

Chapter 14

Australian Defence Force Cadets

14.1 Under the terms of reference, the committee was asked to inquire into the suspension of Cadet Sergeant Eleanore Tibble. This incident opened up for investigation a specific area of the military justice system that deals specifically with the ADF's work with Australia's youth through the Australian Defence Force Cadets (ADFC) programme.

14.2 The suspension and subsequent death of Eleanore Tibble highlighted accountability and management issues in the ADFC. This is an organisation staffed mainly by volunteers. The case also brought to light the uncertain legal relationship that exists between the ADFC and the ADF. This chapter examines the status of the ADFC in relation to the ADF and the bearing that this has on both the accountability of cadet staff and the way in which the ADFC or the ADF handle allegations of misconduct by cadets.

The Australian Defence Force Cadets—structure and organisation

14.3 The ADFC includes all three cadet organisations—the Australian Air Force Cadets, the Australian Navy Cadets and the Australian Army Cadets. As mentioned above, these organisations are largely volunteer organisations and involve approximately 27,000 young Australians aged between 12½ and 20 years. They participate in their chosen cadet organisation at approximately 490 locations around Australia. The cadets are led by over 2,600 volunteer staff.¹

14.4 Air Commodore Peter McDermott advised the committee that those staff members are drawn from a wide variety of professions in the general community:

...they volunteer their time for a series of reasons. Some are parents who want to be actively involved in their teenagers' activities; some have been recruited into the organisation for their special skills; some have been cadets themselves and want to give something back to the organisation; and for some it represents their chosen form of volunteerism in the Australian community.²

14.5 It is important to state at the outset that neither the cadets nor many of the staff of the ADFC are members or reserve members of the ADF. Not being members of the ADF means that they do not fall under the same military justice system as the

1 Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 45.

2 *ibid.*, p. 46.

ADF.³ This has implications for the way in which discipline and justice are administered within the ADFC and between the ADF and the ADFC.

14.6 The ADFC is administered by the relevant Service chief in accordance with the enabling legislation for cadets in the *Defence Act 1903*, the *Naval Defence Act 1910*, the *Air Force Act 1923* and the subordinate cadet force regulations last amended in 1977. The administration of those cadet corps is effected through the respective cadet policy manuals. The control that Service Chiefs have over their respective cadet organisation is essentially an administrative control rather than a command control.⁴ This provides the authority for administrative action and inquiries (rather than disciplinary) into serious incidents within the cadet organisations.

14.7 In relation to the accountability of cadet staff, the cadet manuals explain that administrative processes may be used to deal with improper conduct, but the extent of that administrative action is counselling or dismissal. There is no provision for disciplinary action against staff.⁵ Similarly, cadet manuals provide for administrative action against cadets by staff for failure to abide by the code of conduct.⁶

14.8 There have been significant changes to support the administration and training of cadet staff in recent years. Many of these changes are the result of the death of Eleanore Tibble on 27 November 2000.

14.9 Immediately prior to her death, Eleanore was the subject of administrative action by staff of No 5 Wing for allegedly fraternising with an adult cadet instructor. The ADF's handling of the investigation into her suspension has provided the background to the committee's examination of the current status of the cadet organisations.

Cadet Sergeant Eleanore Tibble—a case study

14.10 Cadet Sergeant Tibble took her own life at her home in Tasmania on 27 November 2000 at the age of 15. At the time of her death, she understood that she was to be discharged from the Air Cadets as a result of an allegation that she had fraternised with an adult cadet staff member.

14.11 She was unaware that two weeks prior to her death, the Deputy Director Reserve Personnel Cadets had given a direction to the Officer Commanding 5 Wing that she was to be retained in the cadets because the discharge proposal was unfounded. That direction was never carried out.

3 Members of the ADFC that are full members of the ADF or Reserve members of the ADF are subject to the ADF military justice system.

4 Air Marshal Houston, *Committee Hansard*, 1 March 2004, p. 48. See also, Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 50.

5 *Committee Hansard*, 21 June 2004, p. 45.

