

Chapter 2

The landing of the senior sailors in Singapore

2.1 During *Success'* deployment between March and May 2009, the commanding officer (CO) of the ship became aware of reports of a number of incidents of unacceptable behaviour that eventually caused him to contact Fleet Headquarters for support and guidance. The response from Fleet Command set in motion a series of events that eventually culminated in the landing of three senior sailors in Singapore on 9 May 2009. Rather than resolve problems, this action attracted widespread and sensational publicity; damaged the good standing and character of certain crew members; cast doubt on the reputation of the ship's company; and more broadly damaged Navy's image.

2.2 In its first report, the committee looked at the circumstances that caused the CO to seek outside help to deal with problems that had been brought to his attention. It considered the Equity and Diversity (E&D) team that was sent to assist; the veracity of its damning report on the behaviour of some crew members; and the subsequent landing of three senior sailors from the ship in Singapore. In this chapter, the committee provides a summary of events and of the committee's findings which drew heavily on the contents of Part One of the Gyles' Report.

Reports of unacceptable behaviour—a cultural issue

2.3 On 26 April 2009, three members of the ship's company—the executive officer (XO), who was the most senior female officer, and the two senior female sailors—met the CO, CMDR Simon Brown, to discuss a serious issue that had come to their attention concerning the general management of *Success*. The allegations included 'bullying, the existence of bounties for having sex with junior sailors, encouragement of female sailors to get drunk and, therefore, be more susceptible to sexual approaches and predatory behaviour towards female sailors—specifically being undertaken by some members of the engineering department.'¹ Without doubt, the CO of the ship placed a great deal of weight on their accounts. According to CMDR Brown, this information 'was not firsthand, but had been reported or told to these members by junior female sailors'.² At this time, the alleged perpetrators were not named as the information had been provided in confidence, but the CO was told that this behaviour had been going on for some time and that it was getting worse.

1 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 12 March 2010, pp. 4 and 62–63.

2 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 12 March 2010, p. 4.

2.4 CMDR Brown was of the view that the problem onboard his ship was a cultural issue 'not just an unacceptable behaviour issue—there was potential sexual-related activities, potential criminal activities'.

Outside assistance

2.5 Alarmed by these accounts of unacceptable behaviour and believing that he had a significant cultural issue onboard *Success*, CMDR Brown contacted Fleet Headquarters and outlined the equity and diversity issues of concern. In an email, dated 30 April 2009, he wrote about his belief that there was currently a number of 'bounties' placed on very junior female members of his ship's company, including the one involved in a consensual sex act that took place onboard *Success* while in Qingdao. CMDR Brown then went on to say:

There have been instances of junior female sailors being abused, intimidated and threatened ashore. The sailors in question are currently not willing to come forward due to the potential for incrimination and potential recrimination. This has been brought to my attention through a number of the more senior females onboard. I believe much of the action/issues that are occurring are condoned by some [redacted] onboard. A recent incident which came to light after sailing from Qingdao involved a junior female sailor and [redacted] in a night club ashore where a sexual act was committed on the pool table in the bar in the full view of POs and other members of the ships company. My executive officer has been approached by junior sailors who have stated that there is a predatory element [redacted] onboard that has been onboard for a number of years, it has only been brought to commands attention because there is an understanding that something will now be done about it.

Sir, it is my firm belief that there is a predatory element onboard that focuses on junior inexperienced females which is led by the [redacted] department onboard. I am convinced that this has been going on for some time and is condoned by members of [redacted]. I am also convinced that there are a [redacted] number of junior sailors onboard who are confident that their actions are condoned thinking that they have the 'consent' of the senior sailors onboard, the junior females that are implicated feel that they have very little recourse and feel that if they speak up there will be consequences. The members who have brought this to my attention feel they are very much at risk, but feel that enough is enough.³

2.6 This email was the first document recording the allegations.

Equity and Diversity (E&D) team

2.7 After some consideration at Fleet Headquarters, CDRE Daryl Bates, Chief Combat Support Group (CCSG), decided to send an equity and diversity team, made up of two personnel, to come onboard to conduct workshops. The team comprised the

3 The Gyles Report, Part One, paragraphs 1.117 and 2.237.

senior equity adviser of Fleet Command, Lieutenant Diane McArthur, and the Assistant Equity and Diversity Coordinator of Fleet Command, Warrant Officer (WO) Melville Harker. They were directed not to conduct an investigation or a quick assessment. According to CDRE Bates, he made clear to the CO that the team was being provided to:

- assist him informally in exploring whether he did in fact have any inappropriate behaviour or culture occurring in the ship; and
- provide E&D presentations in order to assist him in rectifying a poor E&D culture should that exist.⁴

2.8 Even so, uncertainty surrounded the role and function of this team. Crew members were informed that the team had arrived 'to conduct cultural awareness and Equity and Diversity presentations'.⁵ The E&D Health Check had no clear terms of reference or Defence regulations or instructions to guide its conduct. This confusion contributed to a breakdown in communication with those onboard *Success* who had no reasonable understanding of the purpose of the so-called 'cultural awareness and Equity and Diversity presentations'. Furthermore, Mr Gyles described their activity as a 'quasi-investigation' which was undertaken by people with no training or experience in conducting such inquiries. Clearly, the appointment of the E&D team and the tasks assigned to it meant that its report provided a potentially dubious foundation for any future actions.

2.9 The E&D team joined the ship in Hong Kong on 4 May 2009 prior to the vessel sailing for Singapore and conducted their workshop onboard during that period.⁶ Lieutenant McArthur and WO Harker agreed to present separately to different groups simultaneously.⁷ These group E&D sessions encouraged 'open discussion about instances of unacceptable behaviour'. In some instances, alleged perpetrators were named.⁸ The E&D team noted:

As the workshops were conducted within peer groups, some of the ship's crew felt comfortable enough to openly talk in the group format. Most groups raised similar issues, including the use of steroids and drugs onboard, the closed off cultur[e] within the MT branch, inequality in

4 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 5 July 2010, p. 8.

5 Gyles Report, Part One, paragraph 4.70 and also evidence from WO Harker, Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 26 March 2010, p. 331.

6 Gyles Report, Part One, paragraph 1.119 and Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 25 March 2010, p. 214.

7 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 25 March 2010, p. 215.

8 Gyles Report, Part One, paragraphs 4.103–4.104.

punishments when it came to the MT branch, and the level of inappropriate relationships that occur onboard.⁹

2.10 The team also held private sessions that provided an opportunity for individuals or small groups to speak to the E&D team in confidence about what they perceived as the unacceptable behaviour of fellow crew members.¹⁰ In this hot house environment, it was only natural that rumours spread throughout the ship about the purpose of the E&D team and what was being reported to them.

E&D Health Check Report

2.11 On 8 May 2009, after conducting its so-called 'health check', the E&D team presented its report to the CO. In compiling the E&D report, the authors recorded the comments or observations made to them about the type and level of unacceptable behaviour. The report referred to allegations about the use of drugs, inappropriate relationships, sexual act in public, the use of alcohol ashore, random breath testing (RBT), equality of punishment, leadership and mentoring, and predatory culture, particularly within the marine technical department.¹¹ In more detail, the E&D team recorded that:

- most groups raised the issue of the use of steroids and recreational drugs by some junior sailors and it appeared common knowledge throughout the ship that steroids were found in the trash onboard *Success*;
- a common perception existed that random drug testing was not conducted as it was too hard and therefore culprits continued to use drugs—a number of individuals had come forward and provided the names of those allegedly using steroids, some of the users were experiencing steroid rages;
- female junior sailors 'almost unanimously agreed that it was easier to give in and agree to have sex with a sailor, than continually fight off their persistent attention'—when asked why they gave in, the common response was that 'some of the sailors were big and scary, and they intimidate to the point where you just give in to get it over and done with, particularly some of the MT sailors';
- it appeared to be no secret that some of the female sailors were having inappropriate relationships with male sailors and a number of individuals stated they were aware of inappropriate relationships between female junior sailors and male junior officers;
- it appeared to be common knowledge across the ship that some sort of public sex act occurred recently in a bar in Qingdao;

