level of tolerance towards such things within

the organisation. Many who gave an interview said that the perpetrators of wrongdoing towards them were rewarded with a promotion or other attractive rewards, whereas they got nothing, not even fairness or justice.

A consistent theme from the extensive interviews conducted with Defence Forces members is that, whatever the complaints policies say, these procedures are often not applied, and the complainants are penalised rather than the wrongdoers. A frequent comment is that making a complaint is one of the worst things you can do in the Defence Forces because of the retribution you will suffer. The IRG-DF covers the issue of reprisals/retaliation in more detail in section 3.3.4 of this report and so we have not detailed this issue here, save to say that severe punishment is inflicted on those who make a complaint and will not withdraw their complaint when pressured to do so. This includes complaints of harassment, bullying, assault and sexual assault, including rape and attempted rape.

This theme of policies not being applied is complemented by interviewees' comments that the complaints process is not fit for purpose. It does not have the confidence of the members, as evidenced by the statistics from the IRG-DF survey discussed above. Instead, the complaints process is used as a way of identifying members who are willing to speak up or identify problems so that they can be silenced. Interviewees called for an independent complaints process to be implemented that is separate from the chain of command and from the culture of the 'loyalty test' and the pressure of the promotion system.

### **Conclusion**

Based on the issues detailed above, the IRG-DF's conclusion is that the current complaints system is not fit for purpose and requires radical change and removal from the Defence Forces until it is reformed and modernised. Good HR practice benefits from a good complaints process, not only to provide employees with an avenue to redress wrongs but also to provide data on issues and trouble spots in the organisation. This should be administered by the HR Department. The Defence Forces should implement an effective, trusted and modern internal complaints process as soon as possible. The recommendations below are designed

to deliver that on a phased basis, recognising the current unacceptable starting position. Until that new and trusted system is in place, an independent and external professional service is required immediately, which can efficiently and effectively handle complaints beyond those at administrative level to measurable satisfaction by users and management.

The impact of these decisive steps will help to give impetus to the culture change taking place throughout the DF.

### **Recommendations for immediate consideration**

Provide the members of the Defence Forces with an independent, external, professional complaints process immediately. This external complaints process should be maintained until such time as the internal system is trusted by members, which assessment must be independently verified. The new independent system should report periodically to the new oversight body.

The overhaul of the complaints system will involve legislative change, and take considerable time. Given the urgent need to restore confidence in the system especially in respect of current and imminent complaints of bullying, harassment, sexual harassment and assault, the IRG-DF believes that serving members of the Defence Forces should be given access to an independent, external complaints service, delivered by a professional service provider, for as long as it takes to put a trusted internal system in place. The IRG-DF envisages that this can be done with an amendment of Administrative Instruction A7 Chapter 1.

The full detail of these recommendations is to be found in Chapter 4, section 4.2.1.

### **Recommendations for longer-term revision of the complaints system**

The desired future state of the complaints system is that it is an efficient, fit-for-purpose, best practice grievance process that is in line with employment legislation and meets the needs and demands of both the members of the Defence Forces and the organisation itself. This process should have accountability and oversight and adhere to the principles of natural justice while providing trust and impartiality to all who utilise its mechanisms.

As is outlined in Chapter 3, section 3.3.1, the redress of wrongs procedure established by Section 114 of the Defence Act, 1954 was the only grievance procedure available to members of the Defence Forces prior to the 2015 introduction of Administrative Instruction A7, Chapter 1. The purpose of Administrative Instruction A7, Chapter 1 is to provide a separate procedure for complaints of sexual harassment, bullying and other forms of discrimination.

As part of the in-depth examination of the redress of wrongs process, including independent expert analysis of the redress of wrongs policy and procedure, the IRG-DF has concluded that it is not fit for purpose in line with modern HR practices, in addition to being cumbersome, outdated and not trusted by the members who wish to raise a grievance. In light of current HR practice, the IRG-DF has recommended that the Minister review and replace the Section 114 redress of wrongs procedure, which is no longer appropriate.

The setting aside of the current redress of wrongs procedure will naturally require the redesign and introduction of a new mechanism for a complaints process which would include baseline principles in line with standard grievance procedures.

Recognising that it is ultimately the Defence Forces Head of Strategic HR and Head of Transformation who will be charged with this process, the IRG-DF is outlining core areas it has identified in its research which may be of assistance and prove informative to these department heads.

A more detailed outline of the proposed structure of the new grievance model and proposed Defence Forces Employee Relations Unit are outlined in greater detail in **Appendix 10**.

The full detail of these recommendations is to be found in Chapter 4, section 4.2.2.

### **3.3.4 ToR 4: Reprisals/retaliation**

The specification in the ToR reads as follows: “To examine the extent to which reprisal, or the fear of reprisal, or the existence of any culture of silence or complicity, may play as a barrier to reporting, or investigating, as well as any indication of inconsistencies or challenges in the application of policies”.

In setting up the IRG-DF, the Minister referenced his responsibilities to the members of the Defence Forces, as their ultimate employer. He wished to ensure a safe workplace which is not only compliant with relevant legislation, but also comparable to best practices. This basis for the IRG-DF's work has been reiterated in all press statements from the Department of Defence.

Reprisals/retaliation are a corrosive force in any organisation. The concept is most often associated with wartime. Reprisals/retaliation are banned by the UN (except in response to an action which is not within the rules of war). Within organisations, reprisals/retaliation should never be a feature of behaviours. It is a wholly inappropriate way of behaving and suggests deep-seated problems, potential harm to the people involved and a dysfunctional capacity to resolve problems.

### Findings

In its engagements with members of the Defence Forces, the IRG-DF has heard about reprisals/retaliation from all of the streams of consultation/research pursued. Currently serving and past members are aware of such practices, which are long-standing, with the majority of those who experienced harassment having endured more than one episode of same. It was striking how many of those who made submissions to the IRG-DF had endured many years of harassment, with far too many in the range of 10–20 years and still ongoing. These unacceptable behaviours were a surprise to recruits in training, both cadets and enlisted personnel, but they very soon came to understand the culture of reprisals/retaliation and their long-lasting impact on individuals and their careers. There are some indications of changes to the timing and form of the practice of reprisals/retaliation, from physical to psychological. In tandem, the culture of silence, or the attitude of 'nothing to see here' and the 'loyalty test', contribute to the impact of reprisals/retaliation.

Reports of reprisals/retaliation have taken many forms. Some examples include:

- Repeated name-calling; baseless criticism; and pejorative comments that are demeaning, corrosive on self-esteem and isolating, as others distance themselves to not receive the same treatment;

- Trumped-up charges;
- Referrals for psychiatric assessment on no basis (this has been checked as a practice by the psychiatric services);
- Refusal to approve leave, or agreed leave being cancelled, for no reason and for no work-related purpose;
- Concerted psychological pressure over long periods of time, such as finding fault with performance when tests/objective assessments demonstrate otherwise, which carries the threat of being 'boarded out' of the Defence Forces when there is no medical/psychological reason for it;
- Unfounded accusations of being absent without leave, including sending the Gardaí to the member's home;
- Withholding overseas service opportunities (even when the Defence Forces is finding it difficult to fill tours of duty);
- Withholding places on courses, particularly those that are required for promotions or that give particular expertise that is attractive for later career progression;
- Repeated physical assault, with 'top cover' provided by the person in the chain of command who had the duty of care;
- Reprisals/retaliation taken against the serving member's partner (who is also in the Defence Forces) as an additional pressure; and
- Even in cases where the individual gets a transfer to get away from a superior they have had trouble with, the next superior is briefed and the individual suffers the same harassment as they did in the unit they left.

### 'Nothing to see here' and the 'loyalty test'

Incidents of unacceptable behaviour, ranging from verbal abuse (such as shouting demeaning insults, or a member of superior rank screaming foul language into a soldier's face), right up to and including rape and serious physical assault, are covered up. The complainant comes under pressure not to complain and is advised by an 'independent solicitor' not to go to the Gardaí or not to make a formal complaint as it will impact on their career. Those who do not conform to this pressure to make the incident 'not exist' experience increased pressure. The few who withstand this additional pressure opt for a court

martial as the safest way of resolving the ‘trumped-up’ charges. Many are pressured to withdraw from the court martial by pleading guilty to a lesser charge, being advised that they are going to be found guilty in any event. A few have taken the case to the High Court and had their conviction in the court martial overturned – however, it is important to note that most would not have the financial means to take such an action.

The ‘loyalty test’ comes into reprisals/retaliation when the testimony of an officer is required to support the version of events that is put forward by the chain of command or a group of members colluding to silence or punish someone who speaks out or who, in their view, ‘doesn’t fit’. Alternatively, important papers or files go missing or are changed, and the process is distorted in a number of other ways in order to discredit the case of the complainant. Those who cooperate and pass the loyalty test are rewarded through support in their careers, while those who do not cooperate see their careers as over.

### **Triggers for reprisals/retaliation or unacceptable treatment**

The following were given as reasons for reprisals/retaliation in the cases the IRG-DF had access to:

- The member of the Defence Forces made a complaint through the redress of wrongs policy.
- The person did not fit the perpetrator’s image of a ‘Defence Forces soldier’: their ‘face did not fit’, they were considered too small in stature, or, despite passing the fitness test, they did not fit the commanding officer’s ideal.
- The member ‘spoke up and called it straight’.
- The member stood up to inappropriate behaviours.
- The member had a baby.
- The member spoke up for someone else.
- There was no apparent reason that the perpetrator picked on the individual.

### **Impact of reprisals/retaliation**

Reprisals/retaliation cause stress, distress, and physical and financial hurt to victims and their families and colleagues. From the consultation work undertaken by the IRG-DF, this distress is still experienced long after the complainants have been boarded out or court-martialled. Some reported

diagnoses of post-traumatic stress syndrome. Given the intensity of training and development in the Defence Forces, and the sense of camaraderie and loyalty to classmates and fellow soldiers, the mistreatment suffered at the hands of fellow members of the Defence Forces and the expulsion from the ‘family’ that the Defence Forces has become to these individuals is felt very profoundly. This is the human cost of reprisals/retaliation.

A significant organisational impact from reprisals/retaliation (and other unacceptable behaviour) is that good people leave and get a job outside the Defence Forces. Many specific examples were mentioned in the consultations. Among respondents to the IRG-DF’s Perceptions and Experience Survey (2022) of serving members, approximately 50% of those experiencing harassment considered leaving the Defence Forces. Of those who have experienced harassment in the last 2 years, 20% have decided to leave the Defence Forces. As 76% of female members have reported experiencing harassment, this unacceptable behaviour is likely to be a factor in the low level of women attracted to and remaining in the Defence Forces.

Another effect of reprisals/retaliation is the impact on morale. Most instances of reprisals/retaliation happen in the presence of other people, acting as a warning of what others might expect should they submit a complaint. In addition, 92% of victims of harassment discuss their experience with colleagues of either the same or higher rank. Seeing this behaviour play out, or hearing about it first-hand, still has the effect of lowering morale and trust that these members have in the Defence Forces even if they are not personally being targeted by reprisals/retaliation.

