



Guide to Reviews

Introduction

The Defence Honours and Awards Appeals Tribunal (the Tribunal) is an independent statutory body established under the *Defence Act 1903* to consider Defence honours and awards matters.

The Tribunal provides avenues for:

- individuals to seek **review** of their eligibility for a defence honour, a defence award, or a foreign award, after an application has been refused by Defence; and
- the Government to refer general eligibility issues relating to Defence honours and awards for **inquiry** and recommendation.

This information contained in this document focuses on the Tribunal's **review** function and covers the below topics:

- What decisions can be reviewed by the Tribunal?
- What is the review process and how long does a review take?
- What can I expect at a hearing?
- How do I make an application for review?
- What decision making powers does the Tribunal have?
- What if I'm not satisfied with the Tribunal's decision?
- How can I contact the Tribunal?

What decisions can be reviewed by the Tribunal?

The Tribunal can review a decision of Defence to refuse to recommend a person, or a group of persons, for a defence honour (such as a gallantry or conspicuous service award), a defence award (such as a campaign or long service award) or a foreign award.

The service that is the subject of the reviewable decision needs to have been with or, at the direction of, the Australian Defence Force and rendered after 3 September 1939 (the beginning of the Second World War).

It is important to note that the Tribunal can only review Defence decisions, this means that an initial application for an honour or award needs to be made to Defence, and refused, before seeking review in the Tribunal. A person seeking review in the Tribunal must be either:

- the person who made the original application to Defence; or
- one of a group of people who made that application to Defence.

The Tribunal cannot review:

- applications to amend the eligibility criteria for defence honours, defence awards, or foreign awards;
- applications for Australian awards that are not defined as defence honours or defence awards under the *Defence Regulation 2016* (such as unit citations or badges);
- applications to create a new honour or award; or
- eligibility for repatriation benefits.



I'd like to have a Defence decision reviewed in the Tribunal. What is the process and how long does a review take?

On receipt of a completed application for review, the Tribunal will check to ensure it has jurisdiction to conduct the review (including by checking that your application meets the requirements set out above).

Once jurisdiction is confirmed, the Tribunal will write to you formally accepting your application and providing you with additional detail of how your application will be dealt with from then, and suggestions about how you can prepare for your hearing. At the same time the Tribunal will provide a copy of your application to Defence, and will seek a report from Defence addressing the reasons for its initial decision. If you are seeking a defence award, Defence will generally have 30 business days to provide its report. If you are seeking a defence honour, Defence will generally have 60 business days to provide its report.

When the Defence report is received, you will be provided with a copy and invited to provide any comments you may wish to make on it.

The Tribunal will then consider all of this material, and any additional research it chooses to make, before setting down a date for a hearing. Hearings are generally held in public, and may be conducted in person, via telephone, or by audio-visual link.

After the hearing, the Tribunal will prepare a written decision, which will be provided to you, Defence and, if appropriate, to the Minister. 20 business days later, the report will be published on the Tribunal's website.

This process usually takes between three and six months to complete, but may take longer depending on the complexity of the review and any research that may be required.

What can I expect at the hearing?

The hearing is an opportunity to personally discuss your application with the Tribunal, and for the Tribunal to ask you and Defence any questions it may have after having read through your application and all the other documents.

Prior to the hearing, you will be provided with a package of documents to refer to during the hearing. This pack will be paginated for ease of use and, in the interests of procedural fairness, will include all of the relevant material that the Tribunal intends to rely on in making its decision. Any other relevant material that emerges after the hearing will also be provided to you for comment.

At the start of the hearing, the Presiding Member will outline the role of the Tribunal, its functions, and how it will address your application for review. After this happens, you will be invited to make an opening statement. If you choose to make a statement, please note that the Tribunal will already be very familiar with the package of documents, including the evidence you have submitted, and your comments on the Defence Report.

If you are giving evidence at the hearing, the Tribunal may ask you to take an oath or make an affirmation concerning the evidence that you give or if you are giving evidence via telephone or audio-visual link, you may be asked to make an affirmation. The same will apply for any witnesses that are appearing on your behalf.

A representative, or representatives, from Defence will also be invited to appear at the hearing. The Tribunal will generally ask questions of Defence, and you may ask any questions you have for the Defence representative(s), through the Tribunal.

The Tribunal's hearing environment is not an adversarial one, where each party 'argues' against the claims of the other. Rather, the Tribunal is an inquisitorial body, which uses the hearing as an opportunity to gather as much information as it can from each of the parties, and any witnesses, to assist it in coming to an informed and correct decision.

At the conclusion of the hearing, you will be given the opportunity to make a closing statement.



What decision making powers does the Tribunal have?

If you are seeking a defence award (such as a campaign or long service award) the Tribunal has the power to affirm Defence's decision, or to set it aside and replace it with a new decision. If the Tribunal's decision is to recommend issue of the award you are seeking, Defence will then be responsible for implementing that decision.

If you are seeking a defence honour (such as a gallantry or distinguished service award), the Tribunal will make a recommendation to the Minister for Defence or the Minister for Defence Personnel regarding your review. This could be to affirm Defence's decision, or to set it aside and replace it with a new decision, which might include recommending issue of a defence honour. It is then up to the Minister to decide whether or not to accept the Tribunal's decision.

What if I'm not satisfied with the Tribunal's decision?

The Tribunal is intended to be the final body for merits review of decisions relating to Defence honours and awards. However, if you think the Tribunal has made an error of law in reaching its decision, you may choose to apply to the Federal Court to have the Tribunal's decision set aside.

It is important to note that the Federal Court cannot decide the merits of your case, and has no power to recommend or award a medal. If the Federal Court were to find that the Tribunal had erred in law in reaching its decision, it may remit the matter back to the Tribunal for fresh consideration.

How do I make an application for review in the Tribunal?

Applications for a review can be lodged online at: <https://defence-honours-tribunal.gov.au/apply-for-a-review/>.

Alternatively, you can lodge an application by email to dha.tribunal@defence.gov.au, or in hard copy through the mail. This might be a good option if your application is lengthy, or contains many attachments.

At the minimum, your application should contain:

- a completed copy of the [Application for a Review of Decision](#) form;
- a copy of Defence's written decision refusing the honour or award; and
- a statement of reasons in support of your claim.

Before proceeding, please ensure your application contains all of the above documents.

To strengthen your case, it may be helpful to include any documented evidence you may have to support your application, such as copies of documents verifying your service, or witness statements. We request that you do not send original documents.

If you are acting on behalf of another person, we ask that you provide a copy of their written permission. The appropriate form is available on request from the Secretariat.

While most of applicants before the Tribunal are unrepresented, you may elect to be represented by an advocate or legal representative if you wish.

How do I contact the Tribunal?

Post: Defence Honours and Awards Appeals Tribunal
Floor 1, 105 Tennant Street Fyshwick
Locked Bag 7765
Canberra BC ACT 2610

Phone: (02) 6266 1019

E-mail: DHA.Tribunal@defence.gov.au



Need further information or assistance?

Along with assisting the Tribunal, the Tribunal Secretariat seeks to assist applicants, advocates and other interested persons with any questions they may have on the Tribunal's jurisdiction and processes. Please feel free to contact the Secretariat using the above details with any questions.

If you experience difficulties with your mental health and wellbeing associated with your application, or your service in general, we encourage you to call Open Arms on **1800 011 046** for confidential counselling and access to other programs. This service is free to current and ex-serving ADF personnel and their families.