

# Introduction

## Chapter 1 Part 1 - About the Complaints and Alternative Resolutions Manual

### 1.1.0.1 Purpose

1. The Complaints and Alternative Resolutions Manual provides a single source document containing the various processes for managing and resolving the employment and service related complaints, listed in 1.1.0.2, within Defence, and responding to complaints about Defence received by external complaint handling agencies.

### 1.1.0.2 Overview

1. The Complaints and Alternative Resolutions Manual provides information about employment or service complaint and alternative resolution processes in Defence for all Defence personnel, and where relevant, external service providers, as complainants, respondents and those responsible for the management of complaints.
2. The Complaints and Alternative Resolutions Manual does not provide an exhaustive reference to all complaint processes within Defence. This manual is intended to provide information on the following processes
  - a. resolution of workplace conflict and Alternative Dispute Resolution;
  - b. responding to incidents of unacceptable behaviour;
  - c. internal privacy complaints;
  - d. Review of Actions;
  - e. Redress of Grievance; and
  - f. complaints to the following external complaint agencies
    - i. the Commonwealth Ombudsman and the Defence Force Ombudsman;
    - ii. the Australian Human Rights Commission;
    - iii. the Privacy Commissioner; and
    - iv. the Merit Protection Commissioner.
3. This part provides authority for the creation and amendment of the Complaints and Alternative Resolutions Manual.
4. This part provides authority for the addition of Complaints and Resolution processes not described above to the Complaints and Alternative Resolutions Manual that are consistent with the purpose of this Manual.

### 1.1.0.3 Content

1. This part contains the following information

[1.1.0.4 Policy statement](#)

[1.1.0.5 Scope](#)

[1.1.0.6 Abbreviations and definitions](#)

[1.1.0.7 Sponsorship](#)

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[1.1.0.11 Release and review dates](#)

[1.1.0.12 Implementation](#)

[1.1.0.13 Monitoring and Reporting](#)

### 1.1.0.4 Policy statement


1. Defence has a number of internal and external complaint mechanisms available to Defence personnel.

2. Many of these processes are underpinned by legislation; others are established by this manual in support of Defence meeting other legislative obligations (e.g. under the *Work Health & Safety Act 2011*).
3. Each chapter/part of this manual contains its own policy statement in relation to the specific policy.

#### **1.1.0.5 Scope**

1. This manual applies to all Defence personnel who
  - a. have made a complaint, or are contemplating making a complaint of the type listed in 1.1.0.2;
  - b. have a role in the complaint resolution process; and/or
  - c. are commanders, managers, or supervisors.
2. This manual applies to external service providers, subject to the requirements of their contract of engagement.

#### **1.1.0.6 Abbreviations and definitions**

1. Abbreviations and definitions are contained in  [Chapter 1 Annex 1](#) , Abbreviations and definitions.

#### **1.1.0.7 Sponsorship**

1. Chapters 1 to 3; and Chapters 5 and 7 of the Complaints and Alternative Resolutions Manual are sponsored by Defence People Group.
2. Each part of Chapter 4 will identify the relevant sponsor for the content of that part.
3. Chapter 6 and Chapter 8 Part 1 of the Complaints and Alternative Resolutions Manual are sponsored by the Inspector General of the Australian Defence Force.
4. Chapter 8 Part 2 of the Complaints and Alternative Resolutions Manual is sponsored by the Inspector General Defence.

#### **1.1.0.8 Authorisation**

1. The Deputy Secretary Defence People is authorised to issue Chapters 2, 3, 5 and 7 of the Complaints and Alternative Resolutions Manual and may amend the structure and content of the Complaints and Alternative Resolutions Manual as necessary (other than this part).
2. The relevant SES Band 3 or 3-Star appointment is authorised to issue and amend parts of Chapter 4 of the Complaints and Alternative Resolutions Manual for which he or she is responsible.
3. The Inspector General of the Australian Defence Force is authorised to issue and amend Chapter 6 and Chapter 8 Part 1 of the Complaints and Alternative Resolutions Manual.
4. The Inspector General Defence is authorised to issue and amend Chapter 8 Part 2 of the Complaints and Alternative Resolutions Manual.

