



Australian Defence Force

MANAGEMENT OF SERVICE PERSONNEL
UNDER THE AGE OF 18 YEARS

October 2005

Report by the Commonwealth and Defence Force Ombudsman,
Prof. John McMillan, under the *Ombudsman Act 1976*

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Reports by the Ombudsman

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EXECUTIVE SUMMARY

Introduction

Several serious complaints made to the Ombudsman in the last few years have raised concerns about the adequacy of administration by the Australian Defence Force (ADF) of personnel under the age of 18 years. A key concern is whether the ADF's arrangements take sufficient account of the generally lower level of maturity and experience of minors. Both may affect the capacity of minors to deal effectively with challenges and stresses arising as a consequence of their Defence activity, or more generally in their daily lives.

I decided that my office, in its dual roles of Commonwealth and Defence Force Ombudsman, would undertake an investigation on an own motion basis, in accordance with s 19C(2)(b) of the *Ombudsman Act 1976*, into matters of administration relating to Defence's dealing with people under the age of 18 years. The aim of the investigation was to examine whether the ADF has:

- policies and procedures in place to identify and deal with key issues that arise in relation to minors
- mechanisms to ensure these policies and procedures are understood by key staff and implemented and monitored consistently across the Navy, Army and Air Force
- appropriate arrangements in place to handle any problems or complaints young people may have, and to respond to them in a timely manner.

The investigation considered only arrangements for minors in the permanent Defence Force. The administration of minors in the Australian Defence Cadets was outside the scope of this investigation.

In this report, 'services' relates to the Australian Army, the Royal Australian Navy and the Royal Australian Air Force.

Scope of investigation

The focus of the investigation was essentially those people under the age of 18 years in the ADF. Eighteen years was selected as an appropriate cut off point because 17 is the minimum age for entry into almost all employment groups in the ADF. Under a number of State/Territory laws, those under the age of 18 years are variously described as 'children', 'young persons' or 'minors'. The laws reflect the Australian community's expectation that young people will be afforded appropriate care and protection. These laws, and international protocols to which Australia is a signatory, indicate that the ADF has certain obligations in its dealings with young persons or minors.

A review of the complaints received by my office over the last few years suggested that it might be appropriate to consider a broader definition of 'young people' than just those under the age of 18 years. It was clear that the problems likely to arise in managing minors were just as likely to arise in relation to young people more generally in their first year in the ADF. Preliminary discussions with ADF representatives confirmed this view. The investigator did consider arrangements for all younger personnel (up to the age of 19 years) during their first year in the ADF. For the

purposes of this report, I decided to limit my comments to arrangements developed specifically for the care of minors.

The investigation explored:

- the legal status of the ADF-member relationship and the ADF-parent relationship where the member is under 18 years, focusing on the meaning of *in loco parentis* within the ADF
- advice and support provided to young people on how to deal with any concerns they may have
- on-base living arrangements, recreational and other services provided, and guidelines used both to guard against inappropriate behaviour towards minors and to monitor and deal with this type of behaviour when it occurs
- identification and management of factors likely to create stress for young people, and the support provided for those who are having problems.

Details of the methodology used can be found in the introduction section of this report.

Summary of recommendations

Based on the outcomes of this investigation, the following recommendations are made to improve the management of minors across all three Defence services and various training establishments.

Recommendation 1: That the ADF seek legal advice as a matter of priority on the extent of its duty of care to minors and how that should be interpreted in service and training establishments. The advice should address the interaction of Commonwealth and State/Territory laws, the implications of society's expectations about care owed to minors, and the ADF's liability if adequate levels of care are not provided.

Recommendation 2: That legal advice on care for minors be used to develop a Defence Instruction (General) (DI(G)) that would define the ADF's responsibilities for the administration of minors. It should include examples of the risks associated with care of minors that must be covered in any service arrangements to give effect to the DI(G).

Recommendation 3: That, consistent with good administrative practice, each service develop its own Instruction identifying how minors will be managed within service personnel management and training structures. The DI(G) should address risks specifically associated with that service. It should inform the development of procedures to manage those risks within individual training establishments.

Recommendation 4: That comprehensive and accurate information about the ADF's duty of care for minors (and what this means within each service and training establishment, where appropriate) be provided for all potential enlistees who are minors, and their parents/guardians. This information should include examples of how the duty of care will be delivered day-to-day, as well as the limits of the ADF's responsibilities.

Recommendation 5: That service Training Commands take a more active role in directing and supporting Commanding Officers (COs), and their staff, in the delivery of care to minors. This could include the following.

- Issuing instructions for incoming COs in training establishments for management of minors. These instructions would be tied to the relevant service Instructions and specify expected outcomes and performance measures against which COs will be assessed annually.
- Ensuring COs have the resources – time, staff and administrative support – necessary to deliver expected outcomes. This could include designation of a staff member with specific responsibility for assessing risks and monitoring/reporting on outcomes for minors.
- Facilitate exchange of information about best practice in managing minors within and between services. This could include regular meetings/exchanges of instructional and support staff, as well as COs, across training establishments and services.

Recommendation 6: That the ADF consider developing a tri-service strategy for training and maintaining consistent, high quality instructional and support staff in training establishments. The strategy would recognise the critical role of recruitment and initial employment training to maintaining a strong ADF. It could include the following.

- Developing consistent selection procedures for instructional and support staff in training establishments, which will ensure they have the capacity to communicate effectively with minors; and developing standard minimum training requirements to ensure all staff involved with minors have the necessary skills to provide an appropriate level of care.
- Reviewing the priority given to provision of support services, particularly health services, in training establishments to ensure resources available for minors who may be at risk of physical, psychological or emotional injury are sufficient.
- Establishing benchmarks for qualifications, experience and number of instructional and support staff, and timeliness of support services, in training establishments responsible for the management of minors.

Recommendation 7: That the ADF review accessibility of support arrangements for minors, including by the following.

- Conducting surveys of the opinions of minors on current arrangements. Surveys should be anonymous, include minors who do not complete their training, and provide the option for free comment on barriers to access. Given that many minors lack broad life experience, it would also be appropriate to suggest options for improvement, on which they can comment. Examples could include greater access to their families (such as more opportunity for telephone contact) and tighter confidentiality when a problem is raised.
- Analysing factors, which contribute to successful support arrangements for minors; and using these as a basis for developing a best practice model for application across the ADF.
- Regularly seeking feedback from minors to ensure high standards set by the best practice model are maintained. Results from feedback should be consolidated across all services and form the basis of an annual report to the Chief of the Defence Force on the effectiveness of support arrangements for minors.

Recommendation 8: That the ADF review administration of the Equity Adviser Network within training establishments to identify barriers to use of the network by minors. This review should include the nature and timing of information about the network provided to minors and training for advisers in communicating effectively with younger people.

Recommendation 9: That the ADF review the collection of qualitative and quantitative data relating to delivery of care for minors with a view to improving consistency of collection across services and facilitating analysis of trends across the ADF. This data should be used as a basis for preparation of regular reports for Training Commands, Service Chiefs and the Chief of the Defence Force on outcomes for minors in training.

Recommendation 10: That the ADF review its accountability structures for the care of minors to ensure that Commanding Officers in training establishments receive adequate support in maintaining appropriate levels of care for minors. Clear lines of accountability should be established for implementation of any recommendations, policies or procedures relating to minors. Formal reporting structures should be established and key staff in training establishments, Training Command and Service Chiefs be required to report regularly against performance standards for the management of minors.

Recommendation 11: That the ADF undertake an analysis of the costs and benefits of accepting minors for enlistment in the ADF with a view to determining whether the enlistment age should be raised to 18 years.

Conclusion

This investigation has highlighted the importance for the ADF to articulate clearly its duty of care to minors in its services and training establishments; and to ensure that policies and procedures relating to the management of minors are consistently applied, where possible. It is acknowledged however that there may be certain operational requirements of the various service groups that may require a different approach to be taken for the management of minors.

In these cases, it is important for the ADF to justify these differences objectively and to identify clearly the different expectations of minors and different approaches to the management of minors, in its care. It would be expected that all approaches to the management of minors would be clearly outlined in the policies and procedural documentation of the ADF.

In my view, where possible, consistency in the management of minors across all three service groups and between training establishments should be an important objective of the ADF.

ADF response to the report

The Chief of the Defence Force's (CDF) response to my draft report advised that he agreed broadly with all but one of the recommendations. The CDF provided commentary on each of the recommendations, to explain both the steps that would be taken by the ADF in implementing the recommendation and the practical difficulties that might arise. I welcome this positive and constructive response to the report. The CDF's comments are included in Part 5 of this report.

The CDF noted in his response that many of the recommendations should apply not only to ADF members aged under 18 years, but to all young new entrants. This approach, which I support, acknowledges that all young members of the ADF may need support as they make the transition to life in the military.

The CDF did not accept the recommendation to consider raising the enlistment age to 18 years (Recommendation 11). In the CDF's view, this would severely restrict the quality and quantity of recruits, particularly from those States and Territories where students finish school at 17 years of age. It is not my intention to take this issue further, other than to note that Royal Military College has established Bridges Company as a 'transition' unit to hold trainees aged under 18 years who are deemed not mature enough for officer training. This approach has the potential to allow the ADF to continue to attract recruits at the end of their schooling, while at the same time providing a training environment that is appropriate for their level of maturity. This approach may be equally appropriate for recruitment of minors in other areas of the services.

As part of this investigation, detailed reports were prepared on the single service and training establishments and the Australian Defence Force Academy. As requested by the CDF, these detailed reports were earlier provided to the ADF so that the issues that had been identified could be considered ahead of the finalisation of this report. Once again, I acknowledge this positive response to this investigation.

During the next twelve months, I will seek an update from the CDF on the ADF's progress in implementing the recommendations in this report.

Acknowledgement of assistance

I would like to acknowledge the valuable assistance provided to me and my investigation staff by the various Defence personnel that were consulted within the services and within training establishments. This enabled the investigation work to take place and for this report to be prepared.

Prof. John McMillan
Commonwealth and Defence Force Ombudsman

PART 1: BACKGROUND TO THE INVESTIGATION

Introduction

1.1 Several serious complaints made to the Ombudsman in the last few years have raised concerns about the adequacy of administration by the Australian Defence Force (ADF) of personnel under the age of 18 years. A key concern is whether the ADF's arrangements take sufficient account of the generally lower level of maturity and experience of minors. Both may affect the capacity of minors to deal effectively with challenges and stresses arising as a consequence of their Defence activity, or more generally in their daily lives.

1.2 I decided that my office, in its dual role of Commonwealth and Defence Force Ombudsman, would undertake an investigation on an own motion basis, in accordance with s 19C(2)(b) of the *Ombudsman Act 1976*, into matters of administration relating to Defence's dealing with people under the age of 18 years. The aim of the investigation was to examine whether the ADF has:

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Scope of investigation

1.4 The focus of the investigation was essentially those people under the age of 18 years in the ADF. Eighteen years was selected as an appropriate cut off point because 17 years is the minimum age for entry into almost all employment groups in the ADF. Under a number of State/Territory laws, those under the age of 18 years are variously described as 'children', 'young persons' or 'minors'. The laws reflect the Australian community's expectation that young people will be afforded appropriate care and protection. These laws, and international protocols to which Australia is a signatory, indicate that the ADF has certain obligations in its dealings with young persons or minors.

1.5 A review of the complaints received by my office over the last few years suggested that it might be appropriate to consider a broader definition of 'young people' than just those under the age of 18 years. It was clear that the problems likely to arise in managing minors were just as likely to arise in relation to young people more generally in their first year in the ADF. Preliminary discussions with ADF representatives confirmed this view. The investigator did consider arrangements for all younger personnel (up to the age of 19 years) during their first year in the ADF. But for the purposes of this report, I decided to limit my comments to arrangements developed specifically for the care of minors.

1.6 The investigation explored:

- the legal status of the ADF-member relationship and the ADF-parent relationship where the member is under 18 years, focusing on the meaning of *in loco parentis* within the ADF
- advice and support provided to young people on how to deal with any concerns they may have
- on-base living arrangements, recreational and other services provided, and guidelines used both to guard against inappropriate behaviour towards minors and to monitor and deal with this type of behaviour when it occurs
- identification and management of factors likely to create stress for young people, and the support provided for those who are having problems.

