



A GUIDE TO

**FAIR LEADERSHIP
& DISCIPLINE**
IN THE AUSTRALIAN
DEFENCE
FORCE

>> a fair go for everyone

Principles of Equity and Diversity

1. treating each other with respect and dignity;
2. recognising people as individuals and valuing differences;
3. using the different contributions that people can make to the team;
4. making judgements genuinely based on fairness and merit;
5. eliminating artificial, unfair and inappropriate barriers to workplace participation;
6. providing appropriate means to monitor and address discrimination and harassment;
7. providing opportunities for flexibility when meeting organisational requirements; and
8. consulting people on policies and decisions that affect them.



A GUIDE TO
FAIR LEADERSHIP
& DISCIPLINE
IN THE AUSTRALIAN
DEFENCE
FORCE

>> a fair go for everyone

Defence Publishing Service
DPS: APR033/02

a guide to fair leadership and discipline in the Australian Defence Force

introduction

Equity and diversity on the one hand, and good conduct and discipline on the other, are not mutually exclusive concepts in Defence. Equity and diversity bring both benefits and protection from harassment and discrimination. ADF members also have an obligation not to use them as an excuse for failing to comply with lawful orders and directions. Equity and diversity contribute to operational capability and effectiveness and, accordingly, are considered normal leadership and management issues.

The purpose of this guide is to address commonly held misconceptions about equity and diversity issues and how they affect ADF/Australian Public Service (APS) Officers, NCOs and the personnel for whom they are responsible. The guide is not intended to be a definitive reference source but it does provide examples that may provide general guidance.

This guide addresses ADF concerns in relation to good conduct and discipline. The principles outlined here apply equally to an integrated workplace but the language and tone of this document is more applicable to the supervision of ADF personnel.

definitions

command

Command is the authority which a commander in the military service lawfully exercises over subordinates by virtue of rank or assignment. Command includes the authority and responsibility for effectively using available resources and for planning the employment of, organising, directing, coordinating and controlling military forces for the accomplishment of assigned missions. It also includes responsibility for health, welfare, morale and discipline of assigned personnel.

complainant

'Complainant' is a person who may have been subjected to some form of unacceptable behaviour. To avoid stereotyping the person, the standard terminology is 'complainant' not 'victim', irrespective of whether that person makes a formal complaint.

discrimination

Discrimination in legislation is defined as less favourable treatment. It includes actions or words that involve a distinction, an exclusion, a restriction or a preference which prevent or impair people from exercising or enjoying their human rights or fundamental freedoms in any political, economic, social or cultural field of life.

Discriminatory behaviour stereotypes a person rather than judges on individual merit. This includes openly discussing views which portray an individual or group as inferior or subordinate, or the use of terms that discriminate, such as gender based or sexist derogatory terms. Discrimination can be based on the following:

- a. *race*—based on an individual's or group's colour, race, descent, nationality, ethnic or social origin;
- b. *religion*—based on an individual's or group's religion;
- c. *disability*—based on an individual's or group's medical or physical impairment, mental or intellectual or psychiatric disability;
- d. *gender*—based on an individual's or group's gender;
- e. *marital status*—based on an individual's or group's marital status;
- f. *sexuality*—based on an individual's or group's perceived or known sexual preference;
- g. *pregnancy*—based on an individual's pregnancy;

- h. *potential pregnancy*—based on an individual's or group's potential or perceived potential to become pregnant; and/or
- i. *family responsibilities*—based on an individual's or group's family responsibilities whether they be parents , children, partner or spouse.

equity

Equity means to give everyone a fair go, with appropriate access to training opportunities, to development opportunities, to fair working conditions and to opportunities for advancement.

harassment

Harassment is a form of discrimination. Harassment is characterised by offensive, abusive, belittling or threatening behaviour directed at an individual or group that may be a result of some real or perceived attribute or difference. Harassment includes the terms as listed in the definition of discrimination but can also be described as:

- a. *workplace*—based on actions that take place in the workplace other than those identified in the definition of discrimination; and
- b. *personal*—based on personal attributes, attitudes or circumstances of an individual.

order

A communication, written, oral or by signal/message which conveys instructions from a superior to a subordinate.

