

NZDF Policies and Practices Relating to Physical, Sexual, and Other Abuses

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EXECUTIVE SUMMARY

INTRODUCTION

- 1 This review examined New Zealand Defence Force (NZDF) policies and practices to prevent and manage physical and sexual assaults and other forms of abuse.
- 2 The review followed a Cabinet decision¹ ‘... that an administrative review would be undertaken to examine the efficacy of current policies and practices of the NZDF to prevent physical, sexual and other abuse.’
- 3 Although the review covered all forms of abuse, including assault, the NZDF’s policies focus on preventing and managing harassment and discrimination. This is because:
 - a the ingredients of assault and its consequences are well established in criminal and military law and well-known to military personnel;
 - b what constitutes discrimination and harassment can be subjective and therefore more difficult to deal with;
 - c commanders and managers need good personnel management skills to prevent and manage harassment and discrimination effectively; and
 - d the majority of complaints about unacceptable behaviour in the NZDF involve harassment and discrimination.
- 4 The review covered military personnel and NZDF civil staff.
- 5 We gathered most of the information for this review from interviews with senior NZDF personnel. We also interviewed, in groups, approximately 30 junior personnel who had completed initial training within the last 12 months. We examined a range of documents, including NZDF and Service policies and other written material that indicated how these policies were put into practice. We did not investigate individual complaints about abusive behaviour; nor did we invite submissions from NZDF personnel or others.

¹ CAB Min (04) 33/10

WHAT WE FOUND

- 6 The NZDF's policies for the prevention and management of abuse are sound. It is clear that throughout the NZDF, personnel are striving to implement those policies. We found that there is a strong awareness of the need to provide a safe working environment and protect people from all forms of abuse. Commanders in particular saw this as an integral part of their leadership responsibilities.
- 7 A comprehensive structure is in place to support and assist those who feel they have been abused. Commanders and managers are also able to draw on various sources of advice in monitoring and dealing with abusive behaviour and sensitive issues.
- 8 More serious forms of abuse are dealt with through the NZDF disciplinary process. While the available data is not as robust as it could be, the indications—supported by anecdotal evidence—are that few serious incidents of abuse are occurring.
- 9 The NZDF has made significant progress towards giving effect to its zero tolerance approach to abuse. However, gaps in the measurement and monitoring arrangements mean that we cannot provide complete assurance about the effectiveness of the policies. The NZDF must take steps to improve its measurement and reporting systems.
- 10 In the following paragraphs we summarise the key components of our report.

OVERVIEW

- 11 The military environment offers a challenge to leaders wishing to prevent all forms of abuse. By their nature, operational activities are physically and psychologically demanding. Personnel must be trained effectively to deal with hostile and sometimes life-threatening situations. Training is focussed on building team cohesion and the need to promptly obey orders and instructions. The latter is a cornerstone of military culture. In high-pressure situations such as combat and collective training, the ability of all members of a unit to respond instinctively and without hesitation to the direction of their superiors is crucial.
- 12 There is a potential for a level of real or perceived abuse that is higher than in most civilian organisations because of:
 - a demanding training;
 - b the emphasis on teamwork and discipline to achieve operational effectiveness and safety (which leads to peer pressure to perform);

- c communal living, sometimes for long periods; and
 - d the hierarchical system in which superiors have a high degree of authority over their subordinates.
- 13 There are particular challenges in ensuring the safety and well-being of new entrants. The majority of military personnel join the armed forces at a young age and are placed in an environment of which they have no previous experience.
- 14 The NZDF demands military personnel observe high standards of professional and personal conduct. Standards of behaviour and discipline are expected to be higher than generally accepted elsewhere in New Zealand society. The NZDF is bound by common values that contribute to military efficiency and effectiveness: loyalty, integrity, professionalism, and commitment.
- 15 The Services place considerable emphasis on their core values, which underpin a team approach by stating the responsibilities personnel have towards others. As part of their initial training, new entrants are made fully aware of the significance and practical application of these values.
- 16 Expected standards of behaviour for officers and non-commissioned officers reflect that these personnel have a high degree of authority over their subordinates. They have a particular responsibility to exercise that authority with integrity. Failure to ensure the well-being of subordinates and to treat them fairly and respectfully is a serious failure of leadership.
- 17 The Services pay considerable attention to selecting and preparing instructors for their training schools. They closely supervise new entrants and are vigilant against any form of abuse.

POLICIES FOR PREVENTING AND MANAGING ABUSE

- 18 All members of the NZDF are subject to the ordinary laws of New Zealand. Consequently they are liable to prosecution for any breach of the law relating to conduct and behaviour. Military personnel are also subject to the Armed Forces Discipline Act 1971 (the Armed Forces Discipline Act), which establishes a number of offences not found in civil law (for example, ill-treatment of a person of lower rank).
- 19 The NZDF has detailed policies and procedures for preventing and managing discrimination and harassment. They set out:
- a the NZDF's commitment to providing an environment free from discrimination and harassment;
 - b the rationale behind policy and procedure;

- c definitions of harassment and discrimination;
- d commanders' and managers' responsibilities in preventing and managing harassment and discrimination, including support for the anti-harassment network;
- e resolution procedures; and
- f requirements for monitoring and reporting.

STRUCTURES AND PROCESSES FOR PREVENTING AND MANAGING ABUSE

- 20 The NZDF offers a number of options for military personnel or civil staff who feel abused and want assistance. The NZDF's aim is to ensure that anyone needing help can find someone approachable to talk to and receive an appropriate response. Sources of assistance fall into three broad categories:
- a the command chain/managers;
 - b the anti-harassment network; and
 - c professional support services.
- 21 Commanders are responsible for ensuring the well-being of their subordinates. They are also responsible for maintaining discipline. In theory, a Service member or civilian employee subjected to abuse or unacceptable behaviour (no matter how minor) should always approach their immediate superior in the first instance. In practice, however, this is not always appropriate because:
- a the superior is the person allegedly committing the abuse;
 - b the issue is sensitive; or
 - c the person complaining of the abuse may not want to involve the command chain, because this might invoke a formal investigation or disciplinary process. The person may simply want advice and assistance in dealing with the situation.
- 22 Section 103 of the Armed Forces Discipline Act requires that any allegation of an offence against that Act must be investigated as a disciplinary matter. However, sources of assistance that complement the command chain can be helpful in resolving some cases of unacceptable behaviour.
- 23 The anti-harassment and discrimination network is designed to provide an alternative avenue of assistance for people who feel subjected to abuse or unacceptable behaviour.

- 24 The network is made up of military personnel and civil staff as follows:
- a Anti-Harassment Advisers: trained, voluntary personnel who provide confidential assistance and support to individuals who believe they have been harassed.
 - b Anti-Harassment Mediators: act as intermediaries between personnel involved in harassment issues.
 - c Anti-Harassment Investigators: act in cases where disciplinary action has not been taken.
 - d Anti-Harassment Helpline: a confidential 0800 number staffed by Anti-Harassment Advisers.
 - e EEO Co-ordinators (in each of the Services, HQ NZDF, and HQ JFNZ): promote, co-ordinate, and report on EEO activities within their Service.
 - f EEO Advisory Officers: provide advice to commanders and managers on EEO related legislation, discrimination, and equity.
 - g EEO Trainers: provide briefings to units or schools on general EEO issues.
- 25 The NZDF employs a range of professionals who are able to give practical advice and assistance to commanders and managers on abuse issues. Professionals also offer another avenue of support and advice for people who may have been subjected to some form of abuse or who need assistance in dealing with sensitive issues. Personnel in support services include:
- a health-related professionals;
 - b psychologists;
 - c chaplains; and
 - d welfare services.

RESOLUTION PROCESSES

- 26 Just over half of all complaints about harassment and discrimination are resolved informally. This includes seeking assistance from an Anti-Harassment Adviser or supervisor, but it often involves people resolving incidents without the intervention of others.

- 27 Issues can also be resolved through formal mediation or investigation. Anyone involved in a complaint of harassment or discrimination (i.e. the complainant or the respondent) may request a formal investigation. Where an allegation has been made against a military person, and there is evidence of an offence under the Armed Forces Discipline Act, military disciplinary processes are used. Where evidence of an offence is less clear, commanders and managers must judge whether Service Police, Anti-Harassment Investigators, or both should investigate.
- 28 We were advised that dealing effectively with sensitive issues can require a more flexible and less formal approach than strict application of the disciplinary requirements of the Armed Forces Discipline Act. Guidance for commanders and managers on the exercise of discretion would be appropriate.
- 29 Where allegations are made against civil staff, and they do not involve criminal offences, Anti-Harassment Investigators or other personnel trained in the conduct of civilian investigations are appointed to investigate.

MONITORING OF ABUSE INCIDENTS

- 30 Charges under the Armed Forces Discipline Act are recorded and analysed at Service level, but NZDF-wide data on the numbers of charges that relate to various forms of abuse are not maintained.
- 31 NZDF policy requires incidents of harassment and discrimination to be reported for statistical purposes. Commanders, managers, Anti-Harassment Advisers, chaplains, psychologists, and welfare services staff must report each incident of discrimination or harassment brought to their attention.
- 32 Other statistics relating to abuse include the NZDF's Ongoing Attitude Survey, which includes questions on experiences and observations of harassment and discrimination; the Navy's annual attitude survey; exit surveys; and newly-instigated cohort studies, which will trace Service members from recruitment throughout their careers.

AWARENESS TRAINING

- 33 Each Service inculcates military personnel in its core values on entry and throughout their careers. Abuse prevention and management policies and practices are introduced early in new entrant training. New entrants are provided with a statement of expected standards of behaviour and core values. They are also told about the various sources of assistance available to them and the names and contact details of Anti-Harassment Advisers.

- 34 The Services reinforce abuse prevention messages over the course of a member's career. The reinforcement usually takes the form of briefings, seminars or workshops, and includes:
- a what constitutes discrimination and harassment;
 - b awareness of the relevant legislation;
 - c the NZDF policy on preventing discrimination and harassment; and
 - d an overview of harassment and discrimination resolution options and investigative procedures.
- 35 Civil staff receive induction training on taking up employment with the NZDF. Induction training includes sessions on harassment and discrimination, and information on sources of assistance if needed.