### **Conclusions**

Based on the research and consultations undertaken by the IRG-DF, reprisals/retaliation and penalisation are widespread among those who make complaints, do not fit an individual or group’s concept of a Defence Forces soldier, or speak up with an inconvenient truth or to prevent a wrong. In other militaries, independent thinking and initiative is encouraged; this appears to be penalised in Ireland’s Defence Forces.

The full detail of these recommendations is to be found in Chapter 4, section 4.5.1.

### 3.3.5 ToR 6: Training effectiveness on workplace issues of dignity and respect

The specification in the ToR reads as follows: “To assess the effectiveness of training syllabi and awareness programmes for all ranks within the Defence Forces, including at entry level, appointees as Military Investigating Officers and Military Police, on workplace issues pertaining to dignity and equality, duty of care, discrimination, intimidation, bullying, harassment, sexual harassment and sexual misconduct”.

The scale and commitment of the Defence Forces to training is impressive. The transformation of a person from a civilian to a disciplined soldier is the stuff of legends, movies and TV shows. But the substantive transformation is an important and significant aspect of creating a member who is capable in a military role and who acts with care for fellow members of their ‘team’ and Defence Forces colleagues in general and towards those their mission positions them to protect. Inclusion of the Defence Forces in peacekeeping missions is testimony to the quality and standards of Defence Forces military training. The IRG-DF’s focus was, however, a narrower one. It looked at the effectiveness of training on the capacity of members of the Defence Forces to identify, intervene and address incidents of inappropriate behaviour in the Defence Forces workplace, and prevent harm.

The IRG-DF took a particular approach to this assessment, which is detailed below. The findings that emerged from that, as well as the conclusions and suggested recommendations, are summarised in the subsections below.

#### Sources for the assessment

The assessment made below draws on three sources, as follows:

- A. Review of a range of relevant training programmes currently being delivered in the Defence Forces;
- B. Independent assessment of the core training programmes by an expert training and development company selected through a competitive request for quotations process; and
- C. The lived experience of serving and former members of the Defence Forces in their engagement with their colleagues, superiors and reports in situations where the skills to handle

incidents of poor behaviour in the Defence Forces are evident.

The IRG-DF faced several challenges in addressing this element of our ToR:

- **Scale:** The Defence Forces undertakes a significant amount of training on an ongoing basis. This results in a huge volume of syllabi, elements of which were relevant in the context of this Review. Training courses are in high demand (route to promotion) and often oversubscribed. To form an accurate picture of the current situation, the IRG-DF chose a sampling strategy of selecting the courses that give core/initial training and provide the basis for promotion to all who are enlisted or commissioned into the Defence Forces. Details of subject-specific training courses for Military Police were requested, but these do not exist as stand-alone courses in the Defence Forces.
- **Specificity:** Despite reports from interviewees of well-received, dedicated programmes, no syllabi for dedicated programmes on handling unacceptable behaviours were forthcoming.
- **Context:** Training effectiveness rests on many aspects, including content; method of delivery; the environment into which the new skills are to be applied; leadership towards effective implementation; and duration and repetition/reinforcement of training. The IRG-DF did not undertake a full organisational review and therefore only gained some insight into the context, resourcing and leadership that is available to ensure that the training implementation is supported.

This assessment set out to answer the following questions:

- Is the training provided on acceptable behaviours in the workplace well founded on modern understandings of workplace behaviours, and does it utilise good/best practices comparable to other modern employers of scale in Ireland?
- What factors, if any, need attention in training and the environment so that members of the Defence Forces are equipped to deal with inappropriate behaviours in the workplace?
- Does the current training in handling inappropriate behaviours in the Defence

Forces workplace serve the needs of all serving members of the Defence Forces?

- Are there changes that would increase the effectiveness of the training currently provided and what would be recommended?

## Findings

### Expert review

- The IRG-DF secured the services of TIO Consulting, following a competitive request for quotations process, to provide expert advice on the current training provision in the Defence Forces for all ranks. The following is TIO Consulting's overall set of conclusions. Detailed conclusions and recommendations from TIO Consulting's assessment is attached in the form of its full report, which is available at **Appendix 4**.
- TIO Consulting conducted an analysis of a selection of general and specific training courses currently provided by the Defence Forces. The TIO report at Appendix 4 of this document contains a table summary of a sample of these programmes. The majority of the training course were general in focus and did not give particular priority to misbehaviour issues. TIO Consulting also observed the following features of current programmes:
  - The majority of the current provision is driven by an educational ethos. Its primary focus is on developing the technical capabilities of soldiers and their physical fitness for army life. The development of soft skills and issues around behaviour and culture are clearly secondary based on the content reviewed by TIO Consulting.
  - While programmes address behaviours and values around leadership, there is very little explicit content across the majority of programmes that addresses misbehaviour and calls out different types of misbehaviour.
  - The majority of programmes are strongly knowledge rather than skills focused, with a major didactic and instructional type of delivery approach emphasised across the different programmes.
  - What becomes very clear is the lack of 'joined-up' thinking or explicit articulation of clear linkages across programmes. It is not clear how these programmes synergise with each other to produce a modern soldier.

- There is strong technical underpinning to all of the programmes reviewed. What becomes clear is that the soft skills take a secondary position to the technical, 'hard' management and leadership skills.
- TIO Consulting found evidence of very few programmes that were explicitly tailored to address different forms of misbehaviour. Therefore, the Defence Forces does not have a strong suite of programmes driven by a diversity and inclusion ethos that address misconduct and move beyond knowledge objectives.

In addition to the overall conclusions, the TIO Consulting report gives a convincing, evidence-based analysis of the research into the efficacy of workplace misbehaviour training in organisations. It presents research specific to military organisations and the factors that are particularly impactful in increasing the efficacy of such training, with particular emphasis on culture and leadership as critical supporting factors. It makes 28 'recommendations for practice' to increase the efficacy of training undertaken in the Defence Forces around the issue of workplace misbehaviour. All of these recommendations appear appropriate and range from 'critical' to 'very useful'.

### Experiences from consultation

The development of the skills capacity to handle inappropriate behaviours in the workplace could be enhanced significantly by increasing the extent of such training, repeating it more frequently and measuring its impact. Immediate skills training based on the guidelines in TIO Consulting's report is urgently needed in order to build on the briefing sessions, which have been rolled out in the Defence Forces since the *Women of Honour* documentary was broadcast. However, this will not be effective without the culture change and training for all members in the new modern system, including penalties for wrongdoing and abuse of power. As the TIO Consulting report states, it will also be dependent on informed and visible leadership by the senior ranks and the senior NCOs in the Defence Forces.

### Conclusion

The conclusion from the IRG-DF's assessment is that the current training in handling unacceptable

behaviours is not at the level, form or extent needed to have the desired impact on behaviours.

The full detail of these recommendations is to be found in Chapter 4, section 4.6.1.

### 3.3.6 ToR 7: Performance evaluation and promotion systems for selecting leaders

The specific requirement of ToR 7 is as follows: “To review the performance evaluation, and promotion systems in the Defence Forces from the particular perspective of how leaders are selected and trained on management skills and duty of care to personnel under their command”.

This requirement begins with a very broad topic – the Defence Forces’ performance evaluation and promotion system – and narrows it to focus specifically on the selection of leaders and their training in management skills and duty of care. In high-performing groups, leadership is often distributed so that ‘leader’ is not a permanent position but a role carried out as required and as understood by members of the group. In militaries, the chain of command is an organising structure of significance for engagement in armed combat. So who are the leaders in the Defence Forces?

Defence Forces members are trained in readiness to protect the State in the event of external armed aggression. (An Garda Síochána holds the primary responsibility for domestic security and calls on the Defence Forces, if required.) So the leaders in the Defence Forces are those who take on leadership roles in the many overseas and domestic assignments they are asked to do. Officers, NCOs and any member asked to take on a leadership role, whether by an order, assignment of a role or by circumstance, may perform a leadership role. From this analysis, any member might have to step up to a leadership role and should have the training to recognise when they need to do so, how to act, and the skills required to resolve the situation. It is likely that the intent of ToR 7 was to focus on the preparedness of those in management or commanding officer ranks to provide a safe workplace where members experience dignity and respect.

This topic could have absorbed the whole of the IRG-DF Review’s focus and resources for its 1-year term to conduct a full evaluation and deliver a comprehensive assessment and recommendations.

The IRG-DF drew on a number of inputs in making this initial assessment:

1. Consideration of the significant amounts of relevant documentation on recruitment and retention supplied by the Defence Forces Assistant Chief of Staff, Defence Forces Headquarters at an early stage in the process;
2. An independent, expert review by an independent HR consultancy, Voltedge Management Ltd., of the policies and procedures for recruitment and promotions in the Defence Forces (a copy of the results of that review is set out in **Appendix 3**);
3. An independent review of training programmes for entry-level members and just prior to promotion by an independent training consultancy, TIO Consulting, to assess the effectiveness of training given to members that would support dignity and respect policy implementation;
4. Interviews with serving and former members of the Defence Forces, where comments were made about the training and promotion system;
5. Interviews with high-ranking members of the Defence Forces, where the subject of training for people management was addressed; and
6. Research undertaken by the IRG-DF members in the course of their role.

The conclusions from this work are summarised in the following subsections.

#### Policies review

The policies and procedures were reviewed based on the following dimensions:

- Structure of the policy in relation to subsections, the language used, the descriptions used, the information provided and the additional reference material noted;
- Comprehensiveness in the information provided for the employee, personnel in positions of authority, Board members and any other relevant stakeholders;
- Compliance with employment, equality and diversity legislation and when the policies were last updated to reflect compliance with the latest legislation;
- Good practice principles and guidance in how the process was structured and managed;

- Terminology used with regard to equality, diversity and inclusion principles;
- The GDPR and overall data privacy and confidentiality, along with what information was shared, what information was considered by the selection board, and what information was relevant in relation to the assessment of the candidate's suitability for the role or promotion; and
- Standard practices and procedures in relation to the application process, the data being considered, the selection process, knowledge and appointment of the promotions board members, the weighting and scoring mechanism and the overall decision process of the promotions board.

The policy documents, forms and case files reviewed are listed in the Voltedge Management Ltd report.

The conclusions are as follows:

- There is considerable crossover of information between documents, making it challenging to follow and fully comprehend the process. Those reviewing the documents were HR policy experts, so how would an ordinary soldier make sense of them?
- A significant amount of the information is of a high standard.
- The documents reviewed contain a considerable amount of outdated legislation and cumbersome practices that would not meet the test of a fair and objective process.
- The language and terminology used is outdated and does not demonstrate an inclusive environment or culture.
- Many of the policies and the candidate file documents do not meet the requirements or regulations set out in equality legislation or in the GDPR. Specific guidance on the documentation for the stages from enlistment through discharge and on each of the policies and related documents is provided in the Voltedge Management Ltd. report.

