

Senate Foreign Affairs, Defence and Trade Legislation Committee

Report to the Senate

Introduction

1. On 8 February 2007, the Senate referred to the committee for examination and report, the following documents:

- Particulars of proposed additional expenditure for the service of the year ending 30 June 2007; and
- Particulars of certain proposed additional expenditure for the service of the year ending 30 June 2007 relating to the Defence portfolio and the Foreign Affairs and Trade portfolio.

2. The committee has considered the proposed additional expenditure for the year ending 30 June 2007, and has received evidence from the Minister representing the Minister for Foreign Affairs and the Minister for Trade; representing the Minister for Defence, and the Minister for Veterans' Affairs and officers of the departments and agencies concerned.

3. The committee met in public session on 14 and 15 February 2007. Further written explanations provided by departments and agencies will be presented separately in volumes of additional information. This information will also be placed on the committee's internet site (www.aph.gov.au/senate_fadt).

Questions on notice

4. The committee resolved, under Standing Order 26, that written answers and additional information should be submitted to the committee by close of business on Thursday, 29 March 2007.

Matters of procedural importance

5. During the examination of Defence officials a number of matters of procedural interest arose. In the following section the committee considers two such matters.

Examination of an unsigned document

6. A line of questions was put to Defence officials regarding a document cited in a recent newspaper article alleging wrongdoing dating back to the 1990s relating to the *Westralia*. The Secretary of Defence informed the committee that, after a very thorough search of relevant files, Defence had not found a signed copy of the document cited in the newspaper article nor evidence that such a document existed. The Inspector General, Dr Ian Williams, informed the committee that Defence held an

unsigned document dated 1998 which had been faxed from Comcare on 29 April 2005.¹

7. Defence officers were unsure of the veracity of the unsigned document and declined to name one of the persons whose signature block appeared at the bottom of the document.

8. A committee member sought to have the document tabled. The Minister noted problems in tabling the document because it was unsigned and subject to continuing investigations. He pointed out that the release of an unsigned document would be fraught with difficulty, stressing that the document had not been verified and making the document public would be unwise and inappropriate. Defence officials stated that inquiries into the authenticity of the document were continuing and also stressed that it would be unwise to make the document public.

9. On a number of subsequent occasions during the day's hearing further questions were asked about the document but the Secretary of the Department restated his intention not to make statements or answer questions concerning this unsigned document. He repeated that it would not be appropriate to have detailed discussion of the document because the authenticity of the unsigned document had not been established.

I do not think it would be appropriate to dissect and go into detailed discussion about this 2005 document, given that we are very unclear as to its authenticity, its origin and indeed its veracity. We have a purported unsigned account of a conversation. As I said earlier, having gone thoroughly through the files, we do not have a signed copy of this document.

...

There is no signed copy of this document that we have been able to locate or identify. We are not sure there was ever a signed copy of this document.²

10. The matter was raised again during the committee's public hearing into reforms to Australia's military justice system held on 26 February.

11. At this hearing, the Inspector General informed the committee that the Deputy Secretary Intelligence and Security had the lead on the investigation and that a number of areas in Defence were contributing to the investigation including the Office of the Inspector General. He explained:

We are essentially going through our records and information to find out what is available and what we can piece together.

1 *Committee Hansard*, 14 February 2007, p. 56.

2 *Committee Hansard*, 14 February 2007, p. 61.

12. Dr Williams informed the committee that the office did not have any copy dating from 1998 nor anything prior to 2005. When asked about tapes relating to the document, he replied:

I would prefer not to go into too many details because there is an examination at the moment that the secretary has called. Rather than providing a view from my perspective, which is only one, I would rather leave that until the secretary has reported to the minister.³

13. He did not know when the Secretary would report to the Minister.

Alleged misleading evidence and clarifying the record

14. The second matter concerned evidence provided by Defence on Wednesday, 14 February, regarding a status report on ex gratia payments to the next-of-kin of four ADF members who had died. The committee was informed that Slater and Gordon, a legal firm representing the respective families, wrote to the former Minister, Senator the Hon Robert Hill in 2005 and that the Minister responded in November 2005.

15. The committee was told that the Minister's letter indicated that there was scope for reimbursement of reasonable costs incurred and invited the families to make a claim if that were the case. The Head of Defence Legal informed the committee that, to his knowledge there had been no response to the Minister's letter. He said: 'Senator Hill's letter did invite some response in relation to certain issues, and it does not appear that that step has been taken'.

16. The following day, 15 February, a committee member raised concerns about the evidence that had been given the previous day. It appeared to him that the committee had been 'seriously misled of the facts'. He detailed the correspondence between Slater and Gordon and the Minister.

