SECTION 3
Management and Accountability
CHAPTER 6
GOVERNANCE AND ACCOUNTABILITY

The Defence Governance framework is designed to ensure that the Department has clearly defined roles, responsibilities and accountabilities, as well as mechanisms, to manage and monitor progress and performance, and that Defence is accountable to the Government and legislation, with defined assurance and audit processes.

DEFENCE BUSINESS MODEL

Defence is a complex organisation. An authoritative and transparent business model supports senior committee and decision-making activities and improves accountabilities within Defence.

What is Defence's Business Model?
The Defence Business Model is a single, simplified description of Defence's intricate organisational characteristics and complexities. It defines the roles and responsibilities of the various Defence Groups and Services, and it distinguishes policy and core business from service delivery.

The model takes into account the substantial interrelationship of accountabilities, authorities and responsibilities between those who produce the Defence outputs and those that enable the production of these outputs. It helps our people understand how what they do fits into the bigger picture.

The model recognises the centrality of capability in the delivery of outputs to the Government. Capability is managed and integrated to provide joint effects and a range of supporting functions.

The Defence Business Model is shown in the figure below.
Figure 6.1 The simplified Defence Business Model

Defence's Organisational 'value chain'

Government Guidance

Departmental Leadership

Strategy & Policy
Financial Management & Reporting
Science & Technology
Human Resources
Security
Audit & Controls
Training
Information & Communication Technology

Naval Capability
Army Capability
Air Force Capability
Intelligence Capability

Joint Force Integration
Joint Force Coordination & Preparedness
National Intelligence Products
Joint Force Operations
Joint Force in Being
National and International Engagement and Advice to Government
Obligations to Government

Government Guidance
Enabling Functions
Capability Management
Capability Integration
Defence Outputs

Defence Annual Report 2010-11 Volume 1

CHAPTER 6 GOVERNANCE AND ACCOUNTABILITY
DEFENCE CORPORATE GOVERNANCE

Senior Management Committee System
Defence has 10 senior Defence committees. Each plays an important role in the effective governance of Defence. All senior Defence committees have an advisory role with the chair exercising executive authority.

Figure 6.2 Structure of Senior Defence Committees

Senior Defence Committees

Defence Committee
The Defence Committee (DC) is the primary committee supporting the Secretary and the Chief of the Defence Force (CDF) in meeting their obligations under the Ministerial Directive for the management and administration of Defence. The Secretary is the principal civilian adviser, in line with his statutory responsibilities and authority, particularly under the Public Service Act 1999 and the Financial Management and Accountability Act 1997. The CDF is the principal military adviser and is the commander of the Defence Force, in line with his statutory responsibilities and authority under the Defence Act 1903. The DC is also responsible for governance policy for Defence. The DC is chaired by the Secretary.

Chiefs of Service Committee
The Chiefs of Service Committee (COSC) is the primary committee supporting the CDF in his role of commander of the Australian Defence Force (ADF) and principal military advisor to Government. The CDF’s statutory authority is provided by the Defence Act 1903. The principal functions of the COSC are to provide military advice to the CDF in the fields of military strategy, force structure and development, ADF capability and personnel. The meeting is chaired by the CDF and attended by the Secretary, Service Chiefs and Operations, and Strategy and Capability advisors.
Defence Audit and Risk Committee
The Defence Audit and Risk Committee (DARC) has been established by the Secretary in accordance with Section 46 of the Financial Management and Accountability Act 1997. It provides independent advice to the Secretary and CDF on all aspects of Defence governance, including audit, assurance, financial management and risk management issues. In November 2010, the Secretary appointed Deputy Secretary Strategic Reform and Governance as the Secretary of the DARC. The role of the DARC Secretary is to provide advice and direction to the Committee in the development of their work program and to facilitate effective engagement between the DARC and the senior leadership of Defence. Mr Paul Rizzo is the independent Chair of the DARC.