### **Basis for promotion**

Based on the documentation received, it was not possible to do an assessment of the proportion of the criteria for promotion that assesses people skills, or of the psychometrics that measure ability in that area. The picture that emerged from the comments

of interviewees is of promotion being heavily based on whether a member's file was one that had no 'blots on the copybook', the required number of course points (irrespective of relevance), sufficient overseas missions and good assessment reports from superior officers.

In addition, we received a significant body of assertions that the process is controlled by the senior ranks and that candidates must pass the 'loyalty test' to be successful. This involves having undertaken some action at the direction of a superior officer that was not ethical/legal and that served to sort out a problem that a member of the 'loyalty club' needed resolved. These are serious allegations that cast doubt on the operation of the system. They will not be easy to investigate, but if the needed changes in culture are implemented, that could be a significant support in resolving these issues

Further evidence is the performance of the leadership, over the last 20 years, in managing an organisation that provides dignity and safety at work. Apart from the understandable situations of physical danger that the role of a Defence Forces soldier entails, there is very strong evidence that the workplace in the Defence Forces has not been and is not currently one that meets modern standards of dignity and safety at work. Management and leadership in the organisation have not had the skills to identify and analyse problems, or to formulate and implement an effective solution that addresses the issues of dignity, respect and safety in the organisation. The Defence Forces urgently needs leadership that has this capability.

### **Conclusion**

The defence forces promotions and performance evaluation require radical reform. The full detail of these recommendations is to be found in Chapter 4, section 4.3.1.

### **3.3.7 ToR 8: Culture**

The specific requirement of ToR 8 reads as follows: "To establish if an appropriate culture prevails within the Defence Forces across all ranks, which robustly promotes, supports and enables, a workplace based on dignity and mutual respect with a non-tolerance approach for unacceptable behaviour in the workplace". While we refer to

culture in our discussion in 3.1.6, this specific section deals with culture as it relates to our specific ToR.

Again, this is a very significant topic; we understand that it is the subject of a programme of work under the implementation plan following the Report of the Commission on the Defence Forces published in 2022. The literature on addressing misbehaviour in the workplace identifies the importance of culture in ensuring a workplace of dignity and respect. The IRG-DF developed a specification for the work required in this area, which focused on the relevant literature available and analysis of empirical data.

The IRG-DF has the strongest of commitments to maintaining the confidentiality of the identities and disclosures of those who were brave enough to make complaints through the RaiseaConcern Confidential Contact Person service and directly to the IRG-DF in submissions, interviews and follow-up documentation. To provide the consultancy that was awarded the contract with the empirical data required, two sources were identified. The first was the verbatim accounts that the survey respondents had entered into the text boxes provided in the IRG-DF Perceptions and Experiences Survey (2022). The survey respondents are anonymous as the IRG-DF Perceptions and Experiences Survey (2022) was completed online, with no facility to identify the respondents. Another obvious choice was the rich source of culture data that exists in the detailed reports prepared by RaiseaConcern. As detailed in section 1.2.2 on confidentiality, the IRG consulted with RaiseaConcern, which secured the permission in writing of the selected interviewees to release their meeting reports to the TIO Consulting expert. The approach to information gathering started with the concepts of dignity and respect and worked through those in the literature to develop a culture web of the Defence Forces through that lens. The key questions to be addressed were:

- What are the key attributes relevant in a workplace based on dignity and mutual respect with a non-tolerance approach to unacceptable behaviour?
- What are the relevant attributes of the current culture in the Defence Forces?
- Is there evidence to support (or otherwise) the existence of an appropriate culture in the Defence Forces?

The report is attached, (at Appendix 11 of this report) and the following outlines the key findings of the IRG-DF.

There is a body of literature on dignity and respect in the workplace, but this covers very little on those attributes in military organisations. The following summarises the outcomes of the IRG-DF's investigation into the questions outlined above:

- The culture web framework (at Appendix 11 of this report) highlighted that the core of such a culture (or what we call the paradigm) is a focus on the notion that values around dignity and respect must be part of the fabric of the culture and that it permeates the organisation. In addition, it must be supported from top to bottom and have an underpinning of progressive HR practices and policies and leadership behaviours.
- The meta-analysis findings highlight important antecedents and process dimensions that facilitate the emergence of dignity, respect and inclusion culture. Of primary importance are the structural configuration of the organisation, its leadership processes, the implementation of supportive HR practices and the implementation of domain-specific practices and policies around dignity, respect and inclusion.
- The existing culture of the Defence Forces is a disabling culture when it comes to supporting dignity and respect. None of the key elements of the Defence Forces' current culture web are aligned with the essence of a culture of dignity and respect, which is a focus on the person.
- The Defence Forces' existing culture web is particularly deficient when it comes to leadership role modelling, the behaviours of rank-and-file employees, and the lack of a supportive set of HR practices and a set of organisational rituals and routines that promote dignity and respect. What is most remarkable from the data is the extent to which every segment of the culture web is in the negative.
- The task of changing the existing culture is a mammoth one that will require a systemic, organisation-wide approach. It will also need to bring the rank and file along with this change process. Therefore, they, the rank and file members, will be an important part of the solution implemented, and this solution will

need to be framed in a positive way in order to be successful.

### Conclusion

Based on the analysis provided by TIO Consulting, supported by the findings of the IRG-DF's research, we ask the Minister to direct the Defence Forces to undertake a well-designed and expertly implemented culture change programme. We ask the Minister to provide funding for the engagement by the Defence Forces, with oversight from the independent body (outlined in Chapter 3, Section 3.1.5) of external expertise to assist in the specification, design, roll-out, monitoring, and measuring/assessing of the pace and efficacy of implementation. We ask the Minister to require the oversight body to supply him with regular and periodic progress updates. The full detail of these recommendations is to be found in Chapter 4, section 4.7.1.

### 3.3.8 ToR 11: Role of the Minister/Department

#### ToR 11

The IRG-DF ToR 11 reads as follows: "To examine the statutory role of the Minister/Department in the systems and procedures for dealing with complaints".

The IRG-DF has addressed this requirement through the following work:

- The relevant legislation has been reviewed by legal experts and a briefing on this was considered on two occasions.
- The contents of the recently undertaken Departmental Review<sup>29</sup> were considered and the relevant elements identified. The Department's Statement of Strategy<sup>30</sup>, the *Report of the Commission on the Defence Forces* published in 2022 and the subsequent Action

Plan<sup>31</sup> and other relevant policy documents were reviewed by the IRG-DF and relevant elements identified.

#### Position of the Minister for Defence

Military command of the Defence Forces, vested in the President by the Constitution of Ireland (Article 13.4), is regulated by law and exercisable by the Government. Pursuant to Section 17 of the Defence Act, 1954, in practice, and subject to such limitations as the Government may impose, that supreme military command, and all executive and administrative powers in relation to the Defence Forces, are exercised through and by the Minister for Defence. The Minister has extensive powers of an administrative nature in relation to the Defence Forces, exercisable by regulation. In addition, under Section 26.1 of the Defence Act, 1954, the Minister has the general power to make regulations "not inconsistent with this Act".

#### Minister's role in the complaints process

Section 114 of the Defence Act, 1954 is the section dealing with complaints called 'redress of wrongs'. That section outlines a procedure for processing such complaints within the chain of command, depending on whether the complainant is an enlisted member of the Defence Forces or is an officer. If the wrongdoing cannot be resolved at the initial level, it progresses up the chain of command with the ultimate appeal dealt with by the Defence Forces Chief of Staff. (Formerly, the last appeal was to the Minister instead of the Defence Forces Chief of Staff, but that was changed in 2004 when the Ombudsman (Defence Forces) Act 2004 was enacted.) The Defence Forces Chief of Staff is obliged to notify the Minister, along with the Ombudsman, of every redress of wrongs complaint made in writing.

Nevertheless, a redress of wrongs complaint may come to the Minister via a complaint to the Ombudsman for the Defence Forces. Under Section 4(2(d)) of the Ombudsman (Defence Forces) Act 2004, if an officer or an enlisted person makes a complaint under Section 114 of the Defence Act, 1954 which is not likely to be resolved and 28 days

<sup>29</sup> The Organisational Capability Review was undertaken by a team from the Department of Public Expenditure and Reform. The report was delivered in July 2022

<sup>30</sup> Department of Defence, Óglaigh na hÉireann, (2020) Strategy Statement 2021-2023; "Building for the Future – Change from Within". Dublin, IRL. Department of Defence and Defence Forces, 2020.

<sup>31</sup> Department of Defence, Óglaigh na hÉireann, (2022) "Building for the Future – Change from Within" High Level Action Plan for the Report of the Commission on the Defence Forces. Dublin, IRL. Department of Defence and Defence Forces, 2022.

have passed since it was made, the Ombudsman may investigate that complaint. If, however, the complaint relates to security or a military operation, to the organisation, structure or deployment of the Defence Forces, or to military prisons, or it predated the 2004 Act, the Ombudsman cannot investigate it and must refer it to the Minister (Section 5 of the Ombudsman (Defence Forces) Act 2004). Given those limitations, it is clear that the Minister will only be involved in dealing with complaints under Section 114 of the Defence Act, 1954 in very limited circumstances.

The Minister has power under Section 114 to make regulations regarding the submission of grievances. Those would, of course, have to be consistent with the provisions of Section 114.

In fact, the Minister has given directions on the basis of which the Defence Forces Chief Staff has issued Administrative Instruction A7, Chapter 2, setting out the detailed procedure for dealing with redress of wrongs complaints. That Administrative Instruction follows the outline structure set out in Section 114 of the Defence Act, 1954. In practice, Section 114 complaints tend to be administrative in nature, concerned with such matters as access to courses, promotion and overseas service.

Complaints regarding interpersonal issues of bullying, sexual harassment and harassment are dealt with under Administrative Instruction A7, Chapter 1, which is discussed in greater detail in Sections 3.3.1 and 3.3.2 of this report. Suffice it to say that, apart from directing the military authorities to promulgate it, the Minister has no role under that Administrative Instruction, which is not made under Section 114 of the Defence Act, 1954, and the procedure the Administrative Instruction outlines is different from that set out in Section 114.

In relation to the Ombudsman for the Defence Forces' investigation of a complaint, the Minister receives a statement of the results of the investigation (Section 7(2(a)) of the Ombudsman (Defence Forces) Act 2004), and the Ombudsman may make a recommendation for the Minister to take action and request the Minister to respond within a specified time (Section 7(3)).

