

**International Conference  
of Ombuds Institutions  
for the Armed Forces**

**13 IC<sup>OA</sup>AF**

***OMBUDS' CONTRIBUTION TO THE  
OPERATIONAL EFFECTIVENESS OF  
THE ARMED FORCES***

**PROGRAM**

**18-22 October 2021  
Canberra, Australia**

***A HYBRID EVENT, BY INVITATION ONLY***

# Conference Programme

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## MONDAY, 18 OCTOBER 2021

09:00-10:00	CONFERENCE OPENING
10:00-10:15	Introduction to the new DCAF/OSCE ODIHR Compendium on Human Rights of Armed Forces Personnel
10:15-11:00	SESSION 1: Operational effectiveness, human rights law and international humanitarian law

## TUESDAY, 19 OCTOBER 2021

09:00-10:30	SESSION 2: Ombuds's contribution to respecting the legal limits of operational effectiveness
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## WEDNESDAY, 20 OCTOBER 2021

09:00-10:30	SESSION 3: Connecting operational effectiveness with the public image of the armed forces
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## THURSDAY, 21 OCTOBER 2021

09:00-11:00	SESSION 4: Rule of law within the barracks: formal vs informal systems
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## FRIDAY, 22 OCTOBER 2021

09:00-09:30	Presentation of the Resolution on intensified international partnership of ombuds institutions for the armed forces
09:30-10:30	SESSION 5: COVID-19 and Ombuds Institutions: the 2021 update
10:30-11:30	Conference closing

*Note: all times in the table are Central European Time (CET).*

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## About the Co-Hosts

**DCAF – Geneva Centre for Security Sector Governance** is dedicated to improving the security of states and their people within a framework of democratic governance, the rule of law, respect for human rights, and gender equality. Since its founding in 2000, DCAF has contributed to making peace and development more sustainable by assisting partner states, and international actors supporting these states, to improve the governance of their security sector through inclusive and participatory reforms. It creates innovative knowledge products, promotes norms and good practices, provides legal and policy advice and supports capacity-building of both state and non-state security sector stakeholders.

The overarching objective of DCAF's ombuds programme is to promote the important role played by ombuds institutions with the armed forces and international actors, and to work directly with and encourage cooperation between ombuds institutions to enhance their effectiveness and capacity in carrying out their work.

**Within the context of 13ICOAF's host country - Australia**, The Inspector General of the Australian Defence Force and the Commonwealth Ombudsman are both independent statutory office holders and work collaboratively to provide effective oversight of the Australian Defence Force (ADF).

**The Inspector-General of the Australian Defence Force** plays an important oversight role, including through monitoring the health and effectiveness of the military justice system. This is because discipline, exercised in a way that includes respect for individual members' rights, is integral to the effectiveness and efficiency of a professional fighting force. In preparing for armed conflict in times of peace, members of the ADF must behave to the same high standards that will be demanded in armed conflict.

**The Defence Force Ombudsman** sits outside the ADF, **within the Office of the Commonwealth Ombudsman**. The Ombudsman offers an independent complaint-handling service for serving and former Defence members, as well as their families. Since 2016, the Ombudsman is also able to receive reports of serious abuse which occurred while people were serving Defence force members and who feel unable, for whatever reason, to access help within the ADF. The Ombudsman provides this confidential service for free and makes recommendations to the ADF for payments of reparation within the Government framework. The Office also conducts investigations into Defence policy and procedures. The Defence Force Ombudsman aims to contribute to systemic improvement across public administration, including within the ADF.

## Sponsors

This conference has been made possible thanks to the generous support of the German Federal Foreign Office, which is a primary sponsor of the event. DCAF also kindly acknowledges the support from the Inspector-General of the Australian Defence Force.



## INTRODUCTION

Ombuds institutions play an important role in contributing to the operational effectiveness of the armed forces they oversee through upholding individual rights and improving the governance of the defence sector. 'Operational effectiveness' refers to the ability of the armed forces, to perform their intended functions, in the expected operational environments, and in the face of expected threats. In short, it refers to the extent to which the armed forces are able to fully do their job and achieve their aim.

Traditionally, armed forces have been conceived as institutions restricted to providing external defence; that is, defence of the state against external military threats. Yet, since the aftermath of the Second World War and the emergence of the United Nations and regional multi-lateral organizations, many armed forces have increasingly assumed the additional international role of participating in peace support operations. Parallel to that, a "third mission" of armed forces has also emerged – assisting civilian authorities in responding to natural, manmade, or hybrid disasters, including health crises, such as the current COVID-19 pandemic. With these new missions, the aims of the armed forces have also evolved over time. These missions require a different set of skills of armed forces personnel. Thus, being effective in one does not necessarily mean that the armed forces will be effective in others. To that end, achieving full operational effectiveness is today much more difficult than in the past.