6 See discussion *Committee Hansard*, 1 March 2004, pp. 48-51.

Investigation and handling of initial allegation of fraternisation

14.12 At the time the allegation of fraternisation was made against Eleanore, the relevant policy instruction was outlined in Chapter 7 of *Defence Instruction (Air Force) AAP 5110.001 Air Training Corps Manual of Management Fourth Edition* of 27 November 1994, 'Conditions of Service for Cadets'. The policy provided that a cadet may be discharged by a CO if the member is unsuitable to be a cadet.⁷ Unacceptable behaviour that may determine an individual's suitability for retention in the AIRTC included 'unhealthy or unacceptable fraternisation with other members'.⁸

14.13 In line with principles of natural justice, however, the policy expressly provided that a cadet should not be discharged for that reason (or a number of others) without having been notified in writing by their CO of the reason for intended discharge and he or she being given the opportunity to contest the discharge.⁹

14.14 The committee received evidence from Mrs Susan Campbell, Eleanore's mother. In light of the above policy, the main concerns expressed by Mrs Campbell related to the treatment of Eleanore by the Tasmanian Squadron Air Cadet Corps (TASAIRTC) following the initial allegation in August 2000 and prior to her death.

14.15 Mrs Campbell's concerns are that principles of natural justice were not applied to her daughter, procedures appropriate to counselling minors were not followed and that Eleanore was discriminated against and victimised. Mrs Campbell was particularly concerned about the initial interview of Eleanore conducted by a senior staff member on 5 October 2000. She believed that Eleanore was given no prior notice of the interview, agenda or issues to be considered in order for her to prepare. Importantly, Mrs Campbell also stated that the interview took place without her knowledge or consent as the mother of a 15-year-old cadet and Eleanore was not provided with an 'airman's friend' for support during that interview.

14.16 At the conclusion of the interview on 5 October 2000, a senior staff member advised Eleanore that he would speak to her again after he had consulted the CO. However, Eleanore received no further advice until 30 October 2000. This was a telephone direction to resign or have her service terminated, with no reasons provided for that direction. Mrs Campbell stated that Eleanore was informed that she had brought dishonour upon the Flight and that Eleanore understood from the phone call that she had no right of appeal against the direction to resign (or her service would be terminated).

7 *Defence Instruction (Air Force) AAP 5110.001 Air Training Corps Manual of Management Fourth Edition* of 27 November 1994, Chapter 7, paragraph 709 (a).

8 *Defence Instruction (Air Force) AAP 5110.001 Air Training Corps Manual of Management Fourth Edition* of 27 November 1994, Chapter 7, paragraph 710 (f).

9 *Defence Instruction (Air Force) AAP 5110.001 Air Training Corps Manual of Management Fourth Edition* of 27 November 1994, Chapter 7, paragraph 711.

14.17 It is evident to the committee that the timeframe of this process and the fact that Cadet Sergeant Tibble was never advised that ADFC Headquarters had directed that she be retained in the cadets some two weeks prior to her death, demonstrates a lack of procedural fairness and sensitivity toward children. The other person involved in the alleged fraternisation was never formally interviewed or 'charged' with any offence because he had resigned from the organisation thereby leaving the organisation with no authority over him.

14.18 Since Eleanore's death, Mrs Campbell has expressed concern and frustration about the difficulties in gaining access to her daughter's file or staff from the TASAIRTC and her inability to obtain information other than applying through Freedom of Information (FOI).¹⁰

Investigation following the death of CSGT Tibble

14.19 In cases such as Eleanore's, there is no mandatory direction for the cadet organisations or the overarching Service to conduct an investigation either into the death of a cadet or the circumstances surrounding a suspension. Because of this, Mrs Campbell advised the committee that the resulting investigation by the RAAF was due to her making a submission to the military justice audit conducted by Mr James Burchett QC in 2001.¹¹ The Tasmanian Coroner investigated Eleanore's death.

14.20 Mr Burchett assessed Mrs Campbell's submission as being outside the terms of reference of the audit but nevertheless, referred the matter to RAAF Headquarters. After doing so, Group Captain Stunden was appointed as Investigating Officer (IO) on 30 March 2001. Terms of reference for an internal investigation were subsequently drafted addressing the administrative processes surrounding the suspension of Cadet Sergeant Tibble.

