



Supplement to Defence Decision Makers' Guide

For the disclosure of certain personal information in relation to Youth Safety Incidents

This document **must** be used in conjunction with the [Defence Decision Makers' Guide](#).

Context

This supplement applies to decisions related to Youth in Defence contexts. This includes:

- Defence employees (ADF and APS) under the age of 18;
- Youth Program participants under the age of 18; and
- ADF Cadets under the age of 18.

Young people under the age of 18 have information that relates to them personally and is separate from other information relating to their family unit. In certain exceptional circumstances where the welfare of a youth is at risk and all other options have been exhausted, it may be appropriate to disclose personal information of a youth or other individual to a third party. Any disclosure must be considered on a case by case basis using the following steps.

Assess the requirements of the decision-making process

- Determine whether the incident in question is a Youth Safety Incident. If you are unsure, seek advice from appropriate sources e.g. SeMPRO.
- Ensure that the decision relates to the disclosure of certain personal (not including sensitive) information. Full definitions of personal information and sensitive information are detailed in the [Defence Youth Policy Manual Glossary](#).
- Ensure that all alternatives to disclosure have been exhausted, and that disclosure is the most appropriate option.
- Assess whether there is adequate information to make an informed decision in the youth's best interest.
- A decision to disclose information may need to be made in a very short timeframe to ensure the safety and wellbeing of the Youth.
- You may need to take steps to protect the individual from imminent or immediate risk of harm.
- Where there is evidence of neglect or abuse, advise the appropriate child protection agency/police.

Ensure that you have sufficient information to make a decision

- Engage the appropriate **Defence** Commander/Supervisor/Manager as a participant in the decision-making process.
- Identify what evidence is required to make a decision, and in what time frame.
- Determine who the relevant parties are in the context of the Youth Safety Incident, and what their needs might be. For example, a psychologist may need to be present during the interview process.
- Consider and source contextual information relating to the following where relevant:
 - The parent or responsible adult may be the alleged perpetrator.
 - There may be a number of responsible third parties, such as: separated/divorced parents, multiple next of kin or responsible adults, foster carers/caseworkers.
 - There may be a Family Court order and/or custody arrangement.
 - There may be a disclosed or undisclosed health or medical condition (including mental health issues).





- Conduct fact-finding relating to the youth safety incident, using methods such as:
 - interviewing the youth and/or witnesses;
 - obtaining various relevant Defence records;
 - considering Defence policy documents; and/or
 - requesting any relevant documentation.
- Gather information relating to the youth safety incident from all responsible parties, considering as appropriate:
 - separated/divorced parents and step-parents;
 - next of kin/caregivers in lieu of parents;
 - foster carers and caseworkers; and/or
 - health practitioners/mental health workers.
- Prepare a written brief for the decision maker demonstrating :
 - the disclosure of certain personal information is in the best interest of the youth;
 - all other options have been considered prior to recommending disclosure;
 - information has been gathered from all relevant parties; and
 - youth safety risks have been identified and considered (refer to Defence Youth Safety Framework).
- Where a decision is time critical, the written brief may need to be prepared after the disclosure has been made.

Analyse the information

- Determine the time frame in which you must make a decision. Where a decision is time critical, follow the appropriate documentation guidelines.
- Consider youth safety risks in accordance with the Defence Youth Safety Framework.
- The Youth's age and emotional resilience should be considered as important factors when deciding whether to disclose.
- Where relevant, seek expert evidence on the potential implications of disclosure or non-disclosure.

Document and communicate your decision

- Store decision-making evidence using the appropriate access limitations within a Defence recordkeeping management system (Objective) in accordance with the *Defence Security Manual* and the *Records Management Policy Manual*.
- Store decision-making evidence using consistent naming conventions to allow easy location for future review.
- Ensure that all communication is provided to relevant parties in writing, using plain language easily understood by youth under 18.
- Where a decision is time critical, verbal communication of a decision may be necessary to ensure the safety of the Youth, and the written brief must be composed after the disclosure has been made. In this scenario, the impacts of documenting the decision post-disclosure should be examined and reviewed.
- Compose a written document (Statement of Reasons) explaining what the decision is, what facts and information were taken into account, and why you reached this particular decision.
- Ensure that the evidence aligns with the Statement of Reasons; if not, re-examine the evidence or adjust the Statement of Reasons.
- Where relevant, provide a copy of the Statement of Reasons to the appropriate responsible third parties.





Review the decision (where relevant)

- Where the decision to disclose is time sensitive, the opportunity for review may be impacted. In these circumstances, the individual will not be able to seek a review of that decision.
- Where the decision to disclose the personal information of an individual has been recommended by the decision maker, the subject of this information can request a review.
- For Defence members, decisions must be reviewed in accordance with:
 - the Redress of Grievances system (Australian Defence Force); or
 - the Review of Actions system (Australian Public Service).
- For ADF Cadets, a review must be conducted in accordance with natural justice by a Defence member in the respective ADF Cadets Organisation.
- Ensure that the person who reviews the decision is a Defence member who is a Commander/Supervisor/Manager of the respective Defence Youth Program, and is not the original decision-maker.
- Ensure that the individual who is subject to the review and all relevant parties have been:
 - informed of the review;
 - provided the opportunity to respond/input; and
 - informed of the outcome of the review of the decision in writing.