### **Minister and protected disclosures**

The Minister also has a role where the complaint takes the form of a protected disclosure under the Protected Disclosures Act 2014. The Minister is the employer of Defence Forces members for the purpose of that Act, and it is to him that the disclosure of relevant information is made, including information related to relevant wrongdoing, such as the commission of an offence, a failure to comply with a legal obligation, a miscarriage of justice, a health and safety issue, damage to the environment, or act or omission by a public body that is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement, whether it occurred in the State or abroad – a relevant consideration for Defence Forces operations overseas. On the other hand, the relevant wrongdoing cannot be something which is the workers' or the employer's (i.e. the Minister's) function to investigate, and it cannot be an act or omission by the employer. The Protected Disclosures Act 2014 is concerned with providing the whistleblower with protection from penalisation or dismissal and not with how the disclosure will be dealt with.

One weakness of the Protected Disclosure Act 2014 was the absence of time limits for action and feedback in relation to the complaint. This has now been addressed by the provisions of the Protected Disclosure (Amendment) Act 2022, as described in section 3.3.8 of this report.

Where a protected disclosure is made that a person has been penalised for making a complaint to the Ombudsman, that fact does not prevent the Ombudsman from investigating that complaint, and the Ombudsman cannot refuse to deal with the complaint on the basis that no redress of wrongs complaint has been made concerning the subject matter of the protected disclosure (Section 4(3A) of the Ombudsman (Defence Forces) Act 2004).

### **Department of Defence**

The Department of Defence was established by the Ministers and Secretaries Act, 1924, which assigns to the Department "the administration and business of the raising, training, organisation, maintenance, equipment, management, discipline, regulation and control according to law of the Military Defence Forces".

Under the Defence Acts 1954–2015, the Department has civil and military elements. The civil element is headed by the Secretary General and the military element by the Defence Forces Chief of Staff. Both elements provide supports to the Minister in the management of defence.

The Ministers and Secretaries Act, 1924 provides that the Minister is the head of the Department of Defence. The Secretary General is the principal officer of the Department, and as such is the Minister’s principal policy advisor. The Secretary General is also appointed by the Minister for Finance as the Accounting Officer for all defence expenditure. The Public Service Management Act, 1997 requires the Secretary General to prepare a strategy statement for the Minister’s approval and an annual report on performance.

The Department has no greater involvement in the workings of the complaints process than the very limited role of the Minister. The only exception is in respect of protected disclosures to the Minister. The Department presumably would also have a significant role in the drafting of any amendment of Section 114 of the Defence Act, 1954, and the complaints process generally. This would include the formulation of such directions as the Minister may give in respect of Administrative Instructions, such as Administrative Instruction A7, Chapters 1 and 2, to be issued by the military authorities.

### 3.3.9 ToR 12: Complaints process for civilians and civil servants

#### Background

Part of the remit of the IRG-DF, under its ToR (specifically article 12), is to review the complaints process for civilian personnel, civilian employees and civil servants to make complaints of unacceptable behaviour by members of the Defence Forces.

There are currently three classifications of individuals engaged in work within the Defence Forces: (1) Defence Forces members, (2) civilians, and (3) civil servants.

The power to employ civilians under the Defence Act, 1954 is set out in Chapter IV, Miscellaneous Provisions in relation to the Defence Forces, as follows:

30.—(1) The Minister may do all or any of the following things—

- (g) employ (including employ by way of apprenticeship) civilians with the Defence Forces or in a factory established under this section.

#### Civilian staff

Civilians working in the Defence Forces are employed by the Department of Defence. All aspects of their employment – apart from pay, which is managed through the Payroll Shared Service Centre – are managed by the HR Division within the Department of Defence. It should be noted that the majority of civilian employees are craft, general operative and similar grades, and are primarily engaged in the maintenance of equipment and military installations. The balance of these staff are operating in clerical and storekeeping functions for the Defence Forces, but such staff also include aircraft inspectors, social workers and other professional and technical grades, including an assortment of healthcare professionals.

The supervision of their day-to-day role within the Defence Forces can be carried out by another civilian employee or a member of the Defence Forces.

#### Civil servants

Civil servants working in the Defence Forces are employed by the Department of Defence. All aspects of their employment – other than transactional and payroll services provided by the NSSO as for all civil servants employed by the Department – are managed by the HR Division within the Department of Defence. There is currently a small but growing number of civil servants positioned in military units. This number will only grow over time in line with the recommendations of the *Report of the Commission on the Defence Forces* published in 2022 to develop and expand recruitment channels in specialist areas such as procurement, finance, and analysis, and further such recruitment is ongoing.

### Grievance mechanisms

There are currently three mechanisms germane to complaints or grievances pertaining to civilian and Civil Service staff working within the Defence Forces. They are:

1. *Dignity at Work (2015); An Anti-Bullying, Harassment And Sexual Harassment Policy For The Irish Civil Service* (Table 3);
2. *Dignity at Work (2021); An Anti-Bullying, Harassment And Sexual Harassment Policy For The State Industrial Employees Working In The Civil Service* (Table 4); and
3. Ombudsman (Defence Forces) Act 2004 (Table 5).

An overview of each instrument outlining the relevant process which the complainant can access, the respondent who may have a complaint against them raised under the policy, the investigation practices limitations and whom there is an ability to sanction are set out in tabular form below.

#### Grievance mechanisms for civil servants

*The Dignity at Work (2015); An Anti-Bullying, Harassment And Sexual Harassment Policy For The Irish Civil Service* aims to promote respect, dignity, safety and equality in the workplace. This policy defines bullying, harassment and sexual harassment. It also outlines the difference between bullying, harassment and sexual harassment as defined by the policy and what may be considered as normal workplace conflict. The policy also provides a clear complaints process map with guidance for HR, the complainant and the respondent.

**Table 3: Civil Service Complaints Process**

<b>Policy:</b>	Dignity at Work (2015); An Anti-Bullying, Harassment And Sexual Harassment Policy For The Irish Civil Service
<b>Complainant:</b>	Civil Service staff in the Defence Forces
<b>Respondent:</b>	Civilian staff, Civil Service staff, members of the Defence Forces
<b>Investigation:</b>	Yes, but no power to compel engagement or witness from the Defence Forces
<b>Sanction:</b>	Civilian: Civilians: Yes; Civil Servant; servants: Yes, Defence Force Member; Forces members: No

#### Grievance mechanisms for civilians

Since 29 March 2021, there has been an agreement in place for State industrial employees working in the Civil Service to have access to the *Dignity at Work (2021); An Anti-Bullying, Harassment And Sexual Harassment Policy For The State Industrial Employees Working In The Civil Service*, as negotiated at the Joint Industrial Council, as agreed by SIPTU on behalf of the employee side and by Department of Public Expenditure and Reform on behalf of the employer side. This policy mirrors the *Dignity at Work (2015); An Anti-Bullying, Harassment And Sexual Harassment Policy For The Irish Civil Service* policy document.

**Table 4: Civilian Complaints Process**

<b>Policy:</b>	Dignity at Work (2021); An Anti-Bullying, Harassment And Sexual Harassment Policy For The State Industrial Employees Working In The Civil Service
<b>Complainant:</b>	Civilian staff in the Defence Forces
<b>Respondent:</b>	Civilian staff, Civil Service staff, members of the Defence Forces
<b>Investigation:</b>	Yes, but no power to compel engagement or witness from the Defence Forces
<b>Sanction:</b>	Civilian: Civilians: Yes; Civil Servant; servants: Yes, Defence Force Member; Forces members: No

Serving members of the Defence Force or the Reserve Defence Force may utilise the internal Defence Forces complaints investigation process pursuant to Section 114 of the Ombudsman (Defence Forces) Act 2004, and thereafter refer the matter for adjudication by the Ombudsman for the Defence Forces.

The individual may also make a complaint directly to the Ombudsman; however, the Ombudsman may decide not to carry out an investigation if they are of the opinion that the complainant has not taken reasonable steps to seek redress or, if the complainant has taken such steps, that he or she has not been refused redress.

A member of the Defence Forces may make a complaint about a civil servant under the Ombudsman (Defence Forces) Act 2004, as set out in Section 6, Complaint to Ombudsman:

—(1) A serving member of the Defence Forces may, subject to this Act, make a complaint to the Ombudsman concerning an action if it has affected that member and was taken by or on behalf of— (c) a civil servant.

A former member of the Defence Forces may make a complaint about a civil servant under the Ombudsman (Defence Forces) Act 2004, as set out in Section 6, Complaint to Ombudsman:

— A former member of the Defence Forces may, subject to this Act, make a complaint to the Ombudsman concerning an action if it has affected that former member and was taken while he or she was a serving member of the Defence Forces by or on behalf of— (c) a civil servant.

**Table 5: Defence Forces Complaints Process against Civilians and Civil Servants**

<b>Policy:</b>	Ombudsman (Defence Forces) Act 2004
<b>Complainant:</b>	Members of the Defence Forces
<b>Respondent:</b>	Civilian staff, Civil Service staff, members of the Defence Forces
<b>Investigation:</b>	Yes, with power to compel all staff
<b>Sanction:</b>	Civilian: Civilians: No; Civil Servant; servants: Yes, Defence Force Member; Forces members: No

It is important to note that there is a mechanism for a member of the Defence Forces to complain to the Ombudsman for the Defence Forces about a civil servant employed by the Department of Defence, but this is not reciprocal; in other words, this facility is not available to a civil servant, and they must utilise the mechanism of the Civil Service Dignity at Work policy, as outlined above.

**Sanction**

As we can see from the three above mechanisms, in no instance is there the ability to sanction a member of the Defence Forces after an investigation is completed following a complaint raised by a civilian or a civil servant.

The two dignity at work policies set out the formal steps towards resolution of a complaint, but there is no ability on behalf of either the Department or the investigator to compel a witness or respondent to an allegation to engage with the process if they are a member of the Defence Forces.

In theory, the HR Division in the Department of Defence will formally inform the HR Division in the Defence Forces, and/or the line commanders, in writing that an investigation is taking place and ask them to compel all relevant individuals to engage in the process in order to get their side of the story, but in practice, the Defence Forces members' engagement is not always assured.

Similarly, once an investigation has been completed, the Department of Defence HR Division will inform its counterparts of the findings of the independent investigation that has been completed. If it makes a finding that inappropriate behaviour has occurred, the Department of Defence HR Division does not have the authority to impose a sanction on the member of the Defence Forces, as they are subject to military law.

Indeed, in practice, there is no guarantee that any disciplinary process will be initiated in an instance where the outcome of the independent investigation is that wrongdoing has occurred. There has been resistance from some quarters in the Defence Forces to this idea and that it is not the place of civilians to institute an investigation or to recommend/impose sanctions on military personnel. This was evidenced in the Department of Defence's past engagements with senior managers in the Defence Forces and their representative associations.

### Conclusion

The importance of, and the immediate need for, a robust and transparent grievance process in the Defence Forces has been outlined in numerous instances throughout this report. While there are logistical challenges to having three separate categories of employees operating in the Defence Forces, there are potential short- and long-term recommendations which could help to provide a clear, fair and unified approach to addressing complaints and grievances.