Defence Capability and Investment Committee
The Defence Capability and Investment Committee reviews major capability and investment issues by seeking to ensure resourcing, including capital investment and operating costs, is consistent with Defence’s strategic priorities and resourcing strategy. The Defence Capability and Investment Committee is chaired by the Secretary.

Defence Capability Committee
The Defence Capability Committee (DCC) is a sub committee of the Defence Capability and Investment Committee. Its role is to consider all Major Capital Equipment proposals prior to submission to Government. It may also consider other matters associated with major capital investment. The DCC is chaired by the Chief Capability Development Group.

Workforce and Financial Management Committee
The Workforce and Financial Management Committee ensure the efficient and effective allocation of Defence resources to meet strategic objectives. It reviews all funding requests and workforce planning initiatives including the allocation of the workforce to meet performance objectives, and also provides strategic direction on reprioritisation of defence resources. The Committee is co-chaired by the Secretary and the CDF.

Defence Information, Communication and Technology Committee
The Defence Information, Communication and Technology Committee (DICTC) provides strategic direction on the planning, expenditure and allocation of ICT resources across Defence. The DICTC is co-chaired by the Secretary and the CDF.

Defence Occupational Health and Safety Committee
The Defence Occupational Health and Safety Committee oversees all issues related to Occupational Health and Safety including strategic planning, compliance with internal and external arrangements, and monitoring risks to the wellbeing of Defence’s people. The Defence Occupational Health and Safety Committee is co-chaired by the Deputy Secretary People Strategies and Policy and the Vice Chief of the Defence Force.

Defence People Committee
The Defence People Committee (DPC) identifies and oversees the implementation of critical workforce initiatives and people policies needed to generate organisational capability required by Defence. The DPC is chaired by the Deputy Secretary People Strategies and Policy.
Defence Estate Performance and Investment Committee
The Defence Estate Performance and Investment Committee (DEPIC) provides oversight of Defence estate plans, business reforms, estate performance metrics, significant or sensitive facilities projects, review alignment of the estate with Strategic Reform Program (SRP) initiatives. DEPIC also reviews alignment of projects with the Defence Capability Plan and other portfolio priorities, including whole of life considerations, options for project funding and any other matters the Chair deems relevant to the Committee’s task. The committee is chaired by the Deputy Secretary Defence Support.

Other Governance Structures

Internal auditing
Audit Branch provides assurance to the Secretary, CDF, and the Chief Executive Officer (CEO) Defence Materiel Organisation (DMO) that financial and operational controls designed to manage Defence’s major risks are in place and are operating in an efficient and effective manner. Audit Branch also assists Defence senior managers and the DMO Executive in improving the business performance of their organisations.

During 2010-11, Audit Branch provided internal audit services in accordance with the annual audit work program that was approved by the DARC. In addition, there has been a significant increase in the number of tasks initiated by the Secretary and senior management. These tasks look into areas of high-level risk or activities where there are significant control deficiencies that, either have or, if not addressed as a matter of priority, could lead to significant financial loss, or expose Defence to serious reputational damage.

A total of 53 audit reports were issued encompassing 34 from the audit work program and 19 management directed tasks. The Audit Branch also provided support to the conduct of four Australian National Audit Office performance audits.

Chief of the Defence Force Commissions of Inquiry
The CDF appoints a Commission of Inquiry (COI) primarily to inquire into deaths of ADF members that appear to have arisen out of, or in the course of, their service. The CDF may also appoint a COI into any other matter concerning the Defence Force, although this would only occur for the most serious or complex matters. A COI is established to provide accurate and reliable information concerning the facts surrounding an incident or situation. The purpose of a COI is to inform internal Defence decision-making by thoroughly and impartially examining deaths and other serious incidents principally with a view to preventing similar incidents from occurring again. The outcomes of these inquiries assist in obtaining timely information on incidents that affect Defence personnel, training and policy, which is vital for Defence capability.

