

Australian Defence Force

MANAGEMENT OF COMPLAINTS ABOUT
UNACCEPTABLE BEHAVIOUR

June 2007

Report by the Acting Commonwealth and Defence Force Ombudsman,
Dr Vivienne Thom under the *Ombudsman Act 1976*

REPORT NO. **04**|2007

Reports by the Ombudsman

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ISBN 978 0 9775288 6 8

Date of publication: June 2007

Publisher: Commonwealth Ombudsman, Canberra Australia

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EXECUTIVE SUMMARY

This investigation into the management of complaints about unacceptable behaviour made by Australian Defence Force (ADF) members was initiated to determine whether the Department of Defence (Defence) complaint-handling policy and practices are effective, and identify any areas requiring improvement.

The Ombudsman assessed the complaint-handling process with reference to the characteristics of good complaint-handling systems identified in the forthcoming Ombudsman's Better Practice Guide to Complaint Handling (Better Practice Guide). This report focuses on Defence's written policy about unacceptable behaviour complaints and the level of commitment to this policy within the ADF, as well as the accessibility, resourcing, objectivity and record-keeping attributes of the complaints process.

The investigation methodology included surveys of commanders and managers and members of the general service population, focus group discussions, and file reviews in three regional ADF locations.

The information gathered in this investigation supports the view that Defence currently provides an effective complaint-management mechanism that ADF members can readily access. We observed that ADF members consider there have been improvements in the complaint-handling process in recent years and that members have a reasonable level of confidence in the complaints system. Defence may, however, wish to consider additional research into the reasons why a significant proportion of ADF members surveyed did not feel confident to make a complaint about unacceptable behaviour, and identify whether there are particular barriers to making a complaint.

This report includes recommendations for Defence to consider when the Defence Instruction titled 'Management and Reporting of Unacceptable Behaviour' is revised later in 2007. All the recommendations made offer opportunities to enhance the current complaint-handling system and are based on suggestions received from members of the ADF. Key areas where recommendations have been made are record keeping, training, reporting, data collection, the role of inquiry officers and equity advisers, and quality assurance.

In the Ombudsman's view, further consideration in these key areas will improve support to, and accountability of, those involved in making, managing and responding to complaints of unacceptable behaviour. They will also further integrate Defence values of equity and diversity into cultures across the ADF.

Defence has agreed to all the recommendations made in this report. A copy of Defence's response is provided at Attachment A.

Recommendations

Recommendation 1

Defence promote awareness of the Whistleblower scheme by including a cross reference to the scheme in the Instruction.

Recommendation 2

Defence review training for management of unacceptable behaviour complaints to maintain freshness and effectiveness. For example, Defence may consider changing and rotating case studies used for training courses, regularly developing and providing new case study exercises for distribution to units and equity advisers, and promoting awareness of different issues through articles in service newsletters and newspapers.

Recommendation 3

Defence consider strategies to ensure that all members have ready access to a skilled equity adviser, outside the chain of command if necessary. One strategy may be the use of external contractors.

Recommendation 4

Defence amend the Instruction to impose a time limit for ADF members dissatisfied with the outcome of the investigation to seek review.

Recommendation 5

Defence consider increasing the availability of, or the ease of access to, independent mediators.

Recommendation 6

Defence ensure that training delivered to commanders, managers and equity advisers provides sufficient guidance about how to manage respondents fairly.

Recommendation 7

Defence clarify the action to be taken where commanders and managers identify a possible false or malicious complaint. This could include amending the Instruction to detail the action to be taken by commanders and managers and addressing this issue in training.

Recommendation 8

Defence consider implementing quality assurance mechanisms for recordkeeping and reporting to ensure that standards are being met.

Recommendation 9

Defence amend the Instruction by requiring the initial report be submitted to Fairness and Resolution Branch within one week of receipt of the complaint.

Recommendation 10

Defence consider amending the Instruction by adding a checklist with information about the role and responsibilities of each party to the complaint to help facilitate timely resolution.

Recommendation 11

Defence consider ways to ensure that posting decisions take account of any limitations that have arisen as a consequence of the investigation of a complaint of unacceptable behaviour.

Recommendation 12

Defence ensure that the reporting and record-keeping system for complaints of unacceptable behaviour is able to identify systemic issues and is readily accessible by those with a need to know.

Recommendation 13

Defence consider options for quality assurance of the complaint-handling process, including the Fairness and Resolution Branch performing a feedback and quality assurance role.

Recommendation 14

Defence reinforce that complaint resolution is a day-to-day management responsibility by including assessment of complaint management in annual performance appraisals for all commanders and managers and integrating training about managing and resolving complaints into general management/supervision training.

Recommendation 15

Defence consider training modules that focus on effective communication skills for preventing and resolving complaints about unacceptable behaviour.

PART 1—INTRODUCTION

1.1 The Commonwealth Ombudsman is also the Defence Force Ombudsman by operation of s 19B of the *Ombudsman Act 1976*. This additional role allows the Ombudsman to investigate administrative matters relating to the service of current or former members of the ADF.

1.2 One of the objectives of the Ombudsman's office is to assist agencies to improve the efficiency of their internal complaint-management mechanisms. The general approach of the office is to decline to investigate complaints where the complainant has not raised the complaint with the relevant agency and there are no special circumstances that would justify an Ombudsman investigation.¹

1.3 In relation to the Defence Force Ombudsman role, s 19E(2) of the Ombudsman Act states that the Ombudsman shall not investigate a complaint if the complainant has not sought redress available under the *Defence Act 1903*, unless special circumstances exist. Section 19E(2) and the Ombudsman's use of discretion not to investigate encourages complainants to use internal complaint-handling processes. This allows opportunities to resolve complaints as quickly as possible, at the lowest possible level, and without external intervention. While the Ombudsman in this way supports the use of internal processes, the Ombudsman also has a role in establishing whether an agency's internal process provides an effective mechanism for those making a complaint.

1.4 Defence has developed a range of complaint-management processes for different types of complaints. This report focuses solely on the management of complaints made about unacceptable behaviour.²

1.5 The core document referred to in this report is a Defence Instruction titled 'Management and Reporting of Unacceptable Behaviour', last revised on 11 February 2004 (DI(G) PERS 35-3).³ At paragraph 9, the Instruction defines unacceptable behaviour as

... behaviour that, having regard to all of the circumstances, would be offensive, belittling, abusive or threatening to another person or adverse to morale, discipline or to workplace cohesion, or otherwise is not in the interest of Defence.

1.6 The Instruction identifies categories of unacceptable behaviour, including harassment, discrimination, abuse of power, inappropriate relationships and associated behaviour, and other unacceptable behaviour. The Instruction's definition of these categories is reproduced at Attachment B. The Instruction also sets out the Defence principles and policy in relation to unacceptable behaviour, the responsibilities for complaint management, the complaint-management process, the

¹ The decision not to investigate a complaint for this reason is a discretion conferred on the Ombudsman by s 6(1A) of the *Ombudsman Act 1976*.

² In recent years the Ombudsman has had involvement with reports addressing other internal complaint mechanisms. For example the joint Department of Defence and Commonwealth Ombudsman Review of the *Australian Defence Force Redress of Grievance System 2004* April 2005 is available in the reports section of the Ombudsman's website at www.ombudsman.gov.au and the Defence Force Ombudsman submission to the Senate Inquiry into the Effectiveness of Australia's Military Justice System on 16 February 2004 at www.aph.gov.au/Senate/committee/fadt_ctte/miljustice

³ The Instruction is available at www.defence.gov.au/fr/.

range of remedies that may be applicable and the reporting requirements that relate to complaints.

1.7 The table below provides the numbers of complaints reported to Defence's Fairness and Resolution Branch (FRB)⁴ by service from 2001–02 to 2005–06. There was a significant increase in the number of reported complaints of unacceptable behaviour during this period, however the reasons for this increase are not clear. The Defence Equity Organisation's Review of Unacceptable Behaviour 2004–05 notes the most likely reason for the increase in complaints was an increased awareness of the requirement to report such complaints, rather than an increase in the number of incidents.

Reported Unacceptable Behaviour complaints 2001–02 to 2005–06⁵

Year	Navy	Army	Air Force	Total
2001–02	131	129	46	306
2002–03	205	122	52	379
2003–04	237	185	83	505
2004–05	303	231	97	631
2005–06	235	218	107	560

1.8 ADF members also have a well-established complaint process, the Redress of Grievance (ROG), which allows all members to submit a complaint to their chain of command about any aspect of their service. Of the 277 written complaints made by ADF members in 2005–06, 11 of these related to complaints of unacceptable behaviour.⁶

1.9 The management and resolution of complaints about unacceptable behaviour is a significant issue for all workplaces, including Defence. Unless complaints about unacceptable behaviour are well managed by Defence, they have the potential to result in adverse outcomes for the individuals and workplace involved, including unresolved conflict in the workplace, reduced productivity, breaches of privacy and lowered morale. Poorly managed complaints can also negatively affect the retention and recruitment of ADF members, as well as generating negative publicity for the ADF. Articles in the media during 2005–06 suggested that, in some cases, the ADF had not effectively dealt with complaints of unacceptable behaviour.

1.10 In this context the Ombudsman wrote to the Chief of the Defence Force (CDF), Air Chief Marshal Angus Houston, AO AFC, on 29 March 2006 to advise that he had initiated an investigation into the effectiveness of the ADF's management of complaints about unacceptable behaviour.

⁴ Fairness and Resolution Branch was formerly known as the Complaint Resolution Agency (CRA). In its expanded role, FRB includes the Directorates of Complaint Resolution and Rights and Responsibility. The Directorate of Rights and Responsibility was previously known as 'Defence Equity' and 'Defence Equity Organisation'.

⁵ Numbers extracted from Defence Annual Report 2004–05, Chapter 3, Chart 3.4 and the Department of Defence Workplace Equity and Diversity Annual Report 2005–06, Annex D. These numbers do not reflect incidents where no complaint is made, or no complaint is reported to FRB. Defence's 2005–06 annual report records that there were 14,365 Navy, 40,820 Army and 15,430 Air Force permanent and reserve members in 2005–06 (table 4.6 at p. 221).