Operational effectiveness is not by all costs; it has its boundaries. It is closely connected with and limited by the principles of legality and accountability, as well as ethics. In the

combat context, the operational effectiveness of the armed forces is particularly bound by international humanitarian law (law of armed conflict), while in non-combat situations it is also limited by (international) human rights law. Ombuds institutions are well placed to contribute to respecting the legal limits of operational effectiveness. That particularly applies to those ombuds institutions which are more closely connected with the armed forces, such as inspectors general. Some ombuds institutions may have a relatively narrow mandate to monitor human rights of armed forces personnel, others may have a broader remit across all aspects of military operations. No matter their role, the work of ombuds institutions assists their armed forces to achieve their mission.

A high level of discipline and esprit de corps are important preconditions for operational effectiveness. Both are established through formal and informal rules. Ombuds institutions work with military courts to make sure that those violating the rights are prosecuted. At the same time, ombuds institutions may contribute to eliminating informal malpractices within the armed forces, such as bullying and hazing. Those have not only a detrimental effect on the physical and mental health of soldiers but on the operational effectiveness of the armed forces as well. Severe cases of hazing often reach the public, damaging the reputation of the armed forces and its attractiveness as an employer.

This year's conference examines how ombuds institutions positively contribute to the work of armed forces and their operational effectiveness.

## OBJECTIVES AND METHODOLOGY

This conference hopes to draw upon lessons learned from previous ICOAFs and continue fostering a dynamic and participatory environment conducive to generating new ideas and insights.

12ICOAF in 2020 was the first-ever held virtually, due to the COVID-19 pandemic. Whilst we have hoped that the situation would improve to the degree of allowing us to have 13ICOAF in a traditional in-person format, COVID-19 still affects our lives and work substantially. Thus, this year's conference is organized in a hybrid format. Due to the COVID-19 travel restrictions that are still applied worldwide, it is likely that most participants will attend virtually.

The objective of 13ICOAF is for ombuds institutions to share their knowledge and learn from their peers how they can contribute to the operational effectiveness of the armed forces. To that end, the specific objectives are to explore the nexus between operational effectiveness and different dimensions relevant for ombuds' work, such as legality, rule of law and public image. Good practices shared during the conference will be compiled and endorsed by participants in a non-binding Conference Statement.

The structure of the conference sessions consists of keynote addresses, panel and breakout sessions, as in previous ICOAFs. The conference starts with a keynote address making a connection between operational effectiveness and the law (Session 1), setting the scene for a panel session on the challenges facing the Australian and New Zealand inquiry teams investigating alleged war crimes committed by their armed forces in Afghanistan (Session 2). The third and fourth sessions will be in a breakout format, to allow focused discussion. Session 3 explores how public perceptions influence the operational effectiveness of the armed forces and which actors may contribute to the improvement of public profile and reputation of the armed forces, particularly after high-profile cases of

wrongdoings. This session looks at how ombuds institutions could work with different actors to contribute to regaining and/or instilling confidence in armed forces. Session 4 concentrates on the interaction of ombuds institutions with formal and informal disciplinary systems within the armed forces. The final Session 5 returns to a panel format and will be devoted to comparing notes on the COVID-19 developments since 12ICOAF in October 2020. At each and every session, discussions will focus on the role of ombuds institutions in these important dimensions which impact on the operational effectiveness, while taking into account accountability, rule of law and respect of rights of both soldiers and civilians.

Participants possess vast experience in handling and responding to different types of complaints related to the armed forces. They are expected and encouraged to share their experiences – both positive practices and gaps in capacity – to draw out good practices and areas of need that may prove to be informative to their peers.

A downside of having a virtual event is the inability to have discussions in person, not only on formal conference sessions but also during the breaks and social events, which has always been an essential feature of the ICOAF experience. However, the new technological possibilities of hosting online events are certainly welcome and are, in fact, beneficial as they can increase participation, cooperation and communication. The conference will be hosted on Chime. This novel browser-based platform has been praised for its rich set of features, ideal for large-scale online events, allowing interactive discussions, better video quality, interpretation and various working modalities (including breakout groups).

Participation at the conference is by invitation only. Registration is compulsory. All security features of Chime will be used to keep uninvited guests out. 13ICOAF will be closed to the public and will operate under the Chatham House Rule unless otherwise noted.