EXPECTATIONS

- 36 There are currently no comprehensive measurement and reporting systems that we could rely upon to establish the effectiveness of policies and procedures. As a result, we established a set of expectations to assist us reach an informed opinion. These expectations, if met, would demonstrate that appropriate policies and practices had been developed, and were being implemented.
- 37 We formulated fifteen expectations. Annex A presents each expectation with a summary of our findings. Seven have been met and seven partly met. We found only one of our expectations was not met.

EXPECTATION NOT MET – MONITORING SYSTEMS

- 38 We expected that monitoring systems would be in place to measure the effectiveness of policies and inform further policy development. This expectation was not met for the following reasons:
- a while there are high-level objectives for abuse management and prevention, these are not expressed in a way that enables their achievement to be measured;
 - b it is apparent that not all complaints or incidents of harassment and discrimination are recorded;
 - c not all the data available about abuse is reported to NZDF leaders in a comprehensive way; and
 - d there is no ongoing assessment of the effectiveness of policies and practices.

- 39 As a consequence of the absence of a comprehensive system of performance measurement and reporting it is unclear how the NZDF would recognise if it needed to take corrective action.

RECOMMENDATIONS

- 40 It is recommended that the NZDF:
- a implements a comprehensive system of performance measurement to monitor the effectiveness of its abuse prevention policies; and
 - b provides guidance to commanders and managers on the exercise of discretion in deciding whether to take a disciplinary or administrative approach to dealing with complaints of abuse.

CHIEF OF DEFENCE FORCE RESPONSE

CHIEF OF DEFENCE FORCE RESPONSE

1

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SECTION 1

INTRODUCTION

INTRODUCTION

- 1.1 This review examined New Zealand Defence Force (NZDF) policies and practices to prevent and manage physical and sexual assaults and other forms of abuse.
- 1.2 The review followed a Cabinet decision² '... that an administrative review would be undertaken to examine the efficacy of current policies and practices of the NZDF to prevent physical, sexual and other abuse'.
- 1.3 In this report we:
 - a describe the NZDF's policies to prevent and manage abuse;
 - b describe how those policies are put into practice; and
 - c assess whether the policies and practices are achieving the desired outcome.
- 1.4 Although the review covered all forms of abuse, the NZDF's policies focus on preventing and managing harassment and discrimination. This is because:
 - a the ingredients of assault and its consequences are well established in criminal and military law and well known to military personnel;
 - b what constitutes discrimination and harassment can be subjective and therefore more difficult to deal with;
 - c commanders and managers need good personnel management skills to prevent and manage harassment and discrimination effectively; and
 - d the majority of complaints about unacceptable behaviour in the NZDF involve harassment and discrimination.
- 1.5 The review covered military personnel and NZDF civil staff.

²

CAB Min (04) 33/10.

DEFINING ABUSE

- 1.6 For the purposes of this review, we included physical and sexual assault, harassment, and discrimination within the meaning of 'abuse'. The Concise Oxford English Dictionary defines:
- a 'assault' as to '... make an assault on', where assault is defined as '... a violent attack' or '... an act that threatens physical harm to a person whether or not actual harm is done';
 - b 'harass' as to '... torment by subjecting to constant interference and intimidation';
 - c 'discriminate' as to '... make an unjust distinction in the treatment of different categories of people, especially on the grounds of race, sex or age'... hence, discrimination '... the action of discriminating against people and showing discrimination or prejudice'; and
 - d 'abuse' as to '... use to bad effect or for a bad purpose ... to treat with cruelty or violence, viz to assault sexually, or address in an insulting and offensive way' ... and '... the improper use of something, cruel and violent treatment, viz sexual assault, or insulting and offensive language'. 'Abusive' is to be '... extremely offensive and insulting, or characterised by illegality or physical abuse'.

METHODOLOGY

- 1.7 We gathered most of the information for this review from over fifty interviews with NZDF personnel. Following initial interviews in Personnel Branch and the Directorate of Legal Service in HQ NZDF, we visited the Naval Base, Waiouru Army Camp, and RNZAF Base Woodbourne. Initial and most branch and trade training is conducted at these locations. During these visits we interviewed a wide range of managers and support personnel. This included commanding officers, personnel managers, legal staff, psychologists, chaplains, medical officers, welfare support officers, training school directors and instructors, as well as personnel with specific responsibilities in preventing and managing abuse.
- 1.8 We also interviewed, in groups, approximately 30 junior military personnel who had completed initial training within the last 12 months.
- 1.9 We examined NZDF and Service policies and other written material that indicated how these policies were put into practice. This included Personnel Branch files, training instructions, external reviews of equity and diversity in the NZDF, officer handbooks, and training programmes for new entrants and officers.
- 1.10 We did not invite submissions from NZDF personnel or others.

THE MILITARY CULTURE

HIGH STANDARDS OF BEHAVIOUR

- 1.11 The NZDF has established a high benchmark for personal and professional behaviour, based on individual and collective discipline. Expected standards of discipline and behaviour are higher than is generally the case in New Zealand society. There are three primary reasons for this:
- a The New Zealand public expects high standards of professional and personal conduct from NZDF personnel.
 - b Many operational activities require disciplined teamwork to ensure safety. Safely handling weapons and complex equipment requires self-discipline and good judgement.
 - c Officers and non-commissioned officers have a high degree of authority over their subordinates. They have a particular responsibility to exercise that authority with integrity.

DUTY OF CARE AND LEADERSHIP

- 1.12 Teamwork and discipline are critical to military efficiency and effectiveness. They are achieved through a hierarchical system in which rank and leadership are key. Officers and non-commissioned officers are given a high degree of authority over their subordinates; but bound to this authority is a duty of care. Duty of care requires superiors to ensure the well-being of subordinates and to treat them fairly and respectfully. Failure to meet acceptable standards in this regard is a serious failure of leadership.

CORE VALUES

- 1.13 The NZDF is bound by common values that contribute to military efficiency and effectiveness: loyalty, integrity, professionalism and commitment.
- 1.14 Each Service places considerable emphasis on its own core values. These core values underpin a team approach by stating the responsibilities personnel have towards others. As part of their initial training, new entrants are made fully aware of the significance and practical application of these values.

INITIAL TRAINING

- 1.15 The majority of military personnel join the armed forces at a young age. They are placed in an environment of which they have no previous experience. This environment includes communal living, a high level of discipline, peer pressure to perform, and a training regime that is focussed on building team cohesion and the need to obey orders and instructions. The latter is a cornerstone of military culture. In dangerous or high-pressure situations such as combat and collective training, the ability of all members of a unit to respond instinctively and without hesitation to the direction of their superiors is crucial. For this reason we took particular notice of the way people were treated, or perceived themselves to be treated, during initial training.

REVIEW OF PROGRESS OF THE BURTON REPORT

- 1.16 The NZDF introduced a number of policy initiatives around the time of an audit of gender integration in the NZDF, carried out for the Human Rights Commission and the NZDF in 1997/98. The report of that audit, issued in October 1998, is known as 'the Burton Report'.³
- 1.17 At the same time as we conducted this present review, Top Drawer Consultants were reviewing the NZDF's progress in implementing recommendations from the Burton Report. The Top Drawer Consultants' work includes comment on the approach the NZDF has taken to harassment, which was identified as a concern in the Burton Report.
- 1.18 Top Drawer Consultants had not finalised their report at the time of writing. Their draft findings with respect to harassment were consistent with our own.

³ Burton, C. (1998). Report of the Gender Integration Audit of the New Zealand Defence Force. Human Rights Commission and New Zealand Defence Force.

SECTION 2

POLICIES FOR PREVENTING AND MANAGING ABUSE

INTRODUCTION

2.1 This section describes the statutory background for NZDF policies to prevent and manage abuse. This section also identifies the key Defence Force Orders relating to harassment and discrimination. In addition to these orders there are other NZDF publications that partly, or indirectly, relate to preventing and managing abuse. The documents cover, for example, Equal Employment Opportunity (EEO) policy, induction of civil staff, and training manuals.

STATUTORY BACKGROUND

- 2.2 All members (military and civil) of the NZDF are subject to the ordinary laws of New Zealand. Consequently they are liable to prosecution for breaches of all statutory provisions relating to conduct and behaviour.
- 2.3 The Employment Relations Act 2000 applies to the Civil Staff of the NZDF in accordance with s 69 of the Defence Act 1990 (the Defence Act). The Employment Relations Act prohibits discrimination on the grounds set out in the Human Rights Act 1993.
- 2.4 Military personnel are subject to the Armed Forces Discipline Act 1971 (the Armed Forces Discipline Act), which establishes a number of offences not found in civil law. The sections of the Act that are relevant to this review are:
- a Section 35: Violence to a superior officer. Offences under s 35 include striking or using violence against a superior officer, or attempting to use violence against a superior officer. The maximum penalty is five years imprisonment.
 - b Section 36: Insubordinate behaviour. Insubordinate behaviour is defined as using threatening, insubordinate or insulting language to a superior officer. The maximum penalty for this offence is two years imprisonment.