COIs are appointed by the CDF and are presided over by a civilian with judicial experience. They may be constituted by a President alone, or additional members who may be civilians or ADF members.

It is important that COIs are conducted in a way that promotes confidence in the integrity of the COI process. Accordingly, subject to considerations of security and the exercise of legal discretion by the COI President, they are conducted in public.

During the reporting period six COIs were conducted or appointed.
Private David Smith
A COI into the death of Private David Smith commenced on 17 January 2010. Following a decision in the Federal Court on 30 May 2011, the CDF revoked the appointment of this COI on 25 June 2011. On 21 September 2011, the CDF agreed to delay the appointment of a new COI, following a formal request from the Victorian Director of Public Prosecutions that he do so.

Leading Aircraftman Jamie Angus
A COI into the death of Leading Aircraftman Jamie Angus was appointed on 16 February 2010. The President delivered his report to the CDF on 25 July 2011 and the report is currently being staffed through CDF COI Directorate.

HMAS Success
The HMAS Success COI was appointed by the CDF on 9 March 2010 to inquire into alleged incidents of unacceptable behaviour during the 2009 Asian deployment and issues associated with the subsequent management of allegations and personnel allegedly involved. The President finalised part one of his report concerning the allegations of unacceptable behaviour in January 2011. Part two of the report concerning the management of the allegations and personnel involved was finalised in May 2011. The President is working on part three of the report, which will address inquiry and complaint reform, to be delivered later in 2011.

Chief Petty Officer Russell Renne
A COI into the death of Chief Petty Officer Russell Renne was appointed on 27 May 2010. The President of the COI submitted his report on 27 January 2011. The report was publicly released on 12 July 2011.

Leading Seaman Julian Limozin
A COI into the death of Leading Seaman Julian Limozin was appointed on 5 June 2011. Hearings commenced on 13 July 2011 and concluded on 28 July 2011. Final submission were required by 15 August 2011 and the President is now finalising his report.

Corporal Mitchell Russell
A COI into the death of Corporal Mitchell Russell was appointed on 12 June 2011. Scoping and planning of the COI is ongoing and the hearings are scheduled to commence on 7 November 2011.

Inquiry Officer Inquiries
Inquiry Officer (IO) inquiries are appointed by the CDF and are used to inquire into the circumstances surrounding the death in combat of ADF members. The IO inquiries convened into combat deaths during 2010-11 are detailed below. In each case, the CDF relied on the information provided in the report and decided that a COI would not be conducted into these combat deaths. The Minister for Defence agreed and obviated CDF of the regulated requirement to conduct a COI.

Sapper Jacob Moerland and Sapper Daniel Smith
Sappers Jacob Moerland and Daniel Smith, 1st Mentoring Reconstruction Task Force, were killed by an Improvised Explosive Device on 7 June 2010 in Afghanistan. An IO was appointed on 25 June 2010. The report was delivered in November 2010 and the report and recommendations are being considered.
Private Timothy Aplin, Private Benjamin Chuck and Private Scott Palmer
Privates Timothy Aplin, Benjamin Chuck and Scott Palmer, 2nd Commando Regiment, died in a helicopter crash in Afghanistan on 21 June 2010. An IO was appointed on 25 June 2010. The report was delivered in October 2010 and the report and recommendations are being considered.

Private Nathan Bewes
Private Nathan Bewes, 1st Mentoring Reconstruction Task Force, was killed by an Improvised Explosive Device on 9 July 2010 in Afghanistan. An IO was appointed by the CDF on 16 July 2010. The report was delivered in December 2010 and the report and recommendations are being considered

Trooper Jason Brown
Trooper Jason Brown, Special Air Services Regiment, was killed in action in Afghanistan on 13 August 2010. An IO was appointed on 24 August 2010. The report was delivered on 27 October 2010 and released to the public on 7 February 2011.