A single system of service values and standards for all staff in the Defence Forces would be in line with international best practice and similar changes being adopted in other jurisdictions. It would also allow for a consistent approach across all staff working in, and who are members of, the Defence Forces in dealing with grievances and unacceptable behaviours.

It is acknowledged that the three categories of workers in the Defence Forces work in inherently different roles and environs (such as offices, factories, medical facilities, etc.), but these differences do not preclude the uniformity of practices and standards as they pertain to the sanction and management of unacceptable behaviours once they have been identified through independent investigation.

The full detail of these recommendations is to be found in Chapter 4, section 4.13.1

### 3.3.10 ToR 13: Examining issues of an historical nature

#### Statutory fact-finding process

The Defence Forces members of all ranks are subject to strict discipline, they handle lethal weapons, explosive materials and hazardous chemicals, and in certain circumstances they are called upon to put their lives at risk. These risks and challenges test loyalty and trust to the limit. Clearly, every member must have implicit faith in the integrity of the military system and how it will treat them. At the heart of that must be a well-founded belief that when something goes wrong, when some injustice is done to the member, that he or she will have fair redress. That will only happen if the Defence Forces has a robust and just system for dealing with grievances.

The testimony that the IRG-DF has heard strongly suggests, unfortunately, that this is not the case and that both the Redress of Wrongs procedure under Section 114 of the Defence Act 1954 (as amended) with Administrative Instruction A7 Chapter 2, as well as the separate Chapter 1 procedure for inter-personal type complaints, are failing. It is a remarkable feature of the evidence that the IRG-DF has heard that a majority of the interviewees both of serving and former Defence Forces members give accounts of how the grievance system has failed them. These alleged failures vary from inordinate delay or the process never producing a result, to disturbing accounts of reprisals, bogus counter complaints or disciplinary proceedings, unfair hearings, partiality and favouritism. The IRG-DF is conscious that it has not heard from those who have had a good experience of the grievance procedure, but the sheer volume of criticism it has heard is a serious cause for concern and cannot be ignored.

The IRG-DF believe that this apparent widespread dysfunction in the complaints system is bound to be corrosive of trust and confidence. Indeed, several interviewees who claimed they had serious complaints to make said they had not gone into the Defence Forces complaints process, because they believed it could not bring them redress, and it would be a pointless exercise. Other former members said they had left the Defence Forces in despair of getting a proper hearing or a fair outcome.

Arising from the sheer weight of this testimony, and aware of the crucial role that a properly functioning complaints system plays in any organisation, but in particular in a regulated military force and a national institution of great importance, the IRG-DF believes that it is necessary that the apparent historical failures of the complaints system the Defence Forces should be thoroughly investigated. Such a process is a necessary first step to fundamental reform of that system, which the IRG-DF is also recommending. But the IRG-DF is convinced that merely superimposing a new system on a history of failure and impunity will not restore trust. Trust in the complaints system can only be restored when the failures of the past have been exposed and acknowledged and wrongdoers have been identified. Trust in turn engenders loyalty and will lead to the retention of the kind of outstanding Defence Forces members who have come to the IRG-DF to tell their stories.

A discrete category of alleged failures in the complaints process, which has struck the IRG-DF as particularly alarming, concerns failures to acknowledge or deal with claims of injury and serious health problems arising from exposure to hazardous chemicals in the Air Corps, and questions concerning the adequacy of investigations of air accidents.

The IRG-DF heard significant evidence of alleged anomalies and inconsistencies in the process by which members of the Defence Forces may be downgraded and discharged for disabilities arising from injury or illness in service with or without assessment by a medical board. This may arise in the case of enlisted personnel enlisted after 1994, whose contract of engagement includes minimum medical classification codes (MCC) that personnel must meet for their extension in service, re-engagement in service and continuance in service. If

they do not meet these MCCs, then their discharge is effected by their unit. Such discharges are not considered to be medical discharges. The personnel in question are not deemed to be below Defence Forces standard, but rather are deemed not to meet administrative requirements for extension in service etc. This is notwithstanding that their failure to meet that requirement may arise from a medical issue. The credibility of this process is fundamental to the career path of members, and the IRG-DF considers that this should be the subject of an expert review to determine the degree, if any, of the issue.

A further disturbing category of complaints concern the investigation of suicides among Defence Forces members.

Having carefully considered the matter, and fully aware of the seriousness of this recommendation, the IRG-DF believes that a statutory inquiry into the alleged failures in Defence Forces complaints system is necessary. It would be the Government's prerogative to choose one of the existing statutory options for such an inquiry, or some other bespoke form. The features that the IRG-DF believes are essential are the following: adequate terms of reference; a respected chair assisted by appropriate personnel and resources; the power to compel witnesses to give evidence or provide documents, and to participate in examination under oath; and the power to make findings of fact concerning institutions and individuals on the balance of probability (with all necessary legal protections) that the findings would be published, and to, as far as possible, ensure that the investigation is of limited duration and that the findings are delivered rapidly. The IRG-DF believes the process should be open to both currently serving and former members of the Defence Forces. The IRG-DF recognises that such a body could not impose penalties on individuals, and that would not be its purpose. Any issue of compensation could await the outcome of that inquiry.

### **Restorative and reforming process**

The option of a restorative process intervention for the Defence Forces arose during a workshop with the Rape Crisis Centre for members and staff of the IRG-DF. Seeing the challenges that the Defence Forces face in implementing the changes needed and the damage done by decades of unacceptable behaviours, the restorative concept had obvious

appeal. Some research scoped the concepts and approaches available.

### **Restorative practices**

Restorative practices have been used in many countries across the globe and echo ancient and indigenous processes, employed in cultures all over the world. Since the 1970s when restorative processes were developed in the juvenile justice system in a number of countries, based on diverse discipline areas in social science ranging from education, psychology, social work, leadership, organisational development, sociology, criminology and others. The aim of these approaches is to repair the harm done and meet the needs of those who suffered harm. They aim to provide effective leadership; restore relationships, improve human behaviour. They tie together theory, research, and practice. This 'whole system' approach which facilitates the restoration of good relationships within a community, while affording victims the experience of being heard, receiving understanding and apology, and the opportunity to contribute to repairing the organisation and protecting others.

Restorative justice is associated with the justice system. It is largely reactive. It comes in after the event. A prominent example of one process in the Irish justice system is the 'Victim Impact Statement'. Restorative practice is both reactive and pro-active. It uses formal and informal processes that precede wrongdoing, that proactively build relationships and a sense of community to prevent conflict and wrongdoing.

### **Relevance to the Defence Forces**

Serving and former members of the Defence Forces have presented to the IRG-DF very plausible accounts of abuse in different forms that had gone unacknowledged or without remedy. Many members of the Defence Forces also presented to the IRG-DF as continuing to be deeply affected by these events, in some cases linking them to mental health problems. Recent statements by the Defence Forces Chief of Staff indicate the organisation's acknowledgement that inappropriate behaviours have occurred and continue to occur. All of those reporting abuse are looking for acknowledgement of the wrong that they perceive was done to them and they yearn for some form of closure. Most also wish to contribute to the reform of the Defence

Forces not only so that it is a safe place to work, but also so that it lives up to its own values. A number of members who have been bystanders when others are being mis-treated carry a lot of guilt about not having intervened. A small number mentioned that, in hindsight, their own behaviour has been unacceptable at times. Members come to this restorative concept from different experiences of these behaviours in the Defence Forces. The individual hurt and the organisation's failures to make effective changes to prevent these behaviours need to be addressed in different ways. A restorative process could be a humane, effective and attractive alternative for many. In some sectors, a restorative process has been the basis of organisational change and rehabilitation of offenders, contributing to the restorative process at organisation level.

The IRG-DF has taken some inspiration from elements of a scheme of restorative justice that was established for the Australian Defence Force's Defence Abuse Response Taskforce (DART), which ran from 2012 to 2016 and proved to be successful. (A more detailed account of how the DART scheme was operated is set out in Appendix 9.)

A restorative process to repair the harm done and to re-establish relationships on a basis that is sustainable and compatible with a workplace culture based on dignity and respect might include some of the following principles:

- The process is entirely voluntary and is offered as a parallel process to the fact-finding statutory process recommended.
- It's aim is to heal the organisation through a process that acknowledges the hurt caused to individuals, the culture that facilitated the unacceptable behaviour and frames the future organisation's desired behaviour through capturing the past hurt of individuals and the change suggestions of those who were hurt of who were participants in the unacceptable behaviour.
- The process is closed to the public but open to all members of the defence forces, serving and former.
- The method of capture of the past and continuing unacceptable behaviours/beliefs/ attitudes/practices should not identify individuals or draw conclusions of blame or culpability. It should capture the overall picture

in an innovative way that makes it available as a reminder of what the defence forces is leaving behind. Its output should include advice to Defence Forces Chief of Staff and the new Head of Strategic HR and Head of Transformation.

- It should start with small steps and develop as the safety of the process is assured and the capacity of the organisation to absorb this honesty, self-assessment, openness and humility is enhanced.
- It should be established quickly so that it attracts people who want to contribute to the future organisation and its success. It should be championed by the Defence Forces Chief of Staff and the independent monitoring group should have quarterly progress and output/outcome reports.

### Recommendation

The IRG-DF proposes that the Government should consider setting up a restorative justice/practice process aimed at healing the wrongs that have been reported while contributing to the reform of behaviours to underpin a future Defence Forces that is a safe workplace and affords dignity and respect to members.

The benefit to the Government would be a pilot of an alternative resolution process; the ability to offer a process that can help and heal those who have suffered; and a cost effective process that addresses the psychological pain experienced by victims, most perpetrators and a lot of bystanders of inappropriate behaviours.

Its process design should be entrusted to a working group, led by an experienced practitioner in restorative practice and a number of people selected for their relevant expertise in the area of implementing processes in organisations that are addressing situations of past hurt and wrongs. Two suitably experienced members of the defence forces, one female and one male with relevant experience and education should also be members. The selection process could be undertaken by PAS as it requires significant expertise in defining the competencies required and in assessing those who express interest in being a member.

## 3.4 Findings related to the ToR

### 3.4.1 Medical care in the Defence Forces

#### Introduction

The Constitution of the World Health Organization was internationally adopted in 1946, defining health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”.

The provision of quality healthcare is an important component of the Defence Forces responsibility as an employer. It can help to maximise talent, improve productivity and aid retention, delivering a sustainable workforce. Military personnel can face a unique set of challenges that most people will never encounter, and therefore it is critical that their health and well-being needs are met. The most poignant issue gleaned from the research conducted by the IRG-DF on the medical services in the Defence Forces (following concerns expressed by interviewees that all members are not afforded the same level of healthcare) was that commissioned officers have private medical healthcare paid for by the Defence Forces, whereas others do not. The impact of these decisive steps will help to give impetus to the culture change taking place throughout the DF.

Various aspects of medical care have been highlighted in submissions, both written and oral, where participants have continually expressed concerns and shared their lived experience and stressed the importance of having their complaints reported properly. These are outlined below.