14.21 In addition to interviewing Mrs Campbell, the IO interviewed relevant officers at the Kempton Police Station responsible for investigating Eleanore's death for the coroner and all relevant Air Force and Air Training Corps personnel other than the other person involved in the allegation of fraternisation who, as mentioned earlier, had resigned.

14.22 Virtually all Mrs Campbell's original concerns were confirmed by the IO. In particular, the IO found that:¹²

- an appropriate person was not in attendance at the interview on 5 October 2000 to provide Eleanore with support;
- Eleanore was not given adequate opportunity to provide her version of events;

10 Susan Campbell, *Committee Hansard*, 21 April 2004, pp. 4-5, 13, 17.

11 Susan Campbell, *Committee Hansard*, 21 April 2004, p. 5.

12 Inquiry into the Administrative Process and Procedures Surrounding the Suspension of CSGT Eleanore Tibble G1465 – Investigating Officers Report, pp. 17-19.

- the senior staff member did not follow up on his clear commitment to Eleanore and advise her of the outcome of subsequent discussions with the CO;
- TASAIRTC officers did not exhibit any appreciation that they were dealing with an adolescent and that the circumstances required special skills and attention;
- TASAIRTC officers showed no obligation to explain to the 15-year-old cadet exactly what it was that she had done wrong;
- the way TASAIRTC staff dealt with Eleanore could be viewed as victimisation; and
- the inordinate delays in the process were unacceptable.

Procedures for dealing with a minor

14.23 The IO's finding that TASAIRTC officers did not exhibit any appreciation that they were dealing with an adolescent is a serious matter. The committee's fundamental concern is that the numerous people involved in this case failed to recognise or understand that this may have been a case of child sexual assault and no action was taken to address that possibility.

14.24 In the committee's view, this failure to take prompt action where child sexual misconduct may have been at issue represents a serious human rights breakdown by TASAIRTC (as in a loco parentis relationship). Furthermore, as time passed and investigations were undertaken after her death, this matter was not at the forefront of the ADF's concerns. There appears to have been a complete failure on the ADF's part to comprehend the significance of what had happened and to appreciate that they had a duty of care to protect a minor from harm.

14.25 On 9 May 2005, the Human Rights and Equal Opportunity Commission tabled a report which dealt with the circumstances of Eleanore Tibble's dismissal. It considered whether the Commonwealth of Australia breached her rights under the Convention on the Rights of the Child. The Commission's findings strengthen those of the Committee's. Mr John von Doussa, President, HREOC, found *inter alia*, that TASAIRTC or TASAIRTC officers:

- failed to recognise the need to consider the interests of the child as paramount;
- failed to take into account as a primary consideration Ms Tibble's best interests;
- failed to protect Ms Tibble from humiliation that might result in psychological harm; and
- failed to take all appropriate administrative, social and educational measures to protect Ms Tibble from 'neglect or negligent treatment'.

14.26 Of particular interest to the committee, is the Commission's response to the Commonwealth's submission to the Commission's preliminary findings that officers failed to take account of the serious nature of allegations of a sexual nature involving a child. After considering the submission, the Commission found that:

There was no understanding by the officers involved (and I would add, the lawyers who apparently gave legal advice that 'Ms Tibble should be asked to resign') that there may have been an issue of child sexual abuse. That likelihood was plainly raised by the initial belief that there had been a sexual relationship involving a 15 year old girl, and then by her statement in the Record of Interview, that she had not reported the relationship because of fear of threats from her superior.

Instead of immediately taking steps to ensure the protection of the child, the likely victim of a situation which those in loco parentis had the obligation to prevent, the processes which took place sought to discipline the victim. This is a serious human rights failure which occurred.