Methodology

1.7 The investigation methodology was designed to obtain information about the policies supporting the administration of minors across the ADF and within each service. These policies could then be compared with the procedures in place at selected Defence establishments, and an assessment made of how well the procedures were being implemented.

1.8 Defence training establishments were identified as the most suitable locations to review policies and procedures for minors because all new entrants to the ADF spend some part, if not all, of their first year in training. A small number of minors complete their training and are posted to units before the end of their first year. The investigation did not review arrangements for minors on board ships or in operational units.

1.9 The investigation methodology included:

- Review of complaints received by the Ombudsman's office concerning young people in the ADF, and consideration of comments made by parents of young members of the ADF who had complained
- Review of Defence Instructions (General) and Single Service Instructions relevant to minors
- Review of Standing Instructions and other Operational Orders of selected Defence training establishments dealing with minors
- Review of selected internal and external inquiries into the ADF's handling of incidents concerning minors, and the administration of training establishments generally
- Meetings and discussions were held with the
 - Head of Defence Personnel Executive
 - Director-General of Navy Personnel and Training
 - Directors-General of Personnel for the Army and the Air Force
 - Director-General and senior staff of the Defence Health Services
 - Head, and a senior member of the team conducting the Review, of Defence Health Services
 - Director, and Chief of Staff of Defence Force Recruiting

- Acting Director and Senior Research Manager of Defence Strategic Personnel Planning and Research
- Director and senior staff of the Defence Equity Organisation
- Director and senior staff of the Defence Complaints Resolution Agency
- Members of the Directorate of Military Personnel Policy
- Visits to selected Defence establishments providing initial training and subsequent employment training for Recruits in the Navy, Army and Air Force; and Single Service and Joint Service training for Midshipmen, Officer and Staff Cadets. These visits included discussions with Commanding Officers, Instructors and Support Staff, such as Chaplains and psychologists. Discussions were also held with representative groups of Recruits, Trainees, Midshipmen, Officer and Staff Cadets. Training establishments visited were:
 - Navy—Royal Australian Naval College, HMAS Creswell; Royal Australian Navy Recruit School, HMAS Cerberus; and the Faculty of Engineering, HMAS Cerberus
 - Army—Royal Military College, Duntroon (RMC)¹; Army Recruit Training Centre, Kapooka; School of Infantry, Singleton; and the Army Logistics Training Centre, Bandiana
 - Air Force—Officer Training School, Point Cook; No 1 Recruit Training Unit, Edinburgh; and the RAAF School of Technical Training, Wagga Wagga
 - Joint Services—Australian Defence Force Academy (ADFA), Canberra.

1.10 The personal views of some minors and other young persons were sought at various Defence establishments during the interview process so that the diversity of different views could be gathered. It was also important during this process to ensure that one or two strong outspoken views were not allowed to over-represent the views held by the majority of minors in the ADF. These observations have informed my opinions on the adequacy of care for minors in the ADF as a whole contained in this report.

1.11 The policies, procedures and practices for administering minors in the ADF were assessed against the following criteria:

- *Comprehensiveness and consistency*—the extent to which policies and practices in place meet legal and other obligations for the care and protection of minors. It includes identification of risk in the management of minors adjusting to life in the ADF, and the coverage of mechanisms to support minors and help them manage any problems. The consistency of arrangements across establishments within each service, and across the ADF was also considered.
- *Commitment*—the degree of understanding among senior officers and those actually delivering training; of their roles and responsibilities in dealing with minors. It includes the training and support provided to staff in caring for minors.
- *Accessibility*—the extent to which minors understand arrangements in place for their care, whether those arrangements are appropriate and readily available, and the confidence minors have in accessing them.

¹ Since the investigation commenced, the RMC has raised its minimum entry age to 18 years. Comments on RMC's management of minors have been included in the report because a small number of minors from ADFA undertake Single Service Training at the RMC.

- *Responsiveness and accountability*—strategies to oversight and monitor the delivery of care. It includes obtaining feedback on outcomes for minors and using performance information to improve administration of minors within and across ADF Services.

1.12 During the investigation, issues arose which, while not specifically relevant to the management of minors, highlighted potential systemic limitations in ADF personnel management. I have summarised these under ‘Other issues arising’ in Part 4 of this report.

PART 2: MINORS IN THE DEFENCE FORCE

Brief description of recruitment of minors in different forces

2.1 The minimum age of recruitment to the ADF is 17 years. Most minors are to be found in training establishments, undergoing the transition from a civilian to a military lifestyle. One example is the Royal Military College (RMC), Duntroon, which offers a range of courses for Officer Cadets and graduates.

2.2 At the time of the investigator's visit, the RMC accepted minors who qualified for entry into its course for Regular (full-time) Officer Cadets. Failure rates at that time for minors was very high, over 80%. However, ADF records establish that in the period July 1995 to January 2002, 11 of the 20 minors recruited to ADFA graduated, representing a success rate of 55%². Since the investigation was initiated, the RMC has established Bridges Company to hold trainees under 18 years who are not deemed mature enough to commence the full officer training continuum. While in Bridges Company, personnel are exposed to experiences designed to assist them in their transition to the full officer training program and to service life³.

2.3 At the time of the investigation it had not been possible to determine the total number of minors in the ADF. However, we understand that since 1 July 2005, this data has been readily available⁴. The following table summarises the number of minors in the ADF as at 1 July 2005.

Service	Number under 18 years	Total number in the service	Percentage of minors
Permanent Navy	70	12,855	0.54%
Australian Regular Army	107	25,113	0.43%
Permanent Air Force	19	13,242	0.14%
ADF	196	51,210	0.38%

Legal and administrative framework—general description

2.4 Responsibility for formulating personnel policy for the ADF as a whole is vested in the Defence Personnel Executive (DPE), an overarching, tri-service organisation responsible to the Chief of the Defence Force (CDF). DPE is responsible for issuing Defence Instructions (General) (DI(G)), in accordance with the *Defence Act 1903*. These Instructions are binding on the ADF.

2.5 Policies and procedures for the management of personnel in training establishments, including those actually in training, are administered separately from operational areas. The Single Service Training Commands issue instructions or plans for use in their respective training establishments. In Navy, the same position is responsible for both training and personnel functions. In the other services, personnel is separate from training command.

² CDF response of 18/9/2005, A7

³ CDF response 18/9/2005 A7

⁴ CDF response 18/9/2005

2.6 Beneath the tri-service DPE, each service has a separate Personnel Directorate responsible for implementation of service-level policies and instructions. DI(G)s are usually accepted and filed as Service Instructions, as has been done with *DI(G) PERS 33–4*: it is also filed as *DI (Navy) PERS 61-4*; *DI (Army) PERS 116–17*; and *DI (Air Force) PERS 29–30*. Single Service Personnel Directorates can also issue their own Instructions that are binding on the individual services. Usually these expand on the DI(G)s or explore issues relevant to the Single Service.

2.7 The only DI(G) exclusively about administration of minors is *DI(G) PERS 33–4 – Recruitment and Employment of Members under 18 years in the Australian Defence Force*. This Instruction also addresses the requirement that the ADF comply with Australia's obligations as a signatory to the 'Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict'. Article 3 of this protocol specifically states that recruitment of minors (persons under 18 years) should be on a genuinely voluntary basis.

2.8 *DI(G) PERS 33–4*, originally issued in June 2002 was revised on 4 July 2005. The DI(G) applies to all three Defence services and covers requirements relating to:

1. the age of voluntary recruitment (17 years) and the requirement for parental or guardian consent prior to enlistment of a minor (under 18 years)
2. notification for parents or guardians in the event of discharge action in relation to a minor
3. provision of an 'interview representative' if a minor is to be interviewed as a suspect under the *Defence Force Discipline Act 1982*
4. acknowledgment that the ADF will, as far as possible, ensure minors do not participate in hostilities.

2.9 All other DI(G)s apply to minors, as they do to all members of the ADF. Some include references to specific responsibilities relating to minors. For example, *DI(G) PERS 15–2 Involvement by Members of the ADF with Illegal Drugs* notes that:

'...the ADF has a responsibility to its younger members on behalf of their parents to protect them from the undesirable pressures which may lead to involvement with illegal drugs.'

2.10 How this responsibility is to be interpreted and given effect is a matter for each service. Within each service, each operational unit and training establishment determines according to its operational requirements how to address their responsibility and consequently is not reflected in DI(G)s.

2.11 Two DI(G)s most relevant to the protection of minors are *DI(G) PERS 35–3 – Management of Unacceptable Behaviour* and *DI(G) PERS 35–4 – Management and Reporting of Sexual Offences*. The instructions do not refer to persons under the age of 18 years as a special case, except in PERS 35–4 which notes that: 'Commanders and managers should ascertain whether the complainant wishes to have his or her parent or guardian notified [that they have made a complaint about a sexual offence] and, if so, the complainant should be given the opportunity to contact the parent or guardian and speak personally ... There is no requirement to obtain the consent of a parent or guardian for the medical.'⁵

⁵ DI(G) PERS 35–4, Management and Reporting of Sexual Offences, 11/2/2004, paras 41 and 42

2.12 The instructions do not suggest any special arrangements which might be appropriate to support a minor in such circumstances to make a complaint or to provide a witness statement during the investigation of such a complaint. Importantly, the instructions do not yet reflect the requirement to provide an ‘interview representative’ if the minor is being interviewed under the provisions of the *Defence Force Discipline Act 1982* as a suspect as required by the recently revised DI(G) PERS 33–4.

Duty of care to minors and *in loco parentis*

2.13 Before considering how well the ADF administers minors, it is important to clarify what is meant by a ‘duty of care’ to minors. What are the legal and moral requirements, and what kind of care does society expect will be given to young people under the age of 18 years?

2.14 The Shorter Oxford Dictionary⁶ defines the *in loco parentis* duty as standing ‘in place of a parent’. The role of parents is usually taken to mean providing a safe environment for their children and protecting them from the consequences of actions or behaviours resulting from their minimal levels of life experience. For minors nearing 18 years, this includes providing advice and support in coping with the transition from adolescence to adulthood.

2.15 The common law in Australia recognises that children and young people under the age of 18 years are less mature than other members of society, less careful and at greater risk of harming themselves or others. Extensive child welfare legislation has been enacted in Australian States and Territories for the protection of minors, consistent with international conventions covering the rights of the child. Some State/Territory statutes recognise that an employing or training body can have a duty of care in relation to young people as employees or students. There is a common statutory requirement that those responsible for children and young people in their care, should report to appropriate authorities any allegation of abuse, whether or not the employer or trainer is directly responsible.

2.16 The following, drawn from s 8 of the NSW *Children and Young Persons (Care and Protection) Act 1998*, gives an indication of the nature of obligations to minors in such legislation:

The objects of this Act are to provide:

- (a) that children and young persons receive such care and protection as is necessary for their safety, welfare and well-being, taking into account the rights, powers and duties of their parents or other persons responsible for them;
- (b) that all institutions, services and facilities responsible for the care and protection of children and young persons provide an environment for them that is free of violence and exploitation and provide services that foster their health, developmental needs, spirituality, self-respect and dignity; and
- (c) that appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment.

⁶ *Shorter Oxford Dictionary* OUP 1993, Vol. 1 P 1319

2.17 There appears to be little corresponding Commonwealth legislation covering minors. This probably reflects the limited involvement of the Commonwealth in matters relating to children and young persons. However, in my view, there is a strong societal expectation that, where appropriate, the Commonwealth should meet standards of care equivalent to those espoused by the States/Territories.

2.18 Comments provided by parents who have complained to the Ombudsman about the experiences of their under 18 year old children in the ADF suggest that they believe Defence has taken on some form of *loco parentis* responsibility for their sons and daughters. They believe Defence will 'look after' their children, even if they are not sure exactly what this means. Staff of training establishments interviewed confirmed that parents do have such expectations. They also noted that these expectations are often inconsistent with what staff consider their responsibilities to be.

