

INQUIRY INTO BULLYING OF CHILDREN AND YOUNG PEOPLE

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INQUIRY INTO THE BULLYING OF CHILDREN AND YOUNG
PEOPLE

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Introduction

1. The Commonwealth of Australia (through the Department of Defence) has a legal duty of care to ensure reasonable care is taken for the safety of its employees. This duty includes ensuring that all personnel are provided with a safe working environment and safe system of work. This duty is particularly significant where personnel are considered in a legal sense to be 'vulnerable'. Vulnerable personnel may be identified by a wide range of characteristics depending on the individual circumstances, including age, gender, life experience and familiarity with Service culture.
2. ADF members under the age of 18 years (minors) are a specific class of vulnerable person to which additional legal and moral obligations apply. Members of the ADF who deal with and are responsible for such personnel must be aware of their responsibilities when managing minors. Defence aims to train and educate its personnel so that they obtain this level of awareness and are able to adhere to their responsibilities when working with minors.
3. As Table 1 shows, there are very few minors in the ADF and civilian Australian Public Service (APS) support areas. In accordance with ADF policy, these minors are at least 17 years old (the minimum age of recruitment to the ADF) and do not represent the childhood and/or early adolescent years. Most are to be found in training establishments, undergoing the transition from a civilian to a military lifestyle.

Table 1: Military and Civilian Defence members, less than 18 years old

	Minors in Defence Workforce			Total Defence Workforce	Proportion of Minors in Defence Workforce
	APS	Uniformed	Total		
2005/06	4	249	253	65584	0.39%
2006/07	6	321	327	67040	0.49%
2007/08	1	433	434	69047	0.62%

4. The Australian Defence Organisation (ADO) also has various programs and/or policies aimed at (usually) older minors. Examples are:
 - a. the Australian Defence Force Gap Year (ADFGY): a one year program targeting interested 17-24 year olds who have completed Year 12 (or equivalent) education, and,
 - b. ADF work experience placements: short-term, voluntary periods of work undertaken at a Defence establishment by students who must be at least 15 years old.

5. Despite the small proportion of minors in Defence (see Table 1), the ADO recognises its international and national legal obligations to effectively manage under-age personnel in a consistent and proper manner. To this end, Defence has in place Defence Instruction (General)¹, PERS 33-4, *Management and administration of Australian Defence Force members under 18 years of age* (see Attachment 1). This overarching instruction applies to the management and

¹ Defence Instructions (General) or DI(G)s facilitate the administration of the ADF. They are instructions issued by or with the authority of the Secretary and Chief of the Defence Force (CDF) that are always applicable to Defence members, and may also be applicable to Defence employees and external service providers, depending on the subject of the DI(G). DI(G)s contain enforceable instructions as well as directives and policy statements, and are intended as long-term (three or more years), higher level and enforceable policies.

administration of all Defence programs involving people under 18 years old. In particular, paragraphs 8 to 16 detail the applicable legal obligations that Defence adheres to in the management of minors and the formulation of policy for the management and administration of minors.

6. DI(G) PERS 35-3 *Management and Reporting of Unacceptable Behaviour*, is also included at Attachment 2. This outlines Defence's policy and direction in regards to the prevention of unacceptable behaviour and managing complaints of unacceptable behaviour in the workplace. It complements PERS 33-4 but is not as specific in dealing with minors.
7. In some instances more specific DI(G)s apply. For example, see Attachment 3, DI(G) PERS 28-1 *Work experience in Defence*.
8. In addition to the above, the ADO sponsors the Australian Defence Force Cadets (ADFC). The ADFC is a community based, youth development organisation, sponsored primarily by Defence. It includes young people aged 12.5 to 20 years old. The ADFC is not part of the ADF so members of the ADFC are not subject to the provisions of DI(G)s or to the provisions of the Defence Force Discipline Act (1982).
9. The ADFC comprises the Australian Navy Cadets (ANC), Australian Army Cadets (AAC) and Australian Air Force Cadets (AAFC) with cadets and cadet staff (mainly part-time volunteers) at over 500 schools and community cadet units

and headquarters across Australia. Table 2 shows the numbers of young people in the ADFC at the end of 2008.