⁶ See Defence Annual Report 2005–06, p. 286.

Approach

1.11 The objectives of the investigation were to:

- form a view about the suitability and effectiveness of the procedures laid down in the Instruction
- determine whether complaints about unacceptable behaviour are being dealt with in accordance with the Instruction
- identify opportunities for improving those procedures and provide recommendations to Defence to coincide with Defence's proposed revision of the Instruction in 2007.

1.12 Although the Defence Instruction applies to ADF members, Department of Defence contracted staff and Australian Public Service (APS) employees, we have confined our investigation to those complaints where both the complainant and the respondent were ADF members. This decision reflects the Defence Force Ombudsman jurisdiction that allows for investigation into matters relating to an ADF member's or former member's service, but prohibits investigation of matters related to APS employment.⁷ We acknowledge that the handling of complaints of unacceptable behaviour where all, or any, of the complainant, respondent, witnesses or manager are not ADF members may raise different issues to those raised in this report.

1.13 We likewise have excluded complaints classified as 'sexual offences' from our investigation. Sexual offences are criminal matters subject to state and territory legislation, and although sexual offences are mentioned in the Instruction, there is an additional Defence Instruction that relates specifically to sexual offences.⁸

1.14 We chose not to perform an audit function of all complaints of unacceptable behaviour, but instead adopted a 'biopsy' approach to assess the general effectiveness of the complaint-handling system. As a consequence, the report does not reflect an exhaustive review of the handling of unacceptable behaviour complaints in the ADF, but provides observations that should be useful to Defence when the Instruction is reviewed. We have identified opportunities for Defence to conduct further investigations where it is felt that additional information or assessment would be of value.

1.15 Our investigation consisted of file reviews, focus groups, and surveys of ADF members conducted in three separate locations: HMAS Stirling Perth (Navy), Lavarack Barracks Townsville (Army) and RAAF Base Amberley (Air Force). These sites were selected after consultations with Defence suggested that practices in regional areas with a high operational tempo had the potential to be less compliant with the Instruction than practices at Defence establishments with a reduced operational tempo. We also conducted some preliminary focus groups at HMAS Harman (Navy) in Canberra to refine our questions.

1.16 Two focus group discussions were held at each location; one for commanders and managers and the other for representatives from the general service population. The focus groups aimed to ascertain ADF members' knowledge of, and views about, unacceptable behaviour and the complaint-handling process. The number of

⁷ Section 5(2)(d) of Ombudsman Act. APS employment-related matters are generally dealt with by the Australian Public Service Commission.

⁸ DI(G) Personnel 35-4 'Management and Reporting of Sexual Offences'.

participants in focus groups ranged from five to six in commander and manager groups, and 11 to 13 in general focus groups.

1.17 The use of focus groups was consistent with our aim to test the health of the system, rather than revisit specific incidences of unacceptable behaviour. We encouraged focus group participants to share their thoughts about the complaint-handling process as a whole. We were also aware that Defence had commenced a separate project regarding individual complainant, respondent and commander and manager satisfaction in relation to the management of unacceptable behaviour complaints. Further, individuals concerned about the management of a particular complaint can pursue a ROG.

1.18 We provided the participants with an information sheet about the objectives and scope of the investigation, and asked them to complete an anonymous survey about the management of unacceptable behaviour before the discussions took place. The information sheet, survey questions and focus group discussion questions are included as attachments to this report.

1.19 In each location, a sample of unit level records for complaints of unacceptable behaviour were examined. Investigation staff assessed the documents on file against a checklist that had been developed from the requirements in the Instruction. Only complaints lodged after 1 July 2005 were included in the file review to ensure that our observations are relevant to current practices in the ADF. This date also coincides with the appointment of Air Chief Marshal Houston as CDF and his statement that unacceptable behaviour in the ADF would not be tolerated.⁹

1.20 We would like to thank all those who participated in the focus groups and assisted us with the investigation for their cooperative approach.

⁹ See 'Unacceptable behaviour: Not on, say the CDF and Secretary' in Defence Magazine, September 2005 available at <http://www.defence.gov.au/defencemagazine/>

PART 2—MEASURES OF EFFECTIVENESS

2.1 The Ombudsman's Better Practice Guide, which was developed with reference to the Australian standard guidelines for complaints handling in organisations,¹⁰ provides a basis for assessment of complaints processes and will soon be published. The guide lists a number of elements as necessary for an effective complaint framework, including commitment by the agency to the process and the development of an explicit complaint-handling policy. The guide also details the characteristics reflected in an effective complaint-handling system including accessibility, an appropriate level of resources, fairness, responsiveness, accountability, identification of recurring and systemic issues, and integration of the complaint-handling process into the organisation.

2.2 The Instruction and the information we have obtained about the application of the Instruction have been assessed against these key elements, which, in our view, are the most critical for the handling of employment-related complaints.

Commitment

2.3 The Better Practice Guide emphasises the importance of agencies being actively committed to effective complaint handling. This commitment should be promoted at a senior level and shared by staff at all levels in the organisation. In our view, the ADF has demonstrated commitment to the effective management of complaints of unacceptable behaviour.

2.4 On his appointment as CDF in July 2005, Air Chief Marshal Houston expressed his commitment to improving the manner with which the ADF deals with complaints about unacceptable behaviour and, more broadly, the underpinning culture of the ADF towards this issue. This announcement was well publicised throughout the ADF and reiterated in later statements by the CDF.¹¹ Senior level commitment is also apparent in recent Defence initiated studies, which have focused on issues of culture, unacceptable behaviour and military justice.

Policy

2.5 Clear policies help to ensure that a complaint is managed with the same standard of care, regardless of where it is made and who is responding to it. As previously mentioned, Defence has developed a policy (the Instruction) to deal with complaints of unacceptable behaviour.

2.6 The Instruction is a comprehensive document that provides detailed guidance to commanders/managers and to complainants and respondents. It is written in plain English and logically structured. The Instruction sets out:

- Defence's position on unacceptable behaviour and the aims of the policy
- the responsibilities of commanders and managers to manage complaints
- the complaint investigation process, including the need to first conduct a quick assessment, and the capacity to appoint a case manager or an inquiry officer

¹⁰ Standards Australia, Australian Standard *Customer Satisfaction—Guidelines for complaints handling in organisations* (AS ISO 10002:2006).

¹¹ See, for example, CDF's comments in Defence Magazine, September 2005, 'Unacceptable behaviour: Not on, say the CDF and Secretary'.

- advice that must be provided to complainants and respondents
- a range of informal and formal resolutions that may result from a complaint of unacceptable behaviour
- requirements to keep records in line with privacy and freedom of information law and to report complaints and progress in managing a complaint to the relevant policy area within FRB
- circumstances in which a complaint of unacceptable behaviour should be dealt with by civilian or military police, or dealt with by reference to another Instruction.

2.7 A flow-chart of the complaints process is attached to the main body of the document, providing a quick reference for complainants, respondents and commanders and managers. The flow-chart is reproduced at Attachment C.

2.8 Participants in focus groups expressed overall satisfaction with the Instruction. Manager and commander focus groups commented that the current Instruction provides helpful guidance without being inflexible. For instance, the Instruction describes various options for resolution, but leaves the commander or manager the ability to determine the most appropriate course of action in individual situations. Ombudsman staff observed that ADF members in all focus groups were familiar with, and comfortable in discussing, the management of unacceptable behaviour complaints with reference to the Instruction.

2.9 While we consider that the Instruction is generally user-friendly and comprehensive, Defence may wish to consider augmenting some sections. It was suggested in general focus groups that the Instruction in its current form is best suited to the commander and manager audience. To assist complainants and respondents, who may be reluctant to read the entire document, Defence could also provide concise summaries of the process from the complainant and respondent perspective. These could form attachments to the Instruction.

2.10 Commanders and managers in focus groups commented that it was possible for them to lose track of complaints and related paperwork when faced with a number of competing priorities. The flow-chart for commanders and managers already present in the Instruction is a useful reference. However, there is potential for the Instruction's requirements to be condensed to a series of checklists for commanders and managers, inquiry officers, respondents, complainants and witnesses. Such checklists could form additional annexures to the Instruction.

2.11 While the Instruction includes cross-references to other documents that set out record-keeping requirements, the Instruction itself provides little detail on record keeping requirements for managing unacceptable behaviour complaints. Record keeping is discussed further under the Accountability heading below.

Accessibility

2.12 An accessible complaint system requires:

- provision of information about how, when and to whom to make complaints
- availability of information in plain English
- publication of the process for making and responding to complaints, including timeliness standards

- flexible methods of making a complaint which are not limited to one form of communication
- the parties to be informed of any external remedies or review options available to them.

2.13 In our view the ADF system is accessible.

2.14 Defence has developed a range of reference material to assist members of the ADF understand the complaint-management process. The material is available in different formats and includes:

- ‘Managing a complaint of unacceptable behaviour’—a clear, brief summary of the process, including other references/resources (pamphlet form)
- ‘Managing and reporting a complaint of unacceptable behaviour’—information on the commander/manager’s role, the nature of investigation and reporting requirements (pamphlet form)
- ‘Plain English Guide to Managing and Eliminating Unacceptable Behaviour in the Workplace’—defines unacceptable behaviour, provides guidance on the complaint process, crisis intervention, investigating complaints, resolving complaints and reporting incidents (booklet and online form)
- ‘Who can I tell?’—information on Equity Advice help lines (pamphlet form)
- ‘Advice to Supervisors on Bullying in the workplace’—the supervisor’s role (online)
- ‘Unacceptable Behaviour Incident reporting’—defines a complaint, details the reporting format (online tutorial)
- ‘A Guide to fair leadership and discipline in the ADF’—distinguishing between lawful orders and harassment or discrimination’ (booklet and online).

2.15 There are a number of ways in which a complaint of unacceptable behaviour may be made. At paragraph 38, the Instruction states that members may complain to their commander or manager, or to the respondent’s commander or manager, in writing or orally. Complaints may be made anonymously. Commanders and managers also have the discretion to manage a situation *as if* a complaint of unacceptable behaviour had been made. This means that unacceptable behaviour issues can be appropriately managed when unacceptable behaviour has been observed or detected, reported anonymously to someone other than a commander or manager, or revealed in some other way.