2.19 In the ADF, there are elements of both employment and training. Young people are almost always required to live and train on ADF facilities. Good administrative practice suggests the nature and extent of the duty of care to minors would, therefore, be clearly defined as a basis for developing procedures for their management. This definition would, reasonably, be expected to cover ADF training requirements, and especially the risks associated with transition from a civilian to a military way of life. It would also cover the operation of relevant laws, limits on the provision of care, and the ADF's liability where adequate care was not provided.

2.20 For the purposes of this investigation, the ADF's *loco parentis* duty was taken to be the obligation owed to any personnel under the age of 18 years whom it is reasonably foreseeable would be injured – physically, emotionally or psychologically – by a lack of care to that person. In determining what is 'reasonably foreseeable', the protections contained in legislation relating to minors, including State/Territory legislation, and societal expectations have been taken into account.

PART 3: AREAS OF CONCERN

Comprehensiveness and consistency of policies dealing with young people

3.1 Comprehensiveness and consistency require a clear and commonly applied definition of the nature of the duty of care owed to minors. Comprehensive coverage necessitates an understanding of all aspects of the obligations attaching to the duty of care and how those obligations should be interpreted in a training environment. Consistency requires agreement within and across services about care requirements and the implementation of mechanisms to ensure a common standard of care is being delivered.

Comprehensiveness of policies

3.2 Surprisingly, senior officers across the ADF advised that there is no definition, legal or procedural, setting out the nature and breadth of the ADF's duty of care to minors. Nor is there a broadly applicable explanation of how such a duty should be interpreted within a training context. There appears to have been no ADF-wide, or even service-wide, assessment of the risks associated with the training of minors and how those risks might best be managed. No policy statement was available to the investigator against which to assess the adequacy of procedures and practices in place in individual training establishments. Nor was a statement available for minors or their parents setting out the nature of the ADF's obligations.

3.3 The extent to which State/Territory child protection laws apply to minors for whom the Commonwealth, through the ADF, has taken responsibility may be unclear. There may be a serious question about whether the State/Territory laws and actions taken under them would interfere with, or merely regulate, the exercise of the executive capacity of the Commonwealth in relation to Defence. At the time of the investigation, there was no indication that the ADF has sought to clarify this issue.

Consistency of policies between defence establishments

3.4 A review of the consistency between administrative arrangements for managing minors in different establishments reveals just how different their approaches to minors are. All establishments have incorporated into their Standing Orders some references to minors. These include the prohibition on their access to, or consumption of, tobacco and alcohol. Beyond that, the coverage of instructions is variable, within and between services.

3.5 For example, some establishments require all minors to wear special identity tags for easy recognition. Others consider it adversely affects team building to single out younger personnel in this way. Some establishments provide formal or defacto mentoring arrangements for younger personnel. Others had no specific arrangements for their support, believing that the structures in place for the care of all personnel in training were adequate to meet the needs of minors as well. In addition, the rigour with which any common procedures are applied varies between establishments.

3.6 A comparison of arrangements (then in place) for the management of minors seeking leave from their training establishments illustrates this variability.

- The Navy has extensive leave procedures for minors. The Recruit School (RS) at HMAS Cerberus requires formal approval from parents for overnight leave

and written agreement of sponsors with whom recruits will be staying. These requirements are, according to the recruits, rigorously enforced. While Standing Orders relating to leave for trainees at the Royal Australian Naval College (RANC) were very similar to those at the RS, Midshipmen who were interviewed at the time of the investigation advised that their leave requirements were only casually monitored. Standing Orders for RANC trainees required that at 2359 hours each day, Gangway Staff would notify the Officer of the Day of any member under 18 years who had failed to return onboard. However, Midshipmen interviewed commented that their leave arrangements were not enforced at all by the ship on which they undertook their Sea Deployment Training. This is the more surprising since minors received leave during a brief stay at an Asian port where they might be expected to require, and receive, even tighter supervision.

- By comparison, Army training establishments, with the exception of the Royal Military College (RMC) at Duntroon, did not consider it necessary to establish special leave arrangements for minors. The investigator was advised that this reflected the Army's view that recruits and trainees under 18 years are paid an adult wage and are, therefore, treated the same as all other personnel. The training regime at Recruit Training Wing (RTW) at Army Recruit Training Centre (ARTC) is so intensive that recruits have no time available for leave anyway. The tighter controls on the Cadets at the RMC may have resulted from the close scrutiny given to training structures at the college over recent years. This was prompted by the findings of the 1998 Grey Report into the Australian Defence Force Academy (ADFA) as well as past problems that the RMC has experienced with its own cadets.
- The Air Force establishments visited also had reasonably detailed written guidance for managing leave for minors. Parental or guardian approval is required if recruits under 18 years at 1 Recruit Training Unit (1RTU) at Edinburgh wish to take overnight leave. At Officer Training School (OTS) at Point Cook, requirements are equally stringent. There are no special arrangements for leave for Air Force personnel at the STT in Wagga, although personnel from other services in training at the school must comply with their Single Service leave requirements. The effect of this is that minors from different services who are training together may be subject to different leave requirements.
- At ADFA, the only fully tri-service training establishment, Midshipmen, Officer and Staff Cadets under 18 years seeking overnight leave must have written parental approval, unless staying with a sponsor (a friend or relative) pre-approved by a parent. Academy students must also comply with any leave requirements imposed by their Single Service. An application form must be completed for each leave request and, according to students interviewed, these arrangements are rigidly enforced and monitored.

3.7 Staff at training establishments suggested that they could account for such differences in procedures and the rigour with which they are enforced.

- The minimal numbers of minors at some training establishments. A possible implication of this view is that the fewer minors likely to be in training, the less the attention given to their care.
- The different expectations on those in training. For example, staff found it unreasonable to expect the same level of self-discipline from recruits, who are being trained to take orders, and Officer Cadets/Midshipmen, who are being

trained to lead. Officers in training were expected to require less supervision and support.

- The different cultures in each service. For example, as the oldest service, the Navy has a long tradition of close protection of its young personnel. In the past many entered as apprentices as young as 12 or 13 years of age. The Army, on the other hand, has a strong tradition of expecting endurance and ‘toughness’ in its personnel. This implies minors are expected to behave and to be treated as adults from their first day.
- The different environments in which the services operate. For example, life on a ship, where sailors live in a close environment, is different from the Infantry. Army staff advised the investigation that soldiers are trained to kill face-to-face and must be able to do their jobs efficiently in hardship conditions not often likely to be experienced in the Navy or Air Force. Soldiers, according to Army, are expected to be able to cope with more and they need to get used to this early.

Adaptation of policies to address unique issues

3.8 Some effort has been made to standardise arrangements in training establishments within each service. Staff will visit other training establishments from time to time to share experiences. There are also intra-service forums, such as the six-weekly meeting of RAAF training establishment COs with the Royal Australian Air Force (RAAF) Training Command, where matters of mutual interest can be discussed. But staff report that the management of minors is considered only in passing, if at all.

3.9 Inter-service exchanges tend to occur at the initiative of the individual CO, and are more frequently undertaken by Navy and Air Force than Army COs. In fact, at ARTC, the investigator was advised that Army did not need to know how other services conducted training. Staff suggested that Army training was very different from that needed by the other services, and the expertise available within Army’s own ranks was adequate for its training requirements, including care of minors.

3.10 The RAAF, by comparison, advised that it used the findings of any ADF training establishment inquiry to review the procedures in its training establishments. The release of the report of the inquiry into the suicide of Private Jeremy Williams at the School of Infantry (SOI) at Singleton is a relevant example. The report triggered a review of risk management procedures for minors at all RAAF training establishments⁷.

Ombudsman Opinion

3.11 In my view, the ADF’s obligation to minors is poorly defined and patchily reflected in policies and procedures. There is little consistency in managing minors across the services, from the coverage of procedures to the outcomes achieved. The unique cultures and functions of the three services were regularly raised in discussion as a barrier to the development of a consistent approach to minors across the ADF. Comments from senior staff interviewed suggest that each service considers its management of minors is preferable to that delivered by the others, regardless of any deficiencies which may be acknowledged privately by individual staff. Yet minors are minors whatever their service. The ADF must be confident that the same high

⁷ CDF response 18/9/2005

standard of care and protection is consistently delivered to all, regardless of the branch of the service.

3.12 I acknowledge that there are different operating environments for the three service groups and training establishments and each group needs to consider the unique environment in which they operate and to adapt policies and procedures for the management of minors in that environment. This is particularly important where a different operational approach may be applied to minors or where different expectations may be required of minors. These differences need to be identified and clear explanations provided to support differences in policy and procedures between the three services and training establishments. Where possible, consistent management of minors across all groups should be the principal objective. A departure from that objective should be deliberate, considered and explained.

Understanding of duty of care issues

3.13 It is important that all three Defence services and training establishments are committed to ensuring that minors in their care are properly supervised and that their special needs are considered and dealt with in an appropriate manner. Commitment is about striving to provide the best outcomes possible for minors. It requires a shared understanding at all levels in the ADF about what needs to be achieved by way of care. It requires support from management to ensure that everyone involved in the delivery of that care has the skills and resources necessary.

3.14 At the time of the investigation, information available indicated that other than the RAAF School of Technical Training (STT) at Wagga, no Single Service Personnel Directorates or Training Commands had obtained legal advice on their obligations and responsibilities to minors. Nor had Training Commands issued specific guidance for the management of minors across all training establishments within the particular service. Some Training Command documents, such as Training Command Army's Instructions on the Safety and Welfare of Trainees Campaign Plan, note the greater risk of physical and emotional injury to trainees than fully trained soldiers.

3.15 All staff interviewed acknowledged that Defence had a duty of care to minors. However, there was little agreement within or across services about the nature of that duty. There was also disagreement about whether appropriate care was being delivered, and how and when staff would know if they were delivering it successfully.

3.16 Staff in administrative positions outside the training establishments – Personnel Directorates and Training Commands – were aware minors in training represented a risk that needed to be managed. All commented on the damage done to the ADF's reputation by recent allegations of harassment and self-harm in training establishments. However, at that time, they regarded responsibility for the delivery of appropriate care as resting primarily with the establishments themselves in each service and for each to develop its own local instructions and procedures for guidance of staff in managing these risks.

3.17 Little emphasis was placed on developing proactive strategies to manage risks common across the services. They considered that the management of minors was best handled at the operational level and when incidents occurred given that the staff in training establishments had a more immediate understanding of the day-to-day problems associated with minors in training. This understanding did not necessarily translate into common practices to safeguard minors.

3.18 For example, complaints and disciplinary matters involving minors do not automatically receive a level of care consistent with the *in loco parentis* duty. Action taken is dependent on whether a matter has been raised formally or informally.

3.19 A formal complaint, according to DI(G) PERS 35–3, is one where the complainant wants the matter dealt with formally. This usually means a complaint in writing. An informal complaint is one where the complainant has not indicated a wish to pursue the issue, perhaps from lack of confidence, embarrassment or fear of reprisal. These complaints are often oral and may not even be described as complaints.

3.20 Taking a sexual assault allegation as an example, most staff interviewed said they would not pursue such an allegation unless a complaint was made formally. However, in the broader community, only a suspicion that a child's rights were being violated would trigger State/Territory child protection legislation. It would be up to the child protection authorities to determine what action might be required. Not all staff interviewed recognised the obligation to protect a minor in these circumstances. In my view, society expects that no less a standard should be applied to minors in the ADF than elsewhere in the community. In fact, it could be argued that the Commonwealth ought to be setting a best practice benchmark.

3.21 When the Commanding Officer at the RAAF STT at Wagga sought legal advice to clarify his responsibilities to minors, the Defence Legal Service (TDLS) response included the following:

'loco parentis does not apply to Defence. Minors are employed by Defence. This is an industrial relationship and *loco parentis* cannot apply... However, Defence has recognised that a higher standard of care should be applied to minors in our employ. If Defence wants to take on this additional responsibility, then it will need to [be] taken on by all three services.'⁸

3.22 The investigator sought to confirm this view and inquired whether any legal advice had been given or received by TDLS with regard to the ADF's *in loco parentis* responsibilities. TDLS advised the following:

'Legal advice has been given about the issue in relation to Australian Defence Force Cadets ... Advice has not been given for the much older minors who may be 17 when they join up – 17 being the notional policy driven age at which people may become members of the ADF. So in effect that advice had not been given with [respect to] the ADF's *in loco parentis* responsibilities.'⁹

3.23 In this context, it is interesting to note the former CDF's response to the findings of an investigation I finalised in late 2004¹⁰ following a complaint by a then minor about alleged rape. The CDF referred to ensuring:

⁸ Email dated 4 February 2004 to WgCdr Stephen Hayes from FlgOff JP Liddy entitled 'ADF Policy on Duty of Care for Minors'.

