

DEPARTMENTAL PERSONNEL INSTRUCTION NO 1/2001

22 January 2001

Note: These instructions are of a permanent nature and remain in force until cancelled. They should be reviewed by the sponsor every three years and repromulgated only where a significant change of content is necessary. Publications can be accessed on the Defence Intranet at <http://defweb.cbr.defence.gov.au/home/documents/departme.htm>

EQUITY AND DIVERSITY IN THE DEPARTMENT OF DEFENCE

Purpose

1. The purpose of this instruction is to state the Defence policy on equity and diversity. All personnel are to comply with this policy and the principles of equity and diversity.
2. This instruction correlates with the policy for Australian Defence Force (ADF) members, Defence Instruction (General) (DI(G)) PERS 50–1—*Equity and Diversity in the Australian Defence Force*.

Policy

3. The Defence Organisation has a commitment to equity and diversity in the workplace and in its management practices. Equity and diversity have the aim of enhancing operational capability and effectiveness to achieve the Defence mission through the development of fair and inclusive workplaces.
4. Equity and diversity emphasise the importance of valuing fairness and difference as good leadership practice. When everyone is valued, the Defence Organisation can expect the retention of the best people for the job, increased effectiveness of teams and a more cohesive workforce with higher morale. Moreover, by using the various skill sets of all personnel, the Defence Organisation will have greater ability to successfully prevent or defeat the use of armed aggression against Australia and its interests.
5. Equity and diversity apply to all personnel, Australian Public Service (APS) and ADF, as good management practice and Government policy.

Legislative aspects

6. Equity and diversity in the APS are covered by the following legislative framework:
 - a. section 10 of the *Public Service Act 1999* which sets out the APS Values and promote equity and diversity in the workplace;
 - b. section 13 of the *Public Service Act 1999* which sets out the APS Code of Conduct and prohibits workplace harassment;
 - c. section 18 of the *Public Service Act 1999* which requires an Agency Head to establish a workplace diversity program to assist in giving effect to the APS Values; and
 - d. the Public Service Commissioner's Directions which:
 - (1) set out the minimum measures that an Agency Head and employees will be required to take to eliminate workplace discrimination and utilise diversity; and
 - (2) requires that an Agency Head and employees take special measures to eliminate employment disadvantage on the basis of gender, race or ethnicity, being an Indigenous Australian or having a physical or mental disability.
7. All personnel are covered by a number of provisions of Commonwealth Human Rights legislation that are relevant to equity and diversity. [Annex A](#) provides an overview of each of the relevant Acts, as they relate to equity and diversity. More detailed information can be obtained from the Acts themselves.

Principles of equity and diversity

8. Equity and diversity encompass the concept of fair treatment and that everyone should be given the opportunity to make the most of their talents and abilities. An equitable and diverse environment will be achieved through the application of the following basic principles:

- a. treating each other with respect and dignity;
- b. recognising that all people are different and valuing appropriate differences;
- c. using the different contributions that people can make to the team;
- d. making judgments genuinely based on fairness and merit;
- e. eliminating artificial, unfair and inappropriate barriers to workplace participation;
- f. providing appropriate means to monitor and address discrimination and harassment; and
- g. providing opportunities for flexibility when meeting organisational requirements.

Equity and diversity in Defence

9. Equity means to give everyone a fair go, with appropriate access to training opportunities, development opportunities, fair working conditions and opportunities for promotion. However, equity does not assume that everyone has the same abilities, qualifications, experience, or that everyone will reach the same level. Rather, the emphasis is on providing everyone with an equal opportunity to make the most of their talents and abilities. In short, equity does not mean sameness; it means fairness. Equity questions the fairness of apparent equal treatment when dealing with differences, such as gender, physical ability, attributes or skills and cultural background. Equity seeks to treat people on their merit and in accordance with their different circumstances and needs.

10. Diversity in the workplace means creating an inclusive environment that respects, values and utilises the contributions of people of different backgrounds, experiences and perspectives. Diversity can relate to gender, age, language, ethnicity, cultural background, sexual orientation, religious belief and family responsibility. Diversity also refers to the ways we are different in other respects such as educational level, work experience, socioeconomic background, personality profile, geographic location, marital status and whether or not one has carer responsibilities. Diversity seeks to capitalise on the variety of talents and skills of all personnel.