#### **1.1.0.9 Roles and responsibilities**

1. Director General Values, Behaviours and Resolutions is responsible for publishing and maintaining the Complaints and Alternative Resolutions Manual.
2. The sponsor, as identified at 1.1.0.7, and the beginning of each chapter or part of the Complaints and Alternative Resolutions Manual, is responsible for authorising amendments to that part.

#### **1.1.0.10 Structure**

1. This Defence manual is divided into eight chapters
  - a. Chapter 1 Introduction (required reading)
  - b. Chapter 2 Resolution of conflict
  - c. Chapter 3 Responding to unacceptable behaviour
  - d. Chapter 4 Miscellaneous complaint processes
  - e. Chapter 5 Review of Actions
  - f. Chapter 6 Redress of Grievance
  - g. Chapter 7 External complaint agencies

- i. Part 1 The Ombudsman
    - ii. Part 2 The Australian Human Rights Commission
    - iii. Part 3 The Privacy Commissioner
    - iv. Part 4 The Merit Protection Commissioner
  - h. Chapter 8 Inspectors General
    - i. Part 1 Inspector General of the Australian Defence Force
    - ii. Part 2 Inspector General Defence
2. Subject to 1.1.0.2, the structure of the Complaints and Alternative Resolutions Manual as outlined in this clause may be amended. **See:** 1.1.0.8, Authorisation.

### 1.1.0.11 Release and review dates

1. Planned release and review dates of chapters within this Defence manual are as follows

Chapter	Release date	Review date
1	November 2013	November 2016
2	February 2014	February 2017
3	March 2014	March 2017
4	TBA	TBA
5	November 2013	November 2016
6	November 2013	November 2016
7 Part 1	November 2013	November 2016
7 Part 2	November 2013	November 2016
7 Part 3	TBA	TBA
7 Part 4	November 2013	November 2016
8 Part 1	TBA	TBA
8 Part 2	TBA	TBA

### 1.1.0.12 Implementation

1. The following policies will be either replaced or adjusted following the issue of the Complaints and Alternative Resolutions Manual
  - a. Chapter 2, Resolution of conflict replaces DI(G) PERS 34-4-Use and Management of Alternative Dispute Resolution in Defence.
  - b. Chapter 3, Responding to unacceptable behaviour will complement the revised DI(G) PERS 35-3-Values and expected workplace behaviours.
  - c. Chapter 5, Review of Actions replaces Part 4, Chapter 15 of the Defence Workplace Relations Manual.
  - d. Chapter 6, Redress of Grievance replaces DI(G) PERS 34-1-Redress of Grievance-Tri-Service procedures.
  - e. Chapter 7, External complaint agencies replaces
    - i. DI(G) PERS 34-2-Complaints of discrimination and harassment through the Australian Human Rights Commission;
    - ii. DI(G) PERS 34-3-Inquiries and investigations by the Commonwealth Ombudsman and the Defence Force Ombudsman; and
    - iii. Part 4, Chapter 15 of the Defence Workplace Relations Manual.

### 1.1.0.13 Monitoring and reporting

1. The Directorate of Complaints and Resolution is responsible for the overall monitoring and reporting of the following complaint processes
  - a. Review of Actions;
  - b. management of incidents of unacceptable behaviour; and
  - c. complaints about Defence made to the following external complaint agencies
    - i. the Commonwealth Ombudsman and the Defence Force Ombudsman;
    - ii. the Australian Human Rights Commission;
    - iii. the Privacy Commissioner; and

- iv. the Merit Protection Commissioner.
2. The Directorate of Alternative Resolutions and Equity is responsible for the overall monitoring and reporting of Alternative Dispute Resolution processes across Defence.
3. The Inspector General of the Australian Defence Force is responsible for monitoring, auditing and reporting on the Redress of Grievance process and on the military justice system independent of the ordinary chain of command; and failures of military justice which may be exposed and examined so that the cause of any injustice may be remedied.
4. The Inspector General of Defence is responsible for monitoring and reporting on fraud control activities in Defence and monitoring and reporting on the Defence public interest disclosure scheme.
5. The sponsor identified in a part of Chapter 4 is responsible for the monitoring and reporting of the process contained in that part.