MONDAY, 18 OCTOBER 2021

## Welcome to Country [Australian indigenous ceremony]

09:00 – 09:15 (CET)

## Conference opening

09:15 – 10:00 (CET)

MODERATOR:

Mr. James Gaynor CSC, Inspector-General of the Australian Defence Force, Australia

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SPEAKERS:

General Angus Campbell, Chief of Defence Force, Australia

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Ambassador Thomas Guerber, Director, DCAF

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Mr. James Gaynor CSC, Inspector-General of the Australian Defence Force, Australia

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Ms. Penny McKay, Acting Commonwealth Ombudsman, Australia

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## Introduction to the new DCAF/OSCE ODIHR Compendium on Human Rights of Armed Forces Personnel

10:00 – 10:15 (CET)

MODERATOR: Dr. Luka Glušac, Programme Manager, DCAF

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SPEAKERS:

Jonna Naumanen, Human Rights Officer, OSCE ODIHR

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Will McDermott, Programme Manager, DCAF

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In 2021, DCAF and OSCE Office for Democratic Institutions and Human Rights (ODIHR) have launched a new Compendium on Human Rights of Armed Forces Personnel. The Compendium is a comprehensive update to the Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel published in 2008, which was very well received and widely used by the ombuds community. The Compendium provides recommendations for respecting the human rights of armed forces personnel on 18 distinct topics, ranging from civil rights, freedom of association, rights of racial minorities, prevention of torture and other forms of ill-treatment, human rights education, military justice, among many others.

## SESSION 1: Operational effectiveness, human rights law and international humanitarian law

10:15 – 10:40 (CET)

KEYNOTE ADDRESS: Dr. Alison Duxbury

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[introduced by Dr. Luka Glušac, DCAF]

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In this keynote address, Professor Alison Duxbury, author of the chapter “Discipline and Military Justice” in the Compendium discusses the relationship between the operational effectiveness of the armed forces and the necessity to respect the law, particularly human rights law.

Professor Alison Duxbury is the Deputy Dean of Melbourne Law School, University of Melbourne. She is also the Chair of the International Board of the Commonwealth Human Rights Initiative and a member of the Executive Council of the Asian Society of International Law.

## Q&A discussion

10:40 – 11:00 (CET)

TUESDAY, 19 OCTOBER 2021

## SESSION 2: Ombuds's contribution to respecting the legal limits of operational effectiveness

Panel format - 09:00 – 10:30 (CET)

MODERATOR: Commodore Fiona Sneath, RAN, Deputy Inspector-General of the Australian Defence Force, Australia

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SPEAKERS: Major General the Honourable Paul Brereton AM RFD, Australia

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Sir Terence Arnold KNZM, QC, New Zealand

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This panel session covers the challenges facing the Australian and New Zealand inquiry teams in gathering evidence and the methodology used in examining allegations of war crimes committed by the Australian Defence Force and New Zealand Defence Force in Afghanistan. Both investigations have received high public attention and have resulted in comprehensive reports (links to public reports: [Australia](#); [New Zealand](#)).

*Guiding questions:*

- Has your office conducted similar investigations? If yes, why and what triggered the investigation? Have there been parallel investigations of other domestic or international bodies?
- What was the course and methodology of investigation and what challenges has your office faced? How was the cooperation with MoD/AF before, during and after an investigation?
- How were the investigation reports, including their findings and recommendations, received by MoD/AF and the public? Were the recommendations followed up?

WEDNESDAY, 20 OCTOBER 2021

### SESSION 3: Connecting operational effectiveness with the public image of the armed forces

#### INTRODUCTION:

Dr. Luka Glušac, Programme Manager, DCAF

#### Breakout groups - 09:00 – 10:30

How does the public image influence the operational effectiveness of the armed forces and which actors may contribute to the improvement of public profile and reputation of the armed forces, particularly after high-profile cases of wrongdoing? This session approaches this subject through the lenses of three distinct but rather connected categories: future, current and former service members. The session explores how ombuds institutions could work with these three different groups to regain and/or instil confidence in the armed forces.

#### Breakout 1: Interest in the military profession

The discussion in this breakout group is based on the premise that low public trust in armed forces affects their ability to attract new recruits. That may have negative consequences on operational effectiveness in the long-term. This breakout group concentrates on examining the role of ombuds institutions in armed forces' efforts to recruit a sufficient number of soldiers, being they future officers, non-commissioned officers, volunteers or conscripts. Furthermore, an increased number of countries that had previously moved from the conscript system to a fully professional army has started discussions to return to the old system. Thus, this topic is both important and timely.