Table 2: Total ADFC membership as at the end of 2008

Cadet Corp	Total Cadets
Australian Navy Cadets	2002
Australian Army Cadets	12958
Australian Air Force Cadets	5969
Total ADFC	20929

10. Considering the separate nature of the ADFC, the Cadet Policy Manual (CADETPOLMAN) has been developed to outline specific policies concerning the administration and support by Defence of the ADFC. This recognises the unique responsibilities and obligations incumbent upon civilian and uniformed staff, cadet staff and volunteers working with young people.
11. CADETPOLMAN Chapter 27, *ADFC Behaviour Policy* (Attachment 4) and Chapter 28, *ADFC Child Protection Policy* (Attachment 5) are provided to demonstrate the greater attention shown to the needs of the ADFC as an entity related to, yet separate from, mainstream Defence instructions outlined in the DI(G)s.

Summary of Relevant Defence Investigations

12. ***Report of the review into policies and practices to deal with sexual harassment and sexual offences (June 1998): The Grey Report.***
 - 12.1 This Report presented the findings of an investigation which primarily considered the degree to which sexual harassment and associated

offences were part of the Australian Defence Force Academy (AFDA) culture. Approximately 40% of ADFA's 1997 and 1998 intakes were older minors.

12.2 In considering this Report, it should be noted that:

- i. The Report was handed down over a decade ago,
- ii. Whilst bullying was not the primary focus, factors contributing to bullying - and possible remedies - were considered, and
- iii. Older minors included in the investigation represented a minority of the ADFA intake considered, with most turning 18 within their first 12 months of training.

12.3 A copy of this Report is not available in electronic format. A hard copy of the Report can be obtained by contacting the ADFA Inter-Library Loans Section

13. ***Management of service personnel under the age of 18 years (October 2005):
The Ombudsman's Report.***

13.1 This Report presented the findings of an investigation by the Commonwealth Ombudsman in response to several complaints made to the Ombudsman about the adequacy of administration by the ADF of personnel under the age of 18 years.

13.2 The aim of the investigation was to examine whether the ADF had:

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

13.3 This investigation included only those arrangements for minors in the permanent Defence Force and not those young people in the ADFC.

13.4 Whilst this Report did not focus on the bullying or harassment of minors per se, it did present a broad overview, with associated recommendations, as to how Defence might improve its particular responsibility for minors in its care.

13.5 A full copy of this Report can be found on the Ombudsman's website at [http://www.ombudsman.gov.au/commonwealth/publish.nsf/attachmentsbytitle/reports_2005_04_defence.pdf/\\$file/adf_under18s_oct_05.pdf](http://www.ombudsman.gov.au/commonwealth/publish.nsf/attachmentsbytitle/reports_2005_04_defence.pdf/$file/adf_under18s_oct_05.pdf)

14. ***Final Report of the Learning Culture Inquiry (July 2006): The Learning Culture Inquiry.***

14.1 This report presented the results of an investigation '*... into the culture of ADF Schools and Training Establishments in order to determine whether*

the culture is appropriate, in particular whether a culture of harassment and bullying exists; and, in general, whether irregularities against established policies and processes of administration occur.’ (p. iv)

14.2 This investigation included only those arrangements for minors in Schools and Training Establishments in the permanent Defence Force and not those young people in the ADFC. It also considered elements of the Grey Report and Ombudsman’s Report in highlighting progressive improvements to some of the circumstances detailed in these previous Reports.

14.3 Although the Inquiry Team did not find evidence of a culture that supported bullying or harassment, it was reported that there was still some way to go before the underlying culture would firmly oppose harassment and bullying, and firmly support explicit policies on such issues as Equity and Diversity.

