



DÁIL ÉIREANN

**BINSE FIOSRÚCHÁIN MAIDIR LE NITHE ÁIRITHE A
BHAINNEANN LEIS NA PRÓISIS GEARÁN IN ÓGLAIGH NA
HÉIREANN.**

Rith Dáil Éireann an Rún seo istigh ag an
gCruinníú de Dháil Éireann a bhí ann an 24ú lá
seo d'Eanáir, 2024.

**TRIBUNAL OF INQUIRY INTO CERTAIN MATTERS
RELATING TO THE COMPLAINTS PROCESSES IN THE
DEFENCE FORCES.**

The within Resolution was passed by Dáil
Éireann at its Meeting on this 24th day of
January, 2024.



Cathaoirleach Dháil Éireann

Le cur go dtí:

For transmission to: *An Taoiseach*

Go ndéanann Dáil Éireann:

á mheabhrú di na líomhaintí tromaí maidir le hidirdhealú, bualaíocht, ciapadh, gnéaschiapadh agus mí-iompar gnéasach in Óglaigh na hÉireann;

á thabhairt dá haire cinneadh an Rialtais, i mí Eanáir 2022, Grúpa Athbhreithnithe Neamhspleách (GAN) a bhunú chun saincheisteanna den sórt sin a scrúdú agus moltaí agus treoir a sholáthar don Aire Cosanta maidir le bearta agus straitéisí atá ag teastáil chun taca a chur faoi áit oibre atá bunaithe ar dhírit, comhionannas, comhurráim, agus dualgas cúram do gach comhalta d'Óglaigh na hÉireann;

á thabhairt dá haire gurb é tuairim an Ghrúpa, ar é athbhreithniú GAN a chríochnú, gur bunú próisis reachtúil aimsithe fioras chun mainneachtana sistéamacha, más ann, i bpróisis gearán Óglaigh na hÉireann a shainaithint an t-aon mhodh cuimsitheach fiosrúcháin chun saincheisteanna ar de thábhacht phoiblí bhunúsach iad agus atá gan socrú a réiteach;

ós eol di go ndeachaigh an tAire Cosanta i gcomhairle leis an Ard-Aighne agus go ndearnadh breithniú ar thuairimí agus ar ráitis ó pháirtithe leasmhara ríthábhachtacha i bhforbairt na dtéarmaí tagartha agus an chineáil fiosrúcháin;

á thabhairt dá haire:

- go gciallaíonn "Drochúsáid" idirdhealú, bualaíocht, ciapadh, céasadh fisiceach, ionsáí fisiceach, díobháil shíceolaíoch, gnéaschiapadh agus aon chineál mhí-iompair gnéis (lena n-áirítear ionsáí gnéasach, tromionsáí gnéasach agus éigniú);
- go gciallaíonn "Gearáin mar gheall ar Dhrochúsáid" gearáin arna ndéanamh:
 - ag comhaltaí atá ag fónamh nó ag iarchomhultaí d'Óglaigh na hÉireann le hÓglaigh na hÉireann nó leis an Aire Cosanta;
 - ag fostaithe sibhialtacha láithreacha nó ag iarfhostaithe sibhialtacha le

That Dáil Éireann:

bearing in mind the serious allegations of discrimination, bullying, harassment, sexual harassment and sexual misconduct in the Defence Forces;

noting the decision of Government, in January 2022, to establish an Independent Review Group (IRG) to examine such issues and 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;

noting that, having completed the IRG review, it is the opinion of the Group, that the establishment of a statutory fact-finding process to identify systemic failures, if any, in the complaints processes in the Defence Forces, represents the only comprehensive method of inquiry to resolve outstanding issues of fundamental public importance;

mindful that the Minister for Defence has consulted with the Attorney General and the observations and comments from key stakeholders have been considered in the development of the terms of reference and the type of inquiry;

noting that:

- "Abuse" means discrimination, bullying, harassment, physical torture, physical assault, psychological harm, sexual harassment and any form of sexual misconduct (including sexual assault, aggravated sexual assault and rape);
- "Complaints of Abuse" means complaints made by:
 - serving or former members of the Defence Forces to the Defence Forces/Minister for Defence;
 - current or former civilian employees to the Defence Forces/Minister for Defence; and