##### Guiding questions:

- What is the role of ombuds institutions in enhancing the public trust and confidence in armed forces, if any? Has your office participated in any public campaign conducted by MoD/AF?
- How do different ombuds models play out in this context?
- From the perspective of their mandate, what could ombuds institutions do to make armed forces a (more) desirable employer? How could they contribute to the improvement of the working conditions and terms of service?

#### Breakout 2: Public trust after high-profile cases of wrongdoings

How do high-profile cases of wrongdoing, committed either within the armed forces or by armed forces in-country or abroad, affect their reputation and public image? How can the trust and confidence of the public in armed forces be regained? What measures could be taken to achieve that? Within this broader topic, this session aims to add ombuds institutions into this calculation, particularly if they had a role in discovering, investigating and/or disclosing these wrongdoing.

##### Guiding questions:

- What could be the role of ombuds institutions in helping the armed forces to (publicly) recover from their own wrongdoing? What is the appropriate level of ombuds' engagement in that context?
- In cases when your office had investigated and revealed to the public severe wrongdoings by the armed forces, how has that affected your relations with MoD/AF? Did you experience any pressures?
- Has your office participated in any public campaign conducted by MoD/AF to regain the public trust?

### Breakout 3: Working with veterans

This breakout group discusses how ombuds institutions could work with service members or veteran associations. The term 'veteran' may be used differently in different countries to refer to former service members, current service members, or only those service members who have served in armed conflict or on operational duty. In many countries, veteran associations are quite influential both among active service members and the public. Their outreach and advocacy campaigns sometimes have better chances of success than "official" ones conducted by ministries of defences or general staffs. This session looks at how ombuds institutions could join forces with veterans, by using their personal

experience and intimate knowledge of the military system and culture to improve ombuds' role in contributing to the operational effectiveness of the armed forces.

*Guiding questions:*

- What kind of relationships has your office established with veteran associations, if any?
- What do you see as the most fruitful avenue of working together with veteran associations to contribute to the operational effectiveness of the armed forces?
- What are the most common concerns that veterans address to your office? Any gender specific issues?

THURSDAY, 21 OCTOBER 2021

### SESSION 4: Rule of law within the barracks: formal vs informal systems

Input presentation followed by breakout groups - 09:00 – 09:40 (CET)

**MODERATOR:** Mr Andrew Snashall, Office of the Inspector-General of the Australian Defence Force

**SPEAKERS:** Major General Natasha Fox AM CSC, Australian Defence Force, Australia;  
Ms Penny McKay, Acting Commonwealth Ombudsman

This session concentrates on the interaction of ombuds institutions with formal and informal disciplinary systems within the armed forces. On one hand, the session explores ombuds institutions' relations with formal military justice systems, primarily military courts. On the other, informal disciplinary practices among armed forces personnel are discussed, in terms of what ombuds institutions could do to contribute to eliminating practices that may lead to long-term consequences for the physical and mental health of young soldiers.

09:20 – 11:00 (CET)

#### Breakout 1: Formal system – working with military justice systems

This breakout group explores how ombuds institutions cooperate with military justice systems. In some countries, military courts are separated from civilian courts, while in others

they are integrated into the civilian court system. Furthermore, the jurisdiction of military justice also varies. In some countries, military courts can only try disciplinary offences (e.g., dereliction of duty), while in others, they can also try criminal offences (e.g., assault) committed by armed forces personnel. Finally, the composition of military courts differs, from having only military judges to including also civilian judges. Irrespective of their composition, it is vital that military courts remain independent of the military chain of command. This breakout group explores how mandates and functions of ombuds institutions and military courts play out against each other, and what are potential avenues of their cooperation.

*Guiding questions:*

- Have your office already cooperated with military justice mechanisms? What was the nature and area of such cooperation?
- Does your office have the jurisdiction to influence legislation or policy making relating to the military justice system?
- Does your ombuds institution share the jurisdiction or have overlapping jurisdiction with a military court? Is your office authorised to handle a case that is at the same time being considered by the military court?

## Breakout 2: Informal system – contributing to the elimination of hazing

Informal rules within the armed forces are known to be widespread across different military systems. From initiations to the creation of informal hierarchies among the soldiers, these practices are detrimental to the physical and mental health of soldiers, as they are not one-off incidents. In fact, they represent oppressive coercive behaviour, based on multiple tactics like violence, intimidation, degradation, isolation and control. It is most usually performed as part of an initiation of newcomers, be they new conscripts or volunteers. Such practices are generally known as hazing or *dedovshchina*, in the Post-Soviet space.