14.4 A copy of this report can be found on the Defence website at <http://www.defence.gov.au/publications/lcireport.pdf>

Defence Responses to the Terms of Reference

ToR 1: The nature, level and impact of bullying among school age children and young people under the age of 18, including apprentices and trainees.

15. According to statistics provided by Defence's Fairness and Resolution Branch, there were a total of 177 reported complaints of bullying for the entire Defence organisation in the period 2007/08. Of these complaints, only three related to minors, the Inquiry's area of interest.
16. The Grey Report (1998) gives an historical perspective to the nature, level and impact of (mainly) sexual harassment, including bullying at ADFA. At the time, no special arrangements were made for older minors who comprised around 40% of the 1997 and 1998 intakes. The General Purpose Standing Committee might like to consult this document if such an historical perspective is required.
17. The Learning Culture Inquiry offered the following definition of workplace bullying (p. 1):

'The persistent pattern of behaviour by a person in the workplace that is harmful, intimidating or embarrassing, and which is aimed at making the complainant(s) feel miserable, demoralised and lacking in self-confidence. It is the deliberate desire to hurt, threaten or frighten someone with words or actions by one or more people and can vary in degree and severity. It is an aggressive form of harassment, and men and women at all levels can be affected by it. A bully is a person who uses strength or power to coerce others by fear to do something they want done. A bully can be a manager, a subordinate or a co-worker.'

'We note that these definitions do not limit harassment or bullying to physical abuse. We also note that perceptions of harassment and bullying will vary between the perpetrator and the victim.'

18. The Learning Culture Inquiry also '*... found no evidence that the ADF has higher levels of incidents of inappropriate behaviour than amongst comparable groups of people in the civilian community.*' (p. vi). Further, building upon the findings and implemented recommendations of earlier reports, it was reported that '*There is clear evidence of improvements in behavioural standards in all the training establishments we have visited and of universal knowledge of ADF policies and zero tolerance of bullying and harassment.*' (p. 28)
19. In making its recommendations, the Learning Culture Inquiry specifically detailed its impressions of 20 ADF Schools and Training Establishments (Learning Culture Inquiry, Attachment C, pp. 86-110). This information provided a very detailed account of specific 'Risks to be Managed' (the nature and levels of bullying). The wider report comprehensively covers the impact of bullying, especially in regards to its negative impact on effective learning for all trainees, including older minors.
20. The ADFC aspires to provide a happy, healthy and robust environment within which young people can participate in adventurous activities in a military-like setting that enhances their personal growth and their ability to contribute to the community. For this aspiration to be reached, cadet and cadet staff must work in an environment free from unacceptable behaviour such as bullying or any other form of harassment. They must also know that if unacceptable behaviours are exhibited that these will be dealt with fairly, quickly and effectively.

21. The nature and potential impact of unacceptable behaviours such as bullying are outlined in Attachment 4, CADETPOLMAN Chapter 27, *ADFC Behaviour Policy*. In particular, the following paragraphs:

- i. What is acceptable behaviour (27.33 – 27.35)
- ii. What is unacceptable behaviour (27.36 – 27.37)
- iii. Types of unacceptable behaviour (27.38 – 27.42)

22. Further, the following definition of bullying is provided:

'27.55 Bullying is the persistent pattern of behaviour by a person that is harmful, intimidating, humiliating or embarrassing and which is aimed at making the object of that behaviour feel miserable, demoralised, lacking in self confidence or excluded. It is the deliberate desire to hurt, threaten or frighten someone with words or actions by one or more people and can vary in the degree of severity. It can present as physical, psychological, verbal, direct, indirect, relational or social. It can occur at or outside of Cadet locations, but is regarded as unacceptable wherever it has an impact on the Cadet environment and Cadet participants.'

27.56 Bullying can take many forms with some examples being:

- a. giving a person greater proportion of unpleasant work than that given to others;*
- b. humiliating a person through sarcasm, criticism and insults, especially in front of other cadets; or*
- c. overloading a person with work or requiring work to be done without there being sufficient time to do it and then criticising the person for taking too long or not doing it properly.'*

ToR 2: Factors contributing to bullying.