⁹ Email dated 9 March 2004 to WgCdr Frank Grigson from Ms J Woodward entitled Re: *In loco parentis*.

¹⁰ Refer: http://www.ombudsman.gov.au/publications_information/Special_Reports/2004-05/04-2004-young_person_RAN.pdf

‘...the Navy’s duty *in loco parentis* [was] adequately fulfilled and that adequate support and care is provided for these sailors.’

3.24 This statement suggests that the Navy’s *in loco parentis* duty, at least, is clearly defined and understood by Naval staff. If it is, the investigator from my office found little evidence in the training establishments visited.

3.25 The investigator raised the lack of definition and apparent confusion about the *in loco parentis* duty with a number of senior ADF staff. Several suggested it would be counterproductive to be ‘too prescriptive’. They were concerned about the plethora of ADF instructions and procedures already in existence. To add yet another was seen as unnecessarily increasing the administrative burden on staff.

3.26 Army staff in particular felt that ‘everyone’ already knew that personnel in training could be vulnerable. They said Army training establishments took that into account, and it was ‘commonsense’ that the needs of minors would be covered, even if those needs had not been formally articulated. The general feeling was that the arrangements in place were perfectly adequate. Navy and Air Force staff were generally less confident that their responsibilities for minors were sufficiently clear or adequately met.

3.27 Unfortunately, the arrangements in different establishments for the administration of minors, even within the same service, suggest that not everyone shares the same view of what is ‘commonsense’. It is to the credit of staff in some of the establishments visited that, despite the lack of formal guidance on minors, several have developed quite detailed arrangements for their management. These arrangements take the form of Standing Orders, Administrative Orders or Commanding Officer Instructions. They reflect what each establishment sees as relevant to the minors in its care.

3.28 The onus is therefore placed almost entirely on Commanding Officers (COs), instructors and other staff in training establishments to set appropriate standards and guidelines for control of, and behaviour towards, the minors. This reliance on individuals is likely to be risky in the absence of clear statements about the ADF’s or the service’s responsibilities. It depends heavily on the quality and understanding of people appointed to training positions, the handover and the preparation they receive for their role.

Ombudsman Opinion

3.29 In my view, it is concerning that the ADF apparently recognises that a higher standard of care should be applied to minors but has done so little to define that standard. There has been very limited assessment of risks associated with employment of minors across the ADF, or of how those risks can be managed effectively in a training environment. In my view there is considerable confusion at senior levels in the ADF and within training establishments about obligations due to minors.

3.30 Those establishments that had detailed instructions and procedures for the care of minors often appeared to have developed them as a response to past problems. They do not seem to be the outcome of considered risk assessment. Furthermore, interpretation of the procedures that do exist, and the rigour with which they are applied, are very much in the hands of successive COs and other senior staff. For example, the obligation to report to a parent/guardian a complaint from a minor is

not mandatory – the CO has the discretion not to disclose a matter. Opinions on what should be advised to parents appear to be based on the personal views of staff and what they thought they, as parents, might want to know about, rather than specific guidelines. It is hardly surprising then that parents and minors are unclear about what the ADF will do in a particular case.

Staffing at training establishments

3.31 In all Defence training establishments, staff postings, including for COs, are usually for two years. This is intended to ensure all ADF members can maintain their technical qualifications for operational readiness. Longer absence from an operational area could jeopardise the instructor's currency in the subject taught as well as prospects for promotion. High turnover rates mean selection of appropriate staff is an annual challenge.

3.32 All services said they seek high quality staff for training establishments. COs are typically 'high flyers', although in the less prominent training establishments, appointment may be the officer's first command posting. Instructors are expected to excel in their employment category and exemplify the values of their service. Annual service assessments identify such staff as suitable for instructional posting. Teaching experience and/or an understanding of communicating with young people are not selection prerequisites.

3.33 All services prefer volunteer instructors. But the instructional role is not highly sought after and many training establishments have difficulty obtaining adequate numbers of quality staff. Reasons include:

- Long hours and intensive nature of the job. Staff said their working days began with trainees' reveille and often only finished at lights out. Teaching minors was particularly 'hard work'. With the increasing public profile given to problems in training establishments, career risks for staff involved in incidents can be high. Staff also said that outcomes of efficiency reviews in the ADF required them to cram more course work into shorter periods of training. These pressures were exacerbated by staff shortages.
- Relative isolation of many training establishments. They are often located away from major population centres, creating problems for staff with families. Good schooling for children and reasonable employment for spouses could be hard to obtain locally. As a result, staff often need to live apart from their families during instructional postings.
- Lack of recognition for instructional work. Many instructors joined the ADF because they enjoyed military action. Teaching was low status by comparison with operational deployment. Posting as an instructor often involved loss of pay, since the member was no longer eligible for operational allowances. Instructors disliked being 'out of the mainstream' and felt they would be overlooked for promotion.

3.34 All services wanted to improve the quality of instruction and recognised that quality of staff was critical to achieving this. Teaching minors required aptitude, technical skill and the ability to communicate with adolescents. Some establishments, such as Navy's RS, had reduced the rank of instructors to attract younger staff better able to communicate with minors. Others said they struggled to obtain sufficient instructors of any age to meet teaching obligations. Several said they had to bring in

additional staff to help cope with shortages at peak periods. These temporary staff were not necessarily either trained or experienced in teaching minors.

Training for staff

3.35 All staff posted to training establishments receive advice or training to prepare them for their roles. Incoming COs are interviewed by their respective Service Chief and receive a handover from the outgoing CO. Instructional staff receive, at the least, induction training provided by the establishment to which they have been posted.

3.36 However, the length and detail of CO briefings and handover depends on the individuals involved and their availability at the time of handover. The content and quality of the training provided for instructional staff is also variable. Most induction courses include training on issues such as drugs, alcohol and self-harm awareness, but none address specifically the responsibilities of staff for the care of minors. The RAAF's Military Instructors Course provides a comprehensive grounding in instructional techniques for all instructors and is recognised across RAAF training establishments. But this course does not address specifically the needs of minors either.

3.37 All establishments had mechanisms for review of staff training and its effectiveness. However, they focus on the content and delivery of courses, and none addresses their success in training minors. Some, such as Navy's RS, are enlisting external providers like tertiary institutions to update courses in line with educational theory and so improve accreditation. Others are focusing on enhancing the role of instructors in fostering a supportive learning environment for all students, including minors. The RAAF STT's Ethos and Cultural Awareness Program is a good example.

Ombudsman Opinion

3.38 In my view, there is little evidence of high-level organisational commitment to proactive management of the risks of training for minors. Senior staff, outside training establishments, see responsibility resting primarily with the training establishments themselves. In the absence of a clearly articulated commitment at senior levels and how that should be given effect in practice, it is hardly surprising that commitment among training staff is variable.

3.39 Pushing responsibility for caring adequately for minors down to individual establishments seems unreasonable in view of the lack of guidance on what the ADF's *in loco parentis* duty means. It has made it almost impossible for training staff to know whether they are doing the right thing. Several of the staff interviewed expressed strong reservations to the investigator about the lack of guidance, and sought reassurance that they were meeting their obligations appropriately. They commented that discussions with the investigator had been helpful in raising their awareness of the issues.

3.40 All services are aware of the importance of having staff appropriately qualified to deal with minors. But there is little evidence of a strategic approach to improving instructor qualifications or standardising training in the handling of minors across the ADF. The ongoing difficulties almost all establishments have in obtaining a sufficient number of quality instructors seem to be accepted as inevitable.

3.41 Roughly 50% of staff in every training establishment will be new each year. The high turnover highlights the importance of sound administrative mechanisms for transmitting procedures and corporate knowledge to incoming staff. Anecdotal evidence suggests that comprehensive CO handovers are especially important.

Deficiencies in the handover briefings provided to incoming staff at the SOI contributed to Army's failure to remedy problems previously identified at the School, culminating in serious incidences of trainee self-harm.

3.42 Commitment to delivering care for minors in any establishment is strongly influenced by the tone set by the CO. Staff commitment correlates more to the personal interest shown by the CO than to the numbers of minors to be found in training. Whether the establishment has been the subject of a review or investigation relevant to its handling of minors is also important. It was no surprise to find that these training institutions, following the findings of the Grey Report, ADFA, and to a lesser extent, the RMC, were focused on meeting the needs of minors.

3.43 Several COs commented on the breadth of their responsibilities and their concern that issues relating to minors may 'fall through the cracks', particularly if there are typically very few minors in training. Identification of a staff member with responsibility for oversighting and reporting to the CO on the delivery of care for minors may be helpful.

Instruction of minors on issues affecting them as minors

3.44 Training arrangements will be appropriate if they can meet care needs and minors feel confident in seeking support when they need it. As a starting point, minors (and their parents) need to know the nature and extent of their roles and obligations as minors and the ADF's responsibility to them and their expectations of them. Confidence in arrangements requires that minors understand what is considered unreasonable or inappropriate, and that they trust those empowered to assist them. It also requires that any barriers to accessing support are removed.

3.45 There is, unfortunately, a dearth of ADF or service advice on these matters. No information is provided by Defence Recruitment (Manpower) during the recruiting process and limited, if any, is included in individual establishments' Joining Instructions. Minors reported having very little idea about what being under 18 years in training meant before reaching their training establishment.

3.46 Minors invariably reported that on arrival for training they received a special briefing covering the prohibition on alcohol and any leave requirements applicable to them. Most also recalled receiving information about the support services available to all personnel, but no advice that might help them, as minors, to access them. Minors were required, like other personnel, to acknowledge, in writing, that they understood the Standing Orders for their establishment in their first weeks of training.

3.47 Even after a number of weeks or months in training, minors' views about the ADF's duty *in loco parentis* were confused. Suggestions ranged from the CO of the training establishment being a minor's legal guardian until his/her 18th birthday, to a minor achieving adult status simply by enlisting. There was little understanding or agreement about what might be regarded as acceptable expectations of them, or behaviour towards them, as minors. Complaints and comments to the Commonwealth Ombudsman suggest parents are equally confused. This confusion has caused great distress for some parents, particularly for those who have not understood that the ADF would not always be supervising their child's non-training activities.

Implementation of policies for the management of minors

3.48 This section considers the strategies in place for overseeing policies and procedures for the management of minors. It considers arrangements for obtaining feedback on outcomes for minors in training and how well the ADF is responding to problems experienced in their management. It also considers how performance information is used to improve administration of minors within and across services.

Accountability arrangements

3.49 There are no consistent arrangements across the ADF for reporting on the implementation of policies and procedures for managing minors. There is no service level auditing of the comprehensiveness and consistency of arrangements for minors, or the effectiveness with which they are being delivered in training establishments. The lack of reporting against established performance measures is not surprising since there appear to be few, if any, performance standards set at any level in the ADF for managing minors.

3.50 During the investigation it was difficult to obtain consolidated quantitative or qualitative data on training outcomes for minors or to obtain an accurate figure for the number of minors entering the ADF annually. The ADF has recently advised that since July 2005, such information is readily accessible.

3.51 Senior ADF staff have indicated that it is in the nature of command within the ADF that the CO be accountable for ensuring that the duty of care to minors in his/her command is met. A CO is subject to an annual performance review, but there is no evidence that these reviews require detailed reporting on arrangements for minors specifically. COs report regularly up the chain of command on incidents or noteworthy events within their training establishments. However, in relation to minors, reporting is largely on an exception basis – that is, when something goes wrong.

3.52 Within individual establishments, COs will establish whatever reporting arrangements they consider appropriate, depending to some extent on their interest in the care of minors. No CO interviewed appeared to have established performance standards for the management of minors. Nor had any CO identified a position within his command responsible for overseeing implementation of all policies and procedures for minors. COs rely on staff to draw to their attention any matters that they feel the CO should know about. This is a fairly ad hoc arrangement, influenced by the values of the CO and the staff involved, and is, again, based on exception reporting. The scope and nature of exception reporting will be influenced by whether there has been any recent incident within the training establishment involving a minor that might sensitise staff to particular issues.

