



# Repeal of Duty to Report (DTR) Job Aid

In keeping with ethical values and principles outlined in the Department of National Defence and Canadian Armed Forces (DND/-CAF) Code of Values and Ethics, and following extensive consultations with subject matter experts and defence stakeholders, the Minister of National Defence (MDN) repealed the DTR per recommendation 11 of the Independent External Comprehensive Review (IECR), also known as the Arbour Report. The repeal came into force on 30 June 2024, removing the legal obligation for CAF members to report to the proper authority any infringements or service infractions under the Code of Service Discipline (CSD).

## The repeal applies to all forms of misconduct or service infractions and not solely sexual misconduct.

CAF members are still encouraged to report, especially when there is no victim or affected person to consider. Where there is a victim or affected person, they are strongly urged to consider the victim or affected person's views, per the *Declaration of Victim's Rights* within the *National Defence Act*.

## The repeal of DTR enables a trauma-informed approach, which assumes everyone has had negatively impacting experiences and seeks to avoid further traumatization through the following actions:

- Using a confidential, affected person-centred approach.
- Ensuring the affected person is safe and/or connected to support resources.
- Providing comfort, validates and acknowledges the trauma / pain / difficult situation.
- Acknowledging the compounding effects of trauma and seeks to avoid causing further harm.
- Decreasing the person's sense of powerlessness as the affected person has control over what happens next.

## When a person is receiving information from a victim or affected person, that person would:

### Provide a Safe and Supportive Environment:

Create a physically and emotionally safe space where the victim can speak freely and feel secure.

- Listen carefully and allow them to express themselves before offering solutions.
- Ask the victim or affected person what they need and how they can be helped.
- Be honest and transparent about how they can assist the victim or affected party as individuals.

### Avoid Re-Traumatization:

Be mindful of language and actions that might emotionally activate the victim's or affected person's trauma and approach the conversation with care to avoid causing further distress. Avoid asking questions about what lead up to the incident and making statements such as "I understand" as this can lead to mistrust and victim blaming. Some helpful responses:

- "I am so sorry this happened to you"
- "I cannot imagine how hard it is to discuss this. Please take your time, I am here to listen"
- "I can see this is difficult for you. How can I help?"

**Respect Privacy and Confidentiality:** Protect the privacy and confidentiality of the victim or affected person, ensuring that their disclosure is not shared without their consent.

- Clarify the victim or affected person's intention in disclosing the misconduct. Provide them with information about their options and resources available, without pressuring them to make immediate decisions.

## Disclosure of an incident does not automatically require reporting or an investigation.

### Disclosure

Telling someone what happened, usually to break the silence and get support, without a formal investigation process being initiated. A formal report is not necessary to receive support, services, resources, and understanding.

### Report

A formal report, either voluntary or mandatory, to civilian police, appropriate authorities in the Military Justice System, CCMS, or directly to the Canadian Human Rights Council. Reports typically result in an investigation or complaints process being initiated.

## There are situations that still require mandatory reporting including:

- **When there are reasons to believe that an individual may pose a threat to themselves or others.**
- **When there is indication of abuse of a child or vulnerable person.**
- **When there is knowledge of a breach of trust, fraud or other financial crime associated with public funds.**
- **When they become aware of a potential breach of the Law of Armed Conflict (LOAC).**

The above-noted reporting obligations are consistent with applicable Canadian and international law. The specific obligation to report breaches of LOAC is also found at Rule 11 of the CAF Code of Conduct. CAF members are reminded that they may have additional reporting obligations, under Canadian law, or where directed by the CoC.

**If unsure about the mandatory reporting requirements in specific situations, contact legal advisors.**

## The following factors should not be considered when deciding whether to report:

- The possible effect of their decision on the personal or professional circumstances of the alleged perpetrator to conduct reprehensible activities, regardless of their rank or position.
- Any consideration based on a prohibited ground of discrimination under section 3 of the Canadian Human Rights Act, such as race, national or ethnic origin, colour, religion, age, sex (including pregnancy and childbirth), sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability (mental or physical), and conviction for an offence for which a pardon has been granted or in respect of which record suspension has been ordered.
- Personal opinions about any of the parties involved.
- Possible or perceived political advantage or disadvantage to the government of Canada, the DND/CAF, or any political group or party.

## While the repeal of DTR has a ripple effect to many policies, the following regulations remain:

- QR&O article 102.02 Investigations, also known as the "Duty to Investigate" remains in effect. This article mandates an investigation be conducted when the appropriate authority, in the military justice system, either receives a complaint or has other reasons to believe that a service offence or service infraction has been committed as soon as circumstances permit. However, the appropriate authority, in determining when the circumstances would permit an investigation to be caused, shall solicit and strongly consider the views of the victim.
- QR&O article 19.15 Prohibition of Reprisals, still applies and prohibits reprisals against those who report in good faith.
- Other affected policy instruments, such as regulations and policies, are under review.

## Resources

Report of the Independent External Comprehensive Review (Arbour Report)  
CANFORGEN 099/24 CPCC 013/24 111847Z JUL 24 - REPEAL OF THE DUTY TO REPORT REGULATIONS  
CANFORGEN 089/24 CPCC 012/24 191450Z JUN 24 - IMPLEMENTING RECOMMENDATIONS 1 AND 2 OF THE IECR