Scenario

Cadet Jack Jackson is a 14yr old cadet, new into the cadet program. Jack is home-schooled and was recently encouraged to join cadets by his parents who saw it as a way of socialising him with other kids his age.

On day two of the cadet recruit course, Jack was seen visibly upset. The cadet Officer in Charge (OIC) of the activity pulled Jack aside and asks what was upsetting him. After some encouragement, Jack opened up and stated, "Yesterday, Cadet Under Officer (CUO) Brown said to me and Cadet Smith (a new 15yr old) that 'new kids on camp have to give the CUO a head job in order to pass the course', and that he would be swing by their bed-spaces later on". Jack said that he didn't sleep on the first night and is terrified of what CUO Brown has planned for him.

The OIC reassured Jack that he was safe and had done the right thing in discussing this matter with him. Some initial Fact Finding undertaken by the OIC determined the following:

- Cadet Jackson reaffirmed his account of what CUO Brown has stated. Cadet Jackson did not want his mother to know because he feared that she would withdraw him from Cadets. Cadet Jackson was still visibly upset.*
- Cadet Smith confirmed that he and Cadet Jackson had been approached by CUO Brown and confirmed what CUO Brown had said. Cadet Smith knew what CUO Brown said was wrong, and that Cadet Jackson was upset, but he didn't want to say anything to the staff through fear of reprisal. Cadet Smith also believed that CUO Brown was just trying to scare them and wasn't actually a real threat. Cadet Smith did not want his parents to be informed as he was not upset by the comments, and he also knew that he did nothing to report it (i.e. he now knows he should have reported it, especially as he know that Cadet Jackson was so upset).*
- CUO Brown denied that he said anything inappropriate. CUO Brown stated he did not want his parents to know about the incident.*
- The recruit course was only a two day activity and the parents are due to pick the cadets up in approximately 4 hours.*

In circumstances such as these, the decision maker may consider the following:

- The emotional resilience of Cadet Jackson;*
- Whether Cadet Jackson can be encouraged to disclose the information himself;*
- That disclosure may not be necessary for Cadet Smith, who appears to be more emotionally resilient than Cadet Jackson; and*
- Disclosure is likely to be appropriate in the case of the perpetrator, who has displayed inappropriate behaviour.*





Annex A: Checklist for Supplement to Defence Decision Makers' Guide

This document should be used in conjunction with the Defence Decision Makers' Guide and the Supplement to the Defence Decision Makers' Guide. It is for use by the Decision Maker.

Pre – Decision Factors for consideration:

- Does this decision relate to a Youth Safety Incident?
- Who is the most appropriate decision maker?
- Is this decision-making process time critical?
- Is there evidence of neglect and/or abuse?
- Is there immediate risk of harm or an alleged perpetrator present in the youth's home?
- Who is the responsible adult(s)? E.g. parent/other relative/foster carer
- Are there family court orders or custody arrangements to consider?
- Could there be any undisclosed physical or mental health conditions?
- Have I determined that the decision relates to the disclosure of certain personal (not including sensitive) information?
- Do I have adequate information to make an informed decision in the best interest of the youth? If not, am I able to access any other evidence that I require?

Considerations for the Decision Maker

- What will happen if this information is not shared?
- Has the appropriate Defence Supervisor/Commander/Manager provided input to the decision-making process?
- Have I taken relevant expert advice into consideration?
- Have I considered the individual's age and emotional resilience as factors whilst making my decision?
- Does the written brief provide me with adequate information and/or evidence to make an informed decision?
- Have I ensured that a Defence member within the respective ADF Cadets Organisation has made the decision in relation to an ADF Cadets matter?

Finalising the Decision

- Have I provided the youth who is the subject of the information with my Statement of Reasons prior to disclosure, and ensured they are aware of the review processes that are available to them?
- Does my Statement of Reasons explain in plain language what the decision is, what facts and information I took into account, and why I reached this particular decision?





Actions after the Decision is made

- Have the youth and all relevant third parties been provided with a written copy of the decision in plain language?
- Has the decision been communicated in writing to the youth in plain language?

- Does the decision notification provide the outcome of my decision, include options for review of the decision, and actions to be taken now the decision has been made?
- In a time critical context, have I communicated the decision verbally and composed a Statement of Reasons post-disclosure?
- Have I ensured that anyone who conducts a review of this decision is not the original decision-maker?
- Have I informed the appropriate members of the Chain of Command of my decisions and the actions to be taken?
- Have I recorded **ALL** documents and evidence in a Defence Recordkeeping Management system (Objective) in accordance with the *Defence Security Manual* and the *Records Management Policy Manual*?

Review of the Decision

- Is there adequate time for a review of the decision without affecting the safety or well-being of the youth?
- Have decisions been reviewed in accordance with the Redress of Grievance or Review of Actions systems for Defence members? **OR** has a review been conducted by a Defence Member within the respective ADF Cadets Organisation for decisions related to ADF Cadets matters?
- Has procedural fairness been provided to Defence members throughout the review process? **OR** has natural justice been provided to ADF Cadets members throughout the review process?
- Have I ensured that all parties have clear and accessible processes open to them if they wish to request a review of this decision?

Further Information

If you have any further questions, please contact the Directorate of Youth via the Defence Youth Group mailbox: defence.youth@defence.gov.au .