9 The equity and diversity team's report, paragraph 4.

10 Gyles Report, Part One, paragraph 4.184.

11 The equity and diversity team's report and Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 12 March 2010, p. 6.

- a number of individuals came forward and provided the names of two POs who were present when the public sex act was alleged to have occurred and the name of the ABMT [able seaman, marine technician] who allegedly had sex with an unknown female;
- most of the groups acknowledged that the consumption of alcohol while ashore was excessive and unhealthy and that it was a major contributing factor towards the unacceptable behaviour that goes on ashore;
- female junior sailors admitted that they drank too much when ashore, and get caught up in drinking games;
- some of the male junior sailors admitted that 'depth charging' female sailors' drinks without their knowledge was common practice and was used to get them drunk more quickly;
- a number of individuals stated that when RBTs were being conducted, one POMT 'told his boys to stay down the hole' if they thought they were going to blow over, and he would cover for them;
- individuals stated that on two occasions two personnel had blown over and the paperwork has been mysteriously misplaced;
- some of the groups referred to an incident that was alleged to have occurred in Cairns, where two *Success* sailors assaulted police officers and the perception amongst the ship's crew was that the two sailors did not receive a punishment as they belonged to the 'protected pack' of MT sailors;
- there was a common perception among junior ranks that not all senior sailors and officers set a good example or act as good role models, particularly in the areas of alcohol consumption, inappropriate relationships and dress and bearing while ashore;
- a number of individuals came forward and explained how they had on occasions escorted officers to bed because they were too intoxicated to get to their messes; and
- there was a general consensus among Petty Officers (POs) that some Chief Petty Officers (CPOs) were missing in action in that they were neither available as mentors, nor set an example as mentors. This view was also shared by officers but not apparently so by the POMTs.¹²

2.12 The report also provided detailed information on what the E&D team termed predatory behaviour in the MT department, including the use of stand over techniques, intimidation and bullying, even threats of physical violence.¹³

2.13 Relying on the contents of the discussions in the group and private meetings, Lieutenant McArthur concluded in her report that:

12 The equity and diversity team's report, paragraphs 9–24.

13 The equity and diversity team's report, paragraphs 25–31.

- it was difficult to confirm if the bounty theory...was true and that although people talked about it, there was no real evidence to suggest that it existed;
- a predatory culture existed within the marine technical department whereby some of the male senior sailors and junior sailors actively sought out young female junior sailors and coerced or bullied them into having sex while ashore;
- a sexual act between a female junior sailor and a male junior sailor took place in a public area and marine technical senior sailors watched on and encouraged marine technical junior sailors to also watch on; and
- threats had been made against certain members of the crew if they spoke out about the nature of the unacceptable acts being carried out.¹⁴

2.14 The report did not make any recommendations.¹⁵

2.15 Although supposedly an E&D health check, in some places, the report recorded allegations as though proven. Thus, despite the E&D team not undertaking an investigation and operating outside any legal or administrative framework, they drew conclusions that clearly elevated some allegations to the level of fact: individuals were named as though guilty of unacceptable behaviour. For example, the report stated that 'the two members had been threatened with physical violence and with being posted off this ship'.¹⁶ This statement is not couched in terms of an allegation yet to be tested but as a matter of fact. Furthermore, as noted by Mr Gyles, the evidence did not support the conclusion that two crew members had indeed made such an allegation. The report named the Chief Petty Officer (CPO) who was alleged to have made the threats. Somehow, the CO gained the impression from Lieutenant McArthur that two Petty Officers (POs), who were identified, were also involved with these threats of physical violence. The information provided to the E&D team made no such connection.

2.16 Based on their accounts, the members of the E&D team made no attempt nor intended to substantiate the truth or otherwise of the allegations. Those said to be involved in the alleged incidents were not approached to give their version of events. Indeed Lieutenant McArthur assumed that an investigation would follow.

Committee view

2.17 In part one of its report, the committee concluded that the E&D team was correct to record the views, observations and concerns of crew members to enable it to inform the commanding officer and Fleet Command about possible or even likely inappropriate conduct. In the committee's view, however, the E&D team went well

14 The equity and diversity team's report, Summary.

15 Evidence of WO Harker, Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 26 March 2010, p. 340.

16 The equity and diversity team's report, paragraph 30.

beyond its remit by naming individuals as though guilty of unacceptable behaviour. It is irrelevant that the members of the E&D team insist that they did not conduct an investigation, because whatever way the report is read, it presented some of its most critical findings as though proven.

Decision to land sailors in Singapore

2.18 Despite the deficiencies in the E&D report, no one in authority appeared to question the basis for its findings with both the CO and Fleet Command accepting the report's assumptions at face value. They did not question or seek to corroborate the information contained in the report.

2.19 At that time, the CO's knowledge of events derived mainly from the discussions he had had prior to the arrival of the E&D team, for example, the conversation he had with the three senior female officers on 26 April; the E&D report; and his brief exchange with Lieutenant McArthur on 8 May. The CO's decision to remove the three sailors on 9 May rested principally on those sources, especially the E&D report. Moreover, the CO stated that he formed the view that the sailors should be removed from the ship because they posed a threat to the safety of the ship's company.