respondent

'Respondent' is a person who may have deliberately or unintentionally subjected another person to some form of unacceptable behaviour. To respect the principles of natural justice and avoid stereotyping the person and tarnishing their reputation, the standard terminology is 'respondent' not 'alleged harasser' or 'offender', irrespective of whether a formal complaint is made.

superior officer

Another member of the Defence Force who holds a higher rank or a higher relative rank, in the Defence Force than the member, and includes any other member of the Defence Force who, by the virtue of his or her office or appointment is entitled to exercise command over the member. ADF members whose postings or duties place them under the authority of a Public Servant are to comply with all reasonable directions given by that Public Servant.

unacceptable behaviour

Unacceptable behaviour includes harassment, discrimination, sexual harassment and sexual offences . Behaviour that is offensive, belittling or threatening and is directed at an individual is unacceptable.

workplace diversity

Workplace diversity is an approach to management and leadership aimed at creating an inclusive environment that values and utilises the contribution of people of different backgrounds, experiences and perspectives.

common concerns or issues

How do I avoid being accused of harassment when I'm ordering or directing my staff to carry out a required action?

Let there be no confusion! Lawful commands or directions require compliance. Sometimes, this concern may be partly caused by confusion about the definition of harassment and a fear that individuals may claim harassment and discrimination when they are directed to undertake a task or duty that they do not want to complete.

It is not uncommon for people to claim harassment or discrimination when they are directed to undertake a task or duty that they are unhappy with or when affronted by the manner in which that direction was given. This issue more relates to management style and personal perceptions than harassment.

Those who have the authority to command, lead, or direct, have the right and duty to do just that. In delivering a lawful order, the issue of whether the recipient wants or does not want to undertake the required action is irrelevant.

If you are confident in knowing your own job and your subordinate's job, you can be confident that if you order or direct your staff in an appropriate manner, you will not be guilty of harassment.

What do I do if a person claims I'm discriminating against them when I correct them?

If a subordinate requires correction, then it is not discriminatory to undertake that correction. If correction is necessary, the leader or manager is obliged to arrange for the correction to take place in an appropriate manner. If you legitimately correct someone and that correction is carried out in an appropriate manner then there is no need to fear being accused of discrimination.

However, this raises a closely related issue of how that correction is delivered and how sometimes this can be related to the misuse and abuse of authority and power.

Misuse of authority and abuse of power can take the form of offensive, abusive, belittling, threatening or bullying words and/or behaviour or bastardisation. The effect on those who are subject to such behaviour is extremely negative and it does nothing for work-unit cohesion. If correction incorporates the misuse of authority, then there may be a harassment case to answer.

What can I do if I feel I'm being either illegally ordered to undertake an action or I know the order is illegal?

There is not a clear-cut answer to this question as it depends on the situation. To be lawful, an order must relate to military duty (ie be intended to effect some military object or purpose) and be one which a superior officer has authority in the circumstances to give to the subordinate.

If ordered to undertake an action that you consider unlawful but you are not sure, you should firstly clarify the legality of the order before you carry out the order. If you carry out an order that is unlawful, or subsequently shown to be unlawful, you could be held responsible for the outcome, even though so ordered by a superior officer.

If you are in doubt as to whether the order is lawful or unlawful, then take up the issue with the chain of command. If you are still concerned that the matter has not been dealt with suitably, either approach your next superior in the chain of command or consider the Redress of Grievance system.

If you have no doubt the order is unlawful, such as being ordered to sign a fraudulent purchase order for goods that are being purchased for a purely private purpose, then the matter should be referred to the chain of command immediately.

What do I do if I become aware of a harassment or discrimination issue and the complainant does not wish to take the matter any further?

There are a number of issues here. Firstly, one must recognise that through the principles of natural justice, there should not be a presumption of fault placed on any respondent. Fault if applicable will only be established after a proper investigation.

This raises the issue of when or whether incidents are investigated. An incident is not normally investigated as a result of hearsay or rumour. If a complainant does not make a formal complaint, this does not necessarily rule out the need for a formal investigation. If the allegations are serious, the leader or manager may wish to instigate an investigation to ascertain the facts. However, if a leader or manager becomes aware of an issue (though not through formal channels), he or she may wish to make informal enquiries to try to establish whether there is a need for a formal investigation.

Where a complainant does not wish to make a complaint, it is important to make sure that they are given as much support as possible in such situations and not be pressured into making a complaint. The respondent should also not be victimised on the basis of an uninvestigated complaint.