- c Section 41: Ill-treatment of person of lower rank. Offences under s 41 include striking or otherwise ill-treating anyone who holds a lower rank. The maximum penalty is two years imprisonment. The objective of this section is to prevent members of the Armed Forces from suffering physical abuse at the hands of their superiors. 'Ill-treatment' is not defined, but is a matter of degree of assault. It includes, for example, kicking, butting, stoning, or shoving.
- d Section 42: Cruel or disgraceful conduct. Behaving in a cruel manner towards a person is an offence under s 42. Behaving in a disgraceful and indecent manner is also an offence under this section. The maximum penalty is two years imprisonment. 'Cruel' is defined as showing indifference to, or having pleasure in, the suffering of another creature. The suffering does not necessarily have to be physical.
- e Section 43: Fighting or causing a disturbance. Offences under this section include: fighting; using threatening, insulting, or provocative language; and causing a disturbance. The maximum penalty is three months imprisonment.
- f Section 73: Conduct prejudicial to service discipline. A member of the Armed Forces commits an offence under s 73 when he or she does or omits an act likely to:
- (i) prejudice service discipline; or
 - (ii) bring discredit on the Service to which he or she belongs or is attached to.
- The maximum penalty for this offence is two years imprisonment.
- g Section 74: Offences against the civil law of New Zealand. A member of the Armed Forces commits an offence under s 74 if he or she commits an offence against any civil law of New Zealand.⁴ The Armed Forces Discipline Act applies to military personnel in New Zealand and on deployment overseas. This section therefore allows the Armed Forces to maintain a complete legal code when operating outside New Zealand.

2.5 Military personnel are also subject to the Law of Armed Conflict and international conventions relating to the treatment of prisoners or civilians in operational theatres.

⁴ If the offence is treason, murder, manslaughter, sexual violation or bigamy, and is carried out in New Zealand, the defendant must be tried in the civil courts unless the Attorney-General consents to trial by courts martial.

POLICY AND PROCEDURES

- 2.6 The NZDF's policy and procedures for preventing and managing discrimination and harassment are set out in DFO 4 - *Defence Force Orders for Personnel Administration*, which applies to all military personnel.
- 2.7 Chapter 27 of DFO 4 sets out the context for policies for preventing and managing discrimination and harassment. It emphasises teamwork, collective discipline, mutual respect, and the obligations of personnel to foster good working relationships. Specifically, DFO 4 states:
- 27.3 Mutual respect is the foundation for small group cohesion, while respect for command relationships, collective discipline and maintenance of morale are all essential to operational effectiveness. These requirements place an obligation on personnel to foster good working relationships, and to refrain from behaviour which results in a loss of confidence in a person's ability to contribute to the mutual dependence and collective discipline of the group of which the person is a part, or is contrary to and inconsistent with the military objectives of professional and personal conduct required to achieve such objectives.
- 27.4 Any form of discrimination or harassment is unacceptable. It adversely affects interpersonal relationships and thus prejudices unit cohesion, command structures and the health, esteem and job satisfaction of people. It also compromises equity in the workplace and is contrary to military and civil law. The NZDF is strongly committed to the prevention and elimination of discrimination and harassment in workplaces. Commanders and managers are responsible to military personnel and civil staff for providing and maintaining a work environment free from harassment and discrimination of any sort.
- 2.8 Paragraph 27.7 states that the 'NZDF is committed to providing an environment free from discrimination and harassment... Therefore no NZDF personnel are to subject any other person to any acts of discrimination or harassment.'
- 2.9 Commanders and managers are required to take all practicable and reasonable steps to prevent harassment and discrimination. They are also required to apply the NZDF's resolution procedures if an incident occurs. DFO 4 states:
- 27.11 Commanders and civilian managers are to take all practicable and reasonable steps to prevent discrimination and harassment from taking place in workplaces for which they are responsible. These steps are to include, but are not limited to, training in the prevention of discrimination and harassment, communication of relevant information, including the NZDF policy, intervening if harassment or discrimination is observed and acting promptly on requests to instigate an in-house resolution process.

27.12 All military personnel and civil staff have the right to the timely application of the in-house resolution procedures if harassment or discrimination occurs. Any investigation of a discrimination or harassment allegation is to be carried out fairly and impartially. Where discrimination or harassment has been found to occur, commanders are responsible for taking corrective action appropriate to the circumstances.

2.10 DFO 4, Chapter 27 defines sexual offences, discrimination, and harassment.

SEXUAL OFFENCES

2.11 There are three types of sexual offences:

- a offensive behaviour or language;
- b indecent assault; and
- c sexual violation.

2.12 If a sexual offence is alleged, commanders are required to instigate a formal civilian or military police investigation as appropriate, taking into consideration the wishes of the complainant.

DISCRIMINATION

2.13 Discrimination is divided into three broad types:

- a direct discrimination, which occurs when characteristics irrelevant to a person's ability to do a job affect employment decisions;
- b indirect discrimination, which occurs when policies and practices unfairly advantage one group of people over another group; and
- c systemic discrimination, which occurs when an entire network of rules and practices unfairly disadvantage a less empowered group and unfairly advantage the dominant group.

HARASSMENT

2.14 DFO 4 defines harassment as 'being subjected to verbal or physical behaviour that is unwelcome, personally offensive and fails to respect the rights of others'. The following are regarded as harassment:

- a sexual harassment;
- b racial harassment;
- c disability harassment;
- d gender harassment; and
- e bullying, which includes:
 - (i) verbal bullying,

- (ii) manipulating the work environment, and
- (iii) psychological manipulation.

CIVIL STAFF

- 2.15 DFO 16 – *Defence Force Orders for Civil Staff Administration* applies to all NZDF civil staff. Chapter 17 sets out policy and procedures for preventing and managing discrimination and harassment. The instructions are similar to those applicable to military personnel in DFO 4.
- 2.16 Employment contracts for NZDF civil staff incorporate a code of conduct that prohibits serious and general misconduct. General misconduct is described as ‘behaviour by an employee that is inconsistent with his or her duty to the employer’. The code gives examples of general misconduct, which include deliberately behaving ‘in a way that will cause unreasonable distress to other employees, or which will upset their work performance’.
- 2.17 The code of conduct also sets out the NZDF’s policies on preventing harassment and discrimination. Civil staff members found to have breached the code of conduct are subject to the disciplinary procedures set out in the code. Harassment is considered serious misconduct.

EQUAL EMPLOYMENT OPPORTUNITY

- 2.18 DFO 4 explains that EEO is designed to create a good and safe working environment for members of the Armed Forces and civil staff. In such a workplace ‘everyone is able to participate and compete equitably to develop their full potential and be rewarded for their contribution regardless of gender, ethnicity, disability, sexual orientation, age, beliefs/opinions or family circumstances’.

SERVICE POLICIES

- 2.19 Each Service has its own approaches for preventing and managing abuse. Service orders and instructions reflect the overarching NZDF policy in DFO 4, and provide guidance to commanders and managers on the management of problems.

SECTION 3

STRUCTURES FOR PREVENTING AND MANAGING ABUSE

INTRODUCTION

- 3.1 The NZDF offers a number of options for military personnel or civil staff who feel abused and want assistance. The NZDF's aim is to ensure that anyone needing help can find someone approachable to talk to and receive an appropriate response. Sources of assistance fall into three broad categories:
- a the command chain/managers;
 - b the anti-harassment network; and
 - c professional support services.
- 3.2 In theory, a Service member or civilian employee subjected to abuse or unacceptable behaviour (no matter how minor) should always approach their immediate superior in the first instance. In practice, however, this is not always appropriate. This may be because:
- a the superior is the person allegedly committing the abuse;
 - b the issue is sensitive; or
 - c the person complaining of the abuse may not want to involve the command chain, because this might invoke a formal investigation or disciplinary process. The person may simply want advice and assistance in dealing with the situation.
- 3.3 Section 103 of the Armed Forces Discipline Act requires that any allegation of an offence against that Act must be investigated as a disciplinary matter. However, sources of assistance that complement the command chain can be helpful in resolving some cases of unacceptable behaviour.

THE COMMAND CHAIN AND CIVIL STAFF MANAGEMENT*THE COMMAND CHAIN*

- 3.4 Under the Defence Act, CDF is responsible for military and civil staff. CDF is accountable to the Minister of Defence. Service Chiefs and the Commander Joint Forces New Zealand are responsible for developing and co-ordinating personnel policies and practices to prevent and manage abuse. They are accountable to CDF.
- 3.5 DFO 4 para 27.17 places on commanders and managers at all levels a duty to ensure that:
- a they set by example, and expect, good standards of behaviour at all levels of command and management;
 - b all NZDF personnel under their control are aware of the NZDF discrimination and harassment policy;
 - c the workplace is free from discrimination and harassment;
 - d the appropriate action occurs if harassment or discrimination is observed;
 - e they act immediately should a request be made to resolve a harassment or discrimination problem;
 - f immediate corrective action is taken to deal with any behaviour or aspect of the work environment that may be construed as offensive or intimidating; and
 - g should a case be brought to their notice that is of a serious nature, has safety implications, indicates a repeat offender or if the respondent is of a more senior rank/status than the individual that they act promptly in accordance with the requirements of s 103 of the Armed Forces Discipline Act.
- 3.6 Commanders and managers must also ensure personnel are aware of sources of advice and information about making a complaint. They are required to maintain an environment where complainants, respondents and witnesses are confident they will receive support from their superiors.

CIVIL STAFF MANAGERS

- 3.7 NZDF Senior Human Resource Advisers located at bases and camps report to the Assistant Chief (Personnel), HQ NZDF. They provide advice to civil staff who approach them for assistance and to other managers who have received complaints of abuse from civil staff.
- 3.8 Civil staff who are members of the Public Service Association may also approach their local delegate for assistance.

THE ANTI-HARASSMENT AND DISCRIMINATION NETWORK*PERSONNEL BRANCH*

- 3.9 The Assistant Chief (Personnel) provides CDF, Service Chiefs, and the Commander Joint Forces New Zealand with policy advice on personnel matters. This advice covers the anti-harassment and discrimination network described in detail in section 4.
- 3.10 The Assistant Chief (Personnel) also co-ordinates training across the Services in equity and diversity, and equal employment opportunities.
- 3.11 HQ NZDF Personnel Branch has produced a guide for managers and commanders on the processes and procedures for dealing with incidents of harassment and discrimination. The Branch has also produced a guide to assist Anti-Harassment Advisers, who form part of the anti-harassment and discrimination network described in section 4.
- 3.12 Personnel Branch sponsors a Defence Equity Working Group. The Group comprises the Manager Human Resources Policy and Capability, the Senior Human Resources Adviser (Equity), the Military Human Resources Adviser (Equity), Service EEO Co-ordinators and the HQ JFNZ EEO Co-ordinator. The Group meets eight to ten times per year to discuss over-arching policy, share information, and ensure the Services are working towards a common goal.