3.53 This is not intended to imply that staff in training establishments do not care what is happening to the minors in their care. But it is very difficult, as an observer, to make an objective assessment of how well care is being delivered in the absence of data on day-to-day implementation. This difficulty is exacerbated by the variability in procedures between establishments. The contrast between the views expressed by staff that they are delivering adequate care to minors and the experiences of that care reported by minors themselves does not encourage confidence that reporting procedures are working effectively.

3.54 Even where there are established accountability mechanisms in place, it is difficult to be confident in their accuracy. For example, training establishments are required to report regularly to the Defence Equity Organisation on complaints about

unacceptable behaviour in the ADF. However, this data is not differentiated according to the age of the complainant, and it is not collected or reported if a complaint is not made formally. Anecdotal evidence from minors about sexual harassment incidents, for example, suggests that they are often not reporting or proceeding formally with complaints because they do not believe they will be listened to or their concerns will be taken seriously.

Feedback mechanisms for minors

3.55 All establishments have arrangements in place to obtain feedback from students about the effectiveness of training provided. Some establishments survey students regularly throughout the course, others seek end-of-training feedback. These surveys seek comment on areas such as the quality of teaching and relevance of course content. Sometimes they can be completed anonymously. Other establishments have debriefing sessions at which class groups can comment on issues directly to staff. Most of the data collected relates to the quality of instruction rather than the effectiveness of the total training environment and how this might be improved.

3.56 No establishments specifically seek comment from minors on their reactions to training. Very few establishments obtain feedback from students who do not graduate, either because they are unable through injury or academic failure to complete the course, or because they choose to leave training. This is a major shortcoming. The experiences of students who have been unsuccessful could throw much light on the problems they faced and ways in which they might have been assisted to complete their training.

3.57 Some training establishments have taken a different approach to obtaining student feedback. STT has a monthly Trainee Executive Council at which course orderlies can raise with staff, including the CO, any issues relating to the training environment. RMC has introduced a Training Review Team that visits students regularly in their lines to listen to any concerns they might have. Neither of these initiatives is directed specifically to minors, and the minors themselves were not enthusiastic about their effectiveness. Nevertheless, they demonstrate staff interest in making themselves available to hear students' experiences and providing a more immediate response to any concerns raised than could be achieved by end-of-course feedback. Both have the potential to develop into highly successful feedback mechanisms.

3.58 Perhaps the greatest limitation in currently available feedback is the lack of consistency in data collection. There appears to have been no effort to standardise collection across establishments or to consolidate it for use in performance management across the ADF. Its value in assessing the effectiveness of care for minors is very limited.

Learning from experiences

3.59 Evidence from Defence staff and minors themselves demonstrates that the challenges facing those responsible for the care of minors in training are consistent across the ADF. Many of the staff in training establishments recognised this, although Army staff were less inclined to see the experiences of other services as relevant to their training of minors. Some staff were actively seeking advice from other establishments on how they handled training risks and delivered the care minors required. This was often done at the initiative of individual staff and COs. It appears to be occurring with increasing frequency. Nevertheless, there is still little understanding

of what other services do and the investigator was regularly asked to provide information on the practices of other establishments.

3.60 There is a lack of recognition of the value of sharing training experiences at the senior administrative levels in the ADF. This may reflect the view that responsibility for the delivery of care to minors rests with the training establishments themselves. There appear to be few mechanisms in place for regular information exchange between services at Training Command level.

3.61 For example, many staff spoke about the need to protect minors from physical injury that might jeopardise their training. They noted that improved learning outcomes could be achieved by more gradually introducing trainees to the physical stresses of military activity and allowing adequate rest and time for consolidation of training, rather than constantly forcing the pace. Yet it seems that this approach has taken some time to be adopted widely within the ADF.

3.62 Staff reported that such improvements often needed to be driven from the bottom up, rather than the top down. They tended to be developed in a particular training establishment in response to a problem that had received media attention. But because there were few mechanisms for distributing these learning experiences, enhancements introduced locally, which might be of advantage to minors elsewhere, were not necessarily picked up for development as ADF-wide best practice strategies. It was largely up to each establishment to keep abreast of such changes elsewhere and assess their value. Several establishments reported that improvements they had introduced had come only through knowledge shared by a staff member with experience in another training establishment. This is not the most effective way of advancing best practice.

3.63 Within services, especially the RAAF, there is much greater willingness to share experiences. But this is not necessarily matched by attention to ensuring that lessons learned are not lost. ADF staff are highly mobile. As a result, staff are dependent on instructions and procedures to provide guidance and corporate knowledge. This can be a liability when, as is the case with minors, the procedural guidance available on their management is limited.

3.64 Handovers and briefings for incoming staff, particularly on past problems and any undertakings to address them, become critical. Investigations or reviews are often undertaken of incidents relating to minors in the ADF leading to recommendations addressing any shortcomings identified. But there does not appear to be a central authority responsible for ensuring that such recommendations are implemented and improved standards maintained over time.

Ombudsman Opinion

3.65 In my opinion, accountability for the care of minors is poor. There is little consistency in data collection or reporting procedures. Responsibility has been almost totally devolved to the individual establishment level but without the development of appropriate monitoring and reporting structures. There are no agreed performance standards for delivery of care to minors applicable within services or across the ADF. Exception reporting is considered the norm.

3.66 Data collected on training outcomes focuses largely on course content. Feedback from minors is not consistently obtained within services or across the ADF and provides little qualitative assessment of their training experiences. Even when qualitative data is collected and used within the training establishments to improve

outcomes locally, information was rarely used more broadly to improve outcomes across the ADF.

3.67 Reluctance to obtain feedback from minors who do not complete training has deprived the ADF of useful comment on aspects of the training experience where improvement may well be required. However, the initiatives at STT and RMC designed to provide real time feedback could offer opportunities for improving outcomes for those still in training.

3.68 A more coordinated approach to data collection and use is required. Adoption of standard formats for obtaining and analysing data about training outcomes would be a good start. Generally, training establishments reported wanting to be able to make similar judgements about the success of strategies for managing minors. A consistent approach would save time – training establishments would not need to keep reinventing the wheel – and facilitate comparison of outcomes across the ADF

3.69 Regular monitoring and reporting on outcomes for minors, based on assessments against agreed performance measures, is urgently required. This should occur within individual establishments, within services and across the ADF as a whole. Service Chiefs and the CDF must be in a position to account annually for the numbers of minors in each of the services and the extent to which performance standards for their management were met. Reporting should also cover the reasons why any minors discharged have not completed training. Such performance information is essential to understanding the impact of training on minors and ensuring that adequate standards of care are being maintained.

3.70 It is clear that many of the problems faced in training establishments are common across the ADF, regardless of service. There is enormous potential for training establishments to learn from each other's experiences. It would be desirable for the Training Commands and training staff of the three services to meet regularly, or to implement other strategies (eg newsletters or discussion databases etc) to share ideas and best practice.

3.71 A formal mechanism for ensuring that problems identified in the management of minors are taken up across the ADF is also desirable. It was suggested to the investigator that to impose such a mechanism would interfere with service independence. Such a view is disappointing. It fails to acknowledge the obvious benefits that flow from learning from the experiences of others. It also ignores the obligations on the ADF to ensure that the interests of its members are protected as effectively as possible, especially when those members are minors.

3.72 The same principle applies when a training establishment or service develops an approach that can provide significantly improved outcomes for minors. A strategy to facilitate wide dissemination and adoption of effective practices across the ADF would help ensure all services are able to maintain similar high standards of care.

Provision of support services

3.73 Care for minors is delivered through the command structure and special support services available in each establishment.

The command structure

3.74 There are significant differences between services in how they deliver care through their command structures. It is possible to make some generalisations about

these differences, although the following comments should not be seen as necessarily applying to all staff in a particular service.

3.75 In the Navy, care of minors is essentially an extension of the divisional system that cares for all personnel. Consequently, staff tend to see their responsibilities to minors as largely confined to their role within the divisional structure. This may be good administration from the Naval perspective, but from the comments of staff and minors it may be creating barriers to access for those needing help.

3.76 For example, the response to a question about how an allegation of sexual harassment would be handled was to identify the staff position responsible for dealing with such issues. Addressing the problem becomes that staff member's responsibility, according to the duties of that position. The allegation would not necessarily trigger a review of factors that might have contributed to the problem arising, such as adequacy of supervision or risk management, which relate to the duties of other positions within the training establishment.

3.77 Army staff were strongly influenced by their individual roles within the platoon structure, similar to Naval staff in the divisional structure. Most staff felt confident the platoon structure would adequately care for minors as, in their view, it cared for all personnel. If a problem arose, it tended to be seen as the province of the support 'experts', such as the Chaplain or the psychologist. Caring for minors with difficulties was not necessarily seen as an integral part of the establishment's training function. The exception to this was the RMC, which had developed detailed risk assessment and mentoring arrangements for minors to identify and address problems at an early stage.

3.78 Command structures in the Air Force were characterised by a more holistic approach to the management of minors than those in the other services. Staff emphasised support and encouragement for all training personnel, rather than focusing on minors as a vulnerable group. Arrangements at 1RTU at Edinburgh are a good example: staff work as a team to identify the risks for each individual and develop a tailored program to provide appropriate care and support based on those risks. This approach integrates support for recruits within the overall training experience, rather than a separate function required only if a problem should arise. However it still does not specifically target the needs of minors.

3.79 The ADFA command structure appeared to deliver highly integrated care for minors. Risks identified for a particular minor were discussed among all staff involved in his/her training. Addressing the needs of a minor was a responsibility shared by all staff, utilising the skills and resources of the command structure as well as the specialist support staff.

Provision of specialist support services

3.80 All training establishments provide a range of specialist support services, for use by all personnel in training. The nature, number and availability of services varies between establishments. Support services available include:

- The Equity Adviser Network—all establishments have Equity Advisers, part of the Defence Equity Organisation infrastructure supporting equity and diversity decision-making across the ADF. Equity Advisers are trained ADF volunteers available to provide advice to Defence personnel about options for handling a problem. They are not legal advisers. Minors can approach an Equity Adviser

(EA) for assistance at any time. A 24 hour Equity Advice Hotline offers access to anonymous advice if required.

- Chaplains—all establishments have at least one Chaplain. They provide religious and pastoral support and usually operate outside the chain of command. Much of the support provided to minors by Chaplains is informal. They often make themselves available informally as trainees move through their day, for example, chatting with them over a meal break. Chaplains are also available for consultation by appointment.
- The 'Sallyman', the Salvation Army representative—the Sallyman is mostly associated with Army training establishments. He operates a drop-in centre where trainees can relax during time off. He also provides moral support, travelling with soldiers when they are on field deployments during training. (In some establishments, this function is fulfilled by Everyman's Welfare Service¹¹ rather than the Salvation Army.)
- Health staff, including psychologists—all establishments have access to health personnel, although their qualifications and availability vary enormously. Some training establishments have access to fully equipped hospitals with uniformed doctors. But this is the exception, and most have only health personnel with limited nursing training and access to civilian doctors on call. Many establishments have experienced psychologists available fulltime, while others have access only to civilian psychologists off-base and appointments can sometimes take up to two weeks to arrange.
- Social workers, primarily provided through the Defence Community Organisation (DCO)—the DCO has offices at, or is contactable through, all training establishments. Social workers are usually used to assist students with management of family problems that may be affecting their performance.

3.81 None of the specialist support services is tailored to the needs of minors, nor are all staff necessarily trained in communicating with adolescents. All support staff interviewed advised that they were careful in their dealings with minors and alert to their problems. But there is no strategy across the ADF or in individual services for providing all minors with additional assistance in understanding and accessing support services. For example, arrangements for making complaints about harassment or inappropriate behaviour are no different for minors than other personnel. This was despite a general recognition that many minors may not have the life experience to recognise when they are faced with unreasonable behaviour or expectations, or to know how to respond if they feel they are being dealt with in an inappropriate manner.

