

## Department of Defence – Personnel

- 4.1 The strength of Australia’s military forces has always been the quality of its people. The Government and the Parliament recognises the unique requirements of service life and that being part of the ADF is more than just another job. We expect a great deal from our men and women in uniform and while attention is often focussed on the ADF’s equipment and high cost acquisitions, it is its personnel that make the difference. To ensure the ADF continues to recruit and retain high quality Australians, it must ensure that its personnel systems and personnel management practices effectively support its people.

### **Progress of Military Justice Changes**

- 4.2 Enhancements to the Australian military justice system are being introduced following the 2005 SFADT *Report into the Effectiveness of Australia’s Military Justice System*.<sup>1</sup> Defence is improving how it investigates, prosecutes, tries, represents and reviews under the disciplinary system; conducts administrative enquiries and manages complaints; audits, reports and reviews the system of military justice; trains/prepares its people; and exercises a duty of care over its people.
- 4.3 There will be a two year implementation period to reform the military justice system. At the time of the 2006-2007 Annual Report, reforms had been implemented for 18 months, [with] 21 out of 30 agreed

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1 Senate Foreign Affairs, Defence and Trade References Committee Report *The effectiveness of Australia’s military justice system*, dated June 2005

recommendations from the Senate Committee's Report completed. The aim was for completion by the end of 2007.<sup>2</sup>

The task of implementing the many important recommendations arising from the 2005 Senate Committee Inquiry has been, and remains, a considerable undertaking. Overall, I am pleased with the achievements to date. Substantial and commendable progress has been achieved and results are within realistic expectations. Implementation of six recommendations remains outstanding.<sup>3</sup>

- 4.4 Defence reaffirmed its commitment to maintaining the momentum of the military justice reforms, and ensuring that maintenance of discipline is balanced by preservation of individual rights.<sup>4</sup> A representative from Defence provided the following information about the progress of the military justice changes:

30 of the 40 recommendations arising from the 2005 Senate inquiry were agreed for implementation. A further two initiatives were agreed for implementation as alternatives to recommendations made in the report of the Senate committee inquiry. A two-year period was set for implementation...At the conclusion of that two-year implementation period most of the agreed recommendations had been substantially completed. Six recommendations as yet remain incomplete although all of them are underway...<sup>5</sup>

- 4.5 Defence also advised that military justice reforms include creation of an independent Director of Military Prosecutions, permanent Australian Military Court, and a joint ADF Investigative Service. There will also be an 'updating and simplification of a summary justice system[;] ... deaths in service may now be reviewed by a special CDF commission of inquiry, and the ADF complaints handling system has been restructured under ... Fairness and Resolution Branch'. Periodic external reviews by eminent Australians on the military justice reform program, and the health of the military justice system, will also occur. The end result is that 'the ADF military justice system is now considerably more transparent ... [and] broadly accountable...'<sup>6</sup>

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2 Department of Defence, Annual Report 2006-2007, Volume 1, p. 153.

3 Department of Defence, Submission No. 5, p. 1.

4 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 70.

5 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 71.

6 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 71.

4.6 Defence advised the Committee of the updated summary justice system which was implemented as a result of the introduction of the *Defence Legislation Amendment Act 2008*. The legislation introduced a range of measures including the right of an individual to elect to be tried before, and appeal to, the Australian Military Court (AMC). Other significant changes as a result of this legislation include:

- Provision to ensure that legal officers are able to provide advice independently of potential undue command influence;
- Increased AMC and summary jurisdiction to try offences involving drugs, including cannabis, narcotic substances (amphetamine, cocaine, heroin, methamphetamine etc) and anabolic steroids;
- Extension of the summary system to cover members up to the rank of Rear Admiral/Major General/Air Vice Marshal;
- Provision to disqualify a summary authority from dealing with a charge where he or she was involved in the investigation of, issuing a warrant in relation to, or charging the accused person with the offence in question;
- Provision to require a summary authority trial to commence within three months of a charge being laid, unless, in certain circumstances, a longer period is allowed by a superior authority;
- Where an accused intends to plead guilty in a summary authority trial, provision to allow the accused to apply for the trial to be conducted in his or her absence if there are exceptional circumstances;
- AMC and summary authorities will be given increased flexibility in sentencing, namely, the ability to suspend part of a punishment or order;
- Standardisation of the powers of punishment of summary authorities regardless of the Service of the convicted person. The current differences in the punishments applicable to members of the Navy, from those applicable to Army and Air Force members, will be removed;
- Significant modification of the review process for summary convictions, punishments and orders; and
- Expansion of the discipline officer scheme to cover all ADF members up to the rank of Lieutenant/Captain/Flight Lieutenant.<sup>7</sup>

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7 Department of Defence, Submission No. 5, pp. 2-3.

