



Australian Government

Department of Education, Employment and Workplace Relations

DEFCM113C Perform the duties of a defending officer

Release: 1

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Modification History

Not applicable.

Unit Descriptor

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This unit covers the competency required to defend an accused service member at summary trials under the Defence Force Disciplinary Act (DFDA).

Application of the Unit

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This unit only applies to Defence members who may be selected to defend an accused service member at a service summary trial.

Where a person has been asked or directed to represent a defendant, he/she thereby acquires a duty to guard the defendant's interests by all honourable and legitimate means known to the law. If for personal or service reasons the person considers that he/she cannot defend the defendant effectively, he/she should inform the defendant and arrange for someone else to take on the case.

Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Not applicable.

Employability Skills Information

Employability Skills This unit contains employability skills.

Pre-requisite Unit/s Nil

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

- 1.1 Accused is advised of his/her rights to application and objection in accordance with standard procedures
- 1.2 Accused is advised of his/her legal options

2. Prepare the defence

- 2.1 ***Pre-trial documentation*** is prepared and confirmed correct, in accordance with ***organisational policies***
- 2.2 Defence is ***developed*** in accordance with organisational policies
- 2.3 Statement of agreed facts is prepared, in accordance with organisational policies
- 2.4 Plea is communicated to prosecutor

ELEMENT**PERFORMANCE CRITERIA****3. Defend the accused**

- 3.1 Case for the defence is ***presented*** in accordance with service discipline protocols, procedures and rules of evidence
- 3.2 Evidence is admitted in accordance with organisational policies
- 3.3 Examinations of witnesses are conducted in accordance with organisational policies

4. Deal with post-trial requirements

- 4.1 ***Post-trial documentation*** is completed, in accordance with organisational policies
- 4.2 ***Outcome*** of proceedings is explained to the member
- 4.3 Convicted members are assisted with review mechanisms

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

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

Required Skills

- communicate effectively in writing
- communicate effectively orally (question, conduct briefings, respond to questioning, listen, reflect)
- conduct interviews
- display empathy and build rapport with colleagues and stakeholders
- interpret body language
- interpret charges
- interpret relevant policies
- make decisions
- make sound judgements
- manage work effectively
- undertake research

Required Knowledge

- Australian Defence Force (ADF) publications
- charges and their proofs
- Defence Force Discipline Rules (consequences of punishment)
- Defence Instructions
- evidence
- jurisdiction
- pleas in mitigation
- procedures
- punishments
- reviews/petitions
- Summary Authority Rules
- witnesses

Evidence Guide

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:

- present a case in accordance with Australian Defence Force policy and procedures.

Consistency in performance

Competency should be demonstrated 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

There are no specific resource requirements for this unit.

Method of assessment

In a public safety environment assessment is usually conducted via direct observation in a training environment or in the workplace via subject matter supervision and/or mentoring, which is typically recorded in a competency workbook.

Assessment is completed using appropriately qualified assessors who select the most appropriate method of assessment.

Assessment may occur in an operational environment or in an industry-approved simulated work environment.

Forms of assessment that are typically used include:

- direct observation
- interviewing the candidate
- journals and workplace documentation
- third party reports from supervisors
- written or oral questions.

Range Statement

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.

Pre-trial documentation may include

Charge Sheet and Action Report Form

Conduct record

Copy of all evidence received from the prosecutor, such as:

- investigating officer's reports
- medical and other specialist reports
- statutory declarations
- witness statements

Pre-sentence report

Organisational policies may include

ADF publications

Defence Force Discipline Rules (consequences of punishment)

Defence Instructions

Summary Authority Rules

Developing the defence may include

Anticipating objections

Determining evidence to prove defence

Determining whether there are insufficient facts that prove all elements of the offence to have prospects for an acquittal

Examining charges

Judging the weight of evidence against each element of a charge

Preparing applications

Preparing opening and closing remarks

Preparing questions for witnesses

Preparing witnesses:

- selecting witnesses to be called and in what order
- informing witnesses of rights and obligations, penalties for false evidence
- briefing witnesses concerning procedures

RANGE STATEMENT

Presenting the defence may include	Reliability and admissibility of evidence: • obtaining evidence legally • obtaining statements under a caution • determining which evidence forms a proof or part proof for elements of the charge Reviewing evidence relevant to the offence Assisting the accused with a response to any election Calling witnesses Different commanding officer For legal representation Giving opening and closing remarks Handling objections Making applications Proving defences Separate trial for each offence when charged with a number of offences Separate trial for the member if charged with co-accused
Post-trial documentation may include	Charge Sheet and Action Report Form Conduct record Record of evidence
Outcome of proceedings may include	Debriefing accused concerning impact of acquittal, when acquitted Debriefing convicted member concerning conviction and punishment, when convicted

Unit Sector(s)

Not applicable.