2.16 The Instruction also gives guidance to complainants, suggesting that when they make a complaint, they clearly state that they are making a complaint about unacceptable behaviour, describe the incident/s and the outcome they desire. The Instruction acknowledges that a person may attempt to resolve the matter by self-resolution or supported self-resolution without making a complaint of unacceptable behaviour, and that a complaint may still be made if these attempts to resolve the matter are unsuccessful.

2.17 It is also open to members to approach equity advisers, chaplains, psychologists and/or administrative staff for assistance in lodging complaints. The ADF provides 1800 numbers for members to access assistance on equity and

diversity issues,¹² and focus groups commented that the Equity Adviser Network available to them was well advertised.

2.18 Issues of rank and chain of command relationships may make some complainants reluctant to access the complaint mechanism, or may work to disadvantage some complainants when attempting to resolve a complaint. The Instruction recognises these potential barriers to access. It provides for members to '... report a complaint that involves their commander or manager, or another member of their chain of command, to the next highest person within the management structure', and advises commanders and managers that they need to consider rank as a relevant factor when determining the appropriate method of resolution. For instance, at paragraph 84, it is acknowledged that in some circumstances it may not be appropriate to require a substantially lower ranked complainant to attempt self-resolution with a higher-ranking respondent.

2.19 ADF members are also able to make an anonymous complaint or allegation under the 'Whistleblower scheme'¹³ to the Inspector General of Defence. Matters that could be raised under the scheme include misconduct or unethical behaviour, fraud, harassment and unlawful discrimination. There is a toll free number for the making of whistleblower complaints. The scheme represents an alternative way of making a complaint about unacceptable behaviour that may be useful for those concerned about the repercussions of making a complaint, or where the behaviour is impacting on more than one individual.

2.20 A claim was made that, on occasions, one unit had discouraged members from raising complaints outside the immediate chain of command, regardless of the circumstances. This might be addressed by cross-referencing the whistleblower scheme in the Instruction.

2.21 The Instruction includes reference to the avenues available to those dissatisfied with the outcome of a complaint, including making a complaint to the Human Rights and Equal Opportunity Commission and the Defence Force Ombudsman.

Recommendation 1

Defence promote awareness of the Whistleblower scheme by including a cross reference to the scheme in the Instruction.

Resources

2.22 The Better Practice Guide observes that a complaint-handling process will only be fully effective if appropriately resourced. In our view, there may be a need to devote further resources to the complaint-resolution process, particularly in relation to equity advisers and those appointed as inquiry officers.

2.23 The Instruction's emphasis on resolution of complaints at the lowest possible level appropriate in the circumstances, encourages an efficient application of the policy and reduces the need for administrative resources. However, it also requires a

¹² The Defence Equity Advice Line is available to all Defence members seven days a week from 8:30am to 9:00pm EST. There is also an international 1800 service and an Army specific 'Fair Go Hotline'.

¹³ See DI(G) PERS 45-5 'Defence Whistleblower Scheme'

high level of training across the whole of the ADF population to ensure that commanders and managers, complainants and respondents are aware about the options for resolving complaints and their responsibilities. It appears that, even where complainants resolve the complaint informally by taking direct action, support services and management by commanders or managers are often required.

Training

2.24 The commitment to an effective process from the senior levels of the ADF is reflected in the requirement for all ADF members to attend annual training about unacceptable behaviour. Our investigation established that:

- almost all focus group participants had completed training in the past 12 months
- a majority considered the training meaningful
- the four-hour course for commanders and managers was considered valuable and it was suggested in some focus groups that the training be included in all leadership training courses.

2.25 Individual and focus group discussions conducted during visits to ADF locations indicated that members of the ADF at all levels acknowledge the importance of resolving complaints about unacceptable behaviour in accordance with the Instruction. Our investigation staff observed that members viewed the matter seriously and had a high awareness of the ADF policy and complaint process. Discussions indicated that, in the view of members of the ADF, the management of unacceptable behaviour complaints and the process to deal with such complaints has improved significantly in recent years and that, overall, it is 'working well'.

2.26 While annual training has raised the profile of unacceptable behaviour, a substantial minority of members surveyed considered the training was not meaningful, as it was the same material that had been presented to them previously. They learned nothing 'new'. Similarly, computer based training courses were widely regarded as ineffective. The system can apparently be manipulated to show the module has been completed without the member's knowledge or understanding being enhanced. Some members also indicated that they would appreciate opportunities to ask questions. There appeared to be a consensus that current training packages could be improved. It was suggested that training focus on case studies that demonstrate how members can resolve complaints at the lowest possible level, rather than concentrating on the identification of unacceptable behaviour and the complaint process. There was wide support in focus groups for further training.

2.27 The high level of awareness of unacceptable behaviour issues in the ADF is encouraging. There is now potential for revised training to extend ADF members' confidence as active participants in the complaint process, and their ability to apply the Instruction in a variety of situations. This might be achieved by using a variety of case studies in training courses or through articles in service newspapers. For example, for a six-month period Defence might promote a clearer understanding of what is harassment and what is lawful direction and distinguish between friendly 'banter' and bullying. Members have suggested that case studies that focus on action taken to successfully resolve the complaint, or demonstrate why a particular approach failed to resolve the matter, would be useful and should be distributed. Such information could assist them by providing practical guidance about how to resolve such matters effectively at the lowest possible level.

Recommendation 2

Defence review training for management of unacceptable behaviour complaints to maintain freshness and effectiveness. For example, Defence may consider changing and rotating case studies used for training courses, regularly developing and providing new case study exercises for distribution to units and equity advisers, and promoting awareness of different issues through articles in service newsletters and newspapers.

Complaint management resources

2.28 Although a wide range of personnel are involved in the complaint-management process in the ADF, responsibility falls mainly on commanders and managers. It was encouraging that 86% of commanders and managers surveyed advised that they felt confident to deal with a complaint about unacceptable behaviour. In most cases they confirmed that the training they were given, including the new four-hour course, along with experience in their role, enhanced their level of confidence.

2.29 While acknowledging the importance of managing complaints of unacceptable behaviour, commanders and managers reported that complaint management represented a significant administrative burden. They described difficulties in obtaining the support of appropriate inquiry officers and equity advisers, as well as managing competing time and resource constraints. Increases in operational tempo and staff turnover were mentioned as other factors contributing to the administrative burden. To improve support to commanders and managers Defence may wish to consider extra resources to supplement current arrangements, or engaging external providers for some services.

2.30 Other resources available as part of the complaint-management process include the Defence Equity Advice Line, the Army's Fair Go Hotline, professional counselling, Defence Community Organisation, Defence Chaplains, Defence Legal Support, Defence Medical Support, and other ADF members within the chain of command.

Equity Adviser Network

2.31 The Defence Equity Adviser Network is made up of trained equity advisers and senior equity advisers and is managed by Defence equity coordinators. All Defence workplaces have at least one member trained as an equity adviser whose role is to provide confidential advice to any ADF member about preventing and resolving unacceptable behaviour.¹⁴

2.32 ADF members surveyed considered equity advisers a valuable source of reference for commanders, managers and complainants. Seventy one per cent of commanders and managers had approached an equity adviser for advice and guidance about investigating a complaint. In addition, 28% of general members surveyed had sought the assistance of an equity adviser. In focus groups, commanders mentioned the benefit of being able to discuss a case with an equity adviser who was not also providing support to the complainant or respondent. While listings of equity advisers located in a Defence establishment are available to ADF

¹⁴ More information about the role of equity advisers is included in the 'Client Handout: Defence Equity Adviser Network' produced by the Defence Personnel Executive in September 2004 and DI(G) 35-7 Defence Equity Network available at <http://www.defence.gov.au/fr/>

members, at any time a significant number of equity advisers will be unavailable for reasons of leave or operational duties. Some participants in focus groups expressed concern that they may not have a choice of equity adviser as a result.

2.33 We observed that participants who identified themselves as equity advisers in focus groups exhibited commitment to their role. Some felt the need for more, or more meaningful, training or support, particularly in relation to providing advice to respondents. We suggest that Defence continue to provide skills development for equity advisers through a variety of means such as conferences, newsletters, online discussion forums and scenario based refresher training.

2.34 Participants in the general focus groups expressed varying confidence in equity advisers. While the role was considered important, concerns were expressed that some equity advisers may have conflicts of interest in the workplace, develop loyalties that may influence their advice, or not be well suited to the role.

2.35 We heard anecdotal evidence that some commanders or managers had discouraged members from accessing equity advisers outside their own unit. This limited the members' access to equity advisers and may contribute to a perception that some equity advisers have a conflict of interest. Facilitating greater access to equity advisers at any location may reduce current resourcing limitations.

2.36 Another option that was raised in focus groups was for Defence to consider whether there is benefit in supplementing ADF equity adviser resources with externally provided assistance. This may prove particularly useful for remote and smaller Defence establishments.

Recommendation 3

Defence consider strategies to ensure that all members have ready access to a skilled equity adviser, outside the chain of command if necessary. One strategy may be the use of external contractors.

Availability of appropriate inquiry officers

2.37 The Instruction makes provision for the commander or manager to appoint an ADF member to enquire into a complaint of unacceptable behaviour. The inquiry officer is required to undertake a quick assessment of the complaint and any further routine inquiry deemed necessary by the commander or manager.¹⁵

2.38 The availability of appropriate inquiry officers who have completed the Inspector-General of the Australian Defence Force (IGADF) Inquiry Officer course was raised as an issue in the focus groups. Inquiry officers are usually drawn from the commander's or manager's unit; there is no 'special pool' of inquiry officers. Focus group discussions indicated that an appointment to an inquiry officer role tends to be viewed as an additional, potentially unwelcome, task for an ADF member.