If as a result of a complaint and subsequent investigation, a respondent is found guilty of unacceptable behaviour but the complainant wishes for no further action to be

taken, the leader or manager must decide what is in the better interests of the ADF. The complainant's desired outcomes might not be consistent with good management practice.

DI(G) PERS 35-3 "Management and Reporting of Unacceptable Behaviour" has more detailed guidance in relation to this issue.

Can I shout at my staff?

This relates to whether shouting is an effective or appropriate form of communication. Without being prescriptive, shouting at an individual while standing ten centimetres from their face is considered inappropriate while shouting to address a group of people standing further away could be entirely appropriate. Barking orders to simulate an operational environment where immediate compliance is needed is a normal part of training.

Shouting inappropriately may demonstrate a lack of confidence in one's own ability to lead or manage. Shouting is normally not an effective form of communication, the "message" can be lost in the volume of the noise.

Do I treat members of diverse groups (Women, Aboriginal and Torres Strait Islanders, people of different culture and language backgrounds and people with disabilities) differently?

Members of diverse groups are not immune from criticism of work performance related issues. In relation to correction, direction and supervision, a minority group member should be treated as all others. If a culturally group member's behaviour is inappropriate or work performance needs correction then action should be taken.

So how should I act?

Many of the situations that Defence personnel will find themselves in rely upon the exercise of sound judgement as to what sort of behaviour is appropriate in those differing environments.

The simplest and most effective way to avoid any confusion amongst those who are under your control is to lead by example. It is far easier to get staff to do as you do rather than do as you say. The adage of "Walk the Walk, Talk the Talk" is appropriate.

There are a number of factors that will assist leaders and managers in carrying out their jobs. These factors do not limit themselves to equity and diversity related issues but should be part of an effective management style:

- know your job;
- know your staff's job;
- know what is going on;
- be confident in your approach;
- communicate your intentions clearly; and
- treat people with dignity and respect.

What isn't harassment?

There are numerous examples of where a person confuses their rights with their obligations of being a serving member of the ADF. This document makes no attempt at being prescriptive by listing all examples of what is and what isn't harassment. A few more commonly encountered examples are used to illustrate the sorts of issues that do arise more frequently. In reality, each case that arises has to be treated on its own merit and as such, each individual's interpretation of events will differ.

Being posted to your least desired location does not mean you are being discriminated against. Operational effectiveness is the prime determinant in posting preferences. Career Managers endeavour to treat posting preferences sympathetically but ultimately, it is extremely difficult to meet everyone's preferences.

Not being panelled for a training course can be disappointing but individuals need to be aware of the bigger picture. There can be a multitude of contributing factors that need to be assessed when determining priorities. Many of these factors can be beyond the individual's control, particularly when prioritising one person's requirements against another's.

Reviewing decisions

When a management decision doesn't go an individual's way, there are legitimate ways of seeking review of those decisions. However, before seeking a review of a decision, an individual should consider their grounds for requesting a review. Senior Defence management does not want to see the development of an appeals culture where every minor decision is reviewed.

Every minor decision that is formally reviewed results in resources being redirected from their primary focus. However, this should not be seen to be discouraging personnel from considering their options of whether to seek a review.

Senior management has reiterated their commitment to developing a culture within the ADF, where all personnel are confident to come forward where they feel they have been subjected to inappropriate behaviour. Anything that hinders this, either unintentionally or deliberately will be viewed extremely seriously.

Good two-way communication and feedback mechanisms or practices can prevent or reduce the need for individuals to formally pursue the review of decisions and behaviour.

summary

Individuals have rights and they have responsibilities. Everyone has the right to work in an environment free from harassment, discrimination and other unacceptable behaviour. Personnel need to be aware of their responsibilities when issuing and responding to lawful orders or directions.

Commanders, managers and supervisors should assess the working environment, the demands on, and capabilities of their staff and not refrain from taking appropriate administrative or disciplinary action when staff work performance is unsatisfactory. Appropriate disciplinary action is not harassment.

Equity and diversity are not excuses for not doing one's duty or not meeting the obligations that are inherent requirements of service in the ADF.

A number of cases of what are claimed to be equity and diversity related issues turn out to be issues of management style.