Existing research has shown that hazing is of high relevance for operational effectiveness as well as it undermines unit cohesion. The abuse leads to negative dynamics between the soldiers of different seniority. Hazing may result in physical injuries and even death in extreme situations. Once those severe cases of hazing reach the public, they contribute to the erosion of military preparedness.

Although hazing terminates at the end of the initiation of newcomers, it has much wider implications as it encourages the culture of abuse. It provides an incentive for other forms of bullying which may continue indefinitely, well after the initiation phase. Armed forces in various countries have deployed different strategies to suppress hazing, with more or less success. This breakout session discusses the role of ombuds institutions in contributing to the prevention of hazing and making sure that soldiers know whom to approach if they are subject to hazing. As an independent grievance mechanism, ombuds institutions could play an important role in the elimination of the culture of impunity when it comes to hazing and

similar forms of abuse.

*Guiding questions:*

- Is hazing recognized as a problem in your armed forces? If yes, is it understood as detrimental to operational effectiveness?
- Have you dealt with cases of hazing or other types of abuse, and how have you approached them? Have you observed any gender specific issues?
- How would you assess your cooperation with MoD and AF leadership when it comes to the cases of abuse in the armed forces? Has the question of interfering with the military chain of command being brought up by the armed forces in those cases?

FRIDAY, 22 OCTOBER 2021

## Presentation of the Resolution on intensified international partnership of ombuds institutions for the armed forces

09:00 – 09:30 (CET)

### INTRODUCTION:

Dr. Hans Born, Assistant Director and Head of Policy and Research Department, DCAF

SPEAKER: Mr. Reinier van Zutphen, National Ombudsman, The Netherlands

Ombuds institutions have demonstrated recurring interest to discuss their cooperation in international missions. This topic has been first touched upon on 3ICOAF in Belgrade (2011), while at 8ICOAF in Amsterdam (2016) it was given a central place. Realizing the importance of all the challenges related to this issue, a group of ombuds institutions from Germany, Norway, the Netherlands, Georgia, and Austria, led by the German Parliamentary Commissioner for the Armed Forces have initiated a resolution committing themselves to seek ways to improve cooperation in the context of international missions. The text of this non-binding resolution has been agreed upon at a recent international workshop held in Berlin. The resolution is now opened to new signatories.

## SESSION 5: COVID-19 and Ombuds Institutions: the 2021 update

Panel format - 09:30 – 10:30 (CET)

MODERATOR: Ms. Florence Kajuju, Chairperson of the Commission for Administrative Justice, Kenya

SPEAKERS: Ms. Mariette Hughes, Service Complaints Ombudsman for the Armed Forces, United Kingdom

Lt Gen (Ret) Vusumuzi Masondo, Military Ombud, South Africa

Mr. Gregory Lick, National Defence and Canadian Armed Forces Ombudsman, Canada

The final session of 13ICOAF addresses an elephant in the room: COVID-19. During 12ICOAF, it was reported that most ombuds institutions have adapted well to remote work and have used this situation to further digitalize, by receiving complaints through various means of communication, including through social media and social networks. Furthermore, many offices have invested efforts to develop or perfect electronic case management systems, as well as to become more present in an online environment, making themselves more visible and accessible. One year on, this session aims to compare notes on developments since 12ICOAF.

*Guiding questions:*

- Have you observed any new COVID-19 related developments since 12ICOAF? Have you established any novel practices in the meantime?
- Have you observed an increase in COVID-19 related complaints, either from armed forces personnel or civilians? What is the nature of those complaints?
- Has the COVID-19 experience caused you to review your mandate or operating procedures to address areas of possible shortcomings?

## CONFERENCE CLOSING

10:30 – 11:30 (CET)

### Adoption of the conference statement

10:30 – 11:00 (CET)

Before closing the conference, the conference statement will be discussed and adopted by the participants.

CHAIR: Hans Born, Assistant Director and Head of Policy and Research Department, DCAF

### Announcement of the 14th ICOAF in Oslo, Norway in October 2022

11:00 – 11:15 (CET)

SPEAKER: Mr. Roald Linaker, Parliamentary Ombudsman for the Armed Forces, Norway

### Closing remarks

11:15 – 11:30 (CET)

SPEAKERS: Mr. James Gaynor CSC, Inspector-General of the Australian Defence Force, Australia

Hans Born, Assistant Director and Head of Policy and Research Department, DCAF

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