PROFESSIONAL SUPPORT SERVICES

- 3.13 The NZDF employs a range of professionals in areas involving the care and well-being of individuals. These professionals are able to give practical advice and assistance to commanders and managers on abuse issues. Professionals also offer another avenue of support and advice for people who may have been subjected to some form of abuse or who need assistance in dealing with sensitive issues. Personnel in support services include:
- a health-related professionals;
 - b psychologists;
 - c chaplains; and
 - d welfare services.
- 3.14 Section 5 of this report describes the roles of the individual support services.

LEGAL ADVICE TO COMMANDERS AND MANAGERS

- 3.15 NZDF legal officers provide advice to commanders and managers on operational and disciplinary matters. They contribute to ensuring rules and procedures are applied efficiently and issues dealt with appropriately and quickly. Legal officers also assist with training in the Law of Armed Conflict and military law.

SECTION 4

PROCESSES FOR MANAGING ALLEGATIONS AND COMPLAINTS OF ABUSE

INTRODUCTION

- 4.1 This section describes the processes within the NZDF for managing allegations or complaints of abuse, including appeals processes. It also outlines how incidents of abuse are reported and monitored.

DISCIPLINARY PROCESSES FOR MILITARY PERSONNEL

- 4.2 A Service member who is alleged to have committed an offence under the Armed Forces Discipline Act will be brought before his or her commanding officer or delegate. If, after investigation, there are grounds for proceeding, the commanding officer may try and, if found guilty, punish the alleged offender, or remand him or her for trial by court martial.
- 4.3 The commanding officer has no discretion regarding the formal investigation of an alleged offence. Section 103 of the Armed Forces Discipline Act states:
- the commanding officer shall, unless he considers that the allegation is not well-founded, either:
- a cause the allegation to be recorded in the form of a charge and to be investigated in accordance with ... the rules of procedure; or
 - b cause the allegation to be referred to the appropriate civil authority for investigation.

ADMINISTRATIVE PROCESSES

- 4.4 Administrative processes may be used where behaviour is unacceptable but does not constitute an offence. This behaviour may be noted on a Service member's personal records.
- 4.5 If a Service member is involved in a series of incidents that are not chargeable under the Armed Forces Discipline Act, but nonetheless display unacceptable behaviour, he or she could be considered for an administrative release from the Service under provisions set out in DFO 4.

ANTI-HARASSMENT AND DISCRIMINATION NETWORK

4.6 DFO 4, Chapter 27 requires practicable and reasonable support be given to anyone who feels harassed, discriminated against, or subjected to unacceptable behaviour. Such individuals must also be informed of the options for further advice and what support is available to them. They may approach their commander or manager for this information. Alternatively, they may use the anti-harassment and discrimination network. That network is designed to offer an alternative avenue for assistance. It is also available to provide advice to commanders and managers in dealing with difficult situations.

4.7 The network is made up of military personnel and civil staff as follows:

- a Anti-Harassment Advisers: Trained, voluntary personnel who provide assistance and support to individuals who believe they have been harassed. Anti-Harassment Advisers do not act as advocates for the complainant.
- b Anti-Harassment Mediators: Anti-Harassment Advisers trained in conflict resolution. They act as intermediaries between personnel involved in harassment issues.
- c Anti-Harassment Investigators: Anti-Harassment Advisers trained in investigation procedures. They act in cases where disciplinary action has not been pursued.
- d Anti-Harassment Helpline: A confidential 0800 number, which operates between 8.00 am and 8.00 pm on weekdays. It is staffed by Anti-Harassment Advisers.
- e EEO Co-ordinators (in each of the Services, HQ NZDF, and HQ JFNZ): Promote, co-ordinate, and report on EEO activities within their Service.
- f EEO Advisory Officers: Provide advice to commanders and managers on EEO related legislation, discrimination, and equity.
- g EEO Trainers: Provide briefings to units or schools on general EEO issues.

4.8 In most cases Anti-Harassment Advisers are required to treat information with strict confidence. However, there are situations where they must give information on an incident to a commander or manager (having first advised the complainant). These situations are:

- a if the harassment or discrimination threatens the safety of personnel;
- b where a breach of the Armed Forces Discipline Act or New Zealand law has been alleged; or

- c when there is a significant effect on the individual's work performance and the workplace in general.

RESOLUTION OPTIONS FOR HARASSMENT OR DISCRIMINATION

- 4.9 Around half (56%) of all complaints about harassment and discrimination are resolved informally.⁵ This includes seeking assistance from an Anti-Harassment Adviser or supervisor, but it often involves self-help. Self-help may mean the complainant stating clearly to the respondent that the behaviour is offensive and demanding that it cease. This gives the respondent feedback about their behaviour. It offers the opportunity for them to change their behaviour, especially when it has been unintentionally offensive. There are many different methods of self-help, and part of the Anti-Harassment Adviser's role is to advise on these.
- 4.10 Issues can also be resolved through formal mediation or investigation.

THE FORMAL INVESTIGATION PROCESS

- 4.11 Complainants or respondents may request a formal investigation. Where an allegation has been made against a military person, the process to be followed depends on the evidence. If there is evidence of an offence under the Armed Forces Discipline Act the normal disciplinary processes are used. Where evidence of an offence is less clear, commanders and managers must judge whether Service Police, Anti-Harassment Investigators, or both should investigate. The policy suggests that Anti-Harassment Investigators are best suited to incidents where issues are sensitive and, if proven, the incident is likely to result in administrative rather than disciplinary action.
- 4.12 Where allegations are made against civil staff that do not involve criminal offences, Anti-Harassment Investigators or other personnel trained in the conduct of investigations are appointed to investigate. DFO 4 suggests two suitable investigators should be appointed. The appointments should reflect the rank and status, sex, and other circumstances of the complainant and respondent.
- 4.13 For military personnel, the outcome of a formal investigation may be disciplinary or administrative action. There are several possible outcomes for civil staff. These range from referral to the NZDF's Employee Assistance Programme to dismissal without notice in cases of serious misconduct. The formal investigation may also result in a recommendation of mediation between the parties.

⁵ Management of Harassment and Discrimination: Reported Incidents from 30 June 1997-30 June 2004. 5900/CP/3/13.

COMPLAINTS UNDER THE DEFENCE ACT

- 4.14 Under s 49 of the Defence Act, members of the Armed Forces who consider they have been wronged in any matter can make a complaint.⁶ Most complaints are related to conditions of service. Military personnel may also make a complaint under the Defence Act if:
- a they believe the outcome of a formal harassment or discrimination investigation is unfair; or
 - b they believe the correct process was not adhered to.
- 4.15 A complaint is normally made first to the Service member's immediate superior, who is responsible for having the complaint investigated as soon as possible. If the officer to whom the complaint was made does not have the authority to redress it, the complaint is referred up the command chain. As a last resort, the Service member may complain to CDF. The Judge Advocate General advises CDF on such complaints.

COMPLAINTS UNDER THE EMPLOYMENT RELATIONS ACT 2000

- 4.16 Under Part 9 of the Employment Relations Act 2000, civil staff may take a personal grievance on the basis of being discriminated against or harassed in their job. Civil staff may also pursue a personal grievance if they believe the outcome of a formal harassment or discrimination investigation is unfair; or that the correct process was not adhered to.

OTHER AVENUES FOR COMPLAINT

- 4.17 Avenues outside the NZDF for dealing with complaints of abuse, or in situations where military personnel or civil staff feel unfairly treated by NZDF processes for investigating abuse, include:
- a Members of Parliament: Service members and civil staff have the right to address complaints to a Member of Parliament on any matter. However, they are encouraged to use Service complaints procedures in the first instance.
 - b Human Rights Commission: A complainant has the right to approach the Human Rights Commission in respect of complaints of unlawful discrimination. The Human Rights Commission will usually expect the individual to have first exhausted the NZDF's internal procedures for dealing with these matters.

⁶ This statutory right reflects the nature of service in the Armed Forces. A Service member is under obligation to obey all lawful commands of his or her superiors. The Defence Act 1990 provides an avenue for redressing unfair treatment in these circumstances.

- c The Privacy Commissioner: Complaints may be made to the Privacy Commissioner in respect of breaches of privacy (for example, in the course of an anti-harassment investigation).
- d Protected Disclosures Act 2000: This Act enables military personnel and civil staff to disclose any serious wrongdoing within the NZDF, provided the procedures in Chapter 8 of DFO 70 - *Defence Force Orders for Official Information* are complied with. The Act protects personnel from dismissal or other penalties for disclosing the serious wrongdoing.

MONITORING AND REPORTING OF INCIDENTS OF ABUSE

INCIDENTS RESULTING IN DISCIPLINARY PROCEEDINGS

- 4.18 Charges under the Armed Forces Discipline Act are recorded on charge sheets. The Services forward copies of charge sheets to the HQ NZDF Directorate of Legal Services. The Directorate stores the charge sheets, but does not analyse them. NZDF-wide data on the number of charges that relate to various forms of abuse is not maintained.

INCIDENTS OF HARASSMENT AND DISCRIMINATION

- 4.19 DFO 4 stipulates the requirements for reporting incidents of harassment and discrimination for statistical purposes. Commanders, managers, Anti-Harassment Advisers, chaplains, psychologists, and welfare services staff must report each incident of discrimination or harassment brought to their attention.⁷ The mechanism for recording and reporting complaints is form MD 1037-*NZDF Harassment and Discrimination Report*.
- 4.20 The MD 1037 has two parts: part 1 is completed immediately on initial contact with the individual; part 2 is completed when the complaint is resolved. (Names or other identifying information about the people involved are not included.) The forms are forwarded to the local EEO Advisory Officer. Written updates must be provided to the EEO Advisory Officer if the complaint is not resolved within 20 days.
- 4.21 Every six months, EEO Advisory Officers forward completed reports to their Service EEO Co-ordinator. The EEO Co-ordinator compiles and analyses the reports and produces a summary of harassment and discrimination trends for their Service. Personnel Branch aggregates these summaries and forwards them to the CDF. The NZDF is currently introducing continual reporting (i.e. the Service EEO Co-ordinators send forms MD 1037 to Personnel Branch as soon as they are completed).