# Chapter 1 Part 2 - Supplementary information

## 1.2.0.1 Purpose

1. The purpose of this part is to provide supplementary information about the Complaints and Alternative Resolutions Manual.

## 1.2.0.2 Content

1. This part contains the following information

[1.2.0.3 Examples and non-examples](#)

[1.2.0.4 The word 'includes'](#)

[1.2.0.5 Online access to this Defence manual](#)

[1.2.0.6 Feedback on the Complaints and Alternative Resolutions Manual](#)


## 1.2.0.3 Examples and non-examples

1. Many sections in the Complaints and Alternative Resolutions Manual contain examples. They are there to help the reader understand the rule in that section. Examples are for administrative uses.
2. **Example** shows a possible way the processes in the requirements of the relevant section may be applied. Examples will not show all the situations that meet the requirement. Other situations may satisfy the requirements of the relevant section. **Note:** Examples are not exhaustive.
3. A **non-example** shows situations in which the processes in the requirements of the relevant section do not apply. Non-examples do not show all the situations that fail to meet the requirement. Other situations may not satisfy the requirements of the relevant section.

## 1.2.0.4 The word 'includes'

1. The word 'includes' in any form is not a word of limitation, unless otherwise indicated.

## 1.2.0.5 Online access to this Defence manual

1. The online version of this Defence manual is available through the DRN at  <http://intranet.defence.gov.au/People/sites/CARM/ComWeb.asp?Page=52648>
2. Members can use the DRN search facility and the internet search facility to search for the keyword CARM and the search topic. **Example:** A search for 'CARM and resolution of conflict' will return all documents containing the word CARM and the topic resolution of conflict. This will include Chapter 2, Resolution of Conflict.

## 1.2.0.6 Feedback on the Complaints and Alternative Resolutions Manual

1. Feedback on the content of each part of the Complaints and Alternative Resolutions Manual should be provided to the Sponsor's point of contact, as identified at the beginning of each part. **Note:** Relevant sections should be identified when raising questions or making suggestions for improvement.
2. Feedback on this Defence manual can also be made by emailing the Staff Officer Complaints Policy, Complaints and Resolution at [Complaint.Resolution@defence.gov.au](mailto:Complaint.Resolution@defence.gov.au).

# Chapter 1 Part 3 - Complaint handling principles

## 1.3.0.1 Purpose

1. Complaints within Defence may take many forms, depending on the nature of the matter complained about, and the outcome the person is seeking. Various legislative and regulatory requirements have different processes for responding to particular complaint types, but there are fundamental principles that apply to the handling of all complaints. These principles apply regardless of whether the person submitting the complaint is a Defence member or a Defence APS employee, and whether the action sought is an informal intervention or a formal inquiry.

## 1.3.0.2 Content

1. This part contains the following information

[1.3.0.3 This part applies to](#)

[1.3.0.4 This part does not apply to](#)

[1.3.0.5 Complaint Handling Principles](#)

[1.3.0.6 Essential steps in complaint handling](#)


[1.3.0.7 Further advice](#)

## 1.3.0.3 This part applies to


1. All Defence personnel who
  - a. who have made a complaint, or are contemplating making a complaint of the types listed at 1.1.0.2;
  - b. who have a role in the complaint resolution process; and/or
  - c. are commanders, managers, or supervisors.

## 1.3.0.4 This part does not apply to

1. These principles do not apply to commercial complaints (eg. complaints relating to a tender process or contractual dispute), there are separate mechanisms for dealing with these kinds of complaints.