References:

DI(G) PERS 35-3 "Management and Reporting of Unacceptable Behaviour"
has more detailed guidance in relation to this issue.

DI(G) PERS 36-3 Inherent Requirements of Service in the ADF

for further assistance contact either

Equity Advisers

Senior Equity Advisers

Defence Equity Coordinators

Defence Equity Advice Line:

*FREECALL™ within Australia:

1800 644 247

1800 803 831

1800 626 254

Overseas:

International Global 800 Service

(International Access Code)800 DEFENCE 1

(International Access Code)(800 33336231)

7 days a week from 0830 to 2100 EST

This service is unavailable on 25 December

*FREECALL™ 1800 is only free for calls made from standard telephone lines within Australia. This does not include calls from ISDN Network (or any other data network) or mobile phones. Mobile phone calls will be charged mobile call rates and any calls made from a data network will be charged at data call rates.

The mission of the Defence Personnel Executive is to 'provide integrated personnel policies and services to meet current and future Defence capability and support needs'. In support of this mission, the Defence Equity Organisation is tasked with setting directions, communicating and promoting the principles of equity and diversity.

Staff in the Defence Equity Organisation are available to assist commanders and managers in all aspects of equity policy and its implementation in Defence.

Sponsored by:

The Defence Equity Organisation

Russell Offices

Canberra ACT 2600

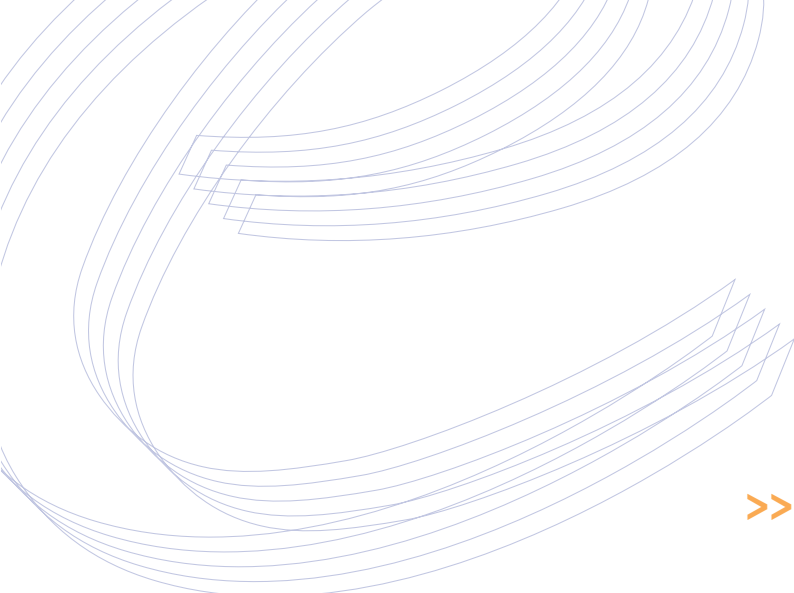
Email- EquityAdvice@defence.gov.au

Internet- <http://www.defence.gov.au/equity/>

Intranet- <http://defweb2.cbr.defence.gov.au/dpeequity>

Commanders, managers, and workplace supervisors are required to:

1. implement and report on the Defence Workplace Equity and Diversity Plan (WEDP);
2. develop a fair and inclusive workplace;
3. ensure that all personnel and prospective personnel are valued and treated fairly, on individual merit and with respect and dignity;
4. ensure that the different skills and contributions that personnel possess as a result of their background, experiences and perspectives are utilised where appropriate
5. take all appropriate action to prevent and/or eliminate unacceptable behaviour;
6. act to stop unacceptable behaviour immediately it is reported or observed and respond promptly, seriously and with sensitivity to allegations of unacceptable behaviour;
7. ensure that all personnel involved in unacceptable behaviour complaints are informed of the options for resolution;
8. ensure that all personnel involved in unacceptable behaviour complaints are aware of and are provided access to the range of support mechanisms;
9. report incidents of unacceptable behaviour in accordance with the relevant Defence policy instruction;
10. maintain, support and promote the Equity Adviser Network;
11. ensure that all personnel complete the mandatory equity and diversity training annually and that the training is recorded on PMKeys; and
12. demonstrate, through their behaviour, commitment to the principles of equity and diversity.



>> a fair go for everyone