#### Confidentiality

Confidentiality within the medical system is a concern for many, as highlighted in the Raise a concern Report (written 2022) and in research conducted by the IRG-DF (2022). It is accepted that there can exist certain conditions which create a duty of care on the part of medical personnel not only to treat the person but also to deal with appropriate queries from line management, especially if a decision has to be made about whether or not a soldier can travel abroad on duty.

A number of interviewees expressed their concerns around what they perceive to be a lack of confidentiality within the Medical Corps, they

particularly raised concerns around access and management of patient's medical records.

Socrates is a relatively new computer-based system for the management of recordkeeping on patients within the Defence Forces. Socrates keeps an electronic clinical record of patient care and works with the Defence Forces' existing personnel management system, which enables the system to capture and display medical data from multidisciplinary team members and generate detailed reports. Because the system operates on permissions to access files, there should be clear procedures in place around access to records, and these procedures should align with the definitions of 'data controller' and 'data processors', as defined in the Data Protection Act 2018.

While the building blocks are in place for patient confidentiality, the involvement of the chain of command creates scepticism around the healthcare system. A significant number of people interviewed by the IRG-DF believe that health information can be obtained by others within the Defence Forces without their consent – something that would not otherwise occur in a normal medical setting. Interviewees said they do not feel comfortable seeking medical treatment, and have expressed fear of admitting to having an illness, which, if admitted, might result in shortening or ending their career.

### **Primary and secondary care**

The Commission on the Defence Forces called for urgent reform of medical services within the Defence Forces, prioritising measures to extend provision of private healthcare to all enlisted personnel. This recommendation is in line with the Programme for Government commitment to ensure that the provision of private healthcare currently available to commissioned officers is extended to all enlisted personnel. A joint civil-military working group was established to examine the most effective means of equal service provision. It is understood by the Independent Review Group that the Civilian-Military Working Group finalised its work and reported last September. The recommendations are being progressed in line with the Programme for Government commitment and as an early action under the High Level Action Plan to implement the recommendations of the Commission on the Defence Forces. The provision of regular updates

regarding the working group's work plan would be beneficial.

Currently, a wide range of medical services is listed as being available to members of the Defence Forces. These include: an annual medical examination; sick parades; attendance at a general practitioner (GP) surgery outside of sick parade; access to out-of-hours GP services; prescription services; laboratory services; physiotherapy; chiropody; radiology; ophthalmic examinations; mental health services provided by a psychiatrist and two psychologists; payment of inpatient and outpatient public hospital charges; and the provision of routine dental treatment. In addition to the above, commissioned officers and members of the Army Nursing Service can avail of private consultant appointments and diagnostic tests, and private/semi-private hospital treatment depending on rank, including private/semi-private maternity care for female officers.

IRG-DF research on the Defence Forces' medical system identified a number of prominent factors associated with the healthcare provided by the Defence Forces. It is evident that more resources and funding should be provided to ensure that quality healthcare is consistently available and provided. Currently, the medical system is experiencing significant waiting lists together with delays in access to primary care, and it is heavily reliant on agency staff. In 2021, the medical system had, on average, 40 agency staff employed per month (including nurses, doctors, physiotherapists, pharmacists, social workers, a dentist, a dental nurse, administrative staff and medical scientists). Agency staff cannot fully fill the role of Medical Officers, as Medical Officers are required to travel overseas and provide specialist care.

In addition, with regard to under-resourcing, a number of interviewees highlighted that qualified personnel who work in the system may be required undertake more than one job and fill positions where they fall short of having the qualifications and practical experience required to practise in that medical area. Due to the perceived inadequacy and under-resourcing of the medical system, ordinary ranks attend their own GP privately; however, sick certificates obtained from private GPs are often not accepted and, in fact, may be disregarded by the chain of command.

It is anticipated that by 2028 the Defence Forces will increase personnel numbers by 3,000, and this will result in increased pressure being placed on primary care services in the Defence Forces. It is increasingly unclear why a two-tiered health system continues to be standard practice in the Defence Forces; this is disproportionately affecting non-commissioned personnel. As already stated, commissioned officers have their private medical care paid for by the Defence Forces. It has been pointed out that if soldiers were able to attend their own GP, this might greatly reduce the number of persons on sick parade, be more efficient than the present system, and also ensure that military personnel receive quality, timely care.

Oversight by the Health Information and Quality Authority (HIQA), the designated statutory body tasked with ensuring that healthcare providers are meeting national standards, would be a welcomed asset for the Defence Forces' healthcare services, which do not currently fall under the remit of the Health Service Executive (HSE), or extend to regulating or monitoring providers of private healthcare services, as the facilities are funded through the Defence Vote.

### **Medical system as a form of discipline**

It is not our role in this Review to comment on the efficacy of the medical system or of the medical boarding system, save to note that we feel obliged to reflect the concerns of participants in this area. Neither the resources nor the expertise of the IRG-DF could extend to a full analysis of what the situation is in this area. We are clearly not in a position to either analyse or comment on the efficacy of the system or its interrelationship with line management, aside from noting that a number of respondents expressed what they described as a deep-rooted anxiety and fear around the whole procedure of medical boarding. We believe that some consideration should be given to setting up a task force to analyse the interrelationship between the Medical Corps, medical boarding and the line management structure.

The *Mental Health and Wellbeing Strategy for the Defence Forces 2020–2023*<sup>32</sup> was launched in 2020, with the aim of providing a coordinated and effective mental health and support system for

<sup>32</sup> Mental Health and Wellbeing Strategy for the Defence Forces 2020–2023 (Óglaigh na hÉireann 2020)

Defence Forces personnel through the adoption of a series of measures between 2020 and 2023. It is intended that at the end of 2023, mental health and well-being support within the Defence Forces will be delivered in a coordinated, multidisciplinary and directed manner that is designed to produce the best outcomes for the organisation, military personnel and their families. A Wellbeing Standing Committee was established within the Defence Forces to implement and monitor the strategy over its 3-year duration. Thus far, the strategy's core documents (such as the resilience framework) have yet to be completed. The aim of the resilience framework was to guide and steer the implementation of the strategy; without this framework, the status of the strategy is unclear. Additionally, no reviews or reports have been published in relation to the strategy.

### **Women's health**

Understanding and creating a space specifically designed for the health and well-being needs of women within the military is important. A weekly Women's Health Clinic was established in 2020 and is situated in a dedicated area located in the Defence Forces Training Centre, Curragh, Co Kildare. The clinic is staffed by two contracted civilian medical professionals: one is a doctor on the specialist register in general practice and the other is a registered nurse. The clinic provides female reproductive medical care for the entire Defence Forces. The clinic is registered with the national cervical screening programme to provide cervical screening services and follow-up care. Additional services include sexual health screening, advice on/prescription of oral contraception, advice on/insertion of intrauterine contraceptive devices, and hormone replacement therapy. It is noted that consultation numbers are high; during 2021 alone the doctor provided 238 consultations and the nurse provided a further 162 consultations. There is a clear need for this service, and arguably, the service could be nationally scaled up and also provide additional services such as in vitro fertilisation and surrogacy.

### **Anti-malarial medication**

The IRG-DF notes allegations were made stating that Lariam was prescribed inappropriately when different anti-malarial drugs would have been more suitable. Former patients who experienced side-effects due to Lariam are currently undergoing

litigation in the High Courts, and thus it would be inappropriate for the IRG-DF to comment further on this issue.

### Data collection

Data collection, analysis and reporting is poor across the Defence Forces, and a significant investment is required in order to ensure that the organisation is up to the required national standard. A strong data cycle will support evidence-driven decisions, can provide a quantitative measure of progress and can identify problem areas. The current haphazard stratification of data across the organisation does not support a useful central system of data collection. The EU Directive on Open Data, which has been transposed into Irish law by S.I. No. 376 of 2021, provides a good template for the sharing of complete and accurate information by public bodies.

### 3.4.2 The Personnel Support Service

The Personnel Support Service's (PSS's) role is to provide a welfare, information, psychosocial support and referral service, which is professional, responsive and confidential, to serving members of the Defence Forces and their families and to civilian employees.

In its engagement with the various participants in this Review, the IRG-DF noted that there is a need for significant reform in various areas. We are pleased to note that this reform is well under way. A particularly welcome development is the fact that the occupational social workers employed by the Defence Forces (of which there are currently nine) are now regulated by CORU. The occupational social workers are spread geographically over the Defence Forces barracks and installations, meaning that each location has cover. There is also a programme of upskilling and education for all occupational social workers with South East Technological University.

As part of the various accounts of experiences heard by the IRG-DF, there were allegations of PSS members who were accused of inappropriate behaviour having access to information about their accuser. There should be protocols for ensuring data security in these instances, and for ensuring that the individual accused of wrongdoing does not have access to any personal data of their accuser.

Interviewees have pointed towards a reputational legacy issue for the PSS stemming from previous practices of the inappropriate sharing of information with line managers. While this may no longer be the practice, there is a need to continue the current reforms in order to prevent previous unacceptable practices from returning.

The IRG-DF would also like to acknowledge the positive engagement with the chaplaincy service and recognise its role in providing confidential, comprehensive pastoral support and spiritual care to personnel at home and overseas.

### 3.4.3 Female uniforms

#### Provision of ceremonial combat and field uniforms for women

For many years, the Defence Forces has adopted a 'one-size-fits-all' approach to supplying personnel with uniforms. Military uniforms and equipment are designed using the measurements of a 'standard male body'. This can significantly affect female personnel, as they are not provided with suitable, functional and safe uniforms.

The responsibility of DF Clothing, Equipment & Catering (A14) is "To acquire, maintain and manage sufficient ordnance clothing, equipment, supplies and materiel at the appropriate level of operational readiness in a cost-effective manner in order to achieve the Defence Forces Mission".

The Office described the complexity of the work of providing uniforms across all ranks and the variety of pieces of the uniform required. The area of uniforms is highly specialised, and in 2022, a consultant was contracted to assist the Defence Forces in this area.

However, this is not a new problem; it was highlighted in Tom Clonan's report, *Women in Combat: The status and roles assigned to female personnel in the Permanent Defence Forces* (2000), and, more recently, in the *Report of the Commission on the Defence Forces* (2022), which called for women in the Defence Forces to be supplied with and have ready access, without delay or special request, to clothing and equipment that are designed for females and, as such, are fit for purpose.

Action around the provision of adequate uniforms to female personnel needs to be accelerated; currently, maternity clothing have been sent to the naval base for feedback, with an expectation that maternity wear will be available in 2025. This is just the tip of the iceberg, however; for nearly two decades, ceramic body armour plates have been used by female personnel with no adjustments for the female physique. Amending the 18-kilogram ceramic plates would require a physiotherapist to ensure that the armour is appropriate for the person's body and is protective. Occupational health must be prioritised, as using this armour without ensuring its suitability could lead to serious musculoskeletal injuries.