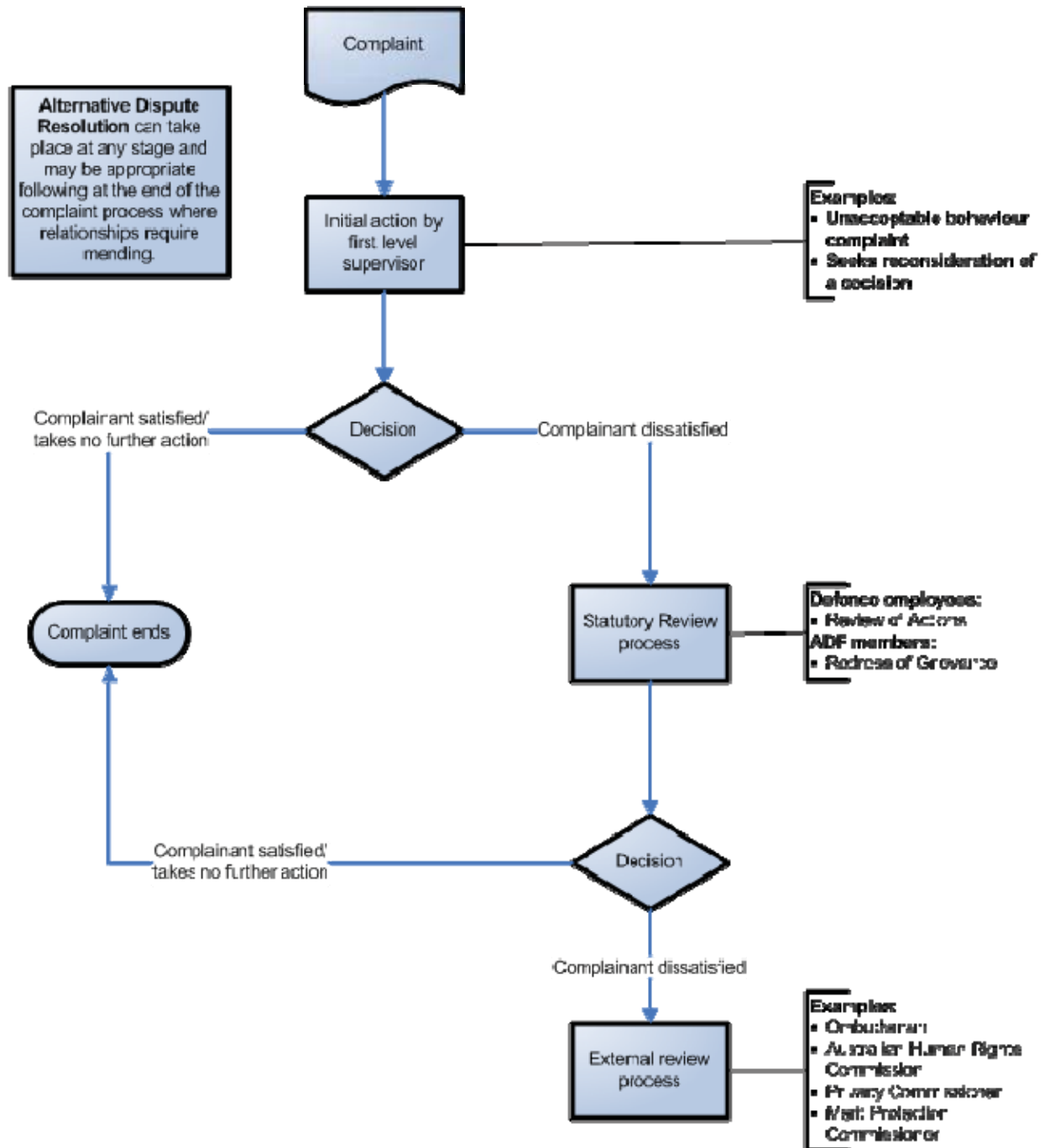
**Related information:** See  [DMO Commercial Policy and Practice Branch](#) DRN site for more information.