2.20 CMDR Brown made clear that he landed the sailors not because of the sex, or the drugs—'it was about my concern for the safety of the ship's company based on threats of physical violence and in accordance with my direction to maintain a safe working environment'.¹⁷ In his statement on his intended course of action sent to Fleet Command on 9 May, he stated:

The report has highlighted a number of issues that have reinforced my belief that a number of my ship's company are in potential danger, particularly if they speak about the incidents that have occurred. This is indicated by the threats of physical violence from [redacted] should they talk to the E&D team or 'spill the beans'. There is a real fear onboard that if anything is raised while the main protagonists are onboard then nothing will be done and they would be in danger of physical violence.¹⁸

2.21 It should be noted that in the case of the three senior sailors, the evidence that they were involved in threatening two members of the crew with physical violence if they spoke to the E&D team was erroneous. Yet it was on these grounds that they were removed from the ship. Furthermore, to convey his concern about the leadership

17 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 24 March 2010, p. 151.

18 Gyles Report, Part One, paragraph 4.263 and S.T. Brown, Commanding Officer, HMAS *Success*, Intended Course of Action in relation to issues onboard HMAS *Success* relating to recent concerns by Commanding Officer HMAS *Success*, 9 May 2009. Copy provided to the committee in confidence and Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 12 March 2010, p. 83.

of this alleged unacceptable behaviour, the CO used highly emotive language. For example, in his intended course of action he suggested that:

...there is a small group at the centre of these activities, who feel they are untouchable because of their position onboard. They have resorted to Mafia style actions to carry out their activities which are in some cases criminal in nature.

...

It is my strong opinion and that of the E&D team that with the 'ring leaders' removed there will be a flood of information put forward to substantiate the concerns held by Command.¹⁹

Circumstances and manner of the landing

2.22 Fleet Command fully supported the CO's proposal to land the three sailors. Thus, on 9 May 2009, he ordered the three senior sailors to appear individually before him in his cabin where he provided each with a letter. The CO addressed each sailor by reading from the letter and providing him with the flight details of his return to Australia. The letter was brief and to the point. It stated that certain allegations had come to the CO's attention that were of great concern to him 'in terms of the operation of HMAS *Success*, including matters possibly affecting the safety and welfare of personnel'. The letter went on to state:

These matters concerning you have been reported up the chain of command for further investigation and lead me to land you temporarily from HMAS *Success* immediately.

You will be returned to Australia as soon as possible and be employed at HMAS *Kuttabul*. You are to report to OIC FSU SYDNEY ... [The CPO's letter had different wording that allowed for him staying in Singapore to holiday with his family].

As soon as you leave my office I direct you not to contact by any means or to return contact by any means with any member of the ship's company of HMAS *Success*, except the MEO [the marine engineering officer], as required.²⁰

2.23 Although, at least two of the sailors sought further information from the CO, nothing was forthcoming and all three remained in the dark about the nature of the allegations against them. According to the coxswain, the CO did not elaborate on the

19 Gyles Report, Part One, paragraph 4.263 and S.T. Brown, Commanding Officer, HMAS *Success*, Intended Course of Action in relation to issues onboard HMAS *Success* relating to recent concerns by Commanding Officer HMAS *Success*, 9 May 2009. Copy provided to the committee in confidence.

20 Letter dated 9 May 2009 and signed by S. T. Brown provided to the committee in confidence and Gyles Report, Part One, paragraph 4.270. The draft letter in the Gyles Report, has a slightly different wording—the last paragraph begins: 'As soon as you are landed'.

nature of the allegations responding with words to the effect of 'certain allegations'. The CO then directed them to return to their mess.²¹

2.24 Once they left CMDR Brown's office, the sailors were escorted to their mess decks 'to ensure that they didn't interact with the ship's company on the way...and to ensure that mess members did not come and disturb them while they were packing their bags'.²² The MEO, the only crew member permitted to speak to the sailors, could offer them no further information on the reasons for their removal.