17. This included a letter from Slater and Gordon, dated 30 September 2005, which referred to their original letter of 13 September 2005, requesting ex-gratia payments. The committee member noted that this letter, of 30 September 2005, was not mentioned in previous evidence.

18. The Minister responded on 16 November 2005 to Slater and Gordon's letter of 13 September 2005. In his letter, the Minister stated that the matters raised by Slater and Gordon would be considered on a whole-of-government basis and that the Minister would write again when he had further information. The committee member indicated that this statement was not made clear in yesterday's hearing.

19. The committee member then noted that Gordon and Slater wrote to the Minister on 19 May 2006 advising that they were 'yet to receive determination in relation to the claim'. The letter stated further:

3 Committee Hansard, 14 February 2007, p. 28.

...that the families are anxious to receive a response, that they welcome the opportunity to meet with the minister and that they advise they look forward to his determination and are available to discuss the matter.⁴

20. The committee member noted that this letter was not revealed to the committee and stated:

I think there was a quite different impression left with the committee by Defence yesterday. I think it is very unfortunate and is of serious concern to me that we were left with quite a wrong impression. I would expect Defence to correct the record as soon as possible, but I thought in fairness to the families we should get this on the record now. It is not only a slur on a law firm—and they can look after themselves—but it would of course create a doubt in the mind of the families that they were being represented properly. I think that was unfortunate, so I raise it. I seek permission to table the letters. I would ask the minister to advise the Minister for Defence to look at these matters and perhaps he could advise the committee of his response when he has had a chance to look at all of these issues.⁵

21. The Minister at the table undertook to inform the Minister of Defence of the documents which appeared to contradict Defence's evidence. Later that day the Minister representing the Minister provided the following statement to the committee:

Mr Cunliffe did not mislead the committee. He provided the committee with dates of relevant letters between Slater and Gordon, and ministers in relation to a request for ex-gratia payments to the families for deceased servicemen. Mr Cunliffe did not refer to a letter from Slater and Gordon to the Minister for Defence of 19 May 2006, as this letter had not been provided to Defence. This letter was referred to the office of the minister assisting the Minister for Defence as he was already dealing with the matter. Mr Cunliffe did not refer to a letter to Mr and Mrs Shields of 18 October 2006 from the Chief of Staff to the Minister assisting the Minister for Defence as this was an interim letter advising them that the minister was examining the issues raised in their correspondence of 4 December [September] 2006⁶ and had not been provided to Defence Legal. Mr Cunliffe's evidence to the committee yesterday accurately outlined how this complex and unprecedented request has been dealt with by Defence Legal. Mr Bilson assures the committee that he remains committed to finalising the issues surrounding the claims made by Slater and Gordon on behalf of the families affected by these tragedies.

4 *Committee Hansard*, 15 February 2007, p. 21.

5 *Committee Hansard*, 15 February 2007, p. 21.

6 The letter from Minister Billson's Chief of Staff to Mr and Mrs Shiels refers to their letter of 4 September 2005, not 4 December 2005, as transcribed in the Minister's evidence.

22. The committee understands that the record has now been corrected and that there can be no doubt that the legal firm of Slater and Gordon did indeed respond to the Minister's letter of 16 November 2005, advising that they had not yet received determination in relation to the claim.

Defence portfolio

Department of Defence

24. The committee acknowledged the presence at the hearings, of Mr Nick Warner, Secretary of the Department of Defence, and Air Chief Marshal, Angus Houston, AM, Chief of Defence Force (CDF).⁷

Secretary's opening statement

25. Mr Nick Warner, in his capacity as the newly appointed secretary of the Defence organisation, made an opening statement to the Committee.

26. In his address, Mr Warner touched on the audit of the 2005–2006 financial statements. In his remarks, he explained that:

Defence was successful in addressing previous audit qualifications relating to civilian and military leave, explosive ordnance, land and building valuations and addressing infrastructure, plant and equipment and intangibles. This result is all the more pleasing as it was achieved while Defence was meeting the challenges of implementing new accounting standards and a demerger of the DMO.

There is still considerable work to be done in relation to inventory and repairable items management, and it will take some time for us to fully address and remediate all of the issues in all of these areas. I certainly do not underestimate the scale of the challenge that remains, but I do know that we in Defence are doing everything possible to improve our financial management and the quality and accuracy of our financial statements.⁸

Chief of the Defence Force opening statement

27. Chief of the Defence Force, Air Chief Marshal Houston gave the committee a comprehensive update on ADF operational achievements since November 2006.