## 1.3.0.5 Complaint Handling Principles


1. The Complaint Handling Principles are
  - a. All complaints should be resolved in a timely manner and at the lowest appropriate level.
  - b. Appropriate support is to be provided to all parties.
  - c. Parties to a complaint must be aware of their rights and their responsibilities.
  - d. All parties to a complaint are to be accorded protection against unfair repercussions or victimisation.
  - e. Consideration is to be given to the appropriateness of pursuing informal dispute resolution processes early in the management of a complaint.
  - f. The obligation to provide procedural fairness requires that parties be given the right to be heard and that decisions will be made without bias.
  - g. Defence respects the rights of Defence members and Defence APS employees to lodge complaints directly with external bodies such as the Australian Human Rights Commission, the Office of the Australian Information Commissioner, the Merit Protection Commissioner and the Commonwealth and Defence Force Ombudsman.
  - h. It is likely that personal information about you will be collected, stored, used and disclosed for the purposes of resolving a complaint. The Defence Privacy Policy will be adhered to in the management of your personal information. This policy is available at:  <http://www.defence.gov.au/DPG/ComplaintResolution/privacy.asp>
2. **See:** Chapter 4 Part 1, General principles.

### 1.3.0.6 Essential steps in complaint handling

1. Even an apparently simple matter requiring resolution can become complex if it is not handled early and well.
2. The diagram below outlines the process a complaint should take within Defence.



### 1.3.0.7 Further advice

1. If you are managing a complaint, you can seek advice from Complaints and Resolution on what you need to do to ensure the fairest possible outcome for all parties. **Related information:** The [Complaints and Resolution DRN site](#)  has contact details and can be accessed from the Defence PeopleConnect DRN site.



# Abbreviations and definitions

## Annex 1

### A1.1 Purpose

The purpose of this annex is to provide abbreviations and definitions of terms used in the Complaints and Alternative Resolutions Manual.

### A1.2 Abbreviations

1. The table below spells out the abbreviations used throughout the Complaints and Alternative Resolutions Manual

Abbreviations	Meaning
ADF	Australian Defence Force
APS	Australian Public Service
APSC	Australian Public Service Commission
CDF	Chief of the Defence Force
IPP	Information Privacy Principle
SES	Senior Executive Service

## Definitions

### A1.3 Overview to definitions

1. The terms defined in this annex apply to the Complaints and Alternative Resolutions Manual unless a special definition is provided at the beginning of each chapter. If a special definition is provided, it only applies to that chapter.
2. The [!\[\]\(564903337f30b845a5f6979939a95fe6\_img.jpg\) \*Acts Interpretation Act 1901\*](#) and the [!\[\]\(6799d2cf9a6546bbe2fea4f3991acfa2\_img.jpg\) \*Defence Act 1903\*](#) contain definitions of other terms that may apply.
3. If a term is not defined anywhere in the Complaints and Alternative Resolutions Manual or other legislation, it has the same meaning as in the Macquarie Dictionary.
4. In the case of an inconsistency in definitions, any inconsistency should be resolved using the superior reference, as determined by the relevant part. **Note:** These inconsistencies should be notified to the policy sponsor point of contact.

### A1.4 Alternative dispute resolution

1. Alternative dispute resolution refers to processes where an impartial third party assists an individual or group involved in a conflict, to resolve the dispute or issue.

### A1.5 Commander

1. Commander is a Defence member who is an officer and, by virtue of a delegation or instrument of appointment, exercises authority and holds responsibility for other assigned Defence members.

### A1.6 Commanding Officer

1. The officer in command of a warship, other military unit or formation. Includes an Administrative Commanding Officer.

### A1.7 Contract manager

1. Contract manager means the Commonwealth representative named on the contract, or a person to whom the management of the contract has been delegated or authorised.

