



Australian Government

DEFCM130 Perform the duties of a defending officer at service tribunals

Release: 1

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Modification History

Release	TP Version	Comments
1	DEF12V2	Primary release. Supersedes and is equivalent to DEF113C. Complete revision of language, outcome unchanged.

Unit Descriptor

This unit covers the competency required to act in the defence of an accused person for the purposes of legal trials and hearings as required under the provisions of the Defence Force Discipline Act (DFDA).

It is designed to meet the level of responsibility of a senior supervisor in the Australian Defence Force (ADF). This unit covers the competency required to defend an accused service member at summary trials under the Defence Force Disciplinary Act (DFDA).

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication. In a Defence context, this means that there is no civilian need to hold this unit in order to meet licensing, legislative, regulatory or certification requirements.

Application of the Unit

This competency was developed for Defence personnel.

Typically defending officers act independently using discretion and judgement, and taking responsibility for the quality of their outputs.

All activities are carried out in accordance with relevant organisational policies and procedures.

Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Not applicable.

Employability Skills Information

This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a Unit of Competency.

Performance Criteria describe the required performance needed to demonstrate achievement of the element. Where *bold italicised* text is used, further information is detailed in the Required Skills and Knowledge and/or the Range Statement. Assessment of performance is to be consistent with the Evidence Guide.

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Advise the accused	<p>1.1 Accused is advised of his/her rights to application and objection in accordance with <i>standard procedures</i>.</p> <p>1.2 Accused is advised of his/her legal options and the case is prepared for the tribunal.</p> <p>1.3 Pre trial <i>documentation</i> is prepared and dispatched in accordance with standard procedures.</p> <p>1.4 Prosecution is advised of the accused plea.</p>
2. Defend the accused at a service tribunal	<p>2.1 Case for the defence is presented in accordance with service discipline protocols, procedures and rules of evidence.</p> <p>2.2 Issues relating to the defence of the accused are effectively articulated to the service tribunal's authority.</p> <p>2.3 Witnesses are cross examined as required.</p>
3. Finalise the case	<p>3.1 Feedback on outcomes of the tribunal is provided to the accused as required.</p> <p>3.2 Documentation is finalised.</p>

Required Skills and Knowledge

This describes the essential skills and knowledge and their level, required for this unit.

Required Skills

- communication skills (briefing, responding to questioning, listening, reflecting, establishing rapport, negotiation, conflict resolution)
- decision making and problem solving skills
- prepare statements and complete documentation

Required Knowledge

- ADF judicial policies and procedures for service tribunals
- application of DFDA to service members
- composition and content of the DLM and other relevant law including offences under the DFDA and the rules of evidence Equity and diversity
- nature and limits of Defence jurisdiction
- Work health and safety (OH&S)
- origin and structure of the Defence legal system
- risk management

- role, duties and powers of a discipline officer
- scales of punishment
- service tribunal procedures and processes

Evidence Guide

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, the Range Statement and the Assessment Guidelines for this Training Package.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

Assessment must confirm the ability to analyse and synthesise information.

Consistency in performance

Competency should be demonstrated over time in a range of situations that could be expected in the workplace.

Context of and specific resources for assessment

Context of assessment

Competency should be assessed in the workplace or in a simulated workplace environment.

Specific resources for assessment

Access to facilities suitable for the conduct of hearings and to relevant personnel.

Range Statement

The Range Statement relates to the Unit of Competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the Performance Criteria is detailed below.

Standard procedures may include:

- Defence Law Manual (DLM) Volumes 1 and 2
- provisions of the Defence Act and the DFDA
- regulations, orders and instructions made under the Defence Act and DFDA
- standing operating procedures
- standing orders

Documentation may include:

- financial statements
- opening and closing statements
- records of evidence
- statements regarding mitigating circumstances
- witness statements

Unit Sector(s)

Not applicable.