28. Air Chief Marshal Houston informed the committee that:

...we are currently maintaining a very busy operational tempo, with approximately 2,900 personnel are deployed on ten operations overseas. Additionally, we have about 500 people deployed on security tasks in our

7 Transcript page numbers for each day begin at page 1. Defence portfolio hearings are in *Proof Hansard*, 14 February 2007. (See the transcript index at back of this report.)

8 *Estimates Committee Hansard*, 15 February 2007, pp. 4–5.

maritime protection zone and other personnel deployed on international engagement, including participation in exercises and foreign visits.

Each of these deployments is within the capability of our forces, is sustainable for the expected duration of the deployment and leaves the ADF appropriately postured to meet a range of contingency requirements.⁹

29. Other major themes examined during the hearing included:

Portfolio overview and major corporate issues

- Afghanistan operations (pp. 7–11).
- Operation Mountain Thrust and Operation Perth (pp. 9–11; 19; 67–68).
- Security situation in Iraq (pp. 12–15).
- Secondment of an ADF officer to US State Department (pp. 15–16, 17–18).
- *Westralia*: allegations and Operation Majorca and follow-up investigation (pp. 20–24; 52–65; 96–101).

Budget summary

- Budget estimates for expenditure on Iraq (pp. 16–17).

Capability development

- Air power: F22 Raptor (pp. 24–25); F–111 (pp. 26–28, 30, 36–39; 44); F35 fighter (p. 28); 2006 Defence capability plan (DCP) and the White Paper (pp. 28–29, 32–33). Joint Strike Fighter capability (pp. 29–30; 34–36).
- Super Hornets FA–18F (pp. 31–35; 44).
- Seahawks and the Penguin (pp. 49–51; 67).

Defence Materiel Organisation

- FA–18 upgrade (pp. 30–31; 40–42; 44).
- Radar warning receiver; contracts (pp. 41–42).
- Kaman Aerospace Corporation; (pp. 45–47; 51).
- Seasprites (pp. 47–49; 51, 52; 66–67).
- FFG upgrades (pp. 74–78; 97, 101).
- Wedgetail airborne early warning and control system (AEW&C) (pp. 79–84).

Outcome 2—Navy capability

- Commission of Armadales (pp. 68–74; 97).

⁹ *Estimates Committee Hansard*, 15 February 2007, pp. 5–7.

Outcome 4—Air Force capability

- Recovery of travel costs to use ADF aircraft to transport the Prime Minister (pp. 89–90).

*Business processes**Corporate services*

- Ex-gratia payments to families of deceased service personnel; correspondence arising (pp. 84–87. See also *Committee Hansard* for Senate Standing Committee on Foreign Affairs, Defence and Trade, 15 February 2007, pp. 21; 78).
- Defence drug and alcohol policy relating to contractors on Defence property (pp. 87–89).

Department of Veterans' Affairs

30. The committee acknowledged the presence at the hearings of Mr Mark Sullivan, Secretary, and officers of the Department of Veterans' Affairs.

31. Issues that were discussed included:

Outcome 1—Compensation

- Clarke review on veterans' entitlements (pp. 107, 127).
- Indexation of disability pensions; claims for disability pensions arising from Operation Catalyst (p. 107).
- Nature of compensation claims; (pp. 108–109).
- Post traumatic stress disorder claims (pp. 109–112).
- Claims processing (pp. 113–116).
- Target times to respond to correspondence (pp. 116–117).
- Responding to complaints and dealing with outstanding claims (p. 117).
- Funeral allowances (p. 128).
- Compensation for prisoners of war (p. 129).

Outcome 2—Health

- Contract with Centre for Military and Veterans' Health (CMVH); development of research protocols for the health study of children of Vietnam veterans (pp. 118–119).
- Chaplaincy services (pp. 120–122).
- Veterans home care tenders (pp. 122–123).
- Smart card and the Gold card (pp. 123–124).
- Mental health initiatives and veteran suicides (pp. 124–125).

- Gold card announcement and medical specialist providing services to veterans (pp. 127–128)

Outcome 3—Commemorations

- Hyde Park memorial in London (pp. 102–103).
- Memorials at Le Hamel and Villers–Bretonneux in France (pp. 104–106).
- Anzac Cove (p. 106).

Outcome 4—Advice and information

- Building excellence in support training (BEST) program, and training information program (TIP) (pp. 125–126).
- Prepaid envelopes to volunteer organisations (p. 126).

Output 6

- International veterans summit in Paris in 2006 (pp. 126–127).

Foreign Affairs and Trade portfolio

Department of Foreign Affairs and Trade

32. The committee acknowledged the attendance at the hearings, of Mr Doug Chester, and Ms Gillian Bird, and officers of the Department of Foreign Affairs and Trade.¹⁰

33. The committee examined a number of issues, including consular visits to Mr Hicks in Guantanamo Bay, and, matters arising from the Cole inquiry.