- hÓglaigh na hÉireann nó leis an Aire Cosanta; agus
- ag Státseirbhísigh láithreacha nó iar Státseirbhísigh le hÓglaigh na hÉireann nó leis an Aire Cosanta,
- i leith Drochúsáid arna fulaingt ag an ngearánach i gcúrsa a chuid oiliúna, oibre agus/nó gairme nó a cuid oiliúna, oibre agus/nó gairme in Óglaigh na hÉireann, nó i gcás Státseirbhíseach agus fostaithe sibhialtacha, i leith a gcuid idirghníomhaíochtaí le hÓglaigh na hÉireann;
- go gciallaíonn "Gearáin mar gheall ar Cheimiceáin Ghuaiseacha" gearáin arna ndéanamh:
 - ag comhaltaí atá ag fónamh nó ag iarchomhaltaí d'Óglaigh na hÉireann le hÓglaigh na hÉireann nó leis an Aire Cosanta;
 - ag fostaithe sibhialtacha láithreacha nó ag iarfhostaithe sibhialtacha le hÓglaigh na hÉireann nó leis an Aire Cosanta; agus
 - ag Státseirbhísigh láithreacha nó ag iar Státseirbhísigh le hÓglaigh na hÉireann nó leis an Aire Cosanta,
- i leith ceimiceáin ghuaiseacha a úsáid laistigh de cheanncheathrú an Aerchóir ag Aeradróm Mhic Easmuinn, Baile Dhónaill; agus
- Áirítéar le "Próisis Gearán", ach gan a bheith teoranta dóibh, próisis a chumhdaítear:
 - A. le Treoir Riaracháin Óglaigh na hÉireann A7 Caibidil 1;
 - B. le holt 114 den Acht Cosanta, 1954 (an nós imeachta um Shásamh in Éagóra);
 - C. le holt 169 den Acht Cosanta, 1954 (cionta sibhialta atá inphionós leis an dlí míleata);
 - D. leis an Acht Ombudsman (Óglaigh na hÉireann), 2004;
 - E. leis an Acht um Nochtadh Cosanta, 2014;
- current or former Civil Servants to the Defence Forces/Minister for Defence,
- in respect of Abuse suffered by the complainant in the course of his or her training, work and/or career with the Defence Forces, or in the case of Civil Servants and civilian employees, in respect of their interactions with the Defence Forces;
- "Complaints of Hazardous Chemicals" means complaints made by:
 - serving or former members of the Defence Forces to the Defence Forces/Minister for Defence;
 - current or former civilian employees to the Defence Forces/Minister for Defence; and
 - current or former Civil Servants to the Defence Forces/Minister for Defence,
- in respect of the use of hazardous chemicals within Air Corps' headquarters at Casement Aerodrome, Baldonnel; and
- "Complaints Processes" includes, but is not limited to, processes covered by:
 - A. the Defence Forces Administrative Instruction A7 Chapter 1;
 - B. section 114 of the Defence Act 1954 (Redress of Wrongs procedure);
 - C. section 169 of the Defence Act 1954 (civil offences punishable by military law);
 - D. the Ombudsman (Defence Forces) Act 2004;
 - E. the Protected Disclosures Act 2014;

- F. i gcás inarb infheidhme, leis an Acht um Nochtadh Cosanta (Leasú), 2022; agus
- G. a mhéid a bhaineann le (vii) thíos, leis an Acht um Shábháilteacht, Sláinte agus Leas ag an Obair, 2005 (arna leasú) nó i gcás inarb infheidhme, leis an Acht um Shábháilteacht, Sláinte agus Leas ag an Obair, 1989;

a bheartú go bhfuil sé fóirsteanach binse a bhunú faoi na hAchtanna um Binsí Fiosrúcháin (Fianaise), 1921 go 2011, a mbeidh an Breitheamh Ann Power i gceannas air, chun fiosrú a dhéanamh ar na nithe áirithe seo a leanas a bhfuil tábhacht phráinneach phoiblí ag baint leo:

- (i) chun a shuíomh ar chuí agus oiriúnach dá gcuspóir iad Próisis Gearán Óglaigh na hÉireann i ndáil le Gearán mar gheall ar Dhrochúsáid;
- (ii) chun a shuíomh an ndearnadh de réir na bPróiseas Gearán in Óglaigh na hÉireann i ndáil le Gearán mar gheall ar Dhrochúsáid;
- (iii) chun freagairt agus toradh na nGearán mar gheall ar Dhrochúsáid a bhreithniú agus a thuairisciú, agus aon teipeanna sistéamacha sna Próisis Gearán in Óglaigh na hÉireann a shainaithint;
- (iv) chun imscrúdú a dhéanamh i dtaobh an ndearnadh Gearán mar gheall ar Dhrochúsáid a chosc go gníomhach nó an raibh cultúr ann inar cuireadh in aghaidh Gearán mar gheall ar Dhrochúsáid a dhéanamh;
- (v) chun imscrúdú a dhéanamh i dtaobh:
 - (a) ar imríodh díoltas ar na daoine a rinne Gearán mar gheall ar Dhrochúsáid;
 - (b) an ndearnadh imeaglú de dhroim Gearán mar gheall ar Dhrochúsáid a dhéanamh; nó
 - (c) an ndearnadh aon phonós nó ualach a fhochur ar dhuine a rinne Gearán mar gheall ar Dhrochúsáid;
- (vi) chun imscrúdú a dhéanamh ar chineál

- F. where applicable, the Protected Disclosures (Amendment) Act 2022; and
- G. in so far as (vii) below is concerned, the Safety, Health and Welfare at Work Act 2005 (as amended) or where applicable, the Safety, Health and Welfare At Work Act 1989;

resolves that it is expedient a tribunal be established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, to be chaired by Ms. Justice Ann Power, to inquire into the following definite matters of urgent public importance to:

- (i) establish whether the Complaints Processes in the Defence Forces in relation to Complaints of Abuse were appropriate and fit for purpose;
- (ii) establish whether the Complaints Processes in the Defence Forces in relation to Complaints of Abuse were followed;
- (iii) consider and report on the response and outcome of Complaints of Abuse, and to identify any systemic failures in the Complaints Processes in the Defence Forces;
- (iv) investigate whether Complaints of Abuse were actively deterred or whether there was a culture that discouraged the making of the Complaints of Abuse;
- (v) investigate whether there were:
 - (a) retaliation or reprisals against those who made a Complaint of Abuse;
 - (b) intimidation consequent on the making of a Complaint of Abuse; or
 - (c) the imposition of any penalty or burden upon a person who made a Complaint of Abuse;
- (vi) investigate the nature and performance of

agus ar fheidhmíocht ról reachtúil an Aire Cosanta/na Roinne Cosanta sna córais agus sna nósanna imeachta chun déileáil le Gearán mar gheall ar Dhochúsáid; agus

- (vii) chun imscrídú a dhéanamh ar an bhfreagairt a rinneadh do Ghearán mar gheall ar Cheimiceáin Ghuaiseacha agus breithniú a dhéanamh ar a leordhóthanaí atá na Próisis Gearán i bhfianaise na bhfreagraí a tugadh ar an gcéanna;

a bheartú thairis sin:

- (I) maidir leis an mBinse Fiosrúcháin:
- (a) go n-iarrtar air tuarascáil a thabhairt ar a imscrídú ar na nithe atá leagtha amach sa rún seo agus aon mholtáí cuí a dhéanamh de dhroim an imscrúdaithe sin;
 - (b) go mbreithneoidh sé Gearán mar gheall ar Dhochúsáid agus Gearán mar gheall ar Cheimiceáin Ghuaiseacha arna nochtadh ag comhaltaí d'Óglaigh na hÉireann atá ag fónamh amhlaidh agus ag iarchomhaltaí d'Óglaigh na hÉireann, chun go n-áireofar comhaltaí Sheirbhís Altranais an Airm, Séiplínigh de chuid Óglaigh na hÉireann, fostaithe sibhialta agus Státseirbhísigh atá ag obair laistigh d'Óglaigh na hÉireann agus Státseirbhísigh atá ag obair laistigh den Roinn Cosanta;
 - (c) go mbeidh aird chuí aige ar aon ionchúiseamh coiriúil nó míleata nó ar aon imeachtaí sibhialta, atá ar siúl nó ar feitheamh i láthair na huaire, a bhféadfadh go ndéanfadhbh fianaise a thabharfar ar aird ag an mBinse Fiosrúcháin difear dó nó dóibh;
 - (d) i gcomhthéacs a imscrúdaithe ar Théarmaí Tagartha (i) go (v), go bhféadfadh sé a cheadú fianaise ar Dhochúsáid agus ar iarmhairtí Drochúsáide a bheith mar threoir, ach go gcoiscfear ar an mBinse imscrídú a dhéanamh ar aon nithe, nó cinntí fiorais a dhéanamh i dtaoibh

the statutory role of the Minister for Defence/Department of Defence in the systems and procedures for dealing with Complaints of Abuse; and