- 4.7 In response to the Committee's enquiry into the nature of the process for Inspector General of the Australian Defence Force (IGADF) audits of military justice arrangements, a representative from Defence stated:

The audit program is aimed at visiting units to inspect the arrangements that they have in place to support the military justice system in that particular area. It looks at two areas, basically, of military justice: the discipline side obviously and the administrative side...<sup>8</sup>

- 4.8 Focus groups are also conducted:

... in groups of 20 individuals at each rank. It is a rule that the CO, the RSM or the equivalent is not present at these focus groups so that there is no chance of inhibition of people expressing views.

...there is a comprehensive report written [that] is sent to higher command [and] the commanding officer. Of the 167 units that have been audited so far, three have failed ...<sup>9</sup>

- 4.9 The Committee was concerned that the description of the audit gave the impression that the task was ensuring personnel knew the rules, rather than validating the implementation of rules.<sup>10</sup> Defence responded that the role of the audits was to complete both tasks.

As well as compliance in the sense that the processes are in accordance with the administrative inquiries manual, we look at the quality of it as well.<sup>11</sup>

- 4.10 The Committee was concerned that the current Defence reforms and audits do not rectify long-standing issues, such as ritual abuse or unreasonable punishment.<sup>12</sup> Defence responded:

... by having a more centralised ability to look at the system overall, I think we have got a much better chance of detecting where things are tending to go wrong or where a preponderance of complaints may be and trying to address those things before they become really serious.<sup>13</sup>

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8 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 72.

9 Mr Geoff Earley AM, *Transcript 10 July 2008*, pp. 72-73.

10 Hon Arch Bevis MP, *Transcript 10 July 2008*, p. 73.

11 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 74.

12 Hon Arch Bevis MP, *Transcript 10 July 2008*, p. 74.

13 Mr Geoff Earley AM, *Transcript 10 July 2008*, pp. 74-75.

4.11 The Committee heard about the IG ADF's role. In addition to auditing, they also investigate complaints which come from anyone or any source, including:

- directly,
- e-mail,
- letters to the Minister,
- through a hotline, or by telephone,
- Whistleblower Scheme, or
- private approach to an audit team member.<sup>14</sup>

4.12 Defence further commented:

In that way, the type of incident that you are talking about can be brought to light; but we cannot do anything if we do not know about it.<sup>15</sup>

4.13 The IGADF is a statutory appointment under the *Defence Act 1903* to exercise general oversight of the effectiveness of the ADF's military justice system. A range of reforms were implemented regarding the health of the military justice system in the areas of discipline, administrative sanctions, conduct of administrative inquiries, and the right to complain.

4.14 Regarding the health of the military justice system, significant events included:

- preparations for the Australian Military Court in October 2007;
- work to introduce an updated ADF summary justice system;
- consolidation/development of the new ADF Investigative Service to redress deficiencies in the ADF's investigative capability;
- strengthening of the Director of Military Prosecutions; changes to the ADF complaints handling procedures; and
- establishment of the CDF Commissions of Inquiry regime to ensure deaths in service of ADF members are investigated properly.<sup>16</sup>

4.15 The Committee enquired how the effectiveness of the audit and complaint systems are measured. Defence responded:

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14 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 75.

15 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 75.

16 Defence Annual Report 2006-2007 Volume 1 pp. 156-157.

... in the IGADF case we are developing a system called the justice and discipline health and effectiveness system.<sup>17</sup>

... discipline, adverse administrative action, the conduct of inquiries and the handling of complaints, or the right to make a complaint – are the four components that make up the military justice system. The justice, discipline, health and effectiveness pilot scheme that is now running measures each of those ... [with reference to] accessibility, timeliness, fairness, accountability, resources and implementation of change ...<sup>18</sup>

- 4.16 The Committee observed that the Director of Military Prosecutions (DMP) and the Australian Military Court (AMC) are independent. The Committee enquired whether the IGADF may also gain independence, either structurally or legislatively.<sup>19</sup> Defence replied:

... there is already a legislative independence for my office (IG ADF). My office is established under the *Defence Act*, not the *Defence Force Discipline Act*. It is different from the [DMP and AMC] in the sense that the IG ADF was a creature envisioned and created ... to help the CDF. I provide him with a comprehensive annual report each year, extracts of which are published in the Defence Annual Report. There are some advantages in the way that the IG ADF office is structured as being, in a sense, not only acting with my independent authority, but [also] acting with the direct authority of the CDF. In a hierarchical military organisation, that stands for a lot. If you are completely external, then the standard reaction of a bureaucracy is to create a single point of contact, and business is done through [them]. My office does not do business like that. Because of where we are situated and how we are structured, my office can go anywhere in the Defence Force.<sup>20</sup>

- 4.17 Committee determination: Notwithstanding the comments above, the Committee believes that the work of the IGADF would be strengthened by reporting directly to the Minister and the Parliament by way of regular written reports.