23. As stated in ToR 1 above, The Grey Report (1998) gives an historical perspective to those contributing factors - mainly sexual harassment, but including bullying – that were identified at ADFA.

24. By identifying 'Specific Risks to be Managed' in 20 ADF Schools and Training Establishments (see para. 19 above), the Learning Culture Inquiry also identified

those factors in these establishments that contributed to bullying. See the Learning Culture Inquiry, Attachment C, pp. 86-110 for more detailed information.

25. The ADFC is developing a scenario and discussion based CADETLiFe program under the direction of Professor Graham Martin, Professor and Director, Child and Adolescent Psychiatry, University of Queensland. This program aims to improve Cadets' general wellbeing and help them cope better with the everyday stresses of life, including bullying. One scenario in the program deals specifically with bullying and details examples of the abuse of power, discrimination and violence as factors contributing to, as well as being examples of, bullying.

ToR 3: Prevention and early intervention approaches to address bullying, including 'cyber bullying'.

26. As outlined in ToRs 1 and 2, the Learning Culture Inquiry specifically detailed its impressions of 20 ADF Schools and Training Establishments. In addition to identifying the Risks to be Managed (see ToR 1), elements of 'Good Practice' were identified for each establishment. Collectively, these describe issues and practices to be considered in prevention and early intervention approaches to address bullying.
27. The CADETPOLMAN Chapter 27, *ADFC Behaviour Policy*, outlines the following preventative measures for addressing unacceptable behaviour, including bullying:

'27.60 Preventing unacceptable behaviour is an important element of the responsibilities of all ADF Cadet leaders and of all Cadet participants. Such behaviour can be reduced and prevented by:

- a. creating a Cadet environment that encourages all Cadet participants to address unacceptable behaviour and where Cadet participants feel safe and protected from harm. Cadet participants should feel confident to disclose incidents of unacceptable behaviour and feel supported when they do so. This includes a 'no blame' philosophy where situations are identified and addressed so that Cadet participants can resolve issues and move forward in their growth and development;*
- b. ensuring that the codes of ethical behaviour are actively demonstrated in all ADF Cadet activities and functions;*
- c. ensuring that everyone working with the ADF Cadets Organisation is aware of child development and protection issues and the prevention of unacceptable behaviour;*
- d. ensuring knowledge of the child protection obligations of adults working with minors. This should include applicable legislative reporting requirements, complying with statutory requirements and how to deal with complaints and allegations. There are circumstances when legislation requires mandatory reporting. In these circumstances individuals have specific responsibilities that they must comply with;*
- e. ADF Cadet Staff working or moving to another State/Territory must be aware and comply with the legislative requirements in their new location. ADF Cadet Staff moving from one State/Territory to another must comply with the legislative requirements in the jurisdiction they are moving to. See annex A for more detailed information;*
- f. ensuring that all Cadet participants have a say in planning activities and other decisions that affect them, are listened to, are respected and have their interests considered;*
- g. assessing and addressing potential risks to young people whilst they are engaged in ADF Cadet activities;*
- h. planning work in a manner that is designed to minimise situations where unacceptable behaviour may occur;*
- i. ensuring that all adults within the ADF Cadet environment have undergone a police check for all States and Territories and at a Federal level before commencing duty with ADF Cadets;*
- j. seeking any information on name changes;*
- k. checking applicant's experience of working or being in contact with young people and confirming two references from people who have direct recent experience of the applicant's association with young people;*
- l. giving all staff, volunteers or other people working with the ADF Cadet Organisations clear roles through the development of position descriptions; and,*
- m. providing sufficient training and information to ensure that Cadet participants understand their rights and responsibilities.'*

