

**OPENING STATEMENT
CHIEF OF ARMY**

SPECIAL FORCES PAY

25 FEB 09

Good morning Chair and members of the Committee. As the Chief of Defence Force has just stated, I am keen to discuss this subject with the Committee so that I can clarify the situation and highlight the progress that has been made and outline how the issue will be handled over the coming weeks.

First, let me state that I have been very disappointed to read and hear assertions that Army does not care about its soldiers and that somehow it would purposefully place its members into financial hardship through the way it administers them. I can assure you that nothing could be further from the truth.

Let me also state at the very beginning of my statement, that I have been under no misapprehension of this House's intention that no soldier suffer financial detriment as a result of this issue. As an immediate result of the issue becoming apparent at the last Estimates I was given very clear and unambiguous direction from the Minister in this regard.

This issue of remediating pay anomalies for special forces personnel that has arisen through the implementation of DFRT determinations has been particularly complex and very frustrating at times, in trying to resolve the

issue, I and my Army officials have had nothing but the affected soldiers' welfare at the forefront of our approach.

You will recall that in March 2007 and March 2008 the DFRT handed down decisions in relation to Special Forces pay, with an effective date of Aug 2007. These DFRT determinations included everything we asked for. They did not include a transition period, because we did not ask for one. We assessed at the time that all personnel had attained the required competencies to match the requested workplace value. This was an incorrect assessment and is the principal cause of this whole issue.

The DFRT determinations rolled into salary components that were previously paid as allowances. These allowances were previously appropriately authorized by Special Operations Commander Australia. When these allowances became part of salary, when the Determinations were implemented in Aug 2008, authorization was effected through an automatic process that matches proficiencies recorded in our HR Information System (PMKeys) against pay points. A number of anomalies were identified and unit action taken to remediate them.

I would like to reinforce at this point that any criticism of the DFRT in this matter is unfounded. I admire the Tribunal's processes and in particular the support Army receives from the DFRT.

In October last year, the issue of Special Forces pay anomalies was raised at Estimates. I advised that potentially 105 personnel were

affected and that Army was still working through the issue to resolve the matter.

In early December, I provided formal advice to Government on a remediation plan for affected personnel, which I was informed at the time was six special forces personnel. This advice was subsequently withdrawn when a continuing audit indicated that a further three personnel were potentially affected.

On 23 December, Special Operations Commander Australia advised the Deputy Chief of Army that despite considerable effort to identify affected personnel he needed further technical assistance to adequately audit his command. With a building sense of frustration, I then directed the Director General Personnel Army to conduct a 100% audit of records for all personnel who had served in Special Forces since Aug 2007 and who were in receipt of Special Forces allowances. As a measure of my concern over this issue I had personnel from Special Operations Command and Army Headquarters recalled from Christmas leave and this audit was completed on 31 Jan 2009.

Of the approximately 1350 records audited, about 380 were found to have anomalies that may impact on remuneration. The Special Operations Commander was tasked to investigate by Apr 2009 each individual case, with a view to provide a consolidated list of individuals that may need waivers and/or Act of Grace payments.

The 100% audit had identified that most of the anomalies occurred in proficiency recording for what we call Category B personnel. These are support personnel, such as signalers, who work in Special Forces units, but who receive additional remuneration to their primary trade pay when they complete Special Forces reinforcement training.

Prior to the DFRT determination, this additional remuneration was paid as an allowance and appropriately authorized by the Special Operations Commander. But now, as previously mentioned, it is based purely on automated matching of attained proficiencies with pay points.

Realising that we may have many Category B personnel who, despite competently performing at designated levels throughout the Special Forces, may not have formally attained the full range of competency, I sought advice on whether I had the authority to implement a transition period and rectify the issue. I was informed such authority could only be granted through what is called a Section 58B Ministerial Determination.

On progressing the option of a 58B Ministerial Determination, I was advised by the appropriate delegate within Defence that it would be more appropriate to seek a transition period from the DFRT itself. While this option was being pursued, I separately sought formal advice from the General Counsel within Defence Legal on whether I could use my Command Authority to resolve this issue.

The General Counsel advice, which I received on 16 Feb 2009, revealed that in fact it was open to me to take ownership of this issue and to take administrative action to address the problems.

I immediately chose this course of action as being the most appropriate and timely course of action to meet the aim of looking after our people.

On 18 Feb 2009, I issued the directive tabled by CDF. It outlines the administrative action that Army is now taking to remediate all trade competencies and pay anomalies in order to bring this unacceptable matter to a close.

It establishes a transition period during which no soldier will be financially disadvantaged until all proficiencies have been audited, deficiencies identified and adequate training opportunities provided to enable affected soldiers to demonstrate proficiency. This effectively removes any discussion about debt. There is no debt, soldiers will be remunerated at the same levels they were before we implemented these DFRT determinations, and the transition period will provide the time needed for them to attain required formal qualifications. While the policy issue of debt – and the suspension of all debts - has been resolved, complete remediation will take some months to achieve.

I would like to emphasize at this point, that the length of this transition period will be designated by me after advice from Special Operations Commander. Special Operations Commander has until 11 May 2009 to

recommend to me a training remediation plan for each affected soldier, taking into consideration operational commitments and training capacity.

If soldiers fail to attain the required formal competencies by the completion of the designated timeline, the soldier will have his pay adjusted from that time, with no retrospectivity – **let me emphasize this, no retrospectivity (that is, no debt)**, on to correctly reflect his actual proficiency.