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17 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 75.

18 Mr Geoff Earley AM, *Transcript 10 July 2008*, pp. 75-76.

19 Senator Mark Bishop, *Transcript 10 July 2008*, p. 78.

20 Mr Geoff Earley AM, *Transcript 10 July 2008*, p. 78.

- 4.18 To confirm their commitment to improving the ADF's military justice system, Defence stated:

The task of implementing the agreed recommendations arising from the Senate Committee's 2005 Report has been a considerable undertaking. The changes being made to the ADF military justice system are the most significant since the introduction of the Defence Force Discipline Act in 1985. While implementation of most of the recommendations has been completed or is well advanced, it will be important that these reforms are given time to bed down. This will allow them to achieve their full potential benefits in practice. I remain confident that the changes being made will substantially improve the capacity of the military justice system to achieve its purpose of ensuring that the correct balance is struck between the requirement to maintain a high standard of discipline with the ADF and the need to make sure that ADF members are treated fairly. I would like to reassure the Committee that my [CDF] personal commitment, and that of the Secretary and the Service Chiefs, to drive the implementation of military justice reforms remains undiminished.<sup>21</sup>

- 4.19 An independent report to assess the effectiveness of the military justice system reform program to date is being undertaken by Sir Laurence Street (former Chief Justice of NSW) and Air Marshal Les Fisher (former Chief of Air Force). Their report is expected to be completed in February 2009.

## **Recruitment and Retention, including Personnel Shortages in Specialist Trades**

- 4.20 The Committee took evidence in relation to recruitment and retention. The Committee was concerned about shortages in specialist trades, high rates of separation, and general issues surrounding recruitment.
- 4.21 The priority for Defence in 2006-2007 was retention, and reform of the recruitment process, including:
- a \$3.1b range of initiatives as part of the 2007-2008 budget;

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<sup>21</sup> Department of Defence, Submission No. 5, p. 9.

- recruitment of 6500 new ADF entrants each year;
- reduction of the ADF separation rate to below 10%;
- growth of the ADF to 57,000 personnel by 2016-17.<sup>22</sup>

4.22 There were also efforts to make the DMO workforce more professional during 2006-2007, using the CEO's Professionalisation Agenda. Initiatives included obtaining skills through accredited education and training programs, and improving chartering and certifying processes. This Agenda is being delivered through the DMO Institute, and the engagement of professional bodies.<sup>23</sup>

4.23 Furthermore, Defence stated:

... that people strategies [for] recruitment and retention in Defence, at the moment, are in a period of reframing under a new strategic approach. There has been a lot of good progress made in the last two years, but efforts are continuing to improve how [we] approach the issues concerning people, both in the Public Service and in the Defence Force, that impacts their willingness to stay in the organisation. We are doing that work through the process of a Companion Review on people for the White Paper and that will be an extensive strategic and operational review of how [Defence] meets the people requirements of the organisation – and how we ensure that our business processes in the areas to deliver services are effective, have been reviewed and are being improved to generate the capacity to reinvest in people issues in Defence.<sup>24</sup>

4.24 The Committee enquired into the variation between separation rates between June 2001 and June 2003 compared to those between June 2003 and June 2005.<sup>25</sup>

The higher separation rate (peak seen around June 2001) is due to the impact of the 2000-2001 RAAF redundancy program. The lower separation rates (trough seen between June 2002 and June 2005) are due to two reasons. First, the Army increased recruiting in the two to four years prior and, as these people were bound by their obligations to serve out their initial period of service; this had the effect of lowering

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22 Defence Annual Report 2006-2007 Volume 1 p. 124.

23 Defence Annual Report 2006-2007 Volume 2 p. 77.

24 Mr Philip Minns, *Transcript 10 July 2008*, p. 80.

25 Mr Stuart Robert MP, *Transcript 10 July 2008*, p. 82.



separation rates. Second, after the Air Force's redundancy program, there were fewer people able to separate, which also helped to reduce the separation rate.<sup>26</sup>

- 4.25 The Committee enquired about the strategies to minimise separation rates, and increase recruitment, particularly in specialist trades.<sup>27</sup> Defence observed:

At the moment across the ADF we have 36 critical categories of trades or professions that we are concerned about. That breaks up into 22 in the Navy, 13 in the Army and only one in the Air Force at the moment. Eleven of those are, at this stage, looking as though they are worsening, four are improving and 21 we do not see any immediate change in. Each of the three services has specific [short and long term] recovery strategies for each of those trades that we are concerned about.<sup>28</sup>

- 4.26 Defence also commented that:

On recruitment performance, over the last 12 months we have grown the ADF to 53,071 members. That figure has reservists and gap-year members within it. Over the 12-month period we had more enlistments and fewer separations, resulting in the growth to that level.