It is one thing that the failure occurred in the first place, perhaps as a consequence of inadequate guidance in policy manuals and inexperience and lack of training of the officers concerned. It is quite another thing that long after the event, after investigation and time for consideration and change of policies, that formal submissions directed at minimising and trivialising the failures should be made which still fail to recognise and acknowledge the significance of what happened. It is reasonable to assume that formal submissions made by lawyers in a matter of the seriousness of this one would be thoroughly considered submissions made on instructions from a senior level in the Department of Defence.¹³ (emphasis added)

14.27 These concerns are consistent with other evidence received by the committee in relation to the handling by the ADFC or the ADF of allegations against cadets and cadet staff.¹⁴ That evidence concerns a cadet who is still a minor and therefore, the committee does not consider it appropriate to discuss the detail of that complaint. However, the committee is of the view that similar to the case of Eleanore Tibble, officers in the ADFC, following allegations made against a young cadet, failed to recognise and fulfil their duty to place the interests of that cadet first. It notes the apparent condoning of harassing behaviour toward the accused cadet by other cadets and a failure of the organisation to investigate the allegations adequately (at least in the view of the parents of the cadet and the committee). In this instance, the suspected offence was also reported to the Police. However, this does not detract from the actions and allegations surrounding the cadet unit that needed also to be dealt with.

13 The Human Rights and Equal Opportunity Commission Report No. 29, *Report of an inquiry into complaints by Ms Susan Campbell that the human rights of her daughter were breached by the Commonwealth of Australia under the Convention on the Rights of the Child*, p. 29. Emphasis added.

14 Confidential Submissions, C23 and C23A.

14.28 The Defence Force Ombudsman has also recently investigated the complaint of a young person (under the age of 18) of an incident involving unacceptable behaviour at a Navy training establishment in mid-1996. His findings again suggest the need for the ADF to take strong and immediate action to rectify serious problems in their practices and procedures for dealing with matters involving young people and sexual impropriety. The Ombudsman recommended that:

- the RAN provide training to RAN Police Coxswains on investigative technique, and monitor their investigations, to ensure that interviews are tape recorded, records are complete, questioning is undertaken appropriately, and that young persons are treated in a manner that acknowledges their age, level of experience and need for support in such situations; and
- the RAN instructions in relation to the investigation of alleged sexual assault be revised to require that such cases be referred to the civilian police at an early stage.¹⁵

14.29 The committee is highly critical of the ADF's lack of appropriate action where allegations were made of a sexual nature involving minors. There appears to be two major issues in the handling by the ADF of allegations that personnel including cadets have been mistreated. Firstly, there is no real awareness of the correct way to approach such allegations—particularly the prompt reporting of any suspicion of child sexual assault to civilian police. Secondly, there are no effective mechanisms in place to address such issues in a systematic and efficient manner.

Acknowledgement of shortcomings and remedies

14.30 The Chief of Air Force advised the committee that with hindsight, an investigation into the circumstances surrounding the suspension of Eleanore should have been initiated earlier but it was assumed that the coroner's investigation would suffice:

It would appear that there was a meeting in early December, a week after the tragic death of Ellie, and the discussion was that there would be a coroner's inquiry, and because there was a coroner's inquiry I think there was an assumption that all the matters to do with this would be taken up in that coroner's inquiry. With the benefit of hindsight, I think that was a mistake. In my view it was absolutely imperative to investigate the processes that surrounded the suspension of Ellie Tibble and why she was not reinstated when it became clear that the relationship was a friendship.¹⁶

14.31 The Air Force has advised the committee and Mrs Campbell on a number of occasions that it deeply regrets the death of Cadet Sergeant Tibble and acknowledges

15 Commonwealth Ombudsman, *Report into the investigation of a complaint by a young person (under the age of 18) of an incident involving unacceptable behaviour at a Navy training establishment in mid-1996*.

16 Air Marshal Houston, *Committee Hansard*, 1 March 2004, p. 51.

that there were significant defects in the manner in which this matter was handled. The Air Force acknowledges the shortcomings to have included:¹⁷

- inadequate record-keeping;
- deficiencies in policy in relation to the requirement to involve parents and guardians during counselling and interviews with cadets; and
- deficiencies in training for Australian Air Force Cadets staff in personnel management and in particular in managing and developing adolescents.

14.32 In addition, the Minister for Defence, in a letter to Mrs Campbell dated March 2002, stated that 'to the extent that the actions surrounding the handling of Eleanore's suspension contributed to Eleanore's death is a matter of deep regret'.¹⁸

14.33 All but one recommendation arising out of the IO Report have been implemented. The outstanding recommendation relates to administrative action against one of the staff members involved. That matter is still continuing and subject to further review.