28. The CADETPOLMAN Chapter 27, *ADFC Behaviour Policy*, goes on to outline 'How individual Cadet participants can respond to unacceptable behaviour', listing such strategies as the 'Fair Go Policy', 'Fair go Intent', 'Fair Go Method', 'Fair Go Outcome' and 'Good Practices for Adults in dealing with Young People'. (paras. 27.66 – 27.74)
29. The ADFC has developed a three-hour, on-line 'Safeguarding Children Awareness Raising Package' for ADFC staff members. This package, based on the Australian Council for Children & Youth Organisations (ACCYO) general awareness package, has been tailored to Defence's needs. It aims to increase staff awareness about the extent and complexities of child protection issues and explain practical steps that adult staff and volunteers can take to create conditions that make children and young people safer in an organisational context.
30. One of the most effective ways of preventing bullying is to appropriately educate cadet staff, most of whom are volunteers, in better practice youth development. In addition to the education provided by each cadet Service, a comprehensive 'Youth Development Guide' and resources for 'Managing and Developing our Youth' has been developed and distributed throughout the ADFC. These cover: understanding, managing and engaging cadets; considering individual needs; coaching and mentoring skills; communicating with parents/guardians; and, managing critical incidents and emerging concerns.
31. In the CADETLiFe program mentioned in ToR 2 above, cadets learn about preventative skills and coping strategies such resilience, protective factors, how to

better deal with others and where to seek help if necessary. These types of skills can apply to many challenges faced by young people, including bullying. More information and/or copies of the current draft of the Program can be shared upon request.

32. Defence can offer no response at this time to the specific issue of 'cyber-bullying.'

ToR 4: Coordination and cooperation between relevant government agencies to address bullying.

33. The ADFC Behaviour Policy and ADFC Child Protection Policy have been endorsed by Defence Service areas after internal and external consultation. These policies reflect State and Territory legislation and community expectations and standards. Additionally, ACCYO, a non-government 'peak body' in child protection, was consulted in the development of the Safeguarding Children Awareness Raising Package detailed under ToR 3 above.

34. Similarly, wider State Government requirements are considered in the development of relevant policies such as Attachment 3, DI(G) PERS 28-1 *Work experience in Defence*.

ToR 5: The evidence-base for effective anti-bullying approaches.

35. The findings of the Grey Report, the Ombudsman's Report and Learning Culture Inquiry provide internally researched and analysed evidence for making recommendations to improve the generally poor situations they identified for

minors in Defence. This included bullying, as described in the ToR references above.

36. Consultations with authoritative bodies (eg ACCYO) helped develop general child protection awareness for ADFC staff. ACCYO has achieved its acknowledged standing as a peak body in regards to child protection through its extensive research and associated development of child protection expertise.
37. Professor Graham Martin (see ToRs 2 and 3 above), an acknowledged expert on child and youth development, has based the development of CADETLiFe on extensive research regarding effective prevention, child resilience and self-protection strategies.

ToR 6: Approaches to address bullying in Australian and overseas jurisdictions.

38. Covered in the above (especially ToRs 3 & 5) for minors in Australian ADO training establishments and the ADFC.

ToR 7: Any other relevant material.

39. The 'Summary of Relevant Defence Investigations' cited earlier (p. 6) in this submission and those Attachments following, provide a comprehensive picture of Defence's approach to its acknowledged responsibility for the care of minors in its charge, whether they be new recruits in Schools and Training Establishments or school/ community based members of the ADFC.
40. The Defence Contact Officer for further information is:

Mr Ross Hicks
Director Education and Training
Cadet Policy Branch

GLOSSARY

AAC	Australian Army Cadets
AAFC	Australian Air Force Cadets
ACCYO	Australian Council for Children & Youth Organisations
ADF	Australian Defence Force
ADFA	Australian Defence Force Academy
ADFC	Australian Defence Force Cadets
ADFGY	Australian Defence Force Gap Year
ADO	Australian Defence Organisation
ANC	Australian Navy Cadets
APS	Australian Public Service
CADETPOLMAN	Cadet Policy Manual
CDF	Chief of the Defence Force
DI(G)	Defence Instruction (General)