Equity and leadership

11. Equity is an important element of operational capability and good leadership practice. The Defence Personnel Executive has published guidance in the form of instructions and booklets for Defence commanders, leaders, managers and policy makers. They provide the background information necessary to support a proactive approach to the pursuit of equity in Defence.

12. Leaders and managers are to focus on the expectations, responsibilities and standards detailed in the booklet to ensure that all personnel are treated fairly and to provide a working environment free of harassment and discrimination.

Workplace Equity and Diversity Plan

13. Equity and diversity principles and policies in the Defence Organisation are implemented, managed and evaluated annually through the Workplace Equity and Diversity Plan (WEDP). The WEDP details specific strategies, actions, responsibilities and performance indicators and has the following objectives:

- a. equity and diversity principles are embedded in workplace practices;
- b. a culture of workplace equity and diversity is promoted and fostered through committed leadership and management;
- c. Defence capability is optimised by recruiting and retaining people from the broadest possible range of backgrounds; and
- d. opportunities are optimised for all personnel to participate in the formulation of personnel policies and practices, and to access information and services appropriate to them.

14. The WEDP acts as an 'umbrella' plan for both the *Defence Disability Action Plan* and the *Defence Indigenous Staff Recruitment and Career Development Plan*, and address specific equity and diversity initiatives.

Roles and responsibilities

15. The **Defence Equity Organisation (DEO)** is responsible for promoting the principles of equity and diversity in Defence through the development of appropriate policies and strategies. Its mission is to inform, educate, encourage and ensure that equitable policies, processes and practices form an integral part of doing business in Defence as the basis for a fairer and better work environment. The DEO is the lead authority on all equity and diversity policies and strategies in the Defence Organisation.

16. The DEO has rationalised the activities associated with equity and diversity, including awareness training, unacceptable behaviour incident reporting, the management and resolution of incidents and Equity Adviser networks. The DEO is also responsible for the development and management of the WEDP.

17. **All staff**—all APS and ADF personnel are to act in accordance with the Defence Organisation's values, as endorsed by the Defence Executive. The values are:

- a. professionalism,
- b. loyalty,
- c. innovation,
- d. courage,
- e. integrity, and
- f. teamwork.

18. Values drive behaviours, and hence performance. To achieve success Defence should be an organisation in which everyone:

- a. works together,
- b. gets good results,
- c. acts professionally,
- d. respects and trusts each other,
- e. gives everyone a fair go, and
- f. acts with honesty and integrity.

19. Everyone in the Defence Organisation has a right to be treated with respect and courtesy, and without harassment. It is the responsibility of all personnel to provide a work environment free from unacceptable behaviour. If appropriate, personnel are to attempt self-resolution of unacceptable behaviour incidents or, if this fails or the matter is serious, to report issues to their immediate supervisor so that corrective action can be taken.

20. **Commanders, managers and workplace supervisors** are responsible and accountable for equity and diversity in their workplace. It is a fundamental element of leadership that commanders, managers and workplace supervisors look after the wellbeing of their people. They are required to:

- a. implement and report on the WEDP and set the equity standards in the workplace;
- b. develop a fair and inclusive workplace;
- c. ensure that all personnel and prospective personnel are valued and treated fairly, on individual merit and with respect and dignity;
- d. ensure that the different skills and contributions that personnel possess as a result of their background, experiences and perspectives are fully utilised;
- e. take all possible action to prevent and/or eliminate unacceptable behaviour;

- f. act to stop unacceptable behaviour immediately it is reported or observed and respond promptly, seriously and with sensitivity to allegations of unacceptable behaviour;
 - g. ensure that all personnel involved in unacceptable behaviour complaints are informed of the range of methods that exist to deal with complaints;
 - h. ensure that all personnel involved in unacceptable behaviour complaints are aware of and are provided access to the range of support mechanisms;
 - i. report incidents of unacceptable behaviour in accordance with the relevant Defence policy instructions;
 - j. support and promote the Equity Adviser Network;
 - k. ensure appropriate annual equity and diversity training of all personnel; and
 - l. demonstrate, through their behaviour, commitment to the principles of equity and diversity.
21. Commanders, managers and workplace supervisors are to ensure that the personnel they supervise, APS, ADF and contractors, are aware of this policy.