2.39 Participants in the focus groups indicated that commanders and managers did not always select inquiry officers methodically, or with reference to an appropriate set of skills. Instead of selecting inquiry officers having regard to 'capability, standing

¹⁵ A quick assessment is an administrative tool used by the ADF in a number of different circumstances. More detail about quick assessments is available in Australian Defence Force Publication (ADFP) 06.1.4—Administrative Inquiries Manual, 5 January 2004.

and expertise' and those who 'are experienced, mature and well-respected'¹⁶ participants reported that, in some cases, the 'next person to pass the door' got the job as inquiry officer. One participant advised the group that their unit's practice was to refer matters outside of the unit to 'avoid' the need for the unit's resources to be involved in an inquiry. Such an approach would appear inconsistent with the commanders' and managers' responsibility to manage complaints as described in the Instruction and the Administrative Inquiries Manual.

2.40 Ineffective inquiries may result in complainants or respondents not accepting the outcome of a complaint, extend the time taken to resolve a complaint and generate more ROGs and complaints to external agencies.

2.41 It was noted by a number of commanders and managers that ADF members able to perform good quick assessments and inquiries are in demand, as ROG and other processes also require quick assessments and inquiries. Some participants suggested that the demand for appropriate inquiry officers could be managed if an organisation external to the ADF was able to provide inquiry officer services. It was felt by some that this could result in more consistency in investigations and less ADF staff drain.

2.42 We are aware that Defence now includes additional training about quick assessments in certain officer courses. There is also substantial guidance available to commanders and inquiry officers in the Administrative Inquiries Manual about how a routine inquiry should be conducted.

Operational factors

2.43 It was often mentioned by commanders and managers that managing complaints of unacceptable behaviour represented a particular drain on resources during periods of increased operational tempo. At these times, the availability of suitable inquiry officers and equity advisers was reduced. There was also a sense that complaints of unacceptable behaviour were more difficult to manage in operational scenarios. Some said it was unclear what standards apply in these situations.

2.44 While we acknowledge the difficulties that units face with unacceptable behaviour complaints during times of increased operational tempo, we believe that dealing with complaints at the lowest possible level would still appear to represent the most efficient use of resources in an operational environment. Defence might therefore wish to consider how it can best provide advice and support to commanders and managers in these situations.

Fairness

2.45 The Better Practice Guide advises that impartial investigation of complaints is imperative to the credibility and success of a complaint-handling process. Complaints must be addressed in an equitable, objective and unbiased manner. Objectivity in the process recognises the need to be fair to both the complainant and the person against whom a complaint is made. In our view, the ADF may need to take further action to increase the perception of fairness for both complainants and respondents.

2.46 The Instruction states at paragraph 14 that: 'Complainants and respondents are not to be victimised' and at paragraph 57 'Commanders and managers are to ensure that the personnel affected by a complaint receive appropriate support.'

¹⁶ See p.1, chapter 4 of the Administrative Inquiries Manual.

2.47 Almost two thirds of members responding to the survey advised that they would feel comfortable lodging a complaint of unacceptable behaviour. However, almost half did not consider that the complaint process was fair and transparent. Reservations expressed about using the system included possible repercussions such as adverse effects on promotion, peer pressure, being considered a ‘dobber’ or other adverse treatment.

2.48 These responses suggest that a substantial proportion of ADF members are concerned about the fairness of the complaint-handling process. Although issues of fairness and objectivity are addressed in the Instruction, the common perception that the process is not fair is a concern. Defence may wish to explore further the reasons why a significant proportion of members do not feel comfortable to lodge a complaint.

2.49 Paragraph 100 of the Instruction provides that ADF members dissatisfied with the outcome of the investigation can seek a review but does not impose a time limit for a review request. Some participants in focus groups expressed concern that a complaint could become a seemingly endless process. The Ombudsman’s office advises those approaching our office that they have three months within which to request a review of a decision. The three-month timeframe is an attempt to balance the need for finality and efficiency in decision making and fairness to all those involved. We also accept review requests outside this timeframe in exceptional circumstances. Similarly, it may be reasonable for Defence to consider imposing a time limit for a request for review in fairness to the both complainant and the respondent.

Recommendation 4

Defence amend the Instruction to impose a time limit for ADF members dissatisfied with the outcome of the investigation to seek review.

Power inequalities

2.50 One of the topics that came up for discussion in focus groups was the power differential that exists between parties to a complaint in an environment structured by rank. Self-resolution or assisted self-resolution processes may be rendered ineffective by these power differentials. Although the Instruction specifically states that commanders and managers are to consider rank when determining the appropriate avenue of resolution, it may be helpful to expand this discussion. Members suggested that mediation would be the appropriate process where there is a large rank differential. This could help prevent intimidation in the process and encourage faith in the impartiality of the system. Low level resolution including self-resolution was generally viewed as appropriate when parties were of the same, or close to the same, rank. A number of members expressed their view that increased access to mediation early in the process would speed up resolution and promote fair outcomes.¹⁷

¹⁷ Alternative Dispute Resolution processes are discussed in DI(G) PERS 34-4—Use and Management of Alternative Dispute Resolution in Defence.

Recommendation 5

Defence consider increasing the availability of, or the ease of access to, independent mediators.

Fairness to respondent

2.51 At all ADF locations visited, concern was raised about the impact of complaints on respondents. Comments made included concern about ‘the mud sticking’, regardless of whether the complaint was substantiated, and that the support network provides more for the complainant than the respondent. In one focus group, it was claimed that a trainer who was the subject of a complaint of unacceptable behaviour was removed from teaching a course for an extended period of time while the complaint was investigated. The group perceived this action as a presumption that the complaint would be substantiated, and that the respondent was placed under considerable stress as a result. It was suggested by one group that this action represented a common ‘knee-jerk’ approach to complaints by commanders or managers.

2.52 Members also commented that existing training modules could be improved through the inclusion of role plays on how commanders/managers and investigation officers should manage respondents. Such role plays could demonstrate how failure to manage the needs of respondents, as well as complainants, can adversely affect resolution of the complaint.

Recommendation 6

Defence ensure that training delivered to commanders, managers and equity advisers provides sufficient guidance about how to manage respondents fairly.

False or malicious complaints

2.53 Another commonly expressed view in focus groups was that more action needed to be taken to reduce false or malicious complaints. At times it seemed that there was confusion about what was considered an unsubstantiated complaint, and what was a malicious or false complaint. Some participants seemed to assume cases where no unacceptable behaviour was substantiated amounted to a malicious or false complaint. There also appeared to be uncertainty as to how a manager or commander could deal with a malicious complaint, despite the Instruction specifying that such a complaint represents unacceptable behaviour in itself.¹⁸ It may be helpful to add further detail in the Instruction about managing false and malicious complaints as a separate instance of unacceptable behaviour.

2.54 It is noted that if either the complainant or respondent considers the process has been unfair, it is open to them to request a review under the Instruction or to respond by lodging a ROG.

¹⁸ See paragraphs 7(d) and 76–77 of the Instruction.

Recommendation 7

Defence clarify the action to be taken where commanders and managers identify a possible false or malicious complaint. This could include amending the Instruction to detail the action to be taken by commanders and managers and addressing this issue in training.

Harassment versus legitimate direction

2.55 Some members also expressed concern about complaints being lodged about what they considered was 'reasonable and legitimate direction'. Defence has published 'A Guide to Fair Leadership and Discipline' which is promoted as providing guidance on commonly held misconceptions about equity and diversity issues and how they affect ADF personnel. It is also promoted as a document that explains the distinction between unacceptable behaviour and appropriate disciplinary action. The document is targeted to supervisors of ADF personnel rather than to members of the ADF generally. While the Guide to Fair Leadership notes that: '[i]t is not uncommon for people to claim harassment or discrimination when they are directed to undertake a task or duty that they are unhappy with or when affronted by the manner in which the direction was given', it provides only one specific example about the difference between appropriate disciplinary action and harassment.¹⁹ Members suggested the inclusion of role plays/case studies in training courses that clarify the difference between what is, or may be perceived as, harassment and lawful commands.

2.56 A related concern was expressed in focus groups about a perceived cultural difference between new recruits and those members with some years' experience in the ADF. It was felt that the younger members approached complaints about unacceptable behaviour as a 'rights-based' issue. There were also suggestions that younger members were unwilling to attempt self-resolution and could use the complaints process 'as a weapon'.

2.57 Some focus groups responded that inquiry officers might have a conflict of interest, in that they may be 'biased' toward the chain of command. That is, it was considered by some that inquiry officers, particularly if of a junior rank, might be intimidated or influenced by those of a higher rank, and by the objectives of commanders or managers. For example, a commander's or manager's emphasis on getting a complaint finalised quickly could affect the quality of an inquiry.

2.58 An important balance needs to be struck here. A thorough inquiry may take a long period of time. However, where an inquiry is unreasonably or unnecessarily delayed, concerns over the process employed are more likely to arise particularly if parties to a complaint are not provided with updates. These comments about the objectivity of inquiry officers tend to support the earlier discussion about the availability of appropriate inquiry officers at paragraph 2.37. There may also be scope for FRB to further encourage inquiry officers to contact them where the inquiry officer has concerns or questions about the inquiry process.

¹⁹ Department of Defence, 'A Guide to Fair Leadership and Discipline in the Australian Defence Force—a fair go for everyone', Defence Publishing Service, July 2004, p.1.

Accountability

2.59 The Defence Annual Report 2005–06 includes data on unacceptable behaviour complaints, providing an overview of the number and nature of complaints received and finalised during the year. In addition, FRB publishes an annual report on the Defence website, providing further detail about the management and resolution of complaints.

2.60 If an agency is called upon to explain or justify its actions, the written records will be the key to doing so. An investigation by the Ombudsman's office will often focus on scrutinising the written record. Inadequacies in the record trail are therefore a matter of special concern to this office.

2.61 Record-keeping practices varied across the three locations and across units in each location. It was encouraging to observe that quick assessments were generally completed and there were some good examples of records of conversation and inquiry officer reports on files. The file review did, however, raise concerns about the overall standard of record keeping and an apparent lack of compliance with reporting requirements. In more than half of the cases examined in the file review Ombudsman staff assessed that adequate records were not made at all stages of the complaint.

2.62 In a number of cases, the records relating to a complaint did not provide sufficient information for us to consider whether the Instruction had been complied with. For example, from information contained on files, it was often not possible to determine if complainants and respondents had been advised about support services, whether they were given monthly progress updates, or whether the options of self-resolution or assisted self-resolution had been satisfactorily explained to the parties. In a small number of cases there was no evidence that the manager or commander informed all parties of the outcome of the complaint. Lack of records has, to some extent, limited the capacity of Ombudsman staff to make observations about the management of complaints based on the file review.

