



Australian Government

Department of Defence
Defence Support Group

Defence Legal

HDL/OUT/2007/95955

16 March 2007

Dr Kathleen Dermody
Secretary
Senate Standing Committee on Foreign Affairs, Defence and Trade
Department of the Senate
Parliament House
CANBERRA ACT 2600

Dear Dr Dermody

I write to correct and clarify evidence that I gave at the Senate Standing Committee on Foreign Affairs, Defence and Trade 2006–07 Additional Budget Estimates Hearing for Defence on 14 February 2007 concerning requests for ex gratia payments arising from the suicides of four Australian Defence Force personnel.

In answer to questions from Senators Evans and Bishop (pages 84 – 87 of *Proof Hansard* 14 February 2007), I advised the Committee of correspondence between the law firm Slater and Gordon and Ministers. That information accurately reflected what was known to me, which was as reflected in the files and materials held by Defence Legal. I now know that our records were not complete, and that the statement read into the Hansard record for the Committee's hearing on 15 February 2007 (page 78 of *Proof Hansard* 15 February 2007) by Senator the Hon Helen Coonan, on behalf of the Minister Assisting the Minister for Defence, identified further relevant correspondence to the Committee. I only became aware of that further material on 15 February 2007, following Senator Evans' comments to the Committee that morning (page 21 of *Proof Hansard* 15 February 2007).

In his comments on 15 February (also at page 21 of *Proof Hansard* 15 February 2007), Senator Evans indicated that my evidence had left a "wrong impression". Plainly, the fact that I did not know of the full record, and so was unable to advise the Committee concerning the full record, will have had that effect. I apologise for that.

It is also clear from Senator Evans' comments on 15 February (at page 21 of *Proof Hansard* 15 February 2007) that my evidence had left him with the impression that Defence had taken the view that there was "little [it] could have done in the interim", that is, until Slater and Gordon wrote further, following the letter from the former Minister for Defence in November 2005. In reviewing the transcript of the 14 February hearings, it is apparent, although I did not recognise it at the time, that he had also reflected that view then, at page 86. That impression is not correct and I apologise if I left Senator Evans, or other members of the Committee, with such an impression.

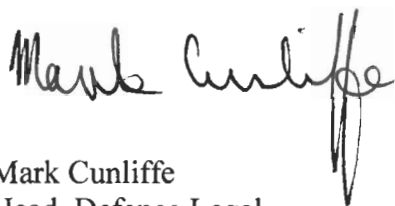
During my evidence, I attempted to make clear that Defence had in fact continued throughout the period to explore possible ways to try to deal with the claims. Indeed I made several

specific comments that would not be easily reconcilable with Defence having taken the view that the next step needed to be taken elsewhere. I identified, for example (at page 85 of *Proof Hansard* 14 February 2007), that there had been “an ongoing process of consideration and discussion with ministers” in relation to the matters raised by the law firm in its 2005 correspondence. At page 86, I advised that there had been several meetings with the Minister Assisting on the issue and that there “has been a lot of effort put into considering how it might be dealt with”. I also indicated to the Committee that the Minister Assisting was “certainly very committed to trying to sort it out.”

Attempts to deal with the issues raised by Slater and Gordon on behalf of the families have been ongoing. I certainly did not intend to create any impression that the 16 November 2005 letter from the former Minister for Defence meant that Defence needed to take no further action until it received further information from the law firm.

I apologise if I may have given the Committee any wrong impression.

Yours sincerely,



Mark Cunliffe
Head, Defence Legal
Department of Defence
RG Casey Building (RGC-3)
Barton ACT 2600

Tel: 61 2 6266 8898

Fax: 61 2 6266 8899