Access by minors to support arrangements

3.82 Confidence among minors in using care and support arrangements is critical to the effectiveness of those arrangements. Even structures that look appropriate and are well understood will not be effective unless minors feel able to use them. Minors in training are in a vulnerable relationship with training staff. By virtue of their youth, minors have limited life experience, they may not readily understand ADF structures, customs and conventions; they may fear exposing weakness to instructors or peers, or be worried about possible future retribution if they complain. They need to feel their concerns will be heard and acted on in an appropriate manner.

¹¹ Since 1940 Everyman's Welfare Service has served members of the Australian Defence Force and their families.

3.83 Staff in all establishments contacted were reasonably confident that they were delivering accessible care. They felt the chain of command and specialist support structures were working effectively, and that minors could readily obtain all the assistance they needed.

Feedback by minors

3.84 Comments made by the minors themselves indicate that a lack of confidence they are cared for inhibits their seeking support in almost all training establishments. Barriers to confident access reported include:

- Failure to understand how the system could be used to help them. This seemed partly due to difficulty in assimilating information about Defence structures and establishment Standing Orders. Most minors said they were trying to absorb too much information, too quickly, at a time when they were busy 'just surviving'.
- Failure to see some of the most highly publicised support structures as relevant to them. In all establishments, minors commented on the extensive briefing they had received about the Equity Adviser Network. The establishments themselves made much of this mechanism as a key plank in support arrangements, particularly the management and reporting of unacceptable behaviours in the ADF. Minors in all establishments except the RMC said they regarded the EAs as irrelevant or ineffectual, and that they would not use the network.
- Lack of trust in the chain of command. Minors reported concerns such as: failure of staff to keep problems raised confidential, particularly from other students; fear of, or actually being, ridiculed by staff over any admitted weakness; and an expectation that staff would always stick together to protect themselves and the ADF. They reported a disturbing 'them and us' attitude.
- Unavailability in some training establishments of adequate numbers of appropriately qualified and experienced senior females, able to provide confidential support and assistance to female minors. Many of the female minors interviewed said they were very reluctant to talk to a male. Interestingly, many of the younger males also expressed a preference for talking to a woman about their problems. They reported finding females more sympathetic to their views and concerns.

3.85 Despite minors' general lack of confidence in seeking support, comments on the accessibility of specialist support services were usually positive. Only in the Army was there evidence of some reluctance among minors to acknowledge they had a problem that might require consultation with a psychologist, or to admit to a physical injury that might jeopardise completion of training. Some reservations were expressed among Naval Recruits about the confidentiality of arrangements for obtaining access to specialists.

3.86 However, responses on the accessibility of the chain of command were much less encouraging. The chain of command plays a central role in supervising minors day-to-day. It is regarded by all services as the primary system for managing and supporting minors during their training. Reasons for this lack of confidence were explored in some detail during the process of this investigation.

3.87 Minors in the Navy reported little confidence in the divisional system to help them. This is not to imply that staff interviewed were unwilling to assist minors if they recognised an issue as their responsibility. Quite the contrary. But minors appeared to feel the rigid divisional structure left them no real choices. If they had no confidence in

their divisional staff, they seemed to feel isolated and alone. Most of those interviewed said they would not even consider using the chain of command to resolve a problem.

3.88 Similarly, minors in the Army rarely saw the chain of command as part of a support structure accessible or responsive to them. Those minors who acknowledged having experienced difficulty said they felt the chain of command was not interested in them and there was a view that it held against them any expression of 'weakness'. This concern emphasises the tension between Army's acknowledged training objective – to produce soldiers who are tough and can cope – and the need to protect and encourage more vulnerable, younger soldiers as they develop these capacities.

3.89 Although the Air Force arrangements for managing minors suggest the chain of command might be regarded as accessible, comments from minors did not altogether support this view. Minors' comments suggested they felt more intimidated by training staff than specialist support staff, whom they saw as much less judgmental.

3.90 Only in ADFA was staff confidence that the chain of command was effective in supporting minors borne out by the opinion of the minors themselves. All those interviewed said they felt confident they would be listened to, their problems taken seriously and acted upon, regardless of whom they approached in the chain of command or the specialist support services.

Ombudsman Opinion

3.91 This investigation showed that there is considerable confusion among minors and their parents about what is expected of minors within each service and training establishment. Easily accessible, understandable and accurate information is needed covering what the ADF provides by way of care for minors and how they can get help when they need it. This information should also be available to the parents and guardians of minors.

3.92 There is widespread misunderstanding and lack of confidence among minors in training establishment command structures. In my view, the assumption, widely held throughout the ADF, that the command structures that provide adequate support for adult personnel must necessarily be appropriate for the care of minors as well, should be re-examined.

3.93 The generally strong endorsement by minors of specialist support staff (except EAs generally) is encouraging. All specialist support staff were strongly committed to helping create a caring training environment for minors. Several suggested their skills should enable them to take a more proactive role in risk management rather than just providing assistance when problems arose. Some establishments are already using support staff, such as Chaplains, in informal mentoring of minors and other vulnerable students. But these are ad hoc arrangements and vary between establishments. This investigation found that there is no evidence that specialist services are used strategically throughout the ADF in managing minors.

3.94 Across all services, there was evidence that recruits generally felt far less confident than officer cadets and trainees in accessing support structures. All minors reported feeling isolated and uncertain when they started, but the recruits, as distinct from officer cadets, often continued to feel confused about what was happening to them well into their training. The recruits took much longer to adjust to the military environment and, rather than devoting their energies to the learning experience, many minors seemed to be just trying to cope each day. Their comments suggest that the

ADF needs to give greater attention to ensuring that minors are given adequate time and support in making this adjustment. Perhaps creating a more positive training environment might help achieve this.

3.95 Inadequate numbers of female staff to provide independent and confidential support to female minors was an ongoing problem in most establishments. There appears to be a dearth of suitable female staff available for posting to training establishments. In RANC, for example, there was no female Divisional Officer and female Midshipmen were forced to rely on a female non-uniformed doctor, who was available on only an irregular basis. Attention needs to be given to ensuring that appropriately qualified and experienced senior females are available in all establishments where females, particularly minors, will be in training.

3.96 The almost universal lack of confidence among minors in the Equity Adviser Network requires special comment. Clearly minors do not see the network as relevant or accessible, except in the RMC. It would be interesting to explore further the reasons for endorsement of the RMC EAs. One explanation may be the more proactive approach apparently adopted by EAs at the RMC: they actively help officer cadets solve their problems, rather than just provide advice. Anecdotal evidence from some minors about EAs' alleged lack of interest in some, albeit informal, complaints concerning sexual harassment are a serious concern. Reasons for this lack of confidence in EAs should be investigated and addressed by the Department as a matter of urgency.

3.97 Many, but by no means all, staff interviewed suggested that if minors did feel uncomfortable or confused, that was simply part of the process of being 'acculturated' into the military. It was essential to break down the minor's relationship with the civilian world in order to replace it with a military perspective. Comments were made that this was the only way for training to be effective and that it is the way the trainers were trained and it worked for them.

3.98 Staff in the Army particularly commented that dissatisfaction among recruits and trainees and high failure rates were to be expected. In their view, dissatisfaction about minors had more to do with the quality of recruits than the training and support provided. The answer lay in improving selection rather than in modifying training and support arrangements. Staff in other services were more willing to consider that changes, both in society and teaching theory, meant they might need to modify training. They recognised there might be a need to find better ways of communicating with and managing minors.

PART 4: OTHER ISSUES ARISING

4.1 The issues discussed below do not relate specifically to management of minors in the ADF. However, they arose in the course of the investigation and have particular relevance to minors because younger people are often more vulnerable than other personnel in training.

Recruiting

4.2 Many minors interviewed commented on the poor quality of advice provided at recruiting interviews. At the time of the investigation, recruitment for the ADF across Australia had been outsourced to an organisation called Manpower, following a trial in Victoria. Senior ADF staff indicated that it was perhaps too early to evaluate the success or otherwise of outsourcing. However, some training staff expressed concern that Manpower may not be sufficiently rigorous in their assessments of applicant suitability.

4.3 Many minors also complained that the information given to them about life in the military was unrealistic, focusing only on exciting aspects, like battle and travel. Misleading information, particularly about the challenges of training, may well make it even harder for all enlistees to adjust to a military life. Any review of recruitment processes should include consideration of the timing, nature and content of advice provided to potential recruits and, if they are minors, to their parents as well.

Briefing for recruits, trainees and officer cadets on commencement

4.4 Evidence provided by those interviewed suggested that much of the early briefing given to new entrants when they arrived for training was ineffective. There was so much to absorb, and all of it new. Regular reinforcement of new concepts, particularly how to use the chain of command, and more lateral approaches to briefing could be useful. Many people learn best when they can see the practical application of a procedure. Greater use of examples of how arrangements work in managing real situations enlistees are likely to encounter could help. Including such examples in Joining Instructions, perhaps in the form of a real or created diary of training, might make the arrangements more relevant and easy to remember.

Role of initial training

4.5 The purpose of initial training for new entrants to the ADF is perceived differently by the services. Army staff interviewed discussed it as an extension of the recruitment process, a 'weeding out' of those who are unsuitable. Navy and Air Force, on the other hand, seem to view initial training more as the means by which civilians can be brought to the required physical, technical and psychological readiness to undertake the next stage of training. It is by no means clear that those undertaking Army training understand this difference, and it is perhaps one of the reasons why dissatisfaction levels among recruits in the Army were found to be high. This suggests that the recruitment process needs to be enhanced to ensure that all who are accepted into the ADF have a good chance of success; or that the real nature of initial training should be explained to recruits. All services may need to consider whether training procedures require modification to ensure that 'marginally suitable' recruits are better accommodated. This could require extending the period of training to permit a more gradual acquisition of minimum requirements.

4.6 The CDF has recently advised that since the investigation commenced, 'hand over' procedures of minors (and older trainees) between ADFA and the service colleagues have been tightened and are undergoing further review. It is pleasing to note that the ADF accepts the need to support younger members as they move from one training environment to another.

Role and responsibilities of Commanding Officers

4.7 Commanding Officers (COs) of training establishments have a pivotal role in the effective delivery of training. Comments made by COs interviewed suggest their roles and the preparation they receive for them require review to ensure COs are best placed to deliver the outcomes sought by the ADF. These include:

- Standard handover arrangements—the quality of handover from former COs is variable, often depending on the availability of both officers and what they consider important. Adequate time for coverage of all relevant issues is essential, and a standard format for briefing is desirable, including full explanation of past problems and initiatives/ commitments to remedy them.
- Detailed advice and direction from Training Command, backed by performance reporting—the expectations of Training Command of every CO appointed, and relevant performance measures, should be explicit, including responsibility for management of minors. Annual performance reporting against these measures should be mandatory, rather than on an exception reporting basis.
- Breadth of responsibilities—the breadth of responsibilities for COs should be realistic, recognising the requirements of accountability. Many COs indicated they had insufficient time and staff to administer all aspects of their responsibilities to their satisfaction. This included their capacity to monitor effectively the minors in their care.
- Capacity to approve discharge for unsuccessful trainees—some COs were authorised to approve discharge when required. Others had to refer recommendations to more senior officers, which often delayed decisions for some weeks. This could have a detrimental effect on discharges anxious to leave, and divert staff from training duties to supervise them while they await discharge. The discharge arrangements would benefit from streamlining and standardisation across services.

Staffing of training institutions

4.8 Maintaining sufficient numbers of high quality staff in training establishments is a problem shared by all services. It would seem appropriate for the ADF to develop a tri-service strategy to boost instructor numbers for training purposes. The RAAF approach – a standard instructors' course – is a logical starting point. It might also be worth considering the option of establishing a cohort of regular instructors within each service. Instructors who were especially selected and trained, and appropriately remunerated, could be given a separate career structure and the opportunity to refresh their technical training at set intervals, for example, every three years. It would help ensure that instructional responsibilities had an appropriate status within the ADF; obviate the need for ongoing training of so many new instructors for every establishment every year; and assist in maintaining high standards, particularly in the teaching of younger people.