2.63 Poor record keeping has the potential to adversely affect complaint management, particularly in cases where there is a change in inquiry officers, case managers, commanders or managers. It is likely that incoming staff would rely on records of previous actions to continue to manage the complaint.

2.64 The Instruction includes the following requirement:

*'54. **Keeping records.** It is essential that adequate records be maintained of the initial complaint, workplace investigation and consequential action taken. Defence records are kept in accordance with:*

a. DI(G) ADMIN 27–1—Freedom of Information Act 1982—Implementation in the Department of Defence;

b. DI(G) ADMIN 27–2—Implementation of the Access Provisions of the Archive Act 1983 in the Department of Defence; and

c. the Defence Workplace Relations Manual (DRB 19).

55. The complainant and respondent can be provided with copies of documentation that directly relate to them, subject to the requirements of the references above. Maintenance of accurate records of conversations and interviews by command and management is imperative. In addition to

obligations for Defence to maintain records, there may be additional obligations to external agencies should Defence personnel or Defence contracted staff choose to lodge a complaint with an external agency (as described in paragraph 103. of this instruction), or if a person develops a history of unacceptable behaviour.

2.65 The file reviews indicated that commanders, managers and inquiry officers may not be aware of what constitutes an 'adequate' record. Common filing practices such as folioing were often not followed. At present, there does not appear to be a quality assurance process in place to identify record-keeping deficiencies during, or at the conclusion of, the complaint-management process.

2.66 During some commander and manager focus groups, there was a perception that some complaints were formal and some were informal. It appears that this distinction, which is not made in the current Instruction, may influence record-keeping practices. Some commanders and managers indicated that they perceived a grey area between informal and formal application of policy. It may be helpful if future training relating to the Instruction emphasises the absence of a distinction between a formal and informal complaint. Once a complaint is made, or a commander or manager uses their discretion to inquire into a possible incident of unacceptable behaviour, the Instruction and its record-keeping standards apply.

Record keeping for individual complaints

2.67 While the Instruction is clear in relation to how records may be accessed, it does not specify record-keeping requirements. The filing practices observed in the three locations suggests that record-keeping responsibilities are interpreted in various ways by different units. In some cases there was a separate unit file for each individual complaint. In others, material relating to a number of complaints was filed together on a single 'equity' file. In one locality it was apparent that material relating to individual complaints existed on several different files. In such cases, finding all the relevant documents relating to a particular complaint was difficult, if not impossible.

2.68 Placing documents that relate to different complaints on a single file raises confidentiality and privacy concerns. Similarly, where documents relating to a complaint are spread over a number of files there is reduced accessibility to documents for those with a need to know about a complaint, and increased filing complexity for those managing complaints.

2.69 We support Defence's indication to our office that an online database is to be developed to record details of complaints about unacceptable behaviour. We consider that a single online system would resolve some of the inconsistencies in filing. In the interim, while the paper-based filing and reporting system continues to be used, we suggest that an individual file be created for each complaint.

2.70 When Defence implements an online database, this database should:

- allow all relevant records to be easily accessible to those with a need to know
- protect the privacy of the individuals involved
- include proformas for records of conversations
- include timeliness alerts for particular actions or updates
- facilitate the movement of records from one unit to another or referral to a different delegate at a different location

- allow reports about numbers of certain kinds of complaints to be generated
- be consistent with the timely referral to other investigative bodies if required.

Missing or inadequate records of conversation

2.71 The importance of making good records of conversations was highlighted in the Commonwealth Ombudsman Annual Report 2003–04:

As a matter of good administrative practice, a relatively detailed record should be kept of any significant meeting between an agency and an individual. Ideally, the record should be agreed between the parties to avoid any future dispute about precisely what was said.²⁰

2.72 In a number of cases viewed by our investigation team records of conversation had not been countersigned by all members present. In others it was apparent from documents on file that conversations with respondents, complainants and witnesses had occurred, but there were no records made of these conversations on the file. For some complaints, only the mandatory reports to FRB were filed and, consequently, there were no direct records of any conversations.

2.73 It is possible that the deficiencies observed in record keeping may be indicative of record-keeping standards more generally in the ADF, rather than being limited to the management and investigation of complaints of unacceptable behaviour. The Ombudsman has raised concerns about the quality of records of conversation with the FRB on previous occasions during the investigation of complaints from members of the ADF. Inadequate record keeping not only has the potential to adversely affect decisions made by the commander/manager on resolution of the complaint but can hamper the resolution of complaints which are pursued through the review process in the Instruction, the ROG process, legal proceedings, or an Ombudsman or HREOC investigation. In some cases the documents may also be required for processing compensation claims under the *Military Rehabilitation and Compensation Act 2004*.

Compliance with reporting requirements

2.74 Reporting requirements detailed in the Instruction include an initial complaint report, monthly update report, final outcome and formal action report. Initial reports are to be forwarded to FRB on the first working day of the month after the complaint was received, and, unless formal action was taken, names of complainants, respondents and witnesses do not appear on any reports. These names would however be recorded on other documents placed on the unit's file.

2.75 The file reviews suggested that reporting requirements are not being adhered to in a significant proportion of cases. There were a number of reports that were not submitted to FRB on the first working day of the month as required. In about half of the cases that were not finalised within one month, there was no record of updates being provided to all parties on a monthly basis. In some cases a monthly update was not forwarded to FRB.

2.76 We note that the time frame for making the initial report may result in a serious complaint being lodged for almost one month before FRB is advised. In our view this period is too long, particularly if FRB is to provide assistance to the commander, manager or inquiry officer. Defence may wish to consider reducing the lodgement time to within one week of receipt of the complaint. This would be

²⁰ Commonwealth Ombudsman Annual Report 2003–04, p. 84.

consistent with the requirement for commanders to report receipt of a ROG to FRB with a proposed course of action within five working days.²¹

Recommendation 8

Defence consider implementing quality assurance mechanisms for recordkeeping and reporting to ensure that standards are being met.

Recommendation 9

Defence amend the Instruction by requiring the initial report be submitted to FRB within one week of receipt of the complaint.

Responsiveness

2.77 The Better Practice Guide states that complaints should be acknowledged on receipt, undergo an initial assessment and be addressed promptly in accordance with their urgency. Complainants should be kept informed of progress throughout the process. The complaints process should be able to adequately address any concerns raised by those involved, explain the outcome to both parties and prevent the same situation happening in the future.

2.78 The Instruction requires:

- commanders and managers to commence managing the complaint within three weeks of the complaint being lodged (paragraph 41)
- consultation with complainants 'as soon as possible' about the desired outcome and possible approaches (paragraph 71)
- respondents to be informed of allegations 'as soon as possible' after a complaint is lodged (paragraph 73)
- an initial report to be submitted on the first working day of the month (paragraph 111)
- commanders and managers to provide progress reports to all parties and FRB on a monthly basis (paragraph 112)
- a final report to be submitted to FRB and the complainant and respondent to be notified of the outcome 'when the complaint is finalised' (paragraph 114).

2.79 Other than the record keeping and reporting weaknesses already discussed, the file reviews demonstrated a general adherence to these standards. While the Instruction does not identify time limits for all steps in the process, it was encouraging to note that 42% of complaints reviewed were finalised within one month and that 79% were finalised in less than three months. However, one area requiring improvement was the timeliness of advice to respondents.

2.80 Commanders and managers reported that they responded flexibly to complaints in accordance with the nature of the complaint. It was acknowledged that quick assessments were required and that lowest possible level of resolution would be pursued. Commanders and managers noted that if a complaint raised serious concerns, the matter may have to proceed to a formal investigation.

²¹ See DEFGRAM No 317/2006, 'Revised arrangements following submission of Redress of Grievance—Tri-Service Procedures', 26 June 2006.

2.81 The Instruction requires that the commander or manager consult with and provide ongoing support to the complainant and the respondent. However, as discussed under the accountability heading above, it was difficult to tell in the file reviews how responsive the process had been due to record keeping and filing practices. Paragraph 71 of the Instruction requires commanders and managers to discuss with the complainant as soon as possible after the complaint is lodged the different ways in which the complaint may be resolved; however, in a few cases reviewed there was no record of conversation to establish that the conversation had taken place, or other record that the advice had been provided. In some cases it was not apparent that complainants and respondents had been advised of support services. In others it was not apparent that the remedies identified during the complaints process had in fact been implemented. The focus group discussions and file reviews indicated that these issues were particularly concerning with respect to the rights of respondents.

2.82 Commanders and managers could provide each party to the complaint with a checklist on their role, responsibilities and the details of the steps in the investigation and what they can expect when investigation of a complaint is initiated, in order to facilitate greater timeliness. Such a checklist might encourage complainants and respondents to follow up if monthly updates are not provided, and contribute to the quality of the process as the matter progresses. Once the matter is finalised each participant could sign off the checklist, and be given an opportunity to comment on the conduct of the process. This would provide timely feedback to the commander or manager about the process.

2.83 A range of remedies are included in the Instruction. Informal remedies include apologies, further training and informal counselling while formal remedies include disciplinary action, censures and formal warnings.

2.84 Some members expressed concern that commanders and managers take formal action in response to complaints due to the need to be 'seen to do something'. This perception, that formal remedies are used more often than informal remedies, may not reflect current practice. Our file review indicated that informal resolution was used, with apologies, informal counselling and mediation recorded as outcomes of complaints. This is consistent with statistics provided in the Defence Annual Report 2005–06.²² We note that informal resolution may be achieved without external parties being aware that this has occurred, and this may affect the perception of how complaints are managed. However, without collection and publication of statistics on complaints resolved informally, potentially inaccurate perceptions may continue and reduce ADF members' confidence in the system's ability to provide timely and effective outcomes at the lowest possible level appropriate.

Recommendation 10

Defence consider amending the Instruction by adding a checklist with information about the role and responsibilities of each party to the complaint to help facilitate timely resolution.