### A1.8 Days

1. The term 'days' in this manual refers to calendar days unless otherwise indicated.

### A1.9 Deed

1. Deed means an agreement made between Defence and an individual to settle a complaint.



### A1.10 Defence

1. Defence means the Department of Defence, Australian Defence Force and the Defence Materiel Organisation.

### A1.11 Defence Australian Public Service (APS) employee

1. Defence APS employee means a person employed in the Department of Defence under section 22 of the  [Public Service Act 1999](#) .


### A1.12 Defence civilian

1. Defence civilian, as defined in section 3 of the  [Defence Force Discipline Act 1982](#) , means a person (other than a Defence Member) who
  - a. with the authority of an authorised officer as defined in the *Defence Force Discipline Act 1982*, accompanies a part of the ADF that is
    - i. outside Australia; or
    - ii. on operations against the enemy; and
  - b. has consented, in writing, to subject themselves to ADF discipline while so accompanying that part of the ADF.

### A1.13 Defence Locally engaged employee

1. Defence locally engaged employees are persons who are employed by the Department of Defence overseas in accordance with the labour laws of the country in which they are employed. **Note:** Defence locally engaged employees are not Defence employees.

### A1.14 Defence Investigative Authority

1. In accordance with  [DI\(G\) ADMIN 45-2 -The reporting and management of Notifiable Incidents](#), the Defence Investigative Authority includes
  - a. the ADF Investigative Service;
  - b. the three Service Police organisations of the Navy, Army and Air Force that report to the Provosts Marshal;
  - c. the Directorate of Security Intelligence and Investigations within the Defence Security Authority; and
  - d. the Directorate of Investigation and Recovery within the Office of the Inspector-General Defence.

### A1.15 Defence member

1. A Defence member is generally defined in section 4 of the *Defence Act 1903*, to include any
  - a. Officer;
  - b. Sailor;

- c. Soldier; or
- d. Airman or woman.

**Notes:**

1. No distinction is made between Defence members in the permanent or reserve forces.
2. Cadets and staff of the ADF Cadets organisation (including the Australian Navy Cadets, Australian Army Cadets and Australian Air Force Cadets) are not Defence members.

**A1.16 Defence member**

1. Defence member for the purposes of the [Defence Force Discipline Act 1982](#) is a Defence member who, further to section 3 and subsection 3(4) of the Defence Force Discipline Act 1982, is
  - a. a member of the Permanent Navy, the Regular Army or the Permanent Air Force, or
  - b. a member of the Reserves who
    - i. is rendering continuous full-time service; or
    - ii. is on duty or in uniform.
2. This definition may apply where the title is not used in full by virtue of the context in which it is used.

**A1.17 Defence personnel**

1. Defence personnel means all
  - a. Defence APS employees;
  - b. Defence locally engaged employees;
  - c. Defence civilians;
  - d. Defence members;
  - e. the equivalents from other Defence organisations (including foreign Defence organisations) on exchange to Defence; and
  - f. where compliance is specified in the terms of contract, external service providers and outsourced service providers operating in Defence.

**A1.18 External service provider**

1. External service provider means an organisation or individual engaged by Defence that
  - a. represents a business resource and is subject to direct management by Defence; or
  - b. is an organisation or individual engaged by Defence to undertake a consultancy that meets the criteria for reporting consultancies on AusTender as defined by the Department of Finance and Deregulation
    - i. the services to be provided involve the development of an intellectual output that assists with Defence decision-making; and
    - ii. the output will reflect the independent views of the consultant; and
    - iii. the output is the sole or majority element of the contract, in terms of relative value and importance.
2. **Note:** Individuals engaged as APS or ADF employees are not included.
3. **Note:** An external service provider is a Contracted Service provider for the purpose of section 30(1) of the [Public Interest Disclosure Act 2013](#).

**A1.19 Foreign military member**

1. Foreign military member means a member of a foreign defence force or armed service.


**A1.20 Malicious**

1. Malicious means a deliberate, mischievous and unjustified action characterised by a desire to inflict harm or suffering.