⁷ The DFO does not include medical officers in this list. However, as noted in paragraphs 5.2 and 5.3, they are alert to the signs of physical or forms or abuse. Medical officers are required to inform commanders of anything that affects operational safety.

COMPLAINTS UNDER THE DEFENCE ACT

- 4.22 Units and headquarters are required to maintain a register of all complaints made under s 49 of the Defence Act. The next higher headquarters audits the registers in April each year. Service Chiefs are required annually to report to CDF on complaints made by members of their Service. This includes a summary of the complaints filed, the levels of command at which complaints were investigated, and the number of complaints redressed.

OTHER STATISTICS RELATING TO ABUSE

- 4.23 The NZDF's Ongoing Attitude Survey provides an indication of the levels of harassment observed and experienced by military personnel and civil staff. All military personnel and civil staff are eligible to be sampled for the Ongoing Attitude Survey, which has been conducted on a quarterly basis since April 2003. The survey includes several questions on equity issues, including experiences and observations of harassment and discrimination. The Navy also conducts an annual attitude survey.
- 4.24 Service exit surveys collect information about the reasons why military personnel and civil staff leave the Services. Available categories are currently very broad. The exit survey is being revised to elicit more information about people's reasons for leaving, which might provide further data on discrimination and harassment.
- 4.25 In 2005 the NZDF will begin a cohort study to track a group of personnel from first entry, through training and career progression, until departure from the NZDF. Personnel will be surveyed again 18 months after joining the NZDF and then annually for the remainder of their careers. It is intended to repeat the survey for a new cohort every three years or so.
- 4.26 The cohort survey will measure recruits' expectations at the beginning of their training. Recruits will be surveyed again either at premature exit or graduation from initial training. The survey will include questions about whether they experienced or observed harassment, discrimination, or bullying during training.

SECTION 5

PROFESSIONAL ASSISTANCE AND ADVICE

INTRODUCTION

- 5.1 This section describes the professional advice and assistance offered by various support services within the NZDF. These support services are independent of the anti-harassment network. However, they may work with Anti-Harassment Advisers to identify issues.

HEALTH-RELATED PROFESSIONALS

- 5.2 In their provision of medical care to NZDF personnel, medical officers are able to detect the signs of physical or other forms of abuse. We were informed that medical officers are especially alert to these possibilities among those undergoing initial training. Members of the Armed Forces may consult medical staff at any time. They are not required to seek permission or to give reasons.
- 5.3 While medical officers maintain patient confidentiality, they are required to inform commanders of anything that affects operational safety.

PSYCHOLOGISTS

- 5.4 The NZDF employs industrial psychologists whose functions include:
- a assisting new entrants to manage stress, homesickness, motivation, and inter-personal relationships, and to develop study skills;
 - b making presentations to a range of audiences on topics such as leadership skills, stress management, conflict resolution, communication skills, assertiveness, and dealing with difficult people; and
 - c providing advice to commanders on how to deal with organisational issues and difficult situations.
- 5.5 A commander may refer a trainee to a psychologist. Usually this is because of poor training performance. The cause may be a lack of study technique, but there may be personal issues or stress related to adjusting to the barracks environment.

- 5.6 Service members may approach psychologists without being referred by their commander. The extent to which this happens in any particular location depends on the degree to which individual psychologists operate an 'open door policy'.
- 5.7 NZDF psychologists are bound by professional rules of confidentiality; but they are under an obligation to report to the commander anything that affects operational safety. (We were informed that psychologists always state this caveat when interviewing individuals.) Psychologists may also operate as 'case managers' and refer an individual to other forms of support. In some instances, they may refer personnel to clinical psychologists outside the NZDF.

CHAPLAINS

- 5.8 Each base and camp has at least one chaplain. Chaplains do not have command authority or disciplinary powers. Independence from the command system is an important aspect of the chaplain's role.
- 5.9 Chaplains regularly visit recruits and trainees. They are alert to possible causes or incidents of abuse, especially bullying and harassment. They are also alert to potential self-abuse including excessive consumption of alcohol or drugs.
- 5.10 The chaplain's role is to operate as a 'soldier's friend'. They may simply act as someone to talk to, they may offer advice for dealing with problems, or they may refer people to other sources of assistance. They do not become involved in formal processes to deal with abuses. Confidentiality is strictly maintained, and is broken only if the person is a danger to themselves or others.

WELFARE SERVICES

- 5.11 The Services offer welfare support to the families of NZDF personnel and civil staff. This support is particularly important when Service members are deployed and away from their families. Welfare staff have direct access to all levels of command and management.

EMPLOYEE ASSISTANCE PROGRAMME

- 5.12 Members of the Civil Staff are not entitled to access military health specialists, psychologists, or chaplains. The NZDF maintains an Employee Assistance Programme to support civilian staff.

SECTION 6

AWARENESS TRAINING TO PREVENT AND MANAGE ABUSE

INTRODUCTION

- 6.1 DFO 4 states that discrimination and harassment awareness education is to occur regularly. (The equivalent section in DFO 16 - *Defence Force Orders for Civilian Staff Administration*, requires that this training occur at least annually.) The education programme should be tailored to the needs of each Service and should include:
- a what constitutes discrimination and harassment;
 - b awareness of the relevant legislation;
 - c the NZDF policy on preventing discrimination and harassment; and
 - d an overview of harassment and discrimination resolution options and investigative procedures.
- 6.2 All military and civilian personnel are to receive progressive career training on preventing and managing harassment. DFO 4 requires that the training is audience specific and tailored to groups such as new entrants, supervisors and junior commanders, and commanding officers and senior management. DFO 4 also requires EEO support personnel to have specialist training.
- 6.3 This section describes the various types of training that contribute to meeting these requirements. It also briefly outlines other measures that are taken during training to prevent abuse.

GENERAL TRAINING

- 6.4 Personnel Branch, in collaboration with the Services, produces training packages for harassment and discrimination awareness education. The Services are responsible for conducting the training.
- 6.5 Each Service inculcates military personnel in its core values. This begins on entry and continues throughout the member's career. The NZDF abuse prevention and management policies and practices are introduced early in new entrant training. They are reinforced at various times.

INITIAL TRAINING

- 6.6 During initial training, Service members are provided with:
- a a statement of expected standards of behaviour and core values;
 - b an explanation of the various sources of assistance available to those who feel they are subject to any form of abuse; and
 - c the names and contact details of Anti-Harassment Advisers (these are displayed in classrooms and around a camp or base).
- 6.7 The first few weeks of training can be stressful for new entrants:
- a the communal living of the barracks environment is new to many and requires a period of adjustment. For many individuals, it is the first time they have lived away from home;
 - b strict discipline is imposed; and
 - c training is intense and challenging.
- 6.8 Military effectiveness depends on teamwork—the safety and success of the group needs each individual to play their part. Peer pressure to perform develops as part of training. Instructors in training establishments are vigilant to ensure that peer pressure is a positive influence (that is, it does not involve isolation or bullying or any other form of abuse). Part of this vigilance includes close supervision of recruits by instructors and senior non-commissioned officers. Instructors are in the vicinity of the barracks until about 10.00 pm and a senior NCO sleeps in the barracks. Officers also make regular (and sometimes unannounced) visits during the evening to ensure that supervision is being maintained.

BRANCH AND TRADE TRAINING

- 6.9 After initial training, Service members undertake training in their specialist branch or trade. During this period, messages about standards of behaviour are reinforced, because there are more opportunities for unacceptable behaviour to occur. There are two main reasons for this:
- a personnel move into accommodation where there is less direct supervision; and
 - b non-work activities are largely unsupervised.

**REINFORCEMENT OF CORE VALUES AND ABUSE
PREVENTION MESSAGES**

- 6.10 The Services reinforce abuse prevention messages over the course of a member's career. For example, as part of the requirements of DFO 4 commanders at camps and bases may conduct annual 'road shows' for NZDF personnel and civil staff at formation and unit levels. These may include, for example, presentations, seminars, or workshops from the EEO trainers or external experts.
- 6.11 The responsibilities of leadership and duty of care are reinforced during promotion courses for officers and non-commissioned officers. EEO and equity sections of these courses reinforce the message that preventing and managing abuse is an integral part of an officer's responsibilities. Practical training in the management of personnel issues is also provided.
- 6.12 Some interviewees suggested that presentations on equity, harassment and discrimination over time were largely repetitive and not sufficiently tailored to different audiences. Personnel Branch and Service EEO Co-ordinators are currently developing new training packages, which may remedy this.

TRAINING PROVIDED TO INSTRUCTORS

- 6.13 Considerable attention is paid to selecting and training instructors and supervisory personnel (usually senior non-commissioned officers). At all levels, instructors must act as good role models.
- 6.14 Personnel nominated for posting as instructors in the RNZN's New Entry School are interviewed by a selection panel, which includes an NZDF industrial psychologist. Postings are two to three years. Instructors' performance is reviewed internally and externally and evaluated by students. Officer Training School instructors are selected on a similar basis.
- 6.15 The Army gives particular attention to the selection and professional development of instructors in the Officer Cadet School, Recruit Wing, trade and specialist training schools and The Army Depot (which conducts training for non-commissioned personnel). Before each intake, Army instructors are given refresher training in NZDF policies and practices relating to abuse prevention and management.
- 6.16 The RNZAF General Service Training Instructor course contains segments on anti-abuse and equity/EEO policies and practices. Instructors selected for new entrant training at the Ground Training Wing are further instructed in directing courses and supervising young people. The Air Force trains instructors and supervisors to spot and deal swiftly with potential or actual incidents of abuse. The Air Force also conducts assessments of each presentation to recruits, and the performance of instructors, including their interactions with recruits.

