

# Members of the Reserve Forces Turn to the Military Ombud for Independent Oversight

The Military Ombud continues to play a critical role in ensuring fairness, accountability, and the effective investigation of complaints regarding the South African National Defence Force (SANDF).

Operating as a vital beacon of administrative justice, the Office is mandated to investigate complaints lodged in writing by current and former members regarding their conditions of service, including matters such as recruitment, appointments, salaries, allowances, promotions, transfers, and termination of service, among others as prescribed in the Defence Act 42 of 2002. Importantly, this oversight extends beyond internal military structures. The Office is also mandated to investigate public complaints regarding the official conduct of SANDF members while on duty. By bridging the gap between armed forces regulation and constitutional rights, the Military Ombud ensures that oversight remains independent, robust, and trusted.

The handling of complaints throughout the financial years underscores the Military Ombud's continued dedication to ensuring accessible, impartial, and prompt resolution. In an environment where delayed justice can deeply affect morale, livelihoods, and confidence in institutional processes, the Office has actively streamlined its systems to better serve its stakeholders and reinforce trust in independent oversight mechanisms.

During the 2025/26 financial year, 353 complaints were finalised, reflecting improvements in turnaround times and a growing number of matters

being concluded within the set performance targets. This operational efficiency highlights a significant step forward in the Office's ability to provide timely redress to those who serve, or have served, the nation.

A closer examination of the Office's recent interventions highlights a range of complaint outcomes that demonstrate the breadth and complexity of matters addressed by the Military Ombud. The lessons drawn from these cases reveal not only the practical implementation of administrative justice, but also recurring challenges encountered by complainants, systemic shortcomings within the Defence environment, and the critical importance of transparent communication and procedural fairness.

Each case has been anonymised and selected for its illustrative value, showing how the Military Ombud's involvement facilitated resolution, clarified policy, or prompted administrative improvement. Collectively, these examples provide insight into the human dimension of the Office's work and reinforce the importance of independent oversight in promoting trust, fairness, and accountability within the military.

## Service Termination: Unlawful Removal from the Reserve Force

One of the matters investigat-

ed by the Office concerned the unlawful removal of a Reserve Force member from service.

The Office received a complaint from a former Reserve Force member who alleged that his service had been unfairly terminated and that he had later been unlawfully refused re-enlistment. The dispute arose after a disciplinary conviction under the Military Discipline Code was reported to the South African Police Service criminal record system, resulting in adverse information appearing on a police clearance certificate. The complainant contended that this record led to his suspension from active Reserve Force utilisation and eventual removal from the active Reserve Force database. Subsequently, after obtaining a police clearance certificate indicating that no illicit activity had been identified, he sought restoration to service, but was informed that he had already been removed and would need to re-apply.

The Military Ombud was required to determine whether the termination of the complainant's Reserve Force membership had been effected lawfully and in accordance with the applicable procedure, and whether the continued refusal to re-enlist him remained justified once the adverse record had been challenged and later cleared. In considering the matter, the Office applied the Military Ombud Act 4 of 2012, Promotion of Administrative Justice Act 3 of 2000 (PAJA), the general SANDF regulatory framework, and, in particular, Regulation 30 of the Regulations for the Reserve Force, 2017.

The investigation revealed serious irregularities. No documentary proof was produced to show that the mandatory termination procedures under Regulation 30 had been followed. There was no evidence that the Officer Commanding had submitted a written application for termination, that the Chief SANDF had taken the required decision, or that the complainant had been notified in writing and given reasons.

The Office also found that the factual basis for the adverse record was itself questionable. A statement from the Military Police indicated that at least part of the information captured on the police system had been incorrect and that steps had later been taken to rectify it. Against this background, the Military Ombud found that the complainant's removal from the Reserve Force had not been shown to comply with the mandatory legal procedure and was both procedurally and substantively unfair. The continued refusal to re-enlist him was also not supported by a lawful or factually sustainable basis once the later police clearance certificate and corrective information were considered. The conduct that caused the military disciplinary matter to be reflected in the police criminal record system was likewise found to be unreasonable in the circumstances.

The complaint was upheld in terms of section 6(7)(a) of the Military Ombud Act 4 of 2012. The Military Ombud recommended that the Minister of Defence and Military Veterans direct the Chief SANDF to facilitate the complainant's due re-enlistment into the Reserve Force, and that appropriate disciplinary action be considered against responsible officials for failure to comply with the applicable prescripts governing termination of service. This case demonstrates how administrative irregularities in separation processes can have enduring and disproportionate consequences for members, and why strict compliance with prescribed termination procedures is essential.

The Office further received complaints from four Reserve Force members concerning the non-payment of technical allowance. The complainants alleged that the allowance had historically been paid in accordance with the applicable implementation instruction, but that, when they later sought payment, they were informed that the allowance had been discontinued and that Reserve Force members were only eligible if placed in qualifying technical posts. They further referred to litigation concerning the cessation of the allowance

within the Department of Defence. The Office assessed the matters collectively at the outset. In doing so, the Military Ombud had to determine whether the complainants had exhausted the grievance process under the Department of Defence (DoD) Individual Grievances Regulations, 2016, and whether the Office could assume jurisdiction immediately in respect of each complaint. Upon verification, it was established that one complainant had retired from the Reserve Force shortly after approaching the Office and no longer had access to the Grievance Information Technology System. Because the internal grievance process had effectively become unavailable to him, the Military Ombud assumed jurisdiction over his complaint.

## Remuneration: Technical Allowance Complaints by Reserve Force Members

By contrast, the remaining three complainants had not first approached their units to pursue the prescribed grievance route, meaning they had not exhausted the process contemplated by the Individual Grievances Regulations, 2016. The Military Ombud accordingly declined jurisdiction in respect of these three members in terms of section 7(2)(d) of the Military Ombud Act 4 of 2012. At the same time, the Directorate of Labour and Service Relations was requested to assist them in accessing the internal grievance process properly.

This case study demonstrates the Office's balanced approach to jurisdiction by insisting on compliance with the statutory exhaustion requirement where internal remedies remain available, while recognising that such remedies cannot reasonably be insisted upon where they have become practically inaccessible through retirement or administrative exclusion. Through matters such as these, the Military Ombud continues to reinforce the principles of fairness, accountability, transparency, and administrative justice within the SANDF. Beyond resolving individual disputes, the Office's interventions contribute to strengthening institutional trust, improving governance, and ensuring that the rights and dignity of military members are protected within South Africa's broader constitutional framework.



For further enquiries, please contact the Office of the Military Ombud through the following channels:  
Telephone: 012 676 3800, Toll-Free: 080 726 6283  
or Email: [Intake@milombud.org](mailto:Intake@milombud.org)



Physical Address: Block C4, Eco Origin, 349  
Witch-Hazel Avenue, Eco Park, Centurion. Postal  
Address: Private Bag X163, Centurion, Pretoria

Visit us on Website: [www.milombud.org](http://www.milombud.org)  
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