22. **Service Chiefs and Group Heads** are responsible and accountable for equity and diversity in their Group/Service. To enable the Defence Organisation to comply with legislative and Government requirements, they are required to:

- a. implement, promote and report annually on the WEDP in their Service or Group;
- b. set equity and diversity standards and communicate these standards and the Defence values throughout their Service or Group to ensure that workplaces are fair and inclusive, free of discrimination and harassment;
- c. incorporate equity and diversity requirements in corporate/business plans and allocate appropriate resources;
- d. ensure that commanders and managers meet their responsibilities through the inclusion of equity and diversity responsibilities in performance agreements; and
- e. demonstrate, through their behaviour, commitment to the principles of equity and diversity and the Defence Values.

23. **Service and Group Equity Coordinators**, as the representative of their Service Chief or Group Head, are to coordinate and promote equity and diversity issues within Service or Group, ensure that appropriate resources are allocated and progress Service or Group responsibilities from the WEDP. In addition, they are responsible for providing reports on the implementation of equity and diversity initiatives within their Service or Group.

24. The **Defence Equity Adviser Network** includes Equity Advisers, Senior Equity Advisers and Defence Equity Coordinators. The Network roles and responsibilities are explained in the relevant Defence policy instructions.

Monitoring equity and diversity

25. Equity and diversity in Defence will be monitored through achievements in relation to the performance indicators in the WEDP. Responsible areas will formally report on the results obtained at the end of each financial year. The equity and diversity data collected will then be used for the following purposes:

- a. a report to the Minister Assisting the Minister for Defence;
- b. input into the *Defence Annual Report*;
- c. input into the Public Service Commission's *State of the Service Report*;
- d. input into the Department of Immigration and Multicultural Affairs *Access and Equity Annual Report*; and
- e. to assist the DEO in monitoring the progress of equity and diversity in the Defence Organisation.

Advice and assistance

26. The Defence Equity Advice Lines are free-call telephone numbers that have been established for APS and ADF personnel, contracting staff and family members of Defence personnel seeking confidential advice, information and referral. Callers are given information about their rights within the Defence Organisation and avenues available for further action, if they or a family member has been subjected to, accused of, or witness to any form of unacceptable behaviour. Commanders, managers, supervisors and Equity Advisers wanting to discuss the management and resolution of cases of unacceptable behaviour may also contact the advice lines. The three Defence Equity Advice Lines telephone numbers are:

- a. 1800 644 247,
- b. 1800 803 831, and
- c. 1800 626 254.

27. The Defence Equity Advice Lines are available seven days a week (except Christmas Day) between 8.30 am and 9.00 pm Eastern Standard Time (EST) and Eastern Daylight Saving Time (EDT). All after hours calls are diverted to a confidential message bank where messages can be left. If a contact telephone number is left, an operator will respond to the message within twelve hours. This includes weekends and public holidays.

28. Instructions and publications relevant to this instruction are detailed in the DEO's Internet site (see www.dod.gov.au/equity/) and Intranet site (see <http://defweb.cbr.defence.gov.au/dpeequity/>).

29. Further information on equity and diversity issues can be obtained from Equity Advisers, Senior Equity Advisers, Defence Equity Coordinators or the DEO.



S.V.L. WILLIS
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Annex:

- A. [Equity and diversity legislation](#)

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CONTACT OFFICER: Deputy Director Policy
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EARLIER DEPARTMENTAL PERSONNEL INSTRUCTION CANCELLED: 4/99