INSTRUCTORS' MANUALS

- 6.17 Each of the Services has instructors' manuals describing training methods and setting standards of behaviour for instructors.
- 6.18 Although training is designed to challenge new entrants, it must also build self-confidence. This is not achieved through ill-treatment. New entrants can, however, *perceive* some practices to be abusive. The instructors that we spoke to informed us they are careful to explain the reasons for the level of discipline required. They also explain that the consequences of breaches of discipline (for example, being shouted at) are not 'personal' but are designed to change behaviour that threatens the safety and well-being of an individual or group. They also provide warning if an exercise requires physical contact.

SPECIAL TYPES OF TRAINING

- 6.19 All military personnel receive basic instruction in the Law of Armed Conflict as part of recruit training. Personnel deployed overseas receive refresher training before leaving New Zealand. Personnel with command or specialist functions receive more detailed training as needed. This training includes guidance on the treatment of prisoners of war and civilians.
- 6.20 At advanced levels, training for survival, escape and evasion, and resistance to interrogation is necessarily demanding, both physically and psychologically. It poses a challenge for instructors who must balance the training's effectiveness with the safety of personnel. We were advised that the Army has rules for this type of training and who is to supervise it. The training model is based on NZDF psychologists' research into appropriate methods. Personnel who undertake this advanced-level training are usually experienced Service members who participate voluntarily.
- 6.21 The NZDF is responsible for the New Zealand Cadet Forces.⁸ DFO 7 – *Defence Force Orders for Cadet Force Policy and Administration* summarises NZDF policies and practices relating to abuse. All instructors and cadets are made aware of these policies and practices.

CIVIL STAFF INDUCTION

- 6.22 Civil staff receive induction training on taking up employment with the NZDF. Induction training includes sessions on harassment and discrimination, and information on sources of assistance.

⁸ The cadet forces are raised under s 74 of the Defence Act 1990 but cadet forces personnel are not members of the armed forces and are not subject to NZDF orders and instructions beyond those contained in DFO 7.

AHA AND INVESTIGATOR TRAINING

- 6.23 Personnel Branch organises Anti-Harassment Adviser training at various times at camps and bases, although it is conducted by external agencies. The Anti-Harassment Adviser Induction Course takes place over two days. Personnel Branch also offers a one-day refresher course. Chaplains and psychologists (and other staff such as instructors) may undertake Anti-Harassment Adviser training, even if they do not act in this role because of a conflict of interest.
- 6.24 Training for Anti-Harassment Investigators is a four-day course.
- 6.25 Personnel Branch evaluates the training for which it is responsible, including an external validation of Anti-Harassment Adviser training. The evaluations include:
- a the experiences of the training course by those attending it (data are collected by a post-training questionnaire); and
 - b on-the-job use of the training (a questionnaire completed six months after the training).

SECTION 7

ACHIEVEMENT OF EXPECTATIONS

INTRODUCTION

- 7.1 The Cabinet required that this review examine the efficacy of current policies and practice to prevent physical, sexual and other abuse. During our work we obtained a comprehensive understanding of policies and their implementation. We could not rely on current measurement and reporting systems to establish the effectiveness of policies and procedures. As a result, we established a set of expectations to assist us reach an informed opinion.
- 7.2 During interviews several themes emerged about the interpersonal behavioural characteristics of military life. These themes were:
- a professionalism;
 - b effective leadership;
 - c integrity;
 - d commitment;
 - e collective and individual responsibilities;
 - f mutual support; and
 - g comradeship.
- 7.3 From these themes we developed, for our own purposes, a 'picture' of a military organisation that has a culture of zero tolerance of abuse of any form. We believe the following characteristics would be evident:
- a high professional skills and ethos;
 - b meeting public expectations of professional and personal conduct;
 - c commitment to individual and collective responsibilities grounded on:
 - (i) core values;
 - (ii) duty of care;
 - (iii) discipline and good conduct; and
 - (iv) equity and fairness.

EXPECTATIONS

- 7.4 We then formulated a set of fifteen conditions that, if in place, would provide strong evidence of the NZDF having the characteristics identified above. Our expectations fell into four broad categories:
- a NZDF leadership is committed to clearly articulated objectives related to preventing and managing abuse.
 - (i) Policies and practices relating to abuse meet statutory and other legal requirements.
 - (ii) There are clearly articulated objectives for preventing and managing abuse.
 - (iii) Commanders and managers have a clear understanding of the intent of policies relating to abuse.
 - b The NZDF's organisational culture does not tolerate abuse.
 - (i) There is a culture of zero tolerance towards abuse.
 - (ii) The NZDF is able to accommodate changing external influences without jeopardising core values and discipline.
 - c Policies and practices to prevent and manage abuse have been implemented and are being complied with.
 - (i) There are clear policies for preventing and managing abuse.
 - (ii) There are clear processes for implementing policies.
 - (iii) Policies are implemented consistently and fairly so that all personnel are afforded the same level of protection.
 - (iv) Monitoring systems are in place to measure effectiveness and inform further policy development.
 - (v) Training methods recognise abuse prevention policies.
 - (vi) Incidents or allegations of abuse are registered and dealt with swiftly.
 - (vii) Policies and practices are applied in New Zealand and overseas so that deployed forces are protected from abusive behaviour.
 - d The NZDF has a continuing commitment to implement abuse prevention policies and provides adequate resources to achieve this.
 - (i) Commanders and managers are given the support they need to implement the policies.

(ii) There is continuing momentum applied to the application of policies and practice relating to abuse.

(iii) Practices and procedures are adequately resourced.

7.5 Seven expectations have been met and seven have been partly met. We found that only one of our expectations was not met. Annex A presents each of the expectations with a summary of our findings.

7.6 In the following paragraphs we discuss the expectation dealing with monitoring systems, which was not met. We then discuss two factors that have had an effect on the ability of the NZDF to meet some of our other expectations.

MONITORING SYSTEMS

7.7 We found our expectation of monitoring systems was not met for the following reasons:

- a while there are high-level objectives for abuse management and prevention, these are not expressed in a way that enables their achievement to be measured;
- b it is apparent that not all complaints or incidents of harassment and discrimination are recorded;
- c not all the data available about abuse is reported to NZDF leaders in a comprehensive way; and
- d there is no ongoing assessment of the effectiveness of policies and practices.

RECORDING AND REPORTING INCIDENTS

7.8 The intent of the processes set out in DFO 4 is that all complaints of harassment and discrimination are recorded on form MD 1037. The NZDF acknowledges that the recording of incidents is not complete.

7.9 Incomplete recording of incidents appears mainly to be due to:

- a not all commanders and managers being aware of the requirement to complete form MD 1037 if a complaint of harassment or discrimination is brought to their attention;⁹ and
- b Anti-Harassment Advisers not always recording instances where they have provided advice or answered queries on a casual basis. For example, they might be asked for advice in passing on a matter that may seem relatively trivial. However, it indicates that an issue exists and it should be recorded.

⁹ In August 2004, Personnel Branch asked the Services and HQ NZDF to remind managers and commanders of their obligations in this respect. There has been no follow-up as to whether this took place.

- 7.10 The number of reported incidents of harassment and discrimination has shown a decreasing trend over recent years. Between 1997 and 2002, the number of reported incidents dropped from 129 per year to ten per year. However, the most recent figures for a full twelve-month period (July 2003 to June 2004) show an increase in reported incidents to 25.
- 7.11 Personnel Branch identified possible reasons for the increase in the 2003/04 year:
- a anecdotal evidence of under-reporting in 2002, possibly because of lack of awareness and communication of reporting requirements; and/or a shortage of MD 1037 forms, which were being reprinted following a revision;
 - b DFO 4 was revised and promulgated in December 2002. The revisions incorporated legislative and NZDF procedural changes that included bullying as a type of harassment. This expanded the type of incidents reported.
 - c EEO and Anti-Harassment Advisers were reminded of reporting requirements during training courses in late 2002/early 2003.
- 7.12 The figures in para 7.10 cannot be regarded as a reliable indicator of the level of harassment and discrimination in the NZDF. Several people suggested the figures under-represent incidents of harassment and discrimination. However, they are consistently small in relation to the total number of NZDF personnel (approximately 8,600 regular, 2,000 non-regular and 2,000 civil personnel).

NOT ALL AVAILABLE DATA INCLUDED IN SIX-MONTHLY REPORTS

- 7.13 The six-monthly reports to CDF on harassment and discrimination are based on the numbers of complaints reported via form MD 1037. The figures do not include incidents where commanders laid a disciplinary charge without involving the anti-harassment network. This would happen for serious incidents such as assault.
- 7.14 It was suggested to us that the number of charges related to serious abuse was small and they were always swiftly dealt with. We think these incidents should be included in the six-monthly reports to CDF. This could be achieved by requiring commanders to record serious incidents of abuse on an MD 1037 (i.e. those incidents that result in a charge being laid under the Armed Forces Discipline Act whether or not the anti-harassment system was used). We note that the Air Force adopted this practice in December 2004.

- 7.15 Until recently the six-monthly reports to CDF did not include other data about harassment and discrimination from the NZDF Ongoing Attitude Survey. Data from the proposed survey of trainees and the revised exit surveys should be included as it becomes available.
- 7.16 An analysis of all relevant information would contribute to providing CDF with a more comprehensive view of the perceived and actual levels of harassment and discrimination in the NZDF, as well as the more serious forms of abusive behaviour. Such information would enable management actions to be taken as necessary.