...the separation rate has been coming down—0.9 less than the rolling five-year average. We lost 632 fewer people in the last financial year than in the one preceding it.<sup>29</sup>

- 4.27 Specific recruitment and retention strategies are:

Short-term fixes [include] retention bonuses, increased specific recruiting targets in some of those trades where we [are] short [and] organisational restructuring ...<sup>30</sup>

Some of the longer term recovery strategies [include] paying the right quanta of salary<sup>31</sup> ... to ensure [our people] are prepared to stay when the market forces are trying to pull them out in the future and restructuring some of the trades

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26 Department of Defence, Submission No. 8, p. 6.

27 Hon Arch Bevis MP, *Transcript 10 July 2008*, p. 80.

28 Major General Michael Slater, *Transcript 10 July 2008*, pp. 80-81.

29 Mr Philip Minns, *Transcript 29 August 2008*, pp. 3-4.

30 Major General Michael Slater, *Transcript 10 July 2008*, pp. 80-81.

31 Current ADF Pay Rates and Allowances can be found at <http://www.defence.gov.au/dpe/pac/>

and the professions, to make them more sustainable in the longer term.<sup>32</sup>

4.28 The Navy critical employment category retention bonus is one of these bonuses. It targets positions where the loss of those skills would have a detrimental impact on operational or support capabilities. There has been a 65.6 per cent acceptance rate on this retention bonus. Other examples include the Army expansion rank retention bonus, which has seen acceptance rates of 76.9 per cent and the Army trade transfer and incentive bonuses, which have exceeded anticipated 'target figures'.<sup>33</sup>

4.29 As part of the overall package, Defence is also working towards improving personal benefits, such as housing<sup>34</sup> and accommodation and superannuation, as well as family benefits. The focus is on improving more than just the base salary.<sup>35</sup>

Possible initiatives in the future are medical and dental health support for families and an improved new defence assistance housing loan that is attractive to families so as to encourage members to stay in.<sup>36</sup>

4.30 Initiatives in the recruitment sphere have been:

- Reform of the Defence Force Recruiting Organisation, to get more of the military personnel in that organisation out and engaging with potential candidates, with the back-office work at the recruitment activity being done by our supporting partner organisation.
- Creation of specialist groups of military personnel to focus on recruitment in the critical trades. This includes introducing a scholarship framework for high school students; using a specialist provider; and conducting a review of entry pathways.<sup>37</sup>

4.31 Under the scholarship program:

We are targeting 1,500 scholarships – 600 in year 11 and 900 in year 12. The payment in year 11 is \$2,000 and in year 12 it is \$3,000. I guess this strategy goes to the idea of developing a relationship with people in the target pool and, in the

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32 Major General Michael Slater, *Transcript 10 July 2008*, p. 81.

33 Mr Philip Minns, *Transcript 29 August 2008*, p. 3.

34 The Defence Home Ownership Assistance Scheme commenced in July 2008.

35 Major General Michael Slater, *Transcript 10 July 2008*, p. 81.

36 Major General Michael Slater, *Transcript 10 July 2008*, p. 81.

37 Mr. Philip Minns, *Transcript 10 July 2008*, pp. 81-82.

language used in the recruiting business, 'keeping the relationship warm' by staying in touch with them and making them predisposed to a career in our organisation.<sup>38</sup>

4.32 The Committee asked about the effect the upcoming eight-month deployments for ADF members will have on families, social services and home norms. Defence responded that the eight-month period is at present only for the Army. Research has shown that the optimal deployment time is eight months (although 6-12 months is possible.) There is usually 16 months at home following an eight-month deployment. There is a strategic review underway by the Defence Community Organisation to analyse the impact on families. There are also individual service benefits that need to be introduced in response to longer deployments.<sup>39</sup>

4.33 The Committee enquired about the Defence outcomes for the cadet program, and whether there was analysis on how cadet participation may affect their decision to join the ADF, rather than an analysis of how many ADF members were previously cadets.<sup>40</sup> Defence advised that an independent review of the Australian Defence Force Cadets Scheme has been announced<sup>41</sup>, which it asserts will '...confirm the strategy and relationship between the cadet organisation and the ADF and its role as a youth development movement'.<sup>42</sup> In a subsequent written submission, Defence advised:

An attitudinal survey of ADF Cadets and Cadet Staff was undertaken in 2007. Cadet views were sought on their knowledge of, and interest in, the ADF and included a measure of the Cadets' intent to join the ADF. The report found that 79.1 per cent of respondents had an interest in joining one of the Services prior to joining the Cadets. This was consistent with the findings of a 2004 survey. Overall, 42.1 per cent of Cadets indicated that they would 'definitely' consider a career in one of the Services, and a further 18.9 per cent indicated they would 'probably consider' such a career.

Defence also commissioned a pilot study in 2008 to measure the awareness of, and perceptions around, ADF Cadets among the broader Australian community. A more detailed

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38 Mr Philip Minns, *Transcript 29 August 2008*, p. 2.

39 Major General Michael Slater, *Transcript 10 July 2008*, pp. 84-85

40 Hon Arch Bevis MP, *Transcript 10 July 2008*, p. 86.

41 See Department of Defence website at <http://www.defence.gov.au/dpe/cadetreview/>.

42 Mr Philip Minns, *Transcript 29 August 2008*, pp. 2-3.

study was also undertaken into community views of the motivators and barriers to joining the ADF Cadets. This study found that 71 per cent of youth who would consider joining Cadets would also consider joining the ADF, compared to 39 per cent of all youth who would consider joining the ADF.

ADF recruits may also complete a voluntary survey upon enlistment. Results indicate that 51 per cent of respondents had previous military-like experience with the Cadets, and 10.78 per cent indicated that cadet participation influenced their decision to join the ADF.<sup>43</sup>

4.34 The Committee notes that the attitudinal survey quoted by defence identifies that 79.1 per cent of respondents had an interest in joining one of the Services prior to joining the Cadets. Regrettably Defence have not provided any advice on attitudes in this cohort on exiting cadets, from which it would be possible to better judge the impact of cadets on military career choices.

4.35 The Committee also asked about the Gap Year. The Committee questioned whether the Gap Year was designed with long or short-term recruitment in mind; or simply providing an experience.<sup>44</sup> Defence was asked how the Gap Year's success is measured. Defence replied:

[The Gap Year] was designed to give people an experience of life in the ADF, perhaps with the idea that they might do the gap year, proceed on to study or university, and look to return to the ADF at the end of that process.<sup>45</sup>

What we have discovered is that in the order of 50 people from the cohort of 700 have already sought to convert to the permanent ADF. We have had a separation number of about 66 at this stage, and that is a much lower proportion of separation through a training process than we get through the normal intake for the ADF. We are in the process of assessing gap year outcomes.<sup>46</sup>

4.36 The Committee enquired about further problems regarding recruitment within the ADF, excluding trade services. Defence replied:

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43 Department of Defence, Submission No. 10, p. 4.

44 Mr Stuart Robert MP, *Transcript 10 July 2008*, pp.88- 89.

45 Mr Philip Minns, *Transcript 10 July 2008*, p. 89

46 Mr Philip Minns, *Transcript 10 July 2008*, p. 88

Given the nature of our service model and the fact that 52 per cent of male members leave before 10 years and about 68 per cent of females leave before 10 years. The challenge that we face in a recruitment sense is always a fairly intense one, because finding somewhere between 7,000 and 9,000 recruits a year is a tall order.<sup>47</sup>

- 4.37 The Committee observed that \$350 million is spent on recruitment by Defence per annum.<sup>48</sup> Defence made the following comments about the recruitment contract:

I would like to make a point about the contract that was signed. We use an alliance model in recruitment, so it is Defence personnel, uniformed personnel, some APS members, together with an alliance partner. The current contract is with Manpower and the future contract is with Chandler Macleod. The point of moving to that model was to make sure that our uniformed personnel were actually doing the recruiting and attracting, and not the other work. Before that model was introduced we had something like 1,800 uniform personnel working in recruitment. We now have 230 very well deployed. So as the operational tempo issue has bitten and the ability of the services to provide a service-based delivery model for recruitment has declined, the alliance partner model is a framework that has delivered results and we hope it will continue to in the future.<sup>49</sup>

- 4.38 Noting key concerns with submariner numbers, the Committee sought advice on whether Navy could fully crew the ADF's submarine capability.<sup>50</sup> In a written response, Defence replied:

As at 3 October 2008, the Royal Australian Navy's submarine workforce was at 63.7 per cent of the required number of submariners across the fleet. We need 667 submariners. We presently have 425 submariners. Currently, the Navy is able to crew three submarines using three operational crews. It is expected that a fourth crew can be sustained from mid-2010. A concerted submariner recruitment effort is being made.<sup>51</sup>

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47 Mr Philip Minns, *Transcript 10 July 2008*, pp. 93-94.