2.25 One of the sailors was given the opportunity to remain in Singapore because he had planned a holiday there with his family over that period. He was directed to arrange accommodation for himself. The CO approved his request to make a phone call to do so.²³

2.26 The decision to remove the three sailors from the ship had far reaching and damaging implications for them. They had no forewarning of the CO's intentions, no knowledge of the allegations made against them except that that they were serious and possibly affected the safety and welfare of the ship. One sailor stated that he did not have any idea why such serious actions were being taken against him, 'especially with the tone and manner in which the CO notified me'.²⁴ All three were shocked, confused and distressed by the decision to land them in Singapore.²⁵

2.27 The sailors were given 30 minutes to pack their belongings and were then escorted from the ship to a taxi waiting alongside. While being escorted from the ship, the coxswain 'walked aft in K passageway and said words to the effect of 'Clear the area,' in a raised but clear voice'. He stated that he had made arrangements for the gangway to be cleared to provide a degree of privacy to the members.²⁶ Two of the sailors, however, were of the view that they were shown neither dignity nor respect. According to one, the coxswain shouted, 'clear the passageways and do not look at this person'.²⁷ The other told the Commission that the coxswain:

21 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 24 March 2010, pp. 105–106.

22 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 24 March 2010, p. 107.

23 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 24 March 2010, p. 108.

24 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 8 July 2010, p. 24.

25 See for example, Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 8 July 2010, p. 24 and 9 July 2010, p. 60.

26 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 7 April 2010, p. 56.

27 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 8 July 2010, p. 24.

...was shouting at members of the ship's company words to the effect of, 'Clear the passageway,' and 'Don't look at these people.' I found this to be extremely humiliating as I felt that I was being treated as guilty before I even knew what the allegations were against me.²⁸

2.28 The third sailor, however, told the Commission that he did not believe that the coxswain was saying this 'in any derogatory way but in an attempt, albeit rather clumsily, to protect our dignity and privacy'.²⁹

2.29 According to one of the POs, no one from the ship stayed with them or contacted them after the taxi dropped them at the airport. He stated further that on arrival in Sydney no representative from the Navy was there to meet them and he arranged and paid for a taxi to take him home. Furthermore, he indicated that when they reported for duty at Fleet Support Unit (FSU), no one there was aware of their landing. He said:

To compound our embarrassment and the indignity of being landed, no-one at FSU was able to answer our inquiries...³⁰

2.30 The committee found that the senior sailors were denied natural justice by not being informed about the allegations against them in a timely way; that their landing from the ship and transfer arrangements to HMAS *Kuttabul* in Sydney showed a disregard for their mental well-being, legal situation and professional standing in the Navy. They were not provided with the protections that should have been afforded to persons yet to undergo due process that would determine guilt or innocence. Clearly, they did not receive appropriate support in the period immediately after their removal from the ship and their welfare had not been taken into account properly. It should be noted that the three sailors did not receive an account of the allegations relied on to remove them from the ship until September 2009, four months after they were landed in Singapore.³¹ This delay is discussed in chapter 4.

2.31 Finally, while crew members gave different versions of the exact words used by the CO when informing them of the sailors' removal, The committee accepted the evidence that he used words to the effect that 'there was a rotten core on this ship and the core has now been removed'. In this regard, it is difficult to determine whether the various addresses by the CO to the ship's company prejudiced any subsequent inquiries. Even so, the committee believes that CO's reference to the removal of a rotten core certainly had the potential to bias future inquiries.

28 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 9 July 2010, p. 61.

29 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 1 July 2010, p. 47.

30 Commission of inquiry into alleged incidents onboard HMAS *Success*, transcript, 1 July 2010, p. 48.

31 Confidential submission.

Conclusion

2.32 The E&D report and the subsequent landing of the senior sailors triggered a series of administrative and disciplinary processes that are the focus of this report. Before considering the events that followed the removal of the sailors from *Success*, the committee notes the following decisions and actions that would influence future developments:

- although the ship's company were informed that an E&D team had joined the ship to conduct 'cultural awareness and Equity and Diversity presentations', the presentations or so-called workshops took on a very different form and actively encouraged crew members to report cases of unacceptable behaviour;
- even though not 'an investigation' and conducted outside any recognised or formal legal or administrative process, the E&D health check went beyond merely recording allegations of unacceptable behaviour, and in some instances presented them as fact: as though proven;
- some of the allegations could be categorised as notifiable incidents such as the sexual act that took place in a public area; steroid use and physical assaults;³²
- the CO of *Success* made clear that he had landed the senior sailors because he feared for the safety and wellbeing of members of the ship's company and not about the sex and drugs matters;
- aside from a general reference to concerns about the safety and welfare of the ship's crew, the sailors, despite requests for information, were not provided with reasons for their removal; and
- the sailors were left with a strong sense that they had been denied the right to know the allegations against them, that they had not been not appropriately supported during their removal from the ship and return to Australia; and overall were treated poorly by the CO, including his reference to the removal of 'a rotten core'.

32 The equity and diversity team's report, Summary.