Case management of enlistees to maximise success

4.9 Early identification and remediation of risk areas for entrants to the ADF, particularly minors, appears to be a highly successful strategy for maximising success in training. The case management approach accommodates the strengths and weaknesses of each entrant. While it may be more labour intensive, anecdotal evidence supported by some limited research suggests that it is effective in improving outcomes, especially for younger recruits. It is particularly useful with those who may need extra time to meet the physical requirements of training or adjust to military structures. The costs associated with the recruitment, training and subsequent discharge of unsuccessful enlistees suggests there would also be significant economic benefit in reducing failure rates. The ADF may wish to explore the benefits of individual case management for all enlistees.

Reviewing requirements of employment categories

4.10 Comments from staff in some training establishments suggest that the requirements of some employment categories may be inappropriate for minors. The emotional, psychological or physical maturity required to undertake training, or in fact to perform in the field on completion of training, may simply be too much for someone under the age of 18 years. An example is the course at the RMC. Officer cadets are required to demonstrate leadership capacities that many staff believe are usually beyond minors. The RMC has resolved this problem by raising the age of entry to 18 years (as of July 2004) and inviting candidates under 18 who are deemed suitable to join Bridges Company for initial training prior to Officer training.

4.11 Another example is the Infantry course at SOI. Staff at SOI suggested that, apart from the very heavy physical requirements of the course, the psychological and emotional maturity required are unlikely to be found in a minor. SOI is still accepting minors.

4.12 The ADF in recent times undertook a program that will hopefully lead to benchmarking of requirements for participation in different employment categories. The Physical Employment Standards Project was initiated by the Chiefs of Service Committee in 2003. It is looking initially at the physical fitness standards required for entry into the Infantry course at SOI and the Airfield Defence Guards course at Amberley. Minors are eligible to undertake both these courses. The project may provide insight into whether minors can reasonably be expected to meet course requirements.

4.13 The project has enormous potential for improving training processes and outcomes. It could provide benchmark data for the development and monitoring of strategies to accommodate changes in trainee demographics, such as the decreasing levels of fitness in recruits entering the ADF. It could be used to improve risk management in training, by identifying the levels of risk associated with particular activities in training and how those risks can be reduced for vulnerable recruits, including minors. The cost benefits to the ADF, and the improved outcomes for individuals, are excellent reasons for the ADF to give priority to expanding this project to cover all employment categories as quickly as possible.

Minimum number of women for effective team structures in training

4.14 Comments from females in training suggest that a minimum number is required in a mixed sex group of trainees if the females are to be accepted as part of the team. Experience at ADFA suggested that, to be seen as more than ‘token’, females must constitute at least 25% of a team. In several of the establishments visited, the small number of females in training were spread among the training groups, based on an assumption that two females in a team was sufficient regardless of team size. This approach takes account of the need to avoid lone females in any team, but may not adequately accommodate team dynamics.

4.15 Females in twos or threes in such teams reported feeling isolated, especially because they were, quite appropriately, accommodated separately from the males. They had little opportunity to review the experiences of the day with male team members. Males confirmed that they felt the effectiveness of the team had suffered as a consequence. There was no information on which to judge whether, if the sex balance were reversed, the result would be similar. The ADF may wish to consider establishing a minimum 25% of total trainees of both sexes when forming a mixed training team. This could require forming some male-only teams; or perhaps delaying the intake of females until a sufficient minimum is available for commencement together.

4.16 The CDF has advised that because in recent years new entrants to ADFA had consisted of only 20% females, at least two first year divisions had to be all male. This created the tendency of all male divisions to develop ‘boys’ club’ attitudes. To address the situation, a decision was taken that all first year divisions would be mixed gender. In the view of the CDF, the change appears to have been a success. It is apparent that the limited number of females in some training groups will continue to require careful management.

Adequacy of health services in training establishments

4.17 The adequacy of health services in training establishments came up regularly in discussions with staff and students. The provision of health services across the ADF and requirements to meet health needs up to 2010 has been the subject of a major review in 2004¹². The review has highlighted challenges in providing adequate health services in training establishments, including:

- Lack of an overarching structure for managing health services in training establishments: responsibility is split between health services staff and the service chains of command within establishments. Responsiveness to identified health needs is often slowed considerably.
- Limited coordination of decision-making affecting the health and wellbeing of trainees. For example, the decision to reduce the period of training for Army recruits at Kapooka was apparently taken despite health personnel concerns that there would be a significant rise in injury rates. The predicted rise did in fact occur.
- Difficulty in obtaining experienced doctors, especially in isolated areas. Often establishments were forced to rely on a number of local civilian doctors, each able to provide services one or two days a week. Many civilian doctors

¹² This review is still in the process of being finalised.

reportedly did not understand the physical or psychological demands of military training. The constant stream of part-time practitioners also adversely affects the continuity of treatment.

- Limited collection and analysis of data about the impact of health improvement strategies, such as the Defence Injury Prevention Program. This limits capacity to understand and encourage broad implementation of best practice developments.

4.18 Several COs commented that their capacity to monitor the wellbeing of staff in their command was compromised by the use of non-uniformed medical staff. Apparently this change to non-uniformed personnel resulted from a recommendation of the Defence Efficiency Review in 1996, endorsed by the ANAO¹³. Operational areas were given priority in the deployment of uniformed medical staff and training establishments were not regarded as a core Defence activity.

4.19 Uniformed doctors are outside the chain of command yet understand how it works, as well as the stresses imposed by a military lifestyle. Often they were able to be more frank with COs about their perceptions of problems within an establishment than officers inside the command structure. This informal advice could provide a much-needed, independent barometer for the CO of the organisational health of the establishment. But civilian doctors (and psychologists) not infrequently regarded providing such advice to the CO as conflicting with patient confidentiality obligations.

4.20 The tension between the individual's right to privacy and the CO's duty of care for the welfare of those in his or her command was raised by many of the COs interviewed. Providing adequate care for personnel requires that the CO be informed about actual and potential problems as soon as possible. The need does not relate solely to minors but it can be of particular concern in training establishments. In fact, once trainees are over 18 years, privacy concerns can intensify. A CO aware that an over 18 year-old who needs family support is constrained from advising parents without the trainee's consent.

4.21 The stresses associated with training are widely acknowledged. Concerns about privacy issues where trainees are experiencing problems were expressed by all services. Yet there appears to have been little attention given by ADF management to how those problems can best be managed.

4.22 The ADF has a huge investment in the healthy operation of its training facilities. It would be unfortunate if this investment were being jeopardised because health services are not given adequate priority to meet the health needs of recruits so that they can maximise their chances of success.

¹³ ANAO Report No. 34; 1996/1997: *Australian Defence Force Health Services*.

PART 5: CONCLUSIONS AND RECOMMENDATIONS

5.1 The conclusions and recommendations that follow identify areas where action might be taken to improve administration of minors in ADF services and training establishments.

Definition of duty of care to minors in the ADF

5.2 A comprehensive and unambiguous definition of the ADF's duty of care to minors is a prerequisite for delivery of consistent care across the ADF. There are acknowledged differences between services and their structures for management of personnel. It is therefore desirable that, within this definition, each service and establishment, be able to develop the strategies it believes most appropriate to support and protect minors in their care.

Recommendation 1: That the ADF seek legal advice as a matter of priority on the extent of its duty of care to minors and how that should be interpreted in service and training establishments. The advice should address the interaction of Commonwealth and State/Territory laws, the implications of society's expectations about care owed to minors, and the ADF's liability if adequate levels of care are not provided.

CDF Response: **Agreed**

- In April 2005, the Air Force engaged external legal services to carry out a generic risk assessment for minors at Air Force Training Command units. The response is due on 30 November 2005 and this could be used to inform the way ahead for the ADF. There are significant legal implications to the ADF-member and ADF-parent relationships where the member is under 18 years and it would be inappropriate to develop policies without first seeking legal advice.
- Defence is of the view that *in loco parentis* is a dated concept and imposes a lesser duty of care than would be owed by the Commonwealth to minors. A similar external review of child protection policies for ADF Cadets found widely divergent State and Territory legislation and recommended adoption of the most stringent and acceptable steps in this legislation. However, this is unlikely to identify much that is applicable to the ADF employment situation. Common law negligence standards would appear to be more applicable.
- Although there are obvious legal implications with age, age itself is not the only issue and should be seen in terms of an individual's general maturity. Physical and introductory training duty of care for minors is similar to that given to any newly recruited adult member and requires a higher standard of personnel management.

Ombudsman comment

It is pleasing to note that the RAAF initiated action on this matter prior to the completion of the draft report. Once the Air Force has completed the risk assessment, I would welcome the opportunity to discuss the conclusions and to contribute to the development of any ADF-wide proposal which flows from the project.

Recommendation 2: That legal advice on care for minors be used to develop a Defence Instruction (General) (DI(G)) that would define the ADF's responsibilities for the administration of minors. It should include examples of the risks associated with care of minors that must be covered in any service arrangements to give effect to the DI(G).

CDF response: Agreed

- The current DI(G) PERS 33–4 – *Recruitment and employment of members under 18 years in the ADF* does not provide any basis for understanding the full requirements for exercising **duty of care** to minors. Upon receipt of appropriate legal advice, Defence will employ a working group to develop policy to encapsulate *duty of care* responsibilities.
- Consideration will be given to expanding duty of care policy in a separate DI(G) to include application to all new recruits within their first year of enlistment, and during their period of recruit and initial employment training. Some general tri-service procedures might include duty of care related to training and safety issues; personal health and treatment issues; leave obligations; housing; effective complaint handling mechanisms and developing a mentoring program for young recruits to assist their integration into service. The role of parents should also be considered. The difficulty in balancing the parents need to know with the recruit's privacy and growth into adult responsibilities should be addressed.

Ombudsman comment

The proposed response potentially addresses the issue raised.

Recommendation 3: That, consistent with good administrative practice, each service develop its own Instruction identifying how minors will be managed within service personnel management and training structures. The DI(G) should address risks specifically associated with that service. It should inform the development of procedures to manage those risks within individual training establishments.

CDF response: Agreed – with minor clarification

While it is acknowledged that the report highlighted differences between the three services, as well as differences to tri-service organisations, it is considered more appropriate for Defence to focus on the provision of consistent, tri-service advice within a DI(G). Where necessary, single service annexes can be developed to outline service-specific requirements.

Ombudsman comment

The proposal to supplement a tri-service DI(G) with single service annexes appears consistent with the aim of the recommendation, that specific guidance should be available for members where there are issues arising in a particular service.

Recommendation 4: That comprehensive and accurate information about the ADF's duty of care for minors (and what this means within each service and training establishment, where appropriate) be provided for all potential enlistees who are minors, and their parents/guardians. This information should include examples of how the duty of care will be delivered day-to-day, as well as the limits of the ADF's responsibilities.

CDF response: Agreed in principle

Agreed in principle but the detail suggested, to the level of training establishment, may be difficult to achieve in the short term. The Defence Recruiting website has been updated to include a copy of the current DI(G) on minors and would be updated as required. The information provided to minors and their parents should also reside in the DI(G) to enable access to all military staff at training establishments.

Ombudsman comment

It is accepted that information at the training establishment level may take some time to develop.

Implementation of care arrangements within training establishments

5.3 Training establishments and COs need clear direction about expected outcomes relating to care of minors. Appointment instructions issued to incoming COs by Service Training Commands should specify outcomes and performance measures for this duty of care. Performance against these measures should be included in regular reviews of COs and training establishments, rather than on an exception reporting basis.

5.4 COs should be given the practical support necessary to deliver appropriate levels of care for minors. This could include a realistic assessment of the breadth of their command responsibilities and support and advice in identifying risks and monitoring outcomes for minors. Similar instructions on performance standards and measures should be provided for other staff with particular responsibility for managements of minors.

Recommendation 5: That service Training Commands take a more active role in directing and supporting Commanding Officers (COs), and their staff, in the delivery of care to minors. This could include the following.

- Issuing instructions for incoming COs in training establishments for management of minors. These instructions would be tied to the relevant Service Instructions and specify expected outcomes and performance measures against which COs will be assessed annually.
- Ensuring COs have the resources – time, staff and administrative support – necessary to deliver expected outcomes. This could include designation of a staff member with specific responsibility for assessing risks and monitoring/reporting on outcomes for minors.
- Facilitate exchange of information about best practice in managing minors within and between services. This could include regular meetings/exchanges of instructional and support staff, as well as COs, across training establishments and services.