- (vii) investigate the response to Complaints of Hazardous Chemicals and to consider the adequacy of the Complaints Processes in light of the responses to same;

further resolves that:

- (I) the Tribunal of Inquiry:
- (a) is requested to report on its investigation into the matters set out in this resolution and to make any appropriate recommendations arising out of this investigation;
 - (b) shall consider Complaints of Abuse and Complaints of Hazardous Chemicals advanced by serving and former members of the Defence Forces, to include members of the Army Nursing Service, Chaplains to the Defence Forces, civilian employees and Civil Servants working within the Defence Forces and Civil Servants working within the Department of Defence;
 - (c) shall have due regard to any criminal or military prosecution or civil proceedings, currently in train or pending, that may be affected by evidence adduced at the Tribunal of Inquiry;
 - (d) in the context of its investigation into Terms of Reference (i) to (v), may permit evidence of Abuse and the consequences of Abuse to be led, but the Tribunal is precluded from investigating into, or making findings of fact upon any matters that would, if established in a court of law, be

- aon nithe, a bheadh, dá suífí i gcúirt dlí iad, ina nithe de chineál coiriúil;
- (e) go dteastóidh uaidh go dtabharfaidh an tAire Cosanta agus Ceann Foirne Óglaigh na hÉireann nach bpionósófar aon chomhalta d'Óglaigh na hÉireann atá ag fónamh amhlaidh mar gheall ar é nó í do nochtadh aon Ghearán, aon Ghearán mar gheall ar Dhrochúsáid, nó aon Ghearán mar gheall ar Cheimiceáin Ghuaiseacha os comhair an Bhinse;
- (f) go bhféadfaidh sé, i bhfeidhmiú a dhlínse dó, faisnéis a iarraidh i ndáil le nithe a bhaineann le comhaontú rúndachta; agus le linn dó an iarraidh sin a dhéanamh, gur faoin mBinse a bheidh sé a chinneadh cad iad na hoibleagáidí (más ann dóibh) a fhéadfar a fhorchur maidir leis an nochtadh sin;
- (g) go dtabharfaidh sé aird chuí do neamhspleáchas aon chomhlachta reachtúil agus/nó do neamhspleáchas Sealbhóirí Oifige reachtúla i gcomhlíonadh a bhfeidhmeanna dóibh;
- (h) go bhféadfaidh sé teagmháil a dhéanamh leis na tacáí eatramhacha atá curtha ar bun go dtí seo ag an Aire Cosanta, lena n-áirítear RaiseaConcern – Teagmhálaí faoi Rún, an tSeirbhís Comhairleoireachta INSPIRE agus Ionad Éigeandála um Éigniú Bhaile Átha Cliath, chomh maith leis na Seirbhísí Tacaíochta Pearsana de chuid Óglaigh na hÉireann, le síceolaí agus síciatraí de chuid Óglaigh na hÉireann agus leis na tacáí míochaine laistigh de Bhrainse Míochaine Óglaigh na hÉireann a bhí curtha ar bun cheana féin;
- (i) go leagtar de chúram air imscrídú a dhéanamh ar na nithe dá bhforáiltear ina Théarmaí Tagartha ón 1 Eanáir 1983 go dtí dáta a bhunaithe;
- (j) go bhféadfaidh sé Gearáin mar gheall ar Dhrochúsáid a scrídú cibé acu an
- criminal in nature;
- (e) will require appropriate assurances from the Minister for Defence and the Chief of Staff of the Defence Forces that any serving member of the Defence Forces will not be penalised by reason of their disclosure of any Complaint, Complaint of Abuse, or Complaint of Hazardous Chemicals at the Tribunal;
- (f) may request, in the exercise of its jurisdiction, information pertaining to matters relating to a confidentiality agreement; and in making such request, it is a matter for the Tribunal to determine what (if any) obligations may be imposed in relation to such disclosure;
- (g) shall have due regard to the independence of any statutory body and/or statutory Office Holders in the performance of their functions;
- (h) may engage with the interim supports put in place to date by the Minister for Defence, including RaiseaConcern – Confidential Contact Person (CCP), INSPIRE Counselling Service and the Dublin Rape Crisis Centre, as well as the already established Defence Forces Personnel Support Services (PSS), Defence Forces' psychologist and psychiatrist and medical supports within the Defence Forces Medical Branch;
- (i) is charged with investigating the matters provided for in its Terms of Reference from 1st January, 1983 to the date of its establishment;
- (j) may examine Complaints of Abuse whether made in respect of matters