²² At p. 270 the report states that '... of the 685 complaints lodged, 127 were subsequently withdrawn or unsubstantiated. Of the remaining 558, 294 or 53 per cent were resolved informally at unit level'.

Systemic and recurring problems

2.85 The Better Practice Guide states that resolution of the issue is not the last step in the complaint management process. The management of a complaint may have identified areas of weakness in the organisation's policies or procedures that need to be addressed. A recording system should assist in monitoring the progress of complaints and identifying repetitive complaints, as well as allowing the organisation to identify training or development needs of complaint handlers, individuals and teams.

2.86 As indicated previously, the Instruction requires commanders and managers to submit a number of paper reports to FRB for each complaint. Defence currently records and analyses a range of data about complaints of unacceptable behaviour, and has measured reporting trends in relation to categories of unacceptable behaviour. While this may assist Defence in identifying some trends, our file reviews indicated that it does not hold accurate data on all complaints, as reporting requirements are not being met in all cases.

2.87 The current paper-based reporting system makes it difficult for Defence to access real time data that would allow it to quickly identify and respond to emerging trends. We understand that Defence is currently considering online reporting/recording of complaints and we support this development.

2.88 In addition, as complaints of unacceptable behaviour can be informally resolved without the identity of the parties being recorded centrally, it is possible for parties to be involved in a series of incidents with no official record being made. Anecdotal evidence obtained during focus group discussions indicates that in at least one case a respondent and complainant, who had previously been separated in response to a complaint about unacceptable behaviour, were later to be posted to the same location. It was fortunate in that case that a commanding officer identified the issue separately to the complaints process.

2.89 Commanders and managers suggested that an alert in the personnel management system, PMKeys, could be added to ensure future posting decisions by Career Management Authorities are consistent with the outcome of earlier complaints.

2.90 It also appears that there is currently no way to track serial complainants and respondents across establishments. Unless there is a formal outcome to a complaint, the name of the respondent to a substantiated complaint will not be centrally recorded. This means that future commanders or managers and the responsible career management authority may have no visibility of a member's pattern of behaviour. This is an issue Defence may wish to consider further.

2.91 Information about complainants' and respondents' level of satisfaction with the complaint process could feed into the development of strategies to improve complaint handling. One way to monitor satisfaction levels with the complaint-handling process would be to track the number of, and issues raised in, reviews requested by complainants and respondents after a complaint has been investigated. Common issues, or issues relevant to particular geographic locations, could be identified in this way. ROGs relating to the management of an unacceptable behaviour complaint could also provide useful information about possible systemic problems.

Recommendation 11

Defence consider ways to ensure that posting decisions take account of any limitations that have arisen as a consequence of the investigation of a complaint of unacceptable behaviour.

Recommendation 12

Defence ensure that the reporting and record-keeping system for complaints of unacceptable behaviour is able to identify systemic issues and is readily accessible by those with a need to know.

Quality assurance and feedback

2.92 Comments made by commanders and managers indicated that they would appreciate feedback about their handling of unacceptable behaviour cases. There appeared to be some frustration that the current reporting mechanism works to quantify complaints, but does not support decision makers. We note the recent change to the ROG process whereby FRB has adopted a more consultative role, and now receives quick assessments from units and provides timely advice to commanders and managers about whether a proposed action is appropriate. It appeared that some commanders and managers would appreciate FRB taking on a similar role for complaints about unacceptable behaviour. FRB appears well placed to provide a feedback and quality assurance role through a revised reporting mechanism.

2.93 We recognise that the IGADF currently fulfils an important quality assurance and feedback role. The IGADF conducts file reviews of unacceptable behaviour complaints, as part of its ongoing audit role, and provides feedback to the commander or manager on the quality of investigations conducted. We support the continuing audit of unacceptable behaviour files by the IGADF. We also suggest that Defence consider how the information gathered by IGADF can be used to identify systemic issues and training needs. This could involve IGADF working closely with FRB.

2.94 An online reporting system, if implemented, could facilitate a higher level of accountability in terms of timeliness of action, and monitoring of open complaints. Defence may wish to consider amending the information sought in the proforma reports attached to the Instruction if FRB is to take on a quality assurance and feedback role.

2.95 Complaint-handling policies should be reviewed on a regular basis to ensure their continuing suitability, adequacy, effectiveness and efficiency. It is noted that the Instruction was revised in February 2004 and is to be reviewed in 2007.

Recommendation 13

Defence consider options for quality assurance of the complaint-handling process, including FRB performing a feedback and quality assurance role.

Integration

2.96 The Better Practice Guide notes that the best complaint-handling systems are fully integrated into an organisation. The content of the Instruction appears consistent with this view, in that it emphasises that prevention and management of unacceptable behaviour is critical to achieving and maintaining a productive workplace. The introduction to the Instruction includes the statement:

Maximising the operational effectiveness of Defence requires group cohesion, respect for command relationships and individuals, the willing acceptance of individual and collective discipline and the maintenance of morale. Behaviour that harms another impacts negatively on everyone, as individuals and as an organisation.

2.97 Focus group discussions indicated that the Instruction and supporting mechanisms are generally viewed as sound, and that there have been substantial improvements in the management of unacceptable behaviour complaints. Some members suggested that Defence now emphasise how members can effectively 'work and live together' rather than identifying unacceptable behaviour as a separate issue. Others commented on a perceived need for equity and diversity to achieve the recognition and acceptance that occupational health and safety has—'where it's part of everything'.

2.98 Feedback provided in focus groups suggests that there are barriers to the management of complaints of unacceptable behaviour, and equity and diversity more generally, becoming fully integrated into ADF cultures. Some examples of these comments are:

- equity and diversity is seen by many as a 'problem' and has negative connotations
- there is still a culture of accepting unacceptable behaviour in some areas
- managers fear making a 'career-ending move' when managing a complaint
- complaints that are reported in the media do damage to the service involved
- unacceptable behaviour can be related to the tensions between different services when members are working in a mixed service workplace
- younger members, or new recruits, are more likely to view a supervisor's action as harassment, while other members accept that the same action represents legitimate direction.

2.99 These associations with equity and diversity need to be better understood, and it is clear that members need to be more comfortable with how Defence equity and diversity relates to Defence leadership and Defence values, before the making and handling of complaints about unacceptable behaviour becomes fully integrated into service culture.

2.100 Members suggested that equity and diversity could be better integrated by promoting equity and diversity and complaint handling as a leadership and management issue. This could be achieved by incorporating training about equity, diversity and complaint handling into all promotion courses and performance appraisals. It was felt by some that separate training on equity and diversity sends the 'wrong message' that equity and diversity is somehow removed from normal managerial responsibilities. Participants in focus groups also recognised that junior

officers or supervisors are often the first to become aware of unacceptable behaviour type issues, and are in a position to escalate or suppress complaints.

2.101 Focus groups also identified that good communication skills reduce the likelihood of unacceptable behaviour occurring and would assist in the management and resolution of complaints. It was suggested that ADF members might benefit from more training in communication skills. Such training may:

- improve the quality of communication between members, allowing them to better articulate concerns with other members in an appropriate way
- assist leaders to foster a culture of respect in teams
- reduce incidents of unacceptable behaviour that may be based on misunderstandings
- empower members to either seek self-resolution more frequently or feel more confident in submitting complaints and/or respond appropriately when such a complaint is raised with them as a supervisor.

2.102 In our view, these options for further integration are consistent with Defence's commitment to manage and resolve complaints at the lowest possible level, and align with the Defence values; professionalism, loyalty, integrity, courage, innovation and teamwork.

Recommendation 14

Defence reinforce that complaint resolution is a day-to-day management responsibility by including assessment of complaint management in annual performance appraisals for all commanders and managers and integrating training about managing and resolving complaints into general management/supervision training.

Recommendation 15

Defence consider training modules that focus on effective communication skills for preventing and resolving complaints about unacceptable behaviour.

PART 3—CONCLUSION

3.1 Our observations are that Defence has an effective process in place to respond to complaints about unacceptable behaviour where both the respondent and complainant are ADF members. Members were generally knowledgeable about, and supportive of, the complaint-handling process. We have identified a number of opportunities for Defence to improve and further develop the complaint-handling mechanism. Record keeping, quality assurance and reporting are particular areas that Defence could improve with additional clarification and development.

3.2 It appears that the current level of understanding and acceptance of the unacceptable behaviour policy within the ADF could be enhanced by further integrating equity and diversity training and values into mainstream leadership and communication training as well as performance appraisals. This would help promote acceptable behaviours and an increased awareness of conflict resolution mechanisms across all services and ranks.

3.3 We are mindful that our investigation focused on the general effectiveness of the ADF system of handling complaints of unacceptable behaviour and we did not investigate how the complaint-management process functions when APS employees and Defence contractors are involved. Comments made in focus groups suggested that complaints about unacceptable behaviour raised different issues when raised in a workplace that include both ADF members and civilian personnel. We may consider approaching Defence and the Australian Public Service Commission to address this related issue in the future.

3.4 While we are confident that the system in place is generally effective in terms of the Better Practice Guide, we have made no observations about the appropriateness of outcomes for individual complaints, or the satisfaction levels of complainants and respondents.

3.5 The results of this investigation have given us sufficient confidence to continue our current practice of declining to investigate a complaint of unacceptable behaviour if the complainant has not already attempted to resolve the matter by accessing Defence's internal process, unless there are special reasons that justify our intervention. We are confident that, taking into account our recommendations, Defence will continue to build a better and more effective system for handling complaints about unacceptable behaviour.

ATTACHMENT A—DEFENCE'S RESPONSE



Australian Defence Headquarters
Department of Defence
CANBERRA ACT 2600

CDF/OUT/2007/518
2006/1175223/1

Dr Vivienne Thom
Acting Commonwealth and Defence Force Ombudsman
Ground Floor
1 Farrell Place
GPO Box 442
CANBERRA ACT 2601

Dear Dr Thom

Thank you for your letter of 4 April 2007 seeking Defence's response to the draft report of the Ombudsman's own motion investigation on the management of unacceptable behaviour complaints in the Australian Defence Force. I am pleased to note that your draft report expresses confidence in the mechanisms available to manage unacceptable behaviour complaints in Defence.