EQUITY AND DIVERSITY LEGISLATION

1. **Public Service Act 1999** prohibits workplace harassment, promotes equity and diversity, and the Act and the Public Service Commissioner's Directions provide for Special Measures that allow for special programs to encourage the appointment to the Australian Public Service (APS) of members of designated groups.
2. Section 10(1) of the Act sets out the APS Values and these have been amplified in the Public Service Commissioner's Directions. The following Values address equity and diversity issues:
 - the APS provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves;
 - the APS delivers services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public;
 - the APS establishes workplace relations that value communication, consultation, cooperation and input from employees on matters that affect their workplace;
 - the APS promotes equity in employment;
 - the APS provides a fair, flexible, safe and rewarding workplace;
 - the APS provides a reasonable opportunity to all eligible members of the community to apply for APS vacancies; and
 - the APS provides a fair system of review of decisions taken in respect of APS employees;
3. Section 13 of the Act sets out the Code of Conduct and prohibits workplace harassment. Specifically, the Act states that 'An APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment'.
4. Section 18 of the Act requires an Agency Head to establish a workplace diversity program to assist in giving effect to the APS Values.
5. **Racial Discrimination Act 1975** makes unlawful any act involving a distinction, exclusion, restriction, preference or incitement to unlawful acts based on race, colour, descent or national or ethnic origin when it has the purpose of impairing any human right or fundamental freedom in the political, economic, social, cultural or any other field in public life. The Act also deals specifically with racial discrimination in relation to access to places and facilities, the provision of goods and services, employment, and the right to join trade unions. The most recent amendments to the Act were effected by the *Racial Hatred Act 1995*. The amendments render unlawful public acts which are reasonably likely to offend, insult, humiliate or intimidate a person or group of people, where the act is committed because of race, colour, or national or ethnic origin of the person or group.
6. **Sex Discrimination Act 1984**, including the 1992 amendments, makes it unlawful to directly or indirectly discriminate against a person on the grounds of an individual's sex, marital status, pregnancy, potential pregnancy or family responsibility. The Act also provides for sexual harassment to be an unlawful act both at work and during work related activities. In addition, a complainant alleging sexual harassment only needs to show they were offended, humiliated or intimidated by the behaviour and it was reasonable to feel that way. By virtue of section 43 of the Act, it is not unlawful for the Australian Defence Force (ADF) to discriminate against women on the grounds of their sex in respect of employment in positions involving specified combat duties. The Act also makes employers and principals vicariously liable for any discriminatory act committed by their employees or agents, unless the employer takes all reasonable steps to prevent the discrimination or harassment from occurring.
7. **Human Rights and Equal Opportunity Commission Act 1986** (HREOC Act) provides that complaints of discrimination in employment may be made on grounds detailed in International Labour Organisation (ILO) Convention 111. Specifically this Act defines discrimination to mean any distinction, exclusion or preference that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation on the basis of race, colour, sex (includes marital status), physical, mental, intellectual or psychiatric disability, impairment (including Human Immunodeficiency Virus infection, whether real or imputed), nationality, religion, political opinion, national extraction, social origin, age, medical record, criminal record, sexual preference or trade union activity. The ADF lawfully discriminates on some of these grounds, being justifiable as an 'inherent requirement of the job' and these include physical and mental disability, medical and criminal record and nationality. Although the HREOC Act does not make employment discrimination unlawful, the Human Rights Commissioner is empowered to

inquire into any act or practice of an employer that may constitute 'discrimination'. The Commission's objective is to promote the acceptance and observance of human rights and equal opportunity in Australia by developing public awareness of these rights through public inquiries, community education and individual complaint resolution.

8. **Disability Discrimination Act 1992** makes discrimination on the grounds of a disability unlawful. The Act also makes harassment of a person because of a disability unlawful. It should be noted that the definition of disability is extensive and includes not only loss of bodily or mental functions but also the presence in the body of organisms capable of causing disease or illness. The Act recognises that the requirements of employment are more stringent in the ADF than those in other areas of Commonwealth employment. Thus, members, and potential members of the Services, must meet medical and fitness standards based on the inherent requirements of ADF service. The Act therefore, in effect, provides an exemption for persons employed on combat-related or peace keeping duties or persons performing the duties of chaplain or medical support persons in support of the forces engaged or likely to be engaged in combat, combat support or peace keeping duties.

9. **Workplace Relations Act 1996** prohibits discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin. The Act prohibits discrimination on these grounds in the making of awards and agreements and in the termination of employment subject to some exceptions. Through a flexible framework for setting conditions, the *Workplace Relations Act 1996* also provides a vehicle for the long-term effectiveness of programs that are responsive to the needs of a workforce with diverse work and personal life issues.

10. **ILO Conventions:**

- No 111 concerning discrimination in respect of employment and occupation, ratified in 1973;
- No 100 concerning equal remuneration, ratified in 1974;
- No 156 on workers with family responsibilities, ratified in 1990; and
- No 159 concerning the vocational rehabilitation and employment of disabled persons, ratified in 1990.