48 Senator Mark Bishop, *Transcript 10 July 2008*, p. 93.

49 Mr Philip Minns, *Transcript 10 July 2008*, pp. 94-95.

50 Hon Bruce Scott MP, *Transcript 29 August 2008*, p. 7.

51 Department of Defence, Submission No. 10, p. 1.

- 4.39 The Committee noted that one of the more recent and pressing recruitment and retention issues related to air traffic controllers (ATC). The Committee sought advice on the discharge rate of ATCs, the current shortfall, what the ADF was doing to address the ATC issue and which bases have had their operational capability affected.<sup>52</sup> Defence provided a written response:

There were 14 Air Force Air Traffic Control separations in the period 1 July 2007 to 30 June 2008. So far this financial year (to 25 September 2008), there have been 18 separations. The surge has been attributed to better remuneration and location conditions offered by Airservices Australia which has recruited 15 of these personnel since July. There may be some additional separations in a follow-on round of recruiting which will take effect in January 2009.

We currently have a shortfall of 14 personnel spread across 11 detachments that deliver air traffic control services. The Air Force maintains a robust training program and intends to start an additional ab-initio course in November 2008 for 12 recruits. Total graduations in 2009 are expected to exceed 30, which will meet Air Force requirements.

The Minister for Defence has approved a retention bonus of \$30,000 to be paid to a target group of experienced controllers for short-term assurance of keeping the experience levels to maintain capability sustainment. Longer term sustainment initiatives are aimed at improving career opportunities, location stability and core remuneration. Resources have been allocated to progress these initiatives and they are underway.

In terms of operational capability, there has been a slight reduction in airfield operating hours at East Sale and Nowra air bases, but operational capability and safety have not been compromised.<sup>53</sup>

- 4.40 Defence advised the Committee that in addition to current strategies, they were also looking at other retention strategies that could be pursued as part of the Workforce Companion Review of the 2008 White Paper.<sup>54</sup>

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52 Hon Bob Baldwin MP, *Transcript 29 August 2008*, p. 8.

53 Department of Defence, Submission No. 10, p. 2.

54 Mr Philip Minns, *Transcript 29 August 2008*, p. 1.

- 4.41 The Committee applauds Defence for its commitment in seeking to implement innovative recruitment and retention initiatives; however, notes that the revised pay scales for the new Graded Officer Pay Structure (GOPS) became effective on 9 August 2007, yet the new pay scales were not implemented until 20 March 2008, due to “system problems”. Delays such as these can only serve to counter retention initiatives and Defence is strongly encouraged to be better prepared for the roll out of the upcoming Graded Other Ranks Pay Structure (GORPS).

## **Increases in Middle and Senior Management Positions**

- 4.42 The Committee enquired about an increase in personnel at middle manager, senior manager and Deputy Secretary Level:

It is sobering to compare the number of middle and senior managers in Defence from 1998-99, just after the Defence Reform Program (DRP), to the latest available figures.

Civilian senior executive numbers have grown by 59 per cent and star rank military officer numbers have increased by 57 per cent. Most startling has been the increase at Deputy Secretary level, from four to 11, after the DRP suggested a reduction to three.<sup>55</sup>

- 4.43 Defence replied:

- The DRP recommended four SES band 3 positions: Deputy Secretary, Strategy and Intelligence; Chief Defence Acquisition; Chief Defence Scientist; and Deputy Secretary, Budget and Management.
- In reality, four roles were created: Deputy Secretary Corporate; Chief Defence Scientist; Deputy Secretary Acquisition; and Deputy Secretary Strategy and Intelligence.
- In early 2000, a Chief Financial Officer role was created, commensurate with Defence’s role and large size.
- Another position was created when the Intelligence and Strategy position was split. This was mostly driven by the increased overseas activity around deployments.

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55 Hon Arch Bevis MP, *Transcript 10 July 2008*, p. 89.