Additional allowances are available; commissioned officers get a uniform allowance, and they can purchase their own uniform and have it altered. Nevertheless, the current approach is not sufficient. Female personnel have become all too familiar with experiencing adverse effects related to the continued wear of ill-fitting uniforms and are disproportionately required to incur more out-of-pocket costs to achieve a better fit.

On the whole, the provision of safe and protective uniforms for female personnel and establishing a uniform cost parity between male and female members is long overdue.

### 3.4.4 Family-friendly policies

In the workplace, family-friendly policies include any benefits or situational policies that acknowledge employees' outside obligations to family life and well-being. Throughout this Review, the IRG-DF has recognised a number of incidents directly related to gender discrimination, with significant issues raised in relation to maternity and family-friendly policies.

A number of Workplace Relations Commission (WRC) cases have been taken against the Defence Forces in relation to unlawful discrimination against women on maternity leave, discrimination conveyed in the form of disrupted access to courses required for promotion and maternity leave negatively impacting career progression. In December 2020, the WRC upheld a ruling of a complaint made on the grounds of gender discrimination, owing to the treatment of maternity leave in terms of access to promotion contrary to the Employment Equality Acts 1998–2015.

The WRC ruling directed that:

1. A comprehensive review of training and information materials and local practices to ensure that they are in line with anti-discrimination law must be completed by the end of 2021.
2. The rolling out of a training course for all Defence Forces personnel with staff responsibilities on the updated anti-discrimination material must be completed by the end of 2022.

Despite the deadline imposed by the WRC, the directions of this ruling are still being developed and implemented by the Defence Forces and the Department of Defence. By now, all training programmes and materials, guidance for commanding officers, Defence Forces regulations and administrative instructions should be fully aligned and compatible with the provisions of the relevant equality legislation.

The Defence Forces and the Department of Defence have secured the assistance of a legal firm to assist in this area, the IRG-DF is seriously concerned about the pace of progress. Women have been serving in the Defence Forces since 1979; enough time has passed to ensure that administrative instructions do not disadvantage or discriminate against them because of pregnancy.

All evidence suggests that gender discrimination is persistent and has been ignored by the Defence Forces. The findings of the Benchmarking Survey (2022) show that females are more likely than males to experience discrimination: a total of 27% of respondents said they had experienced discrimination, and 67% of those respondents were female. The highest reported categories of discrimination reported by both male and female respondents were: gender (15%), family status (6%) and age (6%).

At time of publishing this Report, the IRG understands that a significant body of work relating to the WRC direction is nearing conclusion and will be submitted to the Tánaiste for his approval very shortly.

### 3.4.5 Recording of incidents and data collection

An accurate data cycle is critical in any organisation as it supports evidence-based decisions, helps to monitor progress and can identify areas that may require attention. The research conducted by the IRG-DF has been impacted by poor data hygiene and limited analytical capability. An adequately resourced data analysis and management capability is lacking in the Defence Forces. The existing haphazard process compromises data, as some information is recorded retrospectively and at local level. This means that serious and significant trends may not be visible for an extended period of time.

This lack of data management was highlighted by the *Report of the Commission on the Defence Forces* (2022), which noted the Commission's frustration at the lack of data available on the current diversity levels in the Defence Forces, other than on gender. Furthermore, the Commission was informed that no data were available or maintained in relation to ethnicity. In its report, the Commission noted the need to update the data on personnel in the Defence Forces in order to bring these data into line with modern HR practices.

The IRG-DF has experienced similar disappointment in the gathering of relevant data across several areas, including the management and centralising of data relating to various complaints brought by serving members over the last number of years.

This report has highlighted the importance of data collection in a number of areas, including in relation to gender as a barrier for sustainability, as a key factor in the complaints process and as an important step in the drafting of up-to-date strategies. Overall, robust data collection and monitoring supports a coordinated, strategic multidisciplinary approach that will produce the best outcome for the organisation, military personnel and their families.

All of the above point to a gap in management practices that are in dire need of radical overhaul in order to bring them into line with modern best practice.

The full detail of the recommendations relating to this chapter are to be found in Chapter 4, section 4.9.1

# Chapter 4:

## Recommendations

### 4.1 Recommendations on mechanisms to address issues of a historical nature for former and serving members of the Defence Forces

#### 4.1.1

##### Statutory fact-finding process

The Aim of the statutory fact finding process is to identify systemic failures, if any, in the complaints system, in order to ensure accountability and transparency. The IRG-DF believes that it should investigate;

1. Whether there have been serious failures in the complaints system in the Defence Forces both under Section 114/Administrative Instruction A7 Chapter 2, in relation to redress of wrongs and under Administrative Instruction A7 Chapter 1 in relation to interpersonal issues including, but not limited to sexual misbehaviour;
2. Whether there has been misuse of disciplinary process, access to promotion or to courses, as a form of retaliation or to deter complaints;
3. Whether there have been issues raised in the investigation of complaints concerning health and safety issues in the Air Corps in relation to the maintenance and use of hazardous chemicals and the investigation of air accidents.

Appoint on a non-statutory basis an external expert or expert group, with sufficient powers,

1. to carry out an investigation and report to the Minister for Defence on the process of medical boarding and also the process whereby members of the Defence Forces may be downgraded and discharged arising from injury or illness in service with or without assessment by a medical board; and
2. To conduct a study in deaths by suicide of both current and former members of the Defence Forces, in line with international norms and in line with the last 30 year study conducted in 200233

#### 4.1.2

##### Restorative and reform process

The IRG-DF proposes that the Government should consider setting up a restorative justice or practice process aimed at healing the wrongs that have been reported while contributing to the reform of behaviours to underpin a future Defence Forces that is a safe workplace and affords dignity and respect to members.

The process design should be entrusted to a working group, led by an experienced practitioner in restorative practice and a number of people selected for their relevant expertise in the area of implementing processes in organisations that are addressing situations of past hurt and wrongs

33 Mahon, M.J., Tobin, J.P., Cusack, D.A., Kelleher, C. and Malone, K.M., 2005. Suicide among regular-duty military personnel: a retrospective case-control study of occupation-specific risk factors for workplace suicide. *American Journal of Psychiatry*, 162(9), pp.1688-1696.

## 4.2 Recommendations for reform of the complaints process for serving members of the Defence Forces

### 4.2.1

#### Immediate reform to the process of making a complaint of unacceptable behaviour under Administrative Instruction A7, Chapter 1

Offer serving members of the Defence Forces access to an independent, external complaints service, delivered by a professional service provider, for as long as it takes to put a trusted internal system in place.

In order to provide the basis for this vital element in the improvement of the Defence Forces' practice of protecting those who suffer unacceptable behaviours and holding the perpetrators to account, the following actions are critical:

1. The Minister, by direction, should amend Administrative Instruction A7, Chapter 1 to:
  - a. Include non-sexual assault;
  - b. Substitute an external HR professional or service for the commander in respect of all complaints;
  - c. Substitute a different external HR professional or service for the superior authority who may carry out a review of Administrative Instruction A7, Chapter 1;
  - d. Provide that the external HR professional or service would exercise all the functions now vested in the commander and also all the functions of the superior authority under Administrative Instruction A7, Chapter 1 in respect of any pending or future complaint, including to investigate and adjudicate the complaint and, where relevant, to carry out a review;
  - e. Stipulate that the external HR professional or service would make a recommendation for action (in accordance with the existing list of outcomes in Chapter 1 ) to the Defence Forces Chief Staff, who should be obliged to direct its implementation, save for good and sufficient reason, which is to be notified to the complainant, the person complained against and the Minister; and
  - f. Provide that the external HR professional or service would notify all written complaints, when made, to the Minister.
2. Pending the above amendments to Administrative Instruction A7, Chapter 1, the Minister should immediately issue a direction to amend Chapter 1 to provide that Defence Forces members with complaints pending be entitled to pause their complaint until the amendments at (a) to (f) inclusive are in place.
3. Review the circumstances in which a complaint file will be placed on the unit personal file of the person complained against in accordance with paragraph 167 (c) of Administrative Instruction A7, Chapter 1.
4. This grievance process must be subject to review by the independent oversight body.
5. The requirement to notify the Minister outlined in sub-paragraph (e) and (f) of Recommendation 1 above is merely a notification requirement and is not intended to give the Minister an active role in the process.
6. The Minister should consider recommending that the Government amend Sections 169 and 192 of the Defence Act, 1954 to delete the references to rape, rape under Section 4, or aggravated sexual assault, in the case of alleged offences occurring in Ireland, in order to ensure that such offences are not dealt with under military law or in the court martial system. Military law and investigation by the Military Police must continue to apply to such alleged offences when committing during overseas service.
7. The Minister should consider a complete review and replacement of the redress of wrongs procedure under Section 114 of the Defence Act, 1954 and Administrative Instruction A7, Chapter 2, in light of modern HR practice.

#### 4.2.2

##### Revised grievance model to replace redress of wrongs system under Section 114 of the Defence Act, 1954, as amended

1. In light of current HR practice, the IRG-DF has recommended that the Minister review and replace the Section 114 redress of wrongs procedure, which is no longer appropriate.
2. The setting aside of the current redress of wrongs procedure will naturally require the redesign and introduction of a new mechanism for a complaints process which would include baseline principles in line with standard grievance procedures.
3. Recognising that it is ultimately the Defence Forces Head of Strategic HR and Head of Transformation who will be charged with this process, the IRG-DF is outlining core areas it has identified in its research which may be of assistance and prove informative to these department heads.
4. A more detailed outline of the proposed structure of the new grievance model and proposed Defence Forces Employee Relations Unit are outlined in greater detail in **Appendix 10**.

### 4.3 Recommendations for external oversight of the Defence Forces

#### 4.3.1

##### Recommendations for external oversight of the Defence Forces

1. The Minister may wish to consider assigning the task of delivering that independent oversight of the key elements of this report to a specially convened group, potentially on a statutory basis.
2. The key elements for oversight are the independent complaints service; overall responsibility and accountability for the promotion system to reform the system or replace it with a better one; and the timely implementation of the new policies, systems and procedures and modernisation not only of written documents, but also of the day-to-day behaviours experienced.
3. It could also be given the design and implementation of the monitoring system so that the oversight body and the Minister will have confidence in the reporting to it. There may be other aspects of the change programme resulting from this report that could also benefit from independent monitoring.
4. The oversight body might report to the Oireachtas as well as holding its own sessions with the Defence Forces Chief of Staff in a mix of public and closed sessions.

Membership of the oversight body should include the following:

1. An independent chair with the skills and experience to maintain independence, the ability to chair and lead people in a group, experience overseeing radical transformation projects, an understanding of public service organisations, the capacity to get up to speed quickly with the policy and practice of the Defence Forces, and a high level of wisdom and patience. No relationship with military organisations is vital.
2. Five independent members, appointed through the Public Appointments Service, with relevant expertise in defence policy; transformation at scale and at a rapid pace; organisational behaviour, including in relation to gender; Ireland's culture, expectations and capacities; and an understanding of/experience in the Irish public service.
3. A former senior member of an overseas Defence Force or defence department which has successfully undertaken significant transformation.
4. The Secretary General of the Department of Defence.