ndéantar iad i leith nithe a tharlaíonn laistigh den dlínse, le linn fónamh thar lear nó ar bord loinge Stáit nó aerárthaigh Stáit; agus

- (k) go ndéanfaidh sé iarracht a chuid oibre a chríochnú tráth nach déanaí ná trí bliana ón dáta a bhunaítear é; agus d'fhonn an cuspóir sin a bhaint amach, go mbeidh an Binse i dteideal rogha a fheidhmiú i ndáil leis an méid fianaise a éistfidh sé agus go mbeidh sé i dteideal a mheas gur dóthanach é sampla fianaise ar shaincheisteanna áirithe chun go bhféadfaidh sé tátail a dhéanamh agus tuarascáil a thabhairt ar a fhionnachtana; agus go bhféadfaidh an tAire Cosanta tráth ar bith, a iarraidh ar an gComhalta Aonair den Bhinse Fiosrúcháin an t-eolas is déanaí a sholáthar maidir le dul chun cinn an Bhinse;
- (II) go dtabharfaidh an Binse tuarascáil don Taoiseach agus go ndéanfaidh sé na fionnachtana agus na moltaí sin is cuí leis i ndáil leis na nithe sin, a luithe is féidir;
- (III) maidir leis na costais uile a thabhófar de dheasca mainneachtain ag pearsana aonair comhoibriú go hiomlán agus go dlúsúil leis an mBinse, gur chóir go n-íofcadh na pearsana aonair sin iad, a mhéid a bheidh sé sin ar comhréir le leasanna an cheartais;
- (IV) aon taifid a dhéanfar, a gheofar nó a shealbhófar le linn an Bhinse Fiosrúcháin, go mbeidh siad faoi réir théarmaí an Achart um Chartlann Náisiúnta, 1986 agus Chuid 15 den Acht um an Dlí Sibhialta (Forálacha Ilgħnitétheacha), 2011; agus
- (V) go ndéanfaidh an Taoiseach, ar aon Tuarascáil ón mBinse a fháil, iarratas chun na hArd-Chúirte ar threoruithe maidir leis an Tuarascáil a fhoilsíú nó a shocrú í a leagan faoi bhráid dhá Theach an Oireachtas.

occurring within the jurisdiction, while serving overseas or on board a State ship or aircraft; and

- (k) shall endeavour to complete its work no later than three years from the date of its establishment; and in order to achieve this objective, the Tribunal shall be entitled to exercise a discretion in relation to the extent of the evidence that it hears and will be entitled to consider that a sample of evidence on particular issues is sufficient for it to make conclusions and report upon its findings; and the Minister for Defence may at any time request the Sole Member of the Tribunal of Inquiry to provide updates on the progress of the Tribunal;
- (II) the Tribunal shall report to the Taoiseach and make such findings and recommendations as it sees fit in relation to these matters as expeditiously as possible;
- (III) all costs incurred by reason of the failure of individuals to co-operate fully and expeditiously with the Tribunal should, as far as it is consistent with the interests of justice, be borne by those individuals;
- (IV) any records made, received or held in the course of the Tribunal of Inquiry shall be subject to the terms of the National Archives Act 1986 and Part 15 of the Civil Law (Miscellaneous Provisions) Act 2011; and
- (V) the Taoiseach shall, upon receipt of any Report from the Tribunal, either apply to the High Court for directions regarding publication of the Report or arrange to have it laid before both Houses of the Oireachtas.