- The next three increases in 2007 were within the Defence Materiel Organisation: General Manager Corporate; General Manager Systems; and General Manager Programs.
- The next three additions are as a result of the Defence Management Review conducted in 2007: Policy and Coordination Deputy Secretary; a Strategic HR role; and a Chief Information Officer role. A temporary Deputy Secretary role for the White Paper was also established.<sup>56</sup>

4.44 Defence also noted:

[The APS] is an organisation, with DMO included, of 21,000 employees that represents a public service leadership group of about 11 people. That group, plus the seven band 3 members of the ADF, means that we have a leadership team looking after 70,000-plus permanent employees.<sup>57</sup>

4.45 The Committee acknowledged Defence's response, then further questioned the increases at middle management levels:

... the middle manager level, colonel/lieutenant colonel, has grown by 30 per cent, and civilian middle managers have grown by 59 per cent.<sup>58</sup>

4.46 Defence replied that the increase was due mainly to the ADF's high operational tempo:

The period that we are talking about is also that period where we have had a high operational rate overseas. To conduct those operations you are looking at a significant increase in the workload and tasking of the lieutenant colonel/colonel bracket.<sup>59</sup>

4.47 The Committee asked why there are 843 personnel on non-operational postings overseas. The Committee also enquired what tasks these personnel were undertaking.<sup>60</sup>

As at 1 July 2008, there were 842 Defence personnel (162 Navy, 225 Army, 317 Air Force and 138 Defence civilians) posted overseas in non-operational roles. These personnel are posted to 41 different countries. The United States (398) and

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56 Mr Philip Minns, *Transcript 10 July 2008*, pp. 89-90.

57 Mr Philip Minns, *Transcript 10 July 2008*, p. 90.

58 Hon Arch Bevis MP, *Transcript 10 July 2008*, p. 90.

59 Major General Michael Slater, *Transcript 10 July 2008*, p. 90.

60 Hon Arch Bevis MP, *Transcript 10 July 2008*, pp. 90-91.



the United Kingdom (114) are the two main nations where Australian personnel are serving. The majority (775) of these people have been overseas for more than 12 months.

Personnel have been grouped into eight functions to provide an indication of their main work function:

- Training and instruction (267)
- Logistics and procurement (167)
- Defence international policy (98)
- Defence liaison (94)
- Defence cooperation (84)
- Butterworth detachment, Malaysia (53)
- Defence Security (44)
- Research and development (35).<sup>61</sup>

## Impacts of fringe benefits tax and reportable allowances

4.48 The Committee raised concerns that tax implications may be a disincentive for ADF families to utilise much needed travel entitlements. Remote Locality Leave Travel (RLLT) provides additional travel benefits for ADF personnel and their families to ensure that they can take a break from the additional challenges that remote locations can pose. The RLLT provides free flights and travel to an alternative destination. The value of which are reported on the person's payment summary as a fringe benefits taxable (FBT) allowance, increasing their assessable income. This can result in a reduction in, for example, Family Tax Benefit Part A or B, subject to their financial circumstances because of their increased assessable income according to the Income Tax Act.<sup>62</sup>

4.49 Indeed, during the Defence Sub-Committee's inspection of ADF bases in Darwin in May 2008, Committee members were advised by several women of a Robertson Barracks Spouse Group that they "couldn't afford" to take the RLLT entitlement because it reduced the amount of

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61 Department of Defence, Submission No. 8, p. 10.

62 Mr Steve Grzeskowiak, *Transcript 29 August 2008*, p. 5.

the family payment they received, which they couldn't do without.

4.50 Defence advised that:

In 2006 we went to Treasury seeking exemptions from a range of benefits, one of which was remote locality leave travel. The Treasury would not give us exemptions ... We went again last year for further exemptions for a reduced number of items and again the Treasury were not inclined to give us further exemptions.<sup>63</sup>

4.51 As an employer, the ADF has the largest number of FBT exemptions in Australia. However, in its four attempts since 1999 they have failed to secure further exemptions and have been told that '...there will be no further exemptions granted for ADF benefits and conditions of service of reporting obligations'.<sup>64</sup>

4.52 The Committee raised the possibility of Defence introducing a web based calculator to enable families to ascertain their financial position before using travel entitlements which could adversely affect family tax benefits or child support arrangements. On this point, Defence commented:

We are always trying to enable the best availability of simple-to-understand information so people can make informed choices. But we do have to be a little cautious about being seen to be giving advice in a taxation sense and the liabilities that might flow from that, depending on decisions people might make on that advice.<sup>65</sup>

4.53 Defence acknowledged that work needed to be done on their remuneration and reward communication, particularly in respect to helping families to better understand FBT impacts.<sup>66</sup>

4.54 The following fringe benefits for ADF members have been granted a reporting exclusion on the basis of administrative simplicity and fairness, and recognition of the unique conditions of military service. These fringe benefits all correlate to the ADF maintaining a mobile workforce, thus maintaining the Government directed level of capability:

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63 Mr Steve Grzeskowiak, *Transcript 29 August 2008*, p. 5.