14.34 The Chief of Air Force advised the committee that following the findings and recommendations of the Stunden Report, administrative support manuals and guidelines have been revised and updated to clearly state procedures and processes to be followed in the management of young people in the cadets, including:¹⁹

- cadet instructions strengthened to provide specific guidance to adult volunteer staff in the management of adolescents; and
- revision of cadet policy manuals to include codes of behaviour for staff that detail the administrative procedures and practices to be followed when dealing with minors, including mandating occasions when communication is required with parents or guardians.

14.35 The training of adult volunteer staff has also been updated and made more relevant, including:²⁰

- training programs for cadet officers and instructors that place particular emphasis on developing skills to work effectively with adolescents; and
- training modules in a range of subject areas, including equity and diversity, legal principles and implications for cadet members, the psychology of

17 Department of Defence, *Submission P16*, p. 88.

18 Maria Campbell, *Committee Hansard*, 21 April 2004, p. 18.

19 *Submission P16*, pp. 88-89. (ADF) See also, Air Marshal Houston, *Committee Hansard*, 1 March 2004, p. 46 and Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 45.

20 Department of Defence, *Submission P16*, pp. 88-89. See also, Air Marshal Houston, *Committee Hansard*, 1 March 2004, p. 46 and Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 45.

adolescent behaviour, the management of behaviour modification, the management of due process, and occupational health and safety.

14.36 The Chief of Air Force also advised the committee that existing staff are receiving instruction on the above subjects, and the modules have been incorporated into the initial training program that all staff undergo on joining the cadets. The training is also now included in cadet recruitment, promotion and command courses to ensure ongoing awareness at all stages of the training and development continuum.²¹

14.37 In addition, the ADFC is also moving forward with a number of activities which are preventative in nature relating to suicide awareness and crisis response involving the Directorate of Mental Health and the Defence Community Organisation.²²

14.38 The committee was advised that the Air Force investigation took into account Mrs Campbell's concerns about the handling of the allegations of fraternisation and the subsequent suspension of her daughter. Mrs Campbell was provided with a full and uncensored copy of the final report of the inquiry.²³

14.39 Mrs Campbell was given the opportunity to review the proposed changes in policy and training from a parental perspective. One of the suggestions Mrs Campbell made was for cadets to be allowed access to Defence Community Organisation staff in circumstances where they felt they could not raise issues with their instructors. Air Force agreed with Mrs Campbell, and that change was also incorporated into cadet policy.²⁴

14.40 It is sad to all concerned, and devastating to the family, that it took the death of a young cadet to initiate such action on the part of the ADF.

14.41 Similar to a number of other issues contained in this report, the committee is of the view that administrative investigations into situations that involve such serious circumstances and particularly those involving a death should be mandatory, not discretionary. However, whilst the administrative investigation by the RAAF could have been initiated immediately following the death of Eleanore, the committee is generally satisfied with the steps taken by the Air Force following the investigation process and the subsequent changes to policies and procedures in relation to cadets.

21 Department of Defence, *Submission 16*, p. 89. See also, Air Marshal Houston, *Committee Hansard*, 1 March 2004, p. 46.

22 Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 46.

23 Whilst Mrs Campbell was provided by the RAAF with a full copy of the Stunden Report, the Committee understands that Mrs Campbell's initial request for that report was through Freedom of Information.

24 Department of Defence, *Submission P16*, p. 89. See also, Air Marshal Houston, *Committee Hansard*, 1 March 2004, p. 46.