CDF response: Agreed – with comment

- Directives for Commanding Officers of training establishments could draw attention to the requirements of the DI(G) however performance measures may be difficult to quantify.
- Scope and reach of time and staff to deliver expected outcomes have not been identified and may be difficult given current resource constraints. Administrative support required cannot be quantified.
- Exchange of information is supported and arrangements already exist for coordination between ADFA and the three service colleges. Exchange of instructional staff and support staff, as well as Commanding Officers, across all training establishments may be difficult to achieve in some areas with differences between service and cultural constructs.

Ombudsman comment

If exchange of staff between services is problematic, other options might be considered, such as joint service conferences, a regular tri-service training newsletter, or a discussion database with a session/section devoted to issues in relation to minors.

5.5 Consistent implementation of high standards of care for minors requires adequate numbers of appropriately trained instructors and support staff in training establishments. Adequate staffing of training establishments is a problem across the ADF, suggesting a tri-service strategy is required.

Recommendation 6: That the ADF consider developing a tri-service strategy for training and maintaining consistent, high quality instructional and support staff in training establishments. The strategy would recognise the critical role of recruitment and initial employment training to maintaining a strong ADF. It could include the following.

- Developing consistent selection procedures for instructional and support staff in training establishments, which will ensure they have the capacity to communicate effectively with minors; and developing standard minimum training requirements to ensure all staff involved with minors have the necessary skills to provide an appropriate level of care.
- Reviewing the priority given to provision of support services, particularly health services, in training establishments to ensure resources available for minors who may be at risk of physical, psychological or emotional injury are sufficient.
- Establishing benchmarks for qualifications, experience and number of instructional and support staff, and timeliness of support services, in training establishments responsible for the management of minors.

CDF response: Agreed – with comment on operational capability

- Agree with the need to select high quality training and support staff for training establishments, and the DI(G) could provide guidance on this however robust procedures currently exist within each service for the selection of members to training establishments.
- A tri-service training package on the management of minors is supported.
- Any focus on the selection and provision of staff, particularly within the support services such as health, needs to be cognisant of Defence's prime obligation to maintain operational capability.
- The concerns raised in the report regarding the delivery of health care services are real challenges with the decreasing population of uniformed health care personnel and the diversion of uniformed personnel to more operational roles. That being said, civilian providers are as clinically capable as uniformed providers to provide health care in the non-operational setting. Civilian health practitioners are provided policy and practical guidance in delivering health care in a military setting. Whilst there is a learning curve when a practitioner commences working in a Defence establishment, with time the practitioner gains a greater understanding about the military training and working environment.
- The difficulties in obtaining the regular services of skilled health practitioners are well recognised, particularly in isolated areas, as Defence is competing against market forces with shortages of health care professionals in the Australian civil sector.
- Establishment of benchmarks for instructional staff is supported.
- The lack of data relating to health improvement strategies is an ongoing challenge. The current focus is on analysing the long-term health of members of the ADF who have operationally deployed. Further studies and health improvement initiatives will require business case development to assess the resource implications.

Ombudsman comment

The practical constraints that may be experienced in implementation of parts of this recommendation are noted.

Creation of a supportive training environment

5.6 Creating an environment in which minors can feel confident in obtaining support emerged as a major challenge for all training establishments, with the possible exception of ADFA. It is considered appropriate for the ADF to explore why minors see ADFA's arrangements as both relevant and useful; and whether there are lessons to be learnt by other establishments. In my view, students see adequate support not as a 'service' provided by a specialist staff member when things go wrong, but as an integral part of a positive training environment.

5.7 There is a correlation between minors' enjoyment of their training and whether they found staff approachable and helpful in dealing with their problems. The more supportive the environment, the higher the perceived relevance and accessibility of support arrangements. This has implications for the conduct of training across the ADF.

Recommendation 7: That the ADF review accessibility of support arrangements for minors, including by the following.

- Conducting surveys of the opinions of minors on current arrangements. Surveys should be anonymous, include minors who do not complete their training, and provide the option for free comment on barriers to access. Given that many minors lack broad life experience, it would also be appropriate to suggest options for improvement, on which they can comment. Examples could include greater access to their families (such as more opportunity for telephone contact) and tighter confidentiality when a problem is raised.
- Analysing factors, which contribute to successful support arrangements for minors; and using these as a basis for developing a best practice model for application across the ADF.
- Regularly seeking feedback from minors to ensure high standards set by the best practice model are maintained. Results from feedback should be consolidated across all services and form the basis of an annual report to the Chief of the Defence Force on the effectiveness of support arrangements for minors.

CDF Response: **Agreed – with amendment**

- Existing survey arrangements could be utilised to provide meaningful reactions from minors on the appropriateness of their training and personal management, rather than impose another survey on members. Rather than just focus on minors, survey arrangements should include all members in their first year of enlistment and extend to induction into their first unit.
- Any survey should examine more than simply support arrangements and include the recruiting process, induction management at the first and initial employment training establishments, information provided and access given to support services and end with experiences on induction into their first unit.

Ombudsman comment

The response is consistent with the objective of the recommendation.

Recommendation 8: That the ADF review administration of the Equity Adviser Network within training establishments to identify barriers to use of the network by minors. This review should include the nature and timing of information about the network provided to minors and training for advisers in communicating effectively with younger people.

CDF response: **Agreed – in part**

- The Defence Equity Organisation (DEO) has recently commissioned research into the barriers to making a complaint and also a review of the Equity Adviser (EA) Network. Both could be expanded to look at whether the experiences of 'under 18s' when dealing with EAs are significantly different to those of the wider Defence community.
- The results of a DEO sponsored survey of ADF and APS members have identified several barriers to making a complaint. These barriers are considered

relevant for all personnel, including minors. Supplementary research is currently being commissioned to examine why those barriers exist and suggest possible solutions.

- The review of the EA Network will examine the experiences of EAs in dealing with their clients, their confidence in undertaking EA duties, how well their training prepared them for the role and any circumstances that may restrict their adherence to the guiding policy documents.
- DEO supports individual commanders and managers in fulfilling their responsibilities for identifying and selecting appropriate (volunteer) personnel to be EAs and also for establishing, maintaining and promulgating their parts of the EA network.
- As the training authority for Equity and Diversity, DEO is continually reviewing EA training and pro-actively responds to suggestions from individual units, including those with members under 18 years of age. Training, including EA workshops and the mandatory annual presentations for all personnel, can be tailored to meet specific needs of any group within Defence.

Ombudsman comment

Assuming a representative sample of enlisted under 18s is included in the survey and the data can be separated from the broader survey, the response would be consistent with the objectives of the recommendation.

Monitoring of, and accountability for, delivery of care

5.8 The lack of quantitative and qualitative data on management of, and outcomes for, minors makes it difficult to assess whether training risks are being adequately managed. The view widely expressed to the investigator from my office by ADF staff that current arrangements are meeting minors' needs, is not supported by the anecdotal evidence available from minors themselves.

5.9 Regular monitoring against established performance measures is required at all levels. Exception reporting is not sufficient to guarantee a high standard of care delivery. Monitoring and reporting arrangements should be standardised across the ADF to facilitate assessment of trends. Mechanisms should be established to facilitate the exchange of information about best practice in the management of minors.

5.10 A formal accountability structure at service and ADF levels should be established to support COs in their delivery of care at individual training establishments. This must include clear lines of responsibility for the implementation of any recommendations arising from investigations into incidents affecting minors. Regular performance assessments of key staff responsible for implementing policies and procedures for care of minors are required, from COs, through Training Commands to Service Chiefs and the CDF.

Recommendation 9: That the ADF review the collection of qualitative and quantitative data relating to delivery of care for minors with a view to improving consistency of collection across services and facilitating analysis of trends across the ADF. This data should be used as a basis for preparation of regular reports for Training Commands, Service Chiefs and the Chief of the Defence Force on outcomes for minors in training.

CDF response: **Agreed – in conjunction with existing survey data referred to at Recommendation 7.**

Ombudsman comment

The response is consistent with the objective of the recommendation.

Recommendation 10: That the ADF review its accountability structures for the care of minors to ensure that Commanding Officers in training establishments receive adequate support in maintaining appropriate levels of care for minors. Clear lines of accountability should be established for implementation of any recommendations, policies or procedures relating to minors. Formal reporting structures should be established and key staff in training establishments, Training Command and Service Chiefs be required to report regularly against performance standards for the management of minors.

CDF Response: **Agreed – with amendment**

Accountability structures should address general duty of care for all trainees as well as members within their first year of enlistment. It should also be noted that not all minors are located in training units. Any arrangements specifically for minors should be 'by exception'.

Ombudsman comment

It is agreed that the recommendation should apply to all COs with responsibility for minors and other young members in their first year of enlistment.

Suitability of minors for enlistment in the ADF

5.11 On many occasions in the course of the investigation, ADF staff (and some minors) raised the question of whether minors should be eligible for enlistment in the ADF. It almost invariably provoked heated discussion. Views expressed ranged from 'we've always done it that way' to a detailed case for why, on average, it was inappropriate to expect a minor to successfully perform the duties of a particular employment category. Some felt it was potentially damaging to subject a minor to any training without careful assessment of his/her capacity. Others made sound economic arguments about the costs to the ADF in wasted training, rehabilitation and sometimes compensation for injury.

5.12 Some individual establishments, such as SOI and RMC, have analysed training outcomes as a function of age. Results suggest there would be value in an ADF-wide cost benefit analysis on accepting minors for training. The Physical Employment Standards Project should, over time, provide information relevant to the suitability of minors to undertake specific employment. But the availability of results from these studies may be some years away and the ADF may wish to consider reviewing the enlistment age sooner.

Recommendation 11: That the ADF undertake an analysis of the costs and benefits of accepting minors for enlistment in the ADF with a view to determining whether the enlistment age should be raised to 18 years.

CDF Response: Not agreed

- Defence considers that any move to raise the enlistment age to 18 years would severely restrict the quality and quantity of recruits, particularly from those States and Territories where students finish school at 17 years of age. Potential recruits would find alternate employment post high school, setting them on a different career path and a loss to Defence. Anecdotal evidence suggests up to a third of new ADFA entrants would be turned away.
- In particular, ADFA provides a reasonable framework for the transition from adolescence to adulthood and comments are often made by cadets that ADFA was ‘a great place in which to grow up’.
- While the report is critical of general deficiencies with the treatment of minors within the ADF, there are no specific examples where a minor has been subjected to harsh treatment simply because they were a minor.

Ombudsman comment

In part, the objective underlying this recommendation was to raise the issue for discussion. The CDF has spelt out his reasons for not accepting the recommendation. Another development that warrants mention has been taken at the RMC, to establish Bridges Company as a ‘transition’ unit for successful ADFA applicants considered not yet mature enough to commence their full officer training (see paragraph 4.10). This development supports the ADF objective of not losing an important source of young recruits in a competitive employment environment. This strategy may be equally appropriate for recruitment of minors in other areas of the services

ABBREVIATIONS

A	ADF	Australian Defence Force
	ADFA	Australian Defence Force Academy
	ALTC	Army Logistics Training Centre
	AMEC	Academy of Military Education Training
	ANAO	Australian National Audit Office
	ARTC	Army Recruit Training Centre
C	CDF	Chief of Defence Force
	CO	Commanding Officer
D	DI (G)	Defence Instructions (General)
	DO	Divisional Officer
	DPE	Defence Personnel Executive
	DS	Divisional System
E	EA	Equity Advisor
H	HMAS	Her Majesty's Australian Ship
	HQTC	Headquarters Training Command
I	IET	Initial Entry Training
	IOC	Initial Officer Course
M	MSD	Materiel Support Division
	MSI	Military Skills Instructor
N	NCO	Non-Commissioned Officer
O	OTS	Officer Training School
R	RAA	Royal Australian Army
	RAAF	Royal Australian Air Force
	RAN	Royal Australian Navy
	RANC	Royal Australian Naval College
	RMC	Royal Military College
	RTU	Recruit Training Unit
	RTW	Recruit Training Wing
S	SOs	Standing Orders
	SOI	School of Infantry
	SST	Single Service Training
	STT	RAAF School of Technical Training
T	TEC	Trainee Executive Council
	TC	Training Command
	TDLS	The Defence Legal Service