ASSESSING EFFECTIVENESS OF POLICIES AND PRACTICES

- 7.17 While measuring and assessing the effectiveness of policies and practices to prevent and manage abuse is not straightforward, we consider it essential to do so. Without such information there is no way of ensuring the efficacy of policies and practices; or of identifying future policy direction. We think the NZDF should determine a set of indicators that would assist in gaining a comprehensive picture of effectiveness. Examples might include:
- a setting targets for the numbers of active Anti-Harassment Advisers and Anti-Harassment Investigators; and
 - b setting targets for the relevant items in the NZDF Ongoing Attitude Survey, such as levels of awareness of support services and perceptions of the management of incidents of harassment and discrimination.
- 7.18 Qualitative assessment of the effectiveness of systems such as mediation would also provide a useful indicator of whether the systems are working well. This might mean, for example, asking a sample of people who had used the system to describe their experience of it and whether or not they were satisfied with the resolution.

BENEFITS OF IMPROVING MONITORING

- 7.19 Some data on abuse is collected by the NZDF. However, it is neither complete nor brought together in a way that provides NZDF senior management with information to monitor the incidence and impact of abuse in a meaningful way. Such measurement and reporting systems as do exist need to be extended and improved.

- 7.20 No monitoring system can guarantee that all complaints or incidents of abuse would be recorded. It seems likely that the individuals involved in 'low level' incidents resolve problems themselves. However, we believe the NZDF would benefit from improving its monitoring systems:
- a NZDF leadership would have improved information to judge whether policies and practices relating to all forms of abuse are effective;
 - b NZDF leadership, commanders and managers would be better able to identify trends or 'trouble spots' and when action needed to be taken; and
 - c there would be a sound basis for further policy development.
- 7.21 The NZDF has commenced a number of activities, or is considering proposals, to improve monitoring. These include:
- a increasing the frequency with which Service EEO co-ordinators report incidents. Reporting is now on occurrence, rather than six-monthly;
 - b improving the understanding of reporting requirements by both Anti-Harassment Advisers, and commanders and managers;
 - c improving the categories for recording and analysing complaints; and
 - d extending and improving surveys.
- 7.22 We think that major policy decisions should not be made until measurement and reporting systems are improved.

FACTORS INFLUENCING ABILITY TO MEET EXPECTATIONS

- 7.23 We found that two significant factors influenced the NZDF's ability to meet some of our expectations.

DEALING WITH SENSITIVE ISSUES

- 7.24 The NZDF faces a difficulty in advising commanders and managers on how to deal with some allegations or incidents of abuse. Under s 103 of the Armed Forces Discipline Act, a commander must investigate any allegation of an offence against the Act as a disciplinary matter. The commander has no discretion in this. Furthermore, the Act makes unlawful certain types of conduct that in civilian life are lawful or might be considered a minor offence. This includes touching another person if it is prejudicial to service discipline.

- 7.25 The difficulty arises in dealing with some forms of harassment that are especially sensitive, such as sexual harassment. The NZDF Harassment and Discrimination Prevention and Management Guide for commanders and managers includes in its definition of sexual harassment 'unwanted physical contact such as patting, rubbing, pinching or holding'.
- 7.26 Such behaviour, which might be considered a minor offence in civil law, would be an offence under the Armed Forces Discipline Act. A commander who received a well-founded allegation would have to make a charge under the Act, irrespective of the complainant's wishes. In other words, the Act makes service discipline the overriding factor.
- 7.27 We were advised, however, that dealing effectively with sensitive issues such as sexual harassment may require a more flexible and less forceful approach. Complainants often do not want the issue to be dealt with as a disciplinary matter. They would prefer to deal with it themselves (even though they might request assistance or advice). If a third party such as a commander is asked to assist in dealing with an incident, the complainant usually prefers the matter to be dealt with discretely, quickly, and with as little 'fuss' as possible. DFO 4 paragraph 27.19 states:
- With the exception of very minor instances of indecent behaviour, the in-house resolution procedures for resolving harassment complaints are not appropriate for use in the case of sexual violation or where rape allegations are made. Where there is evidence to suggest a sexual offence has occurred, commanders are to instigate a formal civilian or military police investigation as appropriate, *taking into consideration the wishes of the complainant*. (Emphasis added.)
- 7.28 DFO 4 paragraph 27.27g also implies that commanders have some discretion in bringing charges under the Armed Forces Discipline Act. It says: '[Commanders and managers have a] duty to ensure that should a case be brought to their notice that is of a serious nature, has safety implications, indicates a repeat offender or if the respondent is of a more senior rank/status than the individual that they act promptly in accordance with the requirement of s 103 of the Armed Forces Discipline Act 1971.' However, even single, minor incidents of harassment and discrimination are likely to constitute an offence against the Armed Forces Discipline Act.
- 7.29 Therefore, there is some conflict between the disciplinary requirements of the Armed Forces Discipline Act, and the less forceful approach that we are informed has been shown to be effective in dealing with these issues. It is a difficult conflict to resolve. While service discipline must be maintained, inappropriate responses to sensitive issues mean that people do not trust the system and are less likely to raise problems.

- 7.30 We found the conflict results in:
- a inconsistent approaches between commanders depending on their professional interpretation of the most appropriate response to an allegation of harassment; and
 - b some allegations being dealt with under the anti-harassment process when they should have been treated as disciplinary matters and vice versa.
- 7.31 We think there should be more support and guidance given to commanders and managers in dealing with complaints of harassment and discrimination, particularly those involving sensitive issues. This might include skills training especially for less experienced commanders and managers, or written guides dealing more specifically with difficult issues. We note that the Military Justice Review presently being undertaken has recommended a number of measures to improve the treatment of complainants in the military justice system.

PERSONNEL AVAILABILITY

- 7.32 A shortage of personnel has hindered the NZDF's ability to implement policies and practices. For example:
- a The momentum for implementing anti-harassment policies has slowed at some points. For example, over the eighteen-month period from the start of 2003, there were no equity officers in HQ NZDF Personnel Branch. There was no reporting to the CDF of the number of incidents of harassment and discrimination over this time.
 - b Supervision of new entrants by experienced non-commissioned officers is an important element of preventing abuse. We were informed that personnel shortages in some trades have resulted in rapid promotions. As a result some non-commissioned officers may lack the experience and maturity necessary to provide a high quality of supervision.
 - c It is sometimes difficult to find Anti-Harassment Investigators who match the age, sex, and rank of parties in a complaint (as required by DFO 4). Also, investigators frequently cannot be released from other duties to undertake an investigation.
 - d EEO Co-ordinators' positions are sometimes only part-time because of personnel shortages.

CONCLUSION

- 7.33 The NZDF's policies for the prevention and management of abuse are sound. It is clear that throughout the NZDF, personnel are striving to implement those policies. We found that there is a strong awareness of the need to provide a safe working environment and protect people from all forms of abuse. Commanders in particular saw this as an integral part of their leadership responsibilities.
- 7.34 A comprehensive structure is in place to support and assist those who feel they have been abused. Commanders and managers are also able to draw on various sources of advice in monitoring and dealing with abusive behaviour and sensitive issues.
- 7.35 More serious forms of abuse are dealt with through the NZDF disciplinary process. While the available data is not as robust as it could be, the indications—supported by anecdotal evidence—are that few serious incidents of abuse are occurring.
- 7.36 The NZDF has made significant progress towards giving effect to its zero tolerance approach to abuse. However, gaps in the measurement and monitoring arrangements mean that we cannot provide complete assurance about the effectiveness of the policies. The NZDF must take steps to improve its measurement and reporting systems.

RECOMMENDATIONS

- 7.37 It is recommended that the NZDF:
- a implements a comprehensive system of performance measurement to monitor the effectiveness of its abuse prevention policies; and
 - b provides guidance to commanders and managers on the exercise of discretion in deciding whether to take a disciplinary or administrative approach to dealing with complaints of abuse.

ANNEX A

EXPECTATIONS

EXPECTATION	STATUS	COMMENT
<i>NZDF leadership is committed to clearly goals and plans to prevent and manage abuse</i>		
1 Policies and practices relating to abuse meet statutory and other legal requirements.	Met	Policies and practices to prevent and manage abuse reflect the Defence Act, the Armed Forces Discipline Act, the Human Rights Act 1993, the Employment Relations Act 2000, and the Crimes Act 1961. The NZDF Military Justice Project (due to complete by late 2005) will align military disciplinary legislation and procedures with modern law (including human rights statutes), as well as judicial decisions by Commonwealth courts of law on military cases.
2 There are clearly articulated goals and plans for preventing and managing abuse.	Partly met	See section 7 of this report. While there are high-level goals, these are not expressed in a way that enables their achievement to be measured.
3 Commanders and managers have a clear understanding of the intent of policies relating to abuse.	Met	
<i>The NZDF's organisational culture does not tolerate abuse</i>		
4 There is a culture of zero tolerance towards abuse.	Met	Interviewees for this review were consistent and emphatic in their message that abusive behaviour is contrary to the NZDF's common values. We feel confident that the Services inculcate personnel in NZDF and Service values from entry.
5 The NZDF is able to accommodate changing external influences without jeopardising core values and discipline.	Met	Some external societal influences that have had a positive influence on the NZDF are: <ul style="list-style-type: none"> The zero-tolerance for violence against and abuse of new entrants or other personnel. The NZDF's introduction of Equity/EEO and anti-harassment and discrimination policies reflects changes in New Zealand society The increased awareness that young people have of their rights and of what constitutes unacceptable behaviour; their confidence to complain about unacceptable behaviour; their readiness to question; and their expectations of a fair and equitable workplace. Current activities related to societal pressures include: <ul style="list-style-type: none"> Personnel Branch is updating the NZDF Substances Abuse (alcohol and drug) policy. We were advised that alcohol is a major cause of incidents of abusive behaviour. The policy update will contribute to detection of new forms of drugs that can be difficult to detect with the testing regimes allowed for in current policy HQ NZDF Communications and Information Systems Branch administers an information technology policy on unwanted computer-based materials.