14.42 The HREOC also examined the measures taken by the Department of Defence to rectify deficiencies in its policy and procedural manuals and training program for Australian Air Force Cadets staff. It considered that the Policy Manual does not provide 'adequate guidance to officers that situations can arise, particularly where sexual impropriety is suspected, where the primary interest of cadets make it inappropriate that any of the disciplinary measures contemplated...be undertaken.'²⁵

14.43 The committee notes this finding and supports HREOC's recommendation that the Manual contain advice that:

...those who have the responsibility of dealing with cadets that they should always be alive to the possibility that inappropriate behaviour by a cadet may be the result of influence or pressure from a superior to which the cadet has succumbed. In those situations the primary interest of the cadet require sympathetic support and protection—not warnings or counselling that is predicated on blameworthy conduct having occurred.²⁶

14.44 The Commission also recommended that the syllabuses for training programs for officers and instructors should be 'checked to ensure that instruction is given on what is required and when to ensure that the best interests of cadets who are minors are the primary consideration when dealing with allegations of inappropriate conduct'. It suggested further that the conduct of training instruction are matters upon which expert advice should be sought including from an expert in the human rights of children.²⁷

Monitoring of implementation—preventing a recurrence

14.45 The Committee recognises that extensive and appropriate changes have been put in place by the Australian Air Force Cadets in relation to the management of a minor who is thought to have breached the standards of behaviour.

Recommendation 38

14.46 To ensure that the further development and implementation of measures designed to improve the care and control and rights of minors in the cadets are consistent with the highest standards, the committee suggests that the ADF commission an expert in the human rights of children to monitor and advise the ADF on its training and education programs dealing with cadets.

25 The Human Rights and Equal Opportunity Commission Report No. 29, *Report of an inquiry into complaints by Ms Susan Campbell that the human rights of her daughter were breached by the Commonwealth of Australia under the Convention on the Rights of the Child*, p. 47.

26 *ibid.*, p. 47.

27 *ibid.*, p. 47.

Resources available to the ADFC

14.47 As mentioned above, the ADFC is essentially a volunteer organisation for staff members although some remuneration is provided. Cadet staff members generally volunteer approximately 4 hours per week, a weekend per year and a camp of one week's duration per year. The reality of that commitment, however, often equates to significantly more hours and the committee is aware that the remuneration provided in many cases is not commensurate with the actual expenses incurred by staff.²⁸

14.48 Often, cadet staff members are required to use their full recreation leave entitlement from their full-time positions to accommodate cadet commitments and activities. Whilst this is done in recognition of the worthiness of the organisation, the only time left for formal staff training is additional weekends. The committee is aware that residential courses are also utilised for new staff, but this still requires a new staff member to secure sufficient leave from full-time positions. Given that ADFC staff members are not reservists, they are not entitled to any Defence leave to participate in cadet activities. As a result, there is often a very high staff turnover from trying to balance family life, full-time employment and volunteering with the cadets.

14.49 In terms of administration, it is also worth noting that cadets and staff meet in the evening on their allotted day each week. For many cadet staff, this means that any follow-up of administrative matters has to be done in business hours during their full time jobs. In the absence of any centralised administrative arrangements, it is not surprising that delays might occur when parents attempt to contact senior staff members if it is not on the evening of their child's allocated day of the week.

14.50 As is inevitable when dealing with adolescent children, the committee is aware that formal complaints are made against staff and other cadets. Each of these complaints needs to be investigated with sensitivity and the principles of natural justice need to apply.

14.51 In evidence to the committee, the Chief of Navy acknowledged that the cadet organisations have very little capacity to investigate allegations against cadets or staff when they arise.²⁹ The committee notes the ADF advice that, when such allegations arise, they are normally investigated by someone appointed from within the ADF.³⁰ The committee understands from other evidence that those investigations generally only take place after lengthy lobbying and campaigning by the parents involved.

14.52 These issues have also been identified by the Defence Force Ombudsman. As a result of several serious complaints made to the Ombudsman's Office in recent years, concerns have been raised about the adequacy of Defence's administration of

28 See also, Air Commodore McDermott, *Committee Hansard*, 21 June 2004, pp. 50-51.

29 Vice Admiral Ritchie, *Committee Hansard*, 5 August 2004, p. 76.

30 Vice Admiral Ritchie, *Committee Hansard*, 5 August 2004, p. 80.

people under the age of 18 years. This has prompted the Ombudsman to conduct an 'own motion' investigation into such matters.³¹

14.53 The Ombudsman's investigation will cover both Service personnel and Defence Force Cadets and the focus of the investigation is to determine whether there are:

- procedures in place which take appropriate account of the lack of maturity and inexperience of young people and their limited capacity to deal effectively with major issues and stresses which can arise as a consequence of defence related activities; and
- mechanisms in place to ensure staff understand, implement and monitor these policies effectively, including dealing with any problems or complaints which might arise.