Army is presently communicating the content of this Competency Remediation Directive to affected members, but again, I state it will not be until 11 May that individually tailored training remediation plans will be constructed. Communication on the specifics of this plan to all affected personnel will then follow.

I want to take this opportunity to quote excerpts from my Directive of 18 February. The Directive, which is a lawful order to my staff and Commanders; personalises and attributes exacting accountability:

This mission I directed was:

SOCOMD is to complete a detailed audit of all SF personnel against employment specifications impacted by DFRT Determinations by 27 Apr 09, IOT remediate trade/pay and training anomalies.

I provided a clear intent, which was as follows:

During the remediation period, no soldier is to be financially disadvantaged until all proficiencies have been audited, deficiencies identified and adequate training opportunities provided to enable affected soldiers to demonstrate proficiency.

All remediation action is to be command driven and afforded significant priority in order to reduce the impact on personnel and their families.

I further directed the following:

SOCAUST is to formally advise me on the outcomes of reference C, Phase II, NLT 27 Apr 09. Outcomes of this audit are to be presented by name against the following three classifications;

- a. **Classification 1:** those personnel, who are qualified, have been fully assessed, but whose proficiencies are not recorded on PMKeyS;*
- b. **Classification 2:** those personnel, who can demonstrate, through the Recognition of Current Competencies (RCC) or Recognition of Prior Learning (RPL) processes, that they meet the assessment criteria to have their proficiencies recorded on PMKeyS; and*
- c. **Classification 3:** those personnel, who require additional training and trade assessment to comply with the range of determined competencies.*

Finalisation of this audit sets the pre-conditions for the administrative action needed to remediate all anomalies, including establishing an appropriate timeline for the provision of additional training, re-training where appropriate and trade assessment.

In the Directive, I then directed the following tasks be undertaken by the Commander of Special Operations:

- 1. Provide outcomes of the SF Trade Audit to me NLT 27 Apr 09, IAW the three classifications detailed in paragraph 10;*
- 2. For members in Classification 1, enter proficiencies into PMKeyS NLT 11 May 09;*
- 3. For members in Classification 2, provide me a decision brief on recommended RCC/RPL action NLT 11 May 09;*
- 4. Within seven days of receiving my RCC/RPL decision, ensure approved RCC/RPL are correctly entered into PMKeyS IAW Personnel Development and Training (PD&T) business processes;*
- 5. For members in Classification 3, provide me a training / competency remediation plan NLT 11 May 09, including the implications to trade and pay grades if full competencies are not achieved. This remediation plan is to recommend a timeline for each individual to attain required competencies, after due consideration of operational commitments and training capacity, including the need for re-testing where appropriate. Re-testing is to be conducted*

IAW current policy. The plan is to also outline any related TARP implications;

As well as:

- 7. Provide me, NLT 01 Jun 09, confirmation that all affected members have been advised IAW sub sub-para 6 above; and*
- 8. Provide me monthly updates, through DGPERS-A, by the 5th of each month on outstanding action to effect remediation by affected member.*

I further directed that among the many tasks be completed by my Director of Personnel – Army that he was to:

Produce by 01 Aug 09 a DI(A) on the management of Army pay cases that clearly articulates the Army wide processes that are to be followed in order to prevent a similar occurrence.

I concluded by Directive by stating the following:

DFRT determinations in 07 and 08 recognised the high workplace value that SF personnel provide to achieve Army's overall directed capability. It is now Army's responsibility to ensure that all members are provided adequate competency training and detailed administrative support to enable them to be remunerated at the appropriate pay grade level.

The current remediation process will be command driven and has my direct focus. SOCAUST is responsible for the trade competency remediation for all SF personnel, to ensure member pay is not

adversely affected through the incorrect recording of trade competency assessments. DGPERS-A is to provide support through technical guidance on the correct recording of competencies and pay skill variations into PMKeyS.

With regards to the leaked email from the Regimental Sergeant Major of the SASR, let me say that this was done to ensure this matter is managed in the appropriate way. The email was sent out because of a very senior soldier's frustration with actions being taken outside the chain of command that have compromised my expressed intent to resolve this issue. The important parts of the e-mail deal with identifying single points of contact, and of a genuine desire for soldiers to raise their concerns in an appropriate manner. I would not anticipate any disciplinary action being taken against people who are genuinely concerned about their pay. I would ask, however, that these people give the chain of command all of the pertinent detail of their concerns so that this matter can be brought to a proper conclusion.

Let me also state at this point that I understand there will be Special Forces members that currently possess documentation that states they have debts related to the implementation of these two DFRT Determinations. Soldiers in possession of this debt documentation that was raised before I intervened should now use their chain of command to have this matter addressed.

Let me conclude by being very clear, there will be Special Forces members who incur debts during this period for matters unrelated to the implementation of these two DFRT Determinations. For example, the overpayment of deployment allowances. These debts will be recovered. The fact that this Special Forces Pay issue and the subsequent public debate has led some soldiers to believe that **all** debts will be waived. This is not the case. SF soldiers are no different to any other soldiers in this regard and legitimate debts will be recovered.

Finally, I say to all soldiers that the chain of command is your ally. I cannot assist you if you proceed outside this avenue of assistance to air your concerns. I have done, and will continue to do, everything within my powers and authorities to assist you as indeed I do for every soldier in the Australian Army.