EXPECTATION	STATUS	COMMENT
<i>Policies and practices to prevent and manage abuse have been implemented and are being complied with.</i>		
6 There are clear policies for preventing and managing abuse.	Met	
7 There are clear processes for implementing policies.	Partly met	Processes are well established. But as discussed in section 7 of this report, a conflict between the disciplinary and administrative approaches to dealing with harassment and discrimination means that some allegations are dealt with under the anti-harassment process when they should have been treated as disciplinary matters and vice versa.
8 Policies are implemented consistently and fairly so that all personnel are afforded the same level of protection.	Partly met	Reasons for inconsistent implementation of policies are discussed in section 7 of this report. Some interviewees expressed the opinion that male and female homosexuals are not fully accepted in the Armed Forces. They did not, however, report any specific incidents of harassment or discrimination against these groups. We were advised that junior officers can be vulnerable to abusive behaviour and are sometimes more reluctant to seek assistance in such situations. They have made a significant investment in their careers, are more aware of the implications of rank than new entrants, and feel they have more to lose. Junior officers can therefore be reluctant to use anti-harassment systems.
9 Monitoring systems are in place to measure effectiveness and inform further policy development.	Not met	Discussed in section 7 of this report.
10 Training methods recognise abuse prevention policies.	Met	
11 Incidents or allegations of abuse are registered and dealt with swiftly.	Partly met	<p>We were assured that serious incidents are recorded and swiftly dealt with. It appears that in some cases less serious incidents or allegations are not recorded, or not dealt with appropriately (discussed in section 7 of the report). We were informed that there are occasional instances of time delays in dealing with complaints and in some cases personnel have left the Services before being charged with an offence.</p> <p>Privacy issues can also prevent commanders and managers being aware of issues. In some bases and camps, personnel from the support services (e.g., medical officers, psychologists, chaplains, welfare support staff) have formed working groups. Discussing trends and observations (but not individual cases) has enabled them to gain a wider picture of stress or other possible causes of poor behaviour within their camp or base. The objective is to identify potential problem areas and ensure that incidents do not 'slip between the cracks'.</p> <p>These working groups have worked well in some instances. In others, concerns about privacy have impinged on the sharing of information. Civilian professionals (for example, medical staff) contracted to the NZDF have also expressed these concerns. Commanders in particular can find this frustrating because:</p> <ul style="list-style-type: none"> • they have a responsibility for all personnel under their command. One person at risk of poor performance because of stress, for example, can place a whole group at risk; and • they are often in a position to resolve issues if they know about them. <p>Personnel Branch is planning to form a similar working group at the strategic level. This initiative forms part of the development of a Mental Health Strategy, which is due to complete in 2005.</p>

EXPECTATION	STATUS	COMMENT
12 Policies and practices are applied in New Zealand and overseas so that deployed forces are protected from abusive behaviour.	Met	The same policies and practices that apply to personnel in New Zealand, also apply to deployed personnel. In most cases, deployments include an Anti-Harassment Adviser. Personnel deployed overseas are also able to access the 0800 number.
<i>The NZDF has a continuing commitment to implement abuse prevention policies and provides adequate resources to achieve this.</i>		
13 Commanders and managers are given the support they need to implement the policies.	Partly met	The Defence Equity Network gives substantial assistance to commanders and managers. There may be some need for greater clarity and guidance, especially for less experienced officers, in how to respond to particularly sensitive issues given the conflict between the disciplinary and alternative approaches as discussed in section 7 of this report.
14 There is continuing momentum applied to the application of policies and practice relating to abuse.	Partly met	The NZDF adopted the current EEO and anti-harassment and discrimination policies ten years ago. There have been significant changes in the culture of the organisation as a result. Momentum has slowed at some points, but this is due to staffing constraints (as discussed in section 7 of this report), rather than lack of awareness of the importance of policies and practices to prevent and manage abuse. Some interviewees identified areas where they felt further progress could be made, for example greater equity for homosexual personnel.
15 Practices and procedures are adequately resourced.	Partly met	Discussed in section 7 of this report.

ANNEX B

STATISTICAL INFORMATION

INTRODUCTION

- 1 This annex presents recent statistics on the number of harassment and discrimination complaints. It also includes results from the NZDF Ongoing Attitude Survey on items related to harassment and discrimination.
- 2 As noted in paragraph 4.19 of the report, DFO 4 requires commanders, managers, anti-harassment advisers, chaplains, psychologists and welfare services staff to report each incident of discrimination or harassment brought to their attention. Every six months Assistant Chief (Personnel) reports a summary to CDF.
- 3 At the time of writing, the most recent six-monthly report was prepared in November 2004. That report provided an overview of trends in reported incidents of harassment and discrimination over the period January 1997 to June 2004. The numbers given in this section are taken from that report.

THE DEFENCE EQUITY NETWORK

- 4 As at 1 October 2004, the NZDF Defence Equity Network was reported to consist of:
 - a 734 Anti-Harassment Advisers;
 - b 38 Anti-Harassment Mediators;
 - c 84 Anti-Harassment Investigators; and
 - d 152 EEO Advisory Officers.
- 5 The reported ratios of Anti-Harassment Advisers to total personnel were:
 - a 1:10 in the Navy;
 - b 1:22 in the Army;
 - c 1:19 in the Air Force; and
 - d 1:27 in Headquarters.¹⁰

¹⁰ Including HQ NZDF and HQ JFNZ

- 6 We were advised that not everyone who has completed anti-harassment training is active in the role of Anti-Harassment Adviser. Some personnel, for example commanders, instructors, chaplains or psychologists, might have done the training to increase awareness and become familiar with the anti-harassment processes; some may have moved to other jobs where they are not able to perform this role; others may no longer have an interest. However, anyone who has completed the training is noted in the NZDF personnel system as being an active Anti-Harassment Adviser.
- 7 Anecdotally, only a small proportion of the people who have undertaken the training are active advisers. The Army is planning to introduce a register of active advisers. The Army will also require advisers to undertake regular refresher training. We think that Personnel Branch should require the Navy and the Air Force to introduce similar measures. We also think that future reports to CDF should include only active advisers.

ONGOING ATTITUDE SURVEY

- 8 The NZDF Ongoing Attitude Survey monitors opinions about employment in the NZDF. The survey has been run continuously from April 2003. It is representative of military personnel and civil staff, but does not include non-regular personnel. It is voluntary and achieves a response rate of 46%. The figures in this section are results from the approximately 1,400 people surveyed in 2004.
- 9 We note limitations in the data as a reliable indicator of attitudes about harassment and discrimination:
 - a the data were provided to us without information about margins of error;
 - b to some extent the sample is self-selecting. To our knowledge there has been no study into the reasons for non-responses;
 - c there is no indication about the severity of harassment and discrimination respondents experienced; and
 - d as discussed in section 7, there are no benchmarks.
- 10 The data reflects peoples' perceptions of whether they have been harassed or discriminated against, over a six-month period. It does not measure or report actual incidents or complaints. It should not be relied upon as a valid measure of the level of harassment and discrimination in the NZDF. This survey may have value in providing an indicator of trends over time, but it is not a comprehensive, focused measurement system for monitoring the effectiveness of abuse prevention policies and practices.

HARASSMENT

- 11 Overall, 13.7% of respondents said they had experienced harassment. Civilians experienced the highest level of harassment (19.9%). Military personnel from the Navy and the Army reported 13.7% and 12.9% respectively, while 9.7% of Air Force personnel reported experiencing harassment.
- 12 More women than men reported that they had experienced harassment (23.1% and 10.9% respectively). This was true across the Services, but especially so in the Navy where 28.9% of women experienced harassment in contrast with 10.2% of men. For civil staff, the difference was evident, but less marked (23.9% of women and 16.5% of men experience harassment).
- 13 Younger respondents were more likely to report experiences of harassment. Overall, 17.8% of service members under 25 years reported being harassed, compared with 13.0% of people over 25 years.¹¹

DISCRIMINATION

- 14 Overall, 14.7% of respondents said they had experienced discrimination. Civilians and army personnel reported the highest level of discrimination (16.2% and 16.4% respectively). Military personnel from the Navy reported about average levels (15.4%), while 11.4% of Air Force personnel reported experiencing discrimination.
- 15 More women than men reported that they had experienced discrimination (19.9% and 13.1% respectively). This trend was evident across all the Services and civil staff.
- 16 Overall, reported experience of discrimination did not vary much with age (15.7% for those under 25 years to 13.9% for those over 40 years). But in the Navy, the proportion of personnel who reported experiencing discrimination decreased with age (from 20.3% for those aged under 25 years to 10.9% respectively). In contrast, in the Air Force, personnel aged under 25 years reported *less* discrimination than older personnel (6.3% compared with 13.1 for those aged 25-40 years and 10.7% for over 40 years).

SUPPORT FOR PEOPLE EXPERIENCING HARASSMENT OR DISCRIMINATION

- 17 Respondents were asked whether they would always be confident to approach their superiors if they felt they were being harassed at work. Overall, 87.9% responded positively to this question. This figure was generally consistent (between 84.7% and 91.8%) across Services, civil staff, men and women, and age groups.

¹¹ The sample size for civil staff under the age of 25 years was too small for results to be reported.

- 18 The exception was the Army. Of those under 25 years, 74.2% said they would always be confident to approach their superiors. Of those over 40 years, 94.3% responded positively to this question. There were also greater differences in the Army between men's and women's responses with 91.8% of women and 85.8% of men responding positively.

MANAGEMENT OF INCIDENTS OF HARASSMENT AND DISCRIMINATION

- 19 Overall, 86.6% of respondents felt incidents of harassment or discrimination were managed well. Men were more likely to think this than women (88.1% compared with 81.7%). Military personnel were more likely to think this than civil staff (between 87.8% and 91.2% compared with 79.5% of civil staff).
- 20 Overall, there was little difference in responses according to age. In the Navy, however, military personnel over 40 years were more likely than those aged under 25 years to think that incidents of harassment or discrimination are managed well (98.2% and 84.2% respectively).

AWARENESS OF SUPPORT

- 21 Overall, 90.9% of respondents said they were aware of what support services are available if they were being harassed. In most cases, the figure was over 90% (and in the case of Army personnel aged over 40 years, it reached 100%). However, it was less for people under 25 years (82.7% overall) and civil staff (86.7% overall).