



Australian Government

Comcare

## NOTICE s155 REQUIREMENT TO PROVIDE INFORMATION AND/OR DOCUMENTS

This notice is issued under section 155(2)(a) and 155(2)(b) of the *Work Health and Safety Act 2011*(Clth)(WHS Act). This notice requires the person (or in the case of a body corporate, a competent officer) to whom it is issued to produce requested information and/or. **You must read further information detailed on the back of the notice.**

**NOTICE ISSUED TO:****NOTICE NO: s155-EVE218608-0001**

Legal name of person: The Commonwealth of Australia, in its emanation as the Department of Defence care of its 'competent officer' **Mr Jeff Ballard**.

ABN:

ACN: N/A

Trading as: The Department of Defence (DoD)

Address: 33/35 Brindabella Park Canberra Airport Canberra ACT 2600

**IN RELATION TO:**

On 27 June 2013 Comcare was contacted by CJF who was concerned about her duty of care responsibilities in relation to a report by a cadet about an alleged sexual assault. The details pertaining to the alleged incident are vague; as a consequence Comcare requires further information.

The matter relates to an alleged incident involving a 17 year old female cadet in January 2013 which was not reported until May 2013. The matter has been referred to the NSW police for investigation.

I Berenice Devlin am an Inspector appointed under s156 of the WHS Act. I have reasonable grounds to believe that the person to whom this notice is issued is capable of giving information and/or providing documents. I require the Department of Defence acting through its competent officer **Mr Jeff Ballard**, to produce to me the information and/or documents as described below in accordance with s155(2)(a) and s155(2)(b) of the WHS Act 2011 by close of business on **26 July 2013**.

**INFORMATION/DOCUMENTS REQUIRED:**

With reference to this intervention and the alleged incident;

1. The actual location of the alleged incident.
2. The name of the cadet who made the allegation.
3. The name and position of the alleged offender, details of the current employment status and position held by the alleged offender.
4. An outline of the support being provided to the complainant and the alleged offender.
5. All documents pertaining to any investigation, including the Quick Assessment, undertaken by Defence in relation to this allegation.
6. Details of the referral of this matter to the NSW police.
7. Any other information related to this incident that will inform my enquiries.

**ISSUING INSPECTOR:**

	REDACT	REDACTED
Signature	ID number	Contact number
Email:		

11 July 2013  
Date issued

Delivery address: (by hand) Level 4, 121 Marcus Clarke St Canberra, ACT 2600  
Postal address: (by mail) **GPO Box 9905, Canberra, ACT 2601**

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**This portion should be signed and returned to Comcare.**

In my capacity as a competent officer for \_\_\_\_\_ (*insert body corporate*) in respect of this notice,  
I certify that the requirements of this notice have been complied with:

Name in block letters: ..... Position: .....

Signature: ..... Date complied:     /     /  
**Notice No: s155**

## Relevant legislation

### Section 155

Comcare has power to obtain information under s155 of the WHS Act. An appointed Comcare Inspector is delegated this power under s156 of the WHS Act.

Section 155(2)(a) of the WHS Act requires the information requested in the notice to be provided in writing and signed by the individual and/or body corporate to whom the notice was issued to.

Section 155(2)(b) of the WHS Act requires the documents if requested in the notice to be produced.

### Section 172

Under s172 of the WHS Act, an individual (and/or a body corporate) is not excused from providing documents or information on the ground that the documents or information may tend to incriminate or expose that individual to a penalty. However, if an individual provides documents or information in response to this notice, it will not be admissible as evidence in civil or criminal proceedings against that individual. Furthermore, any information, document, or thing obtained as a direct or indirect consequence of an individual providing documents or information in response to this notice will be inadmissible as evidence in civil or criminal proceedings against that individual.

This immunity does not apply to bodies corporate or politic.

### Section 269

This notice does not require a person (whether an individual, body corporate or body politic) to produce a document that would disclose information, or otherwise provide information, that is the subject of legal professional privilege.

A legal practitioner may be consulted for further information regarding obligations, requirements and what constitutes legal professional privilege.

An Inspector may make minor technical changes to this notice in certain circumstances. This does not change the validity of the notice.

## Privacy collection statement

Comcare collects, uses, discloses and stores information in accordance with the WHS Act, other legislation under which Comcare performs functions, and the *Privacy Act 1988*. This includes information collected by Comcare Inspectors or authorised officers. Note that privacy laws may allow the use and/or disclosure of personal information where certain exemptions apply. Those exemptions include instances where the use and/or disclosure of personal information is required or authorized by law. Comcare privacy information is on our website at [www.comcare.gov.au/about\\_us/privacy](http://www.comcare.gov.au/about_us/privacy).

## Penalties

You must comply with this notice within the period specified, unless you have a reasonable excuse not to do so. Failure to comply with this notice may incur a maximum penalty of:

- > \$10 000 for an individual
- > \$50 000 for a body corporate.