The report covers a very complex issue succinctly, and makes a number of valuable recommendations that will assist Defence to improve its management of unacceptable behaviour complaints. The findings of the draft report mirror those of the Learning Culture Inquiry Report, Military Justice Inquiry, Inspector General Australian Defence Force unit audits and Defence Unacceptable Behaviour surveys.

Defence agrees with the thrust of the draft report and I look forward to the final report of your own motion investigation. My contact point for this matter is Mr Petri Kristian, Deputy Director Rights and Responsibilities, who may be contacted on 02 6266 8691 or alternatively petri.kristian@defence.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K.J. Gillespie'.

K.J. GILLESPIE
Lieutenant General
Acting Chief of the Defence Force

6 June 2007

OBJECTID - R1896198

ATTACHMENT B—DEFENCE DEFINITIONS OF CATEGORIES

DI(G) PERS 35-3
File as: (NAVY PERS 16-5
(ARMY PERS 96-3
(AIR FORCE ADMIN 9-23
(Complete Revision)

DEFINITIONS OF CATEGORIES OF UNACCEPTABLE BEHAVIOUR

Harassment

1. There are different types of harassment that are, in turn, covered by different legislation such as the *Sex Discrimination Act 1984*, the *Racial Discrimination Act 1975* and the *Disability Discrimination Act 1992*.
2. For the purpose of this instruction, harassment is unwanted or unwelcome behaviour that a reasonable person, having regard to all the circumstances, would consider offensive, humiliating, or intimidating. Harassment may be a result of some real or perceived attribute or difference, such as:
 - a. race, colour, nationality or ethnicity;
 - b. sex;
 - c. gender;
 - d. religion;
 - e. marital status;
 - f. political opinion;
 - g. socio-economic origin;
 - h. age;
 - i. medical record, or physical, mental, or intellectual disability/impairment;
 - j. criminal record;
 - k. sexual orientation; and
 - l. trade union activity.
3. Harassment can also take many other forms, such as:
 - a. insulting comments about the physical characteristics, abilities or mannerisms of a person;
 - b. disparaging or unnecessary comments about a person's work or capacity for work;
 - c. the spreading of malicious rumours or public statements of a derogatory nature about a person;
 - d. interference with a person's workplace, work materials, equipment or property;
 - e. exclusion of a person from normal conversation, workplace activities or work-related social activities;
 - f. persistent teasing; or
 - g. offensive pictures, posters, graffiti or written material.

PERS B/5/2004
11 FEB 2004

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Abuse of power

17. Abuse of power and authority attributed to rank or position to harass, discriminate or bully a subordinate is inappropriate and unethical, and in some situations can constitute criminal behaviour. Commanders and managers must at all times be aware of their actions in relation to their subordinates to ensure that they do not abuse their power and authority. Some actions may inadvertently place a subordinate in a difficult position and the action thereby may be perceived as an abuse of power. Examples of such behaviour are:

- a. using subordinate staff to conduct personal tasks, such as collecting dry-cleaning;
- b. ordering subordinate staff to participate in unacceptable behaviour; and
- c. encouraging personnel to provide sexual favours in order to gain superior performance reports or desired postings.

18. *Defence Force Discipline Act 1982* (DFDA) action is to be seriously considered for commanders and managers found to have abused their power and authority. In instances where a Defence Australian Public Service (APS) manager is found to have abused their power or authority, a misconduct delegate will need to establish that there has been a breach of the APS Code of Conduct before a sanction can be imposed under the *Public Service Act 1999*.

Inappropriate relationships and associated behaviour

19. Professional relationships between people in the workplace build upon the team ethic and add to the efficiency and effectiveness of the organisation. These types of relationships should be developed and fostered by all levels of management and should include the development of professional relationships with Defence contracted staff members and other service providers.

20. From time to time relationships will occur in the workplace which do not meet with the values of the organisation or which are detrimental to the efficiency of a workplace, or Service. Relationships that are contrary to this guidance may manifest themselves through inappropriate behaviour in the workplace and commanders and managers are to take all reasonable necessary steps to eliminate inappropriate relationships and associated intimate behaviour and to minimise the impact of these relationships.

21. Any relationship that involves, or gives the appearance of involving, partiality, preferential treatment or improper use of rank or position is inappropriate in the workplace, irrespective of the employment type of people involved. An inappropriate relationship can constitute a close and exclusive friendship between members of the same or opposite sex, and may or may not include a sexual relationship.

22. In addressing the issue of inappropriate relationships, an important consideration is the promulgation of General Orders, as defined under the DFDA. General Orders may be applicable to Defence APS employees and Defence contracted staff, as detailed in part 1, section 3 of the DFDA. General orders are to:

- a. be sensitive to the extent of such behavioural restrictions in adjacent workplaces to ensure consistent rules apply in the workplace;
- b. be no more restrictive than that imposed in Service training institutions; and
- c. be in accordance with the principles of this instruction.

Inappropriate relationships relating to Defence Australian Public Service employees and Defence contracted staff

23. Inappropriate relationships may become an issue for Australian Defence Force (ADF) members, Defence APS employees or Defence contracted staff. Such relationships must be carefully managed by commanders and managers to prevent conflicts of interest and unacceptable behaviour from occurring.

24. In dealing with complaints of inappropriate relationships involving Defence APS employees, commanders and managers are to be aware that the same standards of behaviour in the Defence workplace are to be observed by all staff and employees, irrespective of their employment type.

Management of inappropriate relationships

25. Relationships are a natural result of human interaction and as such do not constitute a reason for punishment; however, they may have a direct impact on the effectiveness and morale of a team and need to be carefully managed.

26. An intimate relationship between a superior and a subordinate in the same immediate chain of command is unacceptable as it undermines discipline in the workplace. For the ADF, this may also occur when the personnel are not in the same chain of command if an indirect command relationship exists. For all employment types, it is the duty of the senior ranking person within the relationship to declare the relationship to their commander or manager. Upon being made aware of such a relationship, commanders and managers are to take all reasonable steps to avoid the undermining of discipline whilst maintaining the operational efficiency of the workplace. Management actions may include, but are not limited to:

- a. transfer of one member to an adjacent chain of command;
- b. temporary/permanent transfer of work assignment to a separate manager; and
- c. temporary/permanent transfer of performance appraisal to a separate manager.

27. The existence of relationships within the workplace does not excuse any form of unacceptable behaviour. The majority of unacceptable behaviour can be dealt with adequately under the existing provisions of the DFDA and *Public Service Act 1999*. For Defence APS employees, the APS Values and APS Code of Conduct may also be a useful reference for defining unacceptable behaviour in the workplace. In some cases, there will remain some areas open to interpretation due to context. For example, displays of affection, like holding hands, hugging or a kiss on the cheek, may be unacceptable in the normal workplace. There will, however, exist occasions when this behaviour is acceptable, such as deploying or returning to workplaces. It is the responsibility of the commander or manager, to set the standard of behaviour and they must ensure that local general orders contain sufficient detail and interpretation that there can be no ambiguity.

28. The following behaviour is always prohibited for all Defence personnel and Defence contracted staff, regardless of context:

- a. Touching another person (no matter who they are), using a part of the body or an object, for the purpose of displaying private intimacy for either the person initiating the touching or the person touched, with the purpose of sexual arousal or gratification. Sexual behaviour is never appropriate in the workplace.
- b. Sexual relations, public displays of affection and private intimacy between staff and students at all ADF training establishments and any environment where a staff/student relationship exists.
- c. Sexual relations, public displays of affection and private intimacy between students undergoing initial training within the precincts of the institution and during any absence from the institution while members are on duty. For the purpose of this instruction, the duration of initial training is to be defined in local orders by all commanders of military initial training establishments.

Other unacceptable behaviour

29. Other unacceptable behaviour is behaviour that is likely to bring discredit upon Defence or is likely to adversely affect discipline in the workplace. Ultimately, it will be a matter of judgment by a commander or manager that certain behaviour, which is not unlawful under Federal or State laws, has the potential to reflect negatively upon Defence. This behaviour may also place operational efficiency and effectiveness at risk through a breakdown in group cohesion or loss of professional respect and is not in the interest of Defence.