14.54 The committee will be particularly interested in the report and findings of the Ombudsman on these matters.

14.55 The committee is aware that there are different arrangements in each of the three cadet organisations. For example, the Navy cadets are assisted by management and administrative support from the Navy by way of the appointment of a local naval authority. Army Cadet Headquarters has an army chaplain posted there, and can also call on the assistance of Army psychology. Air Force cadets now have the assistance of the DCO. Air Force is also piloting an arrangement whereby a chaplain and psychologist are located at headquarters as cadet staff (not members of the ADF).³² Whilst these arrangements are positive and to be encouraged, they do not address the administrative stress on cadet staff.

14.56 The committee also notes the relatively recent announcement of an additional \$18 million to the ADFC. However, that injection of funding will not specifically address these issues. It will fund upgraded accommodation, adventure training and new technology³³ (although new technology may go some way toward addressing administrative delays).

14.57 The committee is firmly of the view that the policy and training changes outlined above are very important but, for the reasons just mentioned, the committee is concerned about the implementation of the revised policies and training for staff and cadets. The committee is not convinced that there is adequate capacity for the cadet staff to conduct their work and implement the recent changes within the arrangements as they currently stand.

31 Defence Force Ombudsman, *Submission P28*, p. 1.

32 Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 47.

33 The Hon Fran Bailey MP, *Press Release*, '\$18 million Boost to Cadets', 11 May 2004. See also, Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 56.

Future status and administrative arrangements for the ADFC

14.58 As mentioned above, the case of Cadet Sergeant Tibble also raised the issue of the status of cadet staff and therefore, the accountability of staff. In that case, the adult staff member involved with Eleanore resigned from the organisation leaving no recourse for the TASAIRTC. The committee accepts that had there been grounds for prosecution under criminal or civil law action could have been taken. But, short of such action, accountability and the capacity of the ADFC in relation to its staff has proved limited.

14.59 The committee also accepts the rationale that ADFC staff are largely volunteers who are not preparing for combat and therefore should not be subject to all aspects of the military justice system.³⁴ The committee, however, is concerned that there are significant numbers of minors under the control and responsibility of people for whom there is no complete legislative framework.

14.60 Whilst there may be a common law employer relationship between the cadet staff and the Commonwealth, in the context of Defence Force Regulations, what that actually entails is enormously vague.³⁵ The Australian Government Solicitor has advised the ADF that there are issues with the relationship between the ADF and the ADFC and that the regulations (dating back to 1977) should be amended to ensure that the rights and responsibilities of Defence and cadet staff are clearly defined.³⁶ Air Marshal Houston acknowledged the need to update regulations:

The problem we have at the moment is that there are deficiencies in the existing arrangements. We have to codify the arrangements in much more detail so that they stand up to close scrutiny. They would not stand up at the moment. There is not sufficient guidance or policy and there are lots of issues with the 1977 legislation, because it essentially established the cadets as a volunteer organisation. We need to put more substance into it so that it stands up.³⁷

14.61 In an attempt to address these issues, the committee understands that the Director-General Cadets is developing a submission to the Minister proposing amendments to the regulations. The committee considers resolution of this issue to be vitally important and should be an urgent priority for the Government.

Recommendation 39

14.62 The committee recommends that the ADF take steps immediately to draft and make regulations dealing with the Australian Defence Force Cadets to

34 Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 54.

35 Air Commodore McDermott, *Committee Hansard*, 21 June 2004, p. 55.

36 Air Marshal Houston, *Committee Hansard*, 5 August 2004, p. 76.

37 Air Marshal Houston, *Committee Hansard*, 5 August 2004, p. 77.

ensure that the rights and responsibilities of Defence and cadet staff are clearly defined.

Recommendation 40

14.63 The committee recommends that further resources be allocated to the Australian Defence Force Cadets to provide for an increased number of full-time, fully remunerated administrative positions across all three cadet organisations. These positions could provide a combination of coordinated administrative and complaint handling support.