34. The committee now takes up matters raised during the hearing. They included:

Portfolio overview

- Mr David Hicks (pp. 4–7; 8–20; 22, 24–38). [Also outputs 1.1.7 and 2.1.]
- Guantanamo Bay; visits by Parliamentarians (pp. 7–8; 22–23). [Also outputs 1.1.7 and 2.1.]
- Cole inquiry (pp. 45–53).
- Breaches of sanction of importing oil or chemicals to Australia (pp. 53–57).
- Climate change; 'new Kyoto'; G8 Gleneagles dialogue; APEC (pp. 60–61; 64). [Outputs 1.1.7]

10 Transcript page numbers for each day begin at page 1. Foreign Affairs and Trade portfolio hearings are in *Proof Hansard*, 15 February 2007. (See the transcript index at back of this report.)

- Hillsong conference (pp. 77–78).

1.1.2 South and South East Asia

- Visit to Australia of the former Prime Minister of Thailand (pp. 64–65).
- Missing Hmong children; returning Hmong people to Laos (pp. 65–66).
- Indonesian foreign policy (pp. 66).

1.1.4 South Pacific, Middle East and Africa

- Passport controls between Papua New Guinea and East Timor (pp. 44–45).
- Pacific Islands Forum (p. 63).
- Funding to a mosque in Adelaide by the Saudi Arabian government (pp. 68–70).

1.1.5 Bilateral, regional and multilateral trade negotiations, and

1.1.6 Trade development /policy coordination and APEC

- US free trade agreement (pp. 117–120; 124). [Also output 1.1.3.]
- Singapore free trade agreement (pp. 120–121; 124). [Also output 1.1.2.]
- Thailand free trade agreement (p. 121). [Also output 1.1.2.]
- Negotiations with China on a free trade agreement (pp. 121–127).
- ANZCERTA arrangements. Complaint of dumping; questionnaire (pp. 128–131). [Also output 1.1.4.]

1.1.8 Security, nuclear disarmament and non-proliferation

- Nuclear suppliers group and the nuclear non-proliferation treaty (pp. 61–63).
- DFAT sponsored security conference held in 2004; Mr Ismail Yusanto (pp. 67–68).

2.1 Consular, and passport services

- Evacuation of Australian citizens in Lebanon in 2006 (pp. 76–77).
- Australian business man in China, Mr Miles Ellery (pp. 75–76; 78).

3.1 Public information services and public diplomacy

- Mr Mark Steyn and the international media visit program (IMV) (pp. 39–42).
- Media releases (p. 78)

Enabling services

- Mr Trent Smith (pp. 38–39).
- Pay TV coverage for the Minister in his office (pp. 42–44).
- Verossity (formerly known as Spherion Recruitment Solutions) and preparation of speeches for Mr Downer (pp. 57–60; 71–75).
- Department's annual report (p. 78).

AusAID

35. The committee acknowledged the attendance at the hearings of Mr Bruce Davis, and officers representing AusAID.

36. Matters raised by the committee included:

- Cash to the agricultural team in Iraq (pp. 79–81).
- Remuneration of four members of the agricultural team in Iraq (pp. 81–82).
- Sexual and reproductive health programs in East Timor, Papua New Guinea; other programs delivered to these countries (pp. 83–84).
- Additional estimates statement (pp. 85).
- Departmental expenditure and administered expenditure (p. 85).
- DAC sector codes (p. 85). OECD DAC paper and ODE (p. 89).
- Millennium development goals (p. 86).
- Office of development effectiveness and its first annual review of (pp. 87–89).
- Office accommodation for AusAID in Canberra (pp. 90–93).
- Australia's capacity to deliver projects in the Pacific region (pp. 93–94).

Austrade

37. The committee acknowledged the attendance at the hearings of Mr Hamish McCormick, and officers representing Austrade.

38. Matters raised by the committee included:

- Export market development scheme (EMDG) (pp. 94–109; 114).
- Sponsorship of Austrade at Australia Week in Moscow, May 2006 (pp. 106; 110–113).
- Former employees of Austrade employed by EMDG grant recipients (pp. 106–109; 112).
- Australia–US free trade agreement (pp. 114–117).

Acknowledgements

39. The committee expresses its appreciation of the assistance given during its hearings by Senator the Hon Chris Ellison and Senator the Hon Helen Coonan. The committee also acknowledges the attendance and cooperation of the many departmental and agency officers and the services of various parliamentary staff involved in the estimates process.

A handwritten signature in black ink that reads "Steve Hutchins". The signature is written in a cursive, flowing style.

Steve Hutchins

Acting Chair