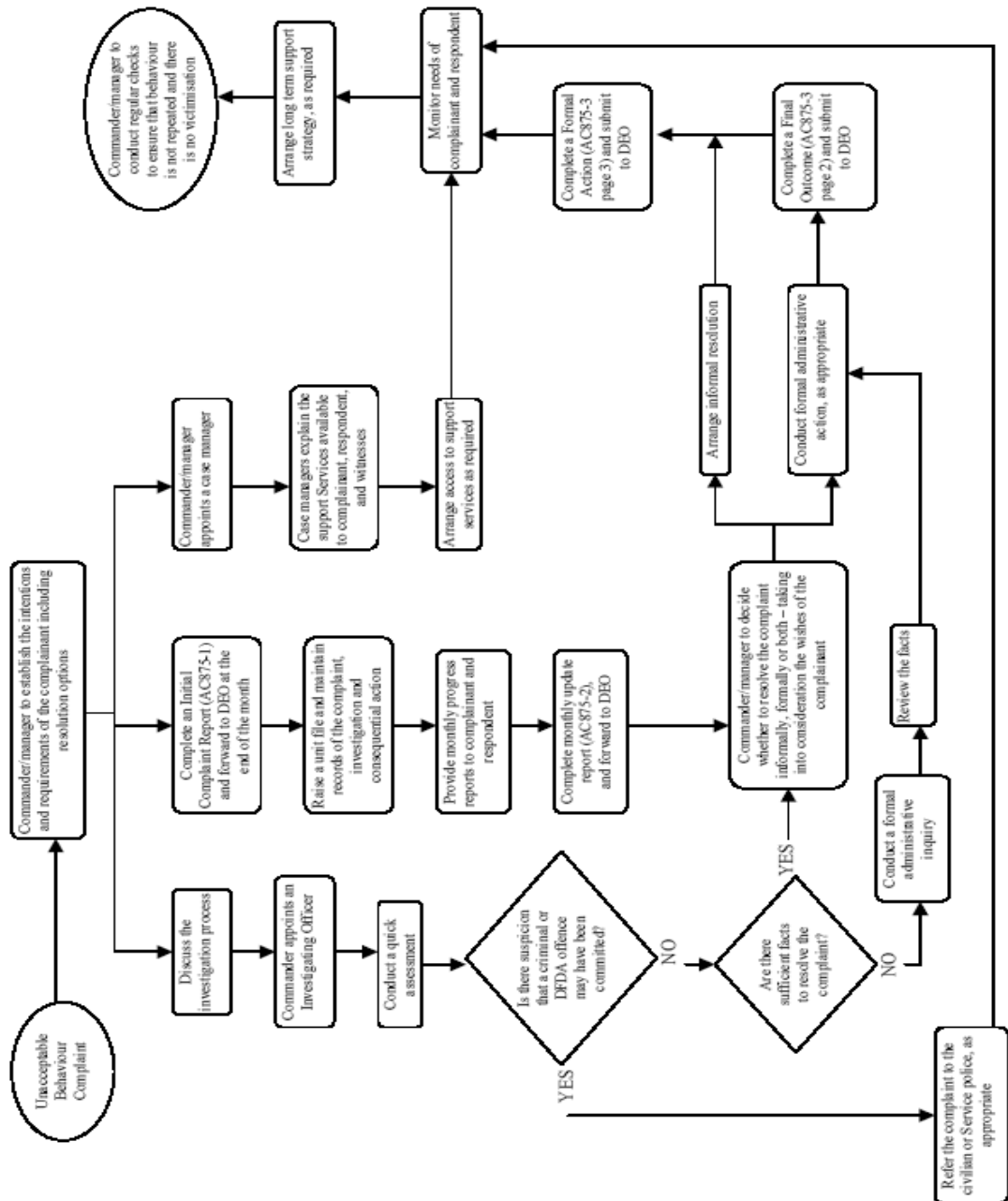
Sexual offences

30. An action that is explicitly sexual in nature, which is carried out without the consent of the complainant, may be a sexual offence. DI(G) PERS 35-4—*Management and Reporting of Sexual Offences* provides the policy, definitions and direction for managing sexual offence incidents.

ATTACHMENT C—COMPLAINT PROCESS FLOW CHART

ANNEX C TO
 DI(G) PERS 35-3
 File as: (NAVY PERS 16-5
 (ARMY PERS 96-3
 (AIR FORCE ADMIN 9-23
 (Complete Revision)

FLOW CHART FOR MANAGING COMPLAINTS OF UNACCEPTABLE BEHAVIOUR (OTHER THAN SEXUAL OFFENCES)



PERS B/5/2004
 11 FEB 2004

ATTACHMENT D—DETAILS OF FOCUS GROUPS

Details of focus groups conducted and complaints reviewed

Date	Location	Details	
29 September	RAAF Base	Commanders and managers	9
	Amberley	General	10
	QLD	Complaints reviewed	6
19-20 October	HMAS Stirling WA	Commanders and managers	2
		General	14
		*Written responses also received from an additional 6 commanders/managers Complaints reviewed	3 ²³
2-3 November	Lavarack Barracks Townsville QLD	Commanders and managers	4
		General	10
		Complaints reviewed	10

²³ Limited access due to filing system.

ATTACHMENT E—FOCUS GROUP DISCUSSION POINTS

Defence Force Ombudsman own motion investigation into the Australian Defence Force's handling of complaints about unacceptable behaviour

The Defence Force Ombudsman's function

- The Defence Force Ombudsman (DFO), as a sub function of the Commonwealth Ombudsman's role, investigates complaints that result from a person serving or having served in the Defence Force.
- The DFO investigates complaints about the administrative practices and decisions of Defence related government agencies. We do this in a manner which is independent, confidential and, generally, informal. The DFO's powers are recommendatory.
- The DFO may investigate complaints from individuals or may decide to investigate an issue on his or her *own motion*.

Background and key issues to this own motion Investigation

- Defence has a policy about complaints of unacceptable behaviour. The Chief of the Defence Force has publicly expressed a commitment to improving Defence's handling of unacceptable behaviour complaints.
- Unacceptable behaviour is defined as behaviour that, having regard to all the circumstances, would be offensive, belittling, abusive or threatening to another person, adverse to morale, discipline or workplace cohesion or otherwise not in the interests of Defence. The definition includes harassment, discrimination, abuse of power, inappropriate relationships and 'other unacceptable behaviour'
- Allegations of unacceptable behaviour have attracted a degree of scrutiny over recent years. They have featured in the Senate Foreign Affairs, Defence and Trade Committee's inquiry into the effectiveness of the military justice system and in the media.

What we wish to achieve from our investigation

- To test the effectiveness and understanding of the mechanisms laid down in DI (G) PERS 35-3.
- To produce a public report about our observations.

Why we are talking with you today

- To determine whether complaints about unacceptable behaviour are dealt with in accordance with DI (G) PERS 35-3.
- To form a view about the effectiveness of the procedures laid down in DI (G) PERS 35-3 and to identify and provide recommendations to Defence for improving those procedures.

Focus of our discussion today

- To talk about the system in place to deal with complaints about unacceptable behaviour. Is it:

- **Accessible, easy to use** and sufficiently **well understood** by Commanders and Managers and the general ADF population.
- **Responsive** to the needs of complainants and respondents during an investigation.
- Capable of resolving complaints at the **lowest practical level**.
- **Sufficiently resourced** to enable adequately trained personnel to respond to complaints in an effective and timely manner.
- **Free of bias, influence** and conflicts of interest, real or perceived.
- Administered in a manner, which ensures that information about complaints is **properly recorded and protected**.

DFO contact details

Email: ombudsman@ombudsman.gov.au
Telephone: 1300362 072
Internet: www.ombudsman.gov.au

ATTACHMENT F—SURVEY QUESTIONS

General focus group questionnaire

Important: The material you provide will be treated confidentially.

Please circle the most appropriate response:

- | | | | |
|--|----------------------|---------------|--------------------|
| 1. What is your service? | Navy | Army | Air Force |
| 2. What is your rank? | Commissioned Officer | WO or SNCO | Other rank |
| 3. What is your age? | 18-35 | 36-45 | 46 or older |
| 4. Length of service? | Less than 5 years | 6 to 15 years | More than 16 years |
| 5. How did you become involved today? | Directed to attend | Volunteered | Randomly selected |

6. Have you undertaken Equity and Diversity training in the last 12 months?

Yes No

7. Did you find it meaningful or beneficial?

Yes No

If not can you explain why?

8. Have you ever approached an Equity Adviser for advice?

Yes No

9. Would you feel comfortable in making a complaint about unacceptable behaviour?

Yes Some concerns No

If not can you explain why?

10. How do you think people who complain about unacceptable behaviour are treated?

Well Some concerns Poorly

Why?

11. What kind of outcomes or remedies would you expect to result from an Unacceptable Behaviour investigation? (Eg: an apology, counselling, formal action etc ...)

12. Do you consider the complaint-handling process works in a fair and transparent manner?

Yes

Some concerns

No

Why?

13. Do you have any additional thoughts or comments?

Thank you for your participation.

Commander and Managers focus group questionnaire

Important: The material you provide will be treated confidentially.

Please circle the most appropriate response:

- | | | | |
|--|----------------------|---------------|--------------------|
| 1. What is your service? | Navy | Army | Air Force |
| 2. What is your rank? | Commissioned Officer | WO or SNCO | Other rank |
| 3. What is your age? | 18-35 | 36-45 | 46 or older |
| 4. Length of service? | Less than 5 years | 6 to 15 years | More than 16 years |
| 5. How did you become involved today? | Directed to attend | Volunteered | Randomly selected |

6. Have you undertaken Equity and Diversity training in the last 12 months?

Yes No

7. Did you find it meaningful or beneficial?

Yes No

If not can you explain why?

8. Have you managed or been involved in an unacceptable behaviour matter (for example as a quick assessment or routine inquiry officer)?

Yes No

9. Have you ever approached an Equity Adviser for advice about managing unacceptable behaviour complaints?

Yes No

10. Would you feel comfortable in managing a complaint about unacceptable behaviour?

Yes Some concerns No

In any event can you explain why?

11. How do you think unacceptable complainants and respondents should be treated?

12. Do you think organisations such as DCO, psychologists or chaplains have a role to play in dealing with unacceptable behaviour complaints?

13. What kind of outcomes or remedies are available to you as a Commander or Manager when considering the outcome of an Unacceptable Behaviour investigation?

14. Do you consider the complaint-handling works in a fair and transparent manner?

Yes Some concerns No

If not why?

15. Do you have any additional thoughts or comments?

Thank you for your participation today.

ATTACHMENT G—FOCUS GROUP QUESTIONS

- **Introduction**
 - **Explain focus of own motion investigation**
1. **Commanders:** What would you do if you received a complaint?
General: What do you think would happen if you made a complaint?
 2. **Both:** What works well in the current system for dealing with unacceptable behaviour?
 3. **Both:** What does not work so well?
 4. **Both:** Is solving at the lowest possible level of the chain of command something you consider works effectively?
 5. **Commanders:** Is formalising a complaint something that might be more appropriate?
 6. **Both:** Could the system be changed to make it more effective or easy to understand and manage?
If so, how?
 7. **Commanders:** If you received a complaint about unacceptable behaviour, where would you go for advice?
 8. **General:** Where could you go for advice about making a complaint?
 9. **Both:** Do you think complainants and respondents are treated differently after a complaint has been made?
In what way?
 10. **Commanders:** What effect do complaints of UB have on workloads of commanders/managers? As a commander or manager do you feel adequately prepared and resourced to deal with UB complaints?
 11. **Commanders:** How do you feel about the reporting requirements in DIG?

Other possible questions

How would you describe the difference between harassment/bullying and legitimate workplace direction?

How do you see the role of equity advisers?

Do you think the EA network is an effective resource?

GLOSSARY

ADF	Australian Defence Force
APS	Australian Public Service
CDF	Chief of the Defence Force
Defence	Department of Defence
DI(G)	Defence Instructions (General)
FRB	Fairness and Resolution Branch
HREOC	Human Rights and Equal Opportunity Commission
IGADF	Inspector-General of the Australian Defence Force
ROG	Redress of Grievance