64 Mr Steve Grzeskowiak, *Transcript 29 August 2008*, p. 6.

65 Mr Steve Grzeskowiak, *Transcript 29 August 2008*, p. 6.

66 Mr Steve Grzeskowiak, *Transcript 29 August 2008*, pp. 6-7.

- Provision of housing assistance;
- Payment or reimbursement of an accommodation expense in the form of rental assistance;
- Reunion travel provided to ADF members who are serving in Australia away from their dependants;
- Special needs assistance provided to ADF members and their families;
- Removal and travel expenses of the member's non-service spouse and any of his or her accompanying dependants in the event of a breakdown of marriage;
- Child tuition assistance for a child where the member is directed to change residence by Defence and the child must change schools as a result;
- Education assistance for children of ADF members who are in a 'critical school year (9, 10, 11 or 12)' and continue their education away from where the member is serving;
- Travel for the child to be reunited with the member, or other dependants of the member at the locality where the member is serving;
- Official hospitality; and
- Overseas living allowances.

4.55 ADF fringe benefits which are reported on members' Payment Summary are:

- Reunion travel for non-student dependants;
- Service Workforce Access Program for Partners (SWAPP);
- Emergency Support for Families Scheme (ESFS);
- Defence Home Owner Scheme;
- Defence Home Ownership Assistance Scheme;
- Department of Veterans' Affairs (DVA) Loans (Defence Service Homes Loan Scheme);
- Remote Locality Leave Travel (RLLT) from non-remote locations as defined by the ATO (e.g. Darwin, Cairns and Townsville);
- Recreation leave travel for members without dependants;

- Student reunion travel i.e. for dependant children studying elsewhere, during non-critical school years;
- Tertiary Education Assistance for dependant children;
- Higher Education Contribution Scheme (HECS) payment / reimbursement, replaced by Higher Education Loan Program (HELP);
- Car fringe benefits for Star ranked ADF officers;
- Career Transition Assistance Scheme;
- Miscellaneous work related items (of low taxable value);
- Other overseas allowances; and
- Property fringe benefits (i.e. prizes, awards).<sup>67</sup>

4.56 Subsequent to the public hearing on 29 August 2008, Defence provided further written advice regarding RLLT:

The vast majority of ADF members posted to ADF-recognised remote locations are posted to Darwin, Cairns and Townsville. Defence has not sought relief through exemption from the requirement for the Department to pay Fringe Benefits Tax (FBT) on RLLT. However, Defence has sought relief on behalf of ADF members by way of exclusion from the FBT Payment Summary reporting requirement for RLLT through three formal submissions by Defence to the Treasury in 1999, 2002 and 2006. The basis of Defence's submissions was:

- RLLT is intended to support a small, highly deployable and well-trained Defence Force which has contemporary needs and aspirations for partners and families. There is evidence that a number of ADF members do not access their full entitlement to RLLT due to the potential impact that Payment Summary reporting would have on their government benefits or liabilities. This has the unfortunate result that members and their families become unhappy with their ADF conditions of service, particularly when they are required to move to areas where they are remote from extended family and where employment opportunities for partners are limited.
- The impact of FBT reporting of RLLT is seen by ADF members in the north of Australia as an unfair

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67 Department of Defence, Defence Fringe Benefits Tax Manual, July 2006 Edition

consequence of a condition of service that is necessitated by the Government's requirement to have an ADF presence in northern Australia.

- Members serving in Darwin, Cairns and Townsville do not understand why their RLLT is reportable on payment summaries while the travel for members in Tindal, just three hours away from Darwin and with a similar level of climatic discomfort, is excluded.
- Attraction, retention and morale of members posted to northern Australia are issues of utmost concern to the ADF. These issues have the capacity to affect operational efficiency in the medium to long term.
- Retention of ADF members rather than their replacement constitutes a major cost benefit to the Commonwealth.<sup>68</sup>

4.57 Given the unique conditions of military service and the requirement for ADF members to be deployed or posted at Defence's behest, generally irrespective of their current personal circumstances, to locations where they and their families would normally not choose to live, the Committee is of the belief that benefits and entitlements that provide relief from this aspect of military service should be exempt from FBT reporting.

4.58 The RLLT scheme provides members and their families relief from remote locality postings and is designed to reduce the impact of living large distances from their extended families. The inability of families to undertake this entitlement due to the financial hardship that it could cause through reduced Centrelink payments has a tangible negative affect on morale and, as a consequence, on retention.

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68 Department of Defence, Submission No. 10, p. 3.

**Recommendation 3**

**The Committee recommends that the Government exempts the Remote Locality Leave Travel entitlement from fringe benefits reporting.**