## 4.4 Recommendations for revised policy, practice and procedures to address incidents of unacceptable behaviours

### 4.4.1

#### Revisions to policy, practice and procedures to address incidents of unacceptable behaviours

1. The Defence Forces should adopt the most up-to-date definitions of bullying, harassment and sexual harassment where relevant to the Workplace Relations Commission Code of Practice.
2. Grievances related to sexual misconduct should be identified, prioritised and fast-tracked through the grievance system.

## 4.5 Recommendations for addressing incidents of reprisal/retaliation

### 4.5.1

#### Recommendations for addressing incidents of reprisal/retaliation

1. Recognising the damage to the fabric of the organisation caused by reprisals/retaliation, the implementation of a zero-tolerance policy on reprisals/retaliation, backed by vigorous detection and sanction, is recommended.
2. Due to the lack of confidence expressed through a body of research into the Defence Forces' complaints system, immediately establish an independent complaints system that is available to serving members who have suffered or are suffering reprisals/retaliation in any form, together with sufficient resources to receive, investigate and adjudicate on complaints in order to address the current situation and/or report these to An Garda Síochána in cases of criminal complaints.
3. Apply severe penalties to perpetrators of reprisals/retaliation, irrespective of rank, including fines, reduction in rank and attendant reductions in pension rights. These penalties are to be recorded on the perpetrator's HR record and taken into account in annual performance and development needs assessments and any applications for promotion.
4. Data on reprisals/retaliation, complaints, convictions and penalties awarded are to be collected and reviewed by an independent oversight body. Monitoring of the confidence levels that the members of the Defence Forces have in the complaints system is to be undertaken by the oversight body.
5. When reprisals/retaliation have been eradicated, the training and culture enhanced, and the internal complaints and justice system have been developed implemented to the satisfaction of the oversight body, and evidenced in members' research, the reprisals complaints system function can be incorporated into the organisation on a phased basis. Independent monitoring is to be maintained into the future.

## 4.6 Recommendations on training supports to address incidents of unacceptable behaviour

### 4.6.1

#### Recommendations for training supports to address workplace issues pertaining to dignity and equality, duty of care, discrimination, intimidation, bullying, harassment, sexual harassment and sexual misconduct

1. The Defence Forces should engage an external expert in dignity and respect training resources to design and deliver a strong training intervention that delivers outcomes, as well as assess its proficiency and undertaking refresher training, with particular emphasis on the cadet school.

## 4.7 Recommendations for supporting a culture based on dignity and respect

### 4.7.1

#### Practice-based recommendations for supporting a culture based on dignity and respect

1. Based on the analysis provided by an external consulting firm, supported by the findings of the IRG-DF's research, we ask the Minister to direct the Defence Forces to undertake a well-designed and expertly implemented culture change programme. We ask the Minister to provide funding for the engagement by the Defence Forces, with oversight from the independent body (Section 3.1.5 of external expertise to assist in the specification, design, roll-out, monitoring, and measuring/assessing of the pace and efficacy of implementation. We ask the Minister to require the oversight body to supply him with regular and periodic progress updates.

## 4.8 Recommendations for addressing cultural issues related to gender

### 4.8.1

#### Recommendations for addressing cultural issues related to gender

The IRG-DF recommends that the Defence Forces should:

1. Develop new policies on gender and inclusion and diversity through an inclusive process that is externally and professionally facilitated, taking into account the recommendations arising from the IRG-DF's assessment of policies.
2. Identify an internationally accredited framework (comparable with Athena Swan for academic institutions or the gender mainstreaming promoted by the UN) that has been developed for military establishments and use it to guide the overall development of gender literacy and behaviours that are compatible with modern equality, diversity and inclusion practices.
3. Research and develop a profile of a female soldier in the Defence Forces as a basis for building an inclusive organisation that has modernised its current gender beliefs and behaviours.
4. Communicate clearly to all members that misogynistic beliefs and behaviours are unacceptable, and that complaints that are upheld will be severely punished through penalties that have impact.
5. Implement a sanctions system for misogynistic attitudes and behaviours that is clear and effective.
6. Introduce 360-degree feedback as a method of creating self-awareness and a team ethos for all members of the Defence Forces over time, but starting with leadership roles. And that, annual performance evaluation of all members from the rank of Lieutenant Colonel upwards should take into account the outcome of the most recent benchmark, which should carry a significant rating.
7. Provide final interview board members with a psychometric assessment tool that they can use to assess the candidate's capabilities to support the equality, diversity and inclusion policies and the law on discrimination and dignity and respect.

## 4.9 Recommendations for reforms to the provision of medical care services and to the Medical Corps in the Defence Forces

### 4.9.1

#### Recommendations for reforms to the provision of medical care services and to the Medical Corps in the Defence Forces

1. The IRG-DF recommends that the Defence Forces should establish a better resourced and standalone data unit, which should include a specific post for a GDPR specialist. The purpose of this unit would be to centrally capture and anonymise data for the Defence Forces, allowing for accurate reporting, monitoring and information sharing. As seen in similar organisations, the unit would also take on the responsibility of ensuring that all data are managed in line with the Data Protection Act 2018.
2. The provision of medical services within the Defence Forces is a combination of primary care, secondary care and an occupational medical service designed to ensure that Defence Forces personnel are medically fit to undertake the duties assigned to them and to treat any medical conditions that arise which would inhibit their capacity to undertake such duties. Currently, commissioned officers and members of the Army Nursing Service may avail of private consultant appointments and diagnostic tests, and private/semi-private hospital treatment depending on rank. It is critical that the same level of care is rolled out to all members of the Defence Forces to reduce the stark inequalities between members of different ranks.
3. The medical grading system currently applied by the Defence Forces can see the discharge of valuable personnel. The IRG-DF recommends the opportunity to offer an additional assessment role in this process by including the option to retaining personnel in less manual or physical roles, such as administration, certain medical positions, etc.
4. Clarity regarding the interface between the chain of command and the Medical Corps needs to be established in writing in order to eliminate any conflicts between the Hippocratic Oath (taken by medical professionals) and line management. Regardless of rank, the expertise of medical officers should be prioritised in relation to patient welfare. The IRG-DF recommends that policies and procedures continue to align with standards set out by the Irish Medical Council.
5. Inspections, assessments and ratings carried out by a body such as HIQA should be encouraged in order to increase confidence in the healthcare provided by the Defence Forces and ensure that services are up to a national standard. This recommendation will require an extension of HIQA's remit to include the Defence Forces' medical services.

## 4.10 Recommendations on the provision of adequate maternity clothing for female personnel

### 4.10.1

#### Recommendations on the provision of adequate maternity clothing for female personnel

1. In relation to the provision of adequate maternity clothing for female personnel, it is expected that a range of maternity clothing will be available in 2025. Currently, only 7% of military personnel are female, and only a fraction of those require maternity clothing. The IRG-DF recommends that an interim measure be established; for example, if the material were sourced, a company in Ireland could easily be contracted to devise maternity clothing. In the interim, allowances might also be given to pregnant and breastfeeding women to wear certain civilian clothing.

## 4.11 Recommendations on the development of family-friendly policies and initiatives

### 4.11.1

#### Recommendations on the development of family-friendly policies and initiatives

1. Measures should be implemented to ensure that all policies, information materials and local practices are aligned with the Maternity Protection Act, 1994, with a particular focus on Section 22 of that Act. Defence Forces policy must always confirm members' right to not be adversely affected by periods of maternity leave.
2. The Defence Forces must always ensure that current policies, training and information materials, and local practices are up to date and incorporate relevant national Acts and Directives.

## 4.12 Recommendations on the protection of confidentiality within the Personnel Support Service (PSS)

### 4.12.1

#### Recommendations on confidentiality agreements in place in the PSS

1. If one does not currently exist, the PSS should, as a matter of priority, implement a clear and concise confidentiality statement in line with similar organisations, such as the Civil Service Employee Assistance Service.
2. This agreement should ensure that information and personal data disclosed by Defence Forces members would not be shared with the individual's employer or line manager or any other third party outside of the PSS without the prior knowledge and consent of the individual. This is in keeping with accepted professional standards and is part of the duty of confidence.

## 4.13 Recommendations on complaints process for civilians and civil servants

### 4.13.1

#### Recommendations on complaints process for civilians and civil servants

The IRG-DF recommends;

1. Immediate engagement with the stakeholders;
2. a working group be set up to consider the issues outlined regarding ToR 12 with participation from all key stakeholders, including; trade union officials, representative associations, representatives from the Department of Public Expenditure and Reform, and representatives from the HR units in the Department of Defence and the Defence Forces.

This working groups desired outcome would be:

1. Full cooperation and engagement by members of the Defence Forces who have grievance cases raised against them by either civilians or civil servants;
2. Full cooperation and engagement by members of the Defence Forces who are named witnesses in cases raised by either civilians or civil servants; and
3. A commitment to honour the outcome of an independent investigation where sanction is deemed appropriate.

There is a need by all parties to note that, in spite of the fact that there are two separate reporting structures with responsibility for staff working in the Defence Forces, there is a parity of esteem that exists between the Defence Forces and the Department of Defence.

# Appendices

**Appendix 1:** Report on the IRG-DF Perceptions and Experiences Survey (2022) Results

**Appendix 2:** Report on the Benchmarking Survey (2022 vs. 2002)

**Appendix 3:** Reports prepared by Voltedge Management Ltd.

**Appendix 4:** *Review of Best Practices on Training of Defence Force Members on Workplace Misbehaviour*, prepared by Professor Thomas Garavan on behalf of TIO Consulting Ltd.

**Appendix 5:** Legal research papers by Alison Fynes BL

**Appendix 6:** Legal research papers by Patrick O'Dwyer BL

**Appendix 7:** Terms of Reference for the Independent Review Group – Defence Forces

**Appendix 8:** Copy of the Independent Review Group – Defence Forces' call for submissions

**Appendix 9:** Australian restorative justice model

**Appendix 10:** Proposed grievance model

**Appendix 11:** *Review of Best Practice Approaches to Dignity, Respect and Culture in the Defence Forces*, prepared by Professor Thomas Garavan on behalf of TIO Consulting Ltd.

**Appendix 12:** International comparisons







GRÚPA ATHBHREITHNITHE NEAMHSPLÉÁCH - COSAINT  
INDEPENDENT REVIEW GROUP - DEFENCE  
DÍNIT DAOINE, DIGNITY OF PEOPLE

Independent Review Group - Defence  
**Grúpa Athbheithnithe Neamhspleách - Cosaint**

27 Fitzwilliam Street Upper Dublin 2 D02TP23  
**27 Sráid Mhic Liam Uachtarach, Baile Átha Cliath 2, D02TP23**