**A1.21 Manager**

1. Manager means Defence personnel or external service providers who direct a range of human and physical resources and their associated financial responsibilities to achieve corporate objectives. A manager may perform the role of a first-level supervisor where they have immediate subordinates, or of a second-level supervisor where they have Defence personnel supervised by those subordinates.

#### A1.22 Notifiable Incident

1. Notifiable Incident is defined in accordance with  [DI\(G\) Admin 45-2](#) -*The reporting and management of notifiable incidents*.

#### A1.23 ...

#### A1.24 Ombudsman

1. Ombudsman means the Commonwealth Ombudsman and the Defence Force Ombudsman and his or her staff unless indicated otherwise.



#### A1.25 Other legislation administered by the Australian Human Rights Commission

1. Other legislation administered by the Australian Human Rights Commission includes
  - a.  [Racial Discrimination Act 1975](#) .
  - b.  [Sex Discrimination Act 1984](#) .
  - c.  [Australian Human Rights Commission Act 1986](#) .
  - d.  [Disability Discrimination Act 1992](#) .
  - e.  [Age Discrimination Act 2004](#) .
2. **Note:** A description of this legislation is provided at 7.2.6.8, Overview of legislation administered by the Australian Human Rights Commission.

#### A1.26 Outsourced service provider

1. Outsourced service provider means an organisation or individual delivering specific services or supplies, usually against pre-defined milestones and deliverable requirements. The provider of the outsourced service is not subject to direct management by Defence.
2. **Note:** An outsourced service provider is a Contracted Service provider for the purpose of section 30(1) of the Public Interest Disclosure Act 2013.

#### A1.27 PID authorised officer

1. PID authorised officer is a person appointed as a PID authorised officer for the purpose of the Public Interest Disclosure Act 2013.
2. **Related Information:** A list of persons appointed as a PID authorised officer for the purpose of the  [Public Interest Disclosure Act 2013](#)  is available on the Inspector General - Defence's website.

#### A1.28 President of the Australian Human Rights Commission

1. President of the Australian Human Rights Commission includes the President of the Australian Human Rights Commission and his or her staff unless indicated otherwise.

#### A1.29 Procedural Fairness

1. Procedural fairness is a legal term that applies to all administrative decisions affecting a person's rights, interests and legitimate expectations. The rules of procedural fairness include the rule against bias and the fair hearing rule.
2. **Note:** Procedural fairness is often also known as 'natural justice'.

### **A1.30 Review of Actions decision makers**

1. A Review of Actions decision maker is any person able to lawfully make a decision on a Review of Actions including the Secretary and his/her delegates.

### **A1.31 Supervisor**

1. Supervisor means any Defence personnel or external service provider who has direct or line supervisory responsibilities of Defence personnel.

### **A1.32 Vexatious**

1. Vexatious means without grounds and serving only to harass or cause annoyance. A complaint is considered to be vexatious if it is an abuse of the complaint process, if there are no reasonable grounds for the complaint or the purpose of the complaint is to harass, annoy, delay or cause detriment.

### **A1.33 Workplace**

1. A workplace is any place (including non-Defence establishments) where the behaviour or activity carried out at that place has a Defence nexus or affects the workplace and includes
  - a. Defence establishments;
  - b. HMA Ships (all vessels, including commissioned seagoing vessels and submarines);
  - c. Vehicles;
  - d. Aircraft;
  - e. Units;
  - f. Facilities;
  - g. training centres;
  - h. social function venues attended in the course of Defence sponsored work or activity;
  - i. Accommodation; and
  - j. any other location which Defence personnel attend for the purpose of carrying out their work or duties.

### **A1.34 Work-related activities**

1. Work-related activities may include, but are not limited to
  - a. training courses;
  - b. conferences;
  - c. field trips;
  - d. travel for business purposes;
  - e. sporting competitions;
  - f. team building activities;
  - g. work functions such as dining-in nights and Christmas parties; or
  - h. travel to and from such functions and activities.

**Correct as of June 2014**