Private Tomas Dale and Private Grant Kirby
Privates Tomas Dale and Grant Kirby, 6th Battalion Royal Australian Regiment, were killed by an Improvised Explosive Device on 20 August 2010 in Afghanistan. An IO was appointed by the CDF on 14 September 2010. The report was received in January 2011 and is currently being finalised.

Lance Corporal Jared MacKinney
Lance Corporal Jared MacKinney, 6th Battalion Royal Australian Regiment, was killed in action in Afghanistan on 24 August 2010. An IO was appointed on 14 September 2010. The report was received in January 2011 and is currently being finalised.

Corporal Richard Atkinson
Corporal Richard Atkinson, 1st Combat Engineer Regiment, was killed by an Improvised Explosive Device on 2 February 2011. An IO was appointed by the CDF on 5 March 2011. The report was received on 23 May 2011 and is being considered.

Sapper Jamie Larcombe
Sapper Jamie Larcombe, 1st Combat Engineer Regiment, was killed in action in Afghanistan on 19 February 2011. An IO was appointed by the CDF on 15 March 2011. The report was received on 20 June 2011 and is being considered.

Sergeant Brett Wood
Sergeant Brett Wood, 2nd Commando Regiment, was killed by an Improvised Explosive Device on 23 May 2011. An IO was appointed by the CDF on 28 June 2011.
Inspector General Australian Defence Force Report

The position of Inspector General Australian Defence Force (IGADF) is established under section 110B of the Defence Act 1903. The IGADF provides the CDF with a mechanism for internal audit and review of the military justice system independent of the chain of command and an avenue by which failures in the system may be examined and remedied.

On 23 December 2010 Mr Geoff Earley AM was re-appointed as the IGADF by the Minister for Defence for a further five-year period.

The operating tempo in the Office of the IGADF during 2010-11 increased significantly over that in previous years. Seventy-four submissions for inquiry were received compared to 63 received in 2009-10, an increase of 17 per cent. Forty-three IGADF unit military justice performance checks (audits) were undertaken and 2625 ADF personnel participated in audit team focus groups. In excess of 300 recommendations for improvements to unit military justice practice and arrangements were made in IGADF military justice audit reports. Approximately 900 ADF and Defence members attended IGADF inquiry officer familiarisation training courses and over 180 ADF legal officers attended IGADF special briefings to qualify them to conduct legal reviews of administrative inquiries over the reporting period.

In addition, the IGADF chaired a working group review of the ADF administrative inquiry system and specialised reviews of the implementation of the ADF Prohibited Substance Testing Program and the Management of Complaints commenced in 2011.

In anticipation of legislative change that will require the IGADF in the future to submit a report on the operation of the Office of the IGADF annually to the Minister for Defence and tabled in Parliament, the IGADF annual reports are now raised on a calendar year basis.

Despite the continuing unsettled nature of aspects of the military justice system, the ADF appears to have coped well with evolving military justice policy and the impact of adverse criticism generated by a small number of high profile incidents. Evidence has shown the standard of discipline and attention to individual rights across the Navy, Army and Air Force has remained good during 2010-11.

While challenges within the system still remain, there has been no indication of any reluctance to deal with them and implement reform as necessary.
Fraud and Ethics

Ethics and Fraud Awareness
An ethics and fraud awareness program underpins Defence and DMO’s approach to fraud control. The awareness program comprises either a face-to-face presentations or completing an online learning module. There are also videos, newsletters and a dedicated intranet site for information and advice. Ethics and fraud awareness training is mandatory for all Defence personnel and must be completed at least every two years.
In 2010-11, 234 ethics and fraud awareness presentations were delivered to over 13,000 Defence and DMO personnel across Australia. In addition, over 16,000 personnel completed ethics and fraud awareness training through the online training module.

Fraud Control
In accordance with the Commonwealth Fraud Control Guidelines, Defence conducted a new fraud risk assessment in the first half of 2011 for inclusion in the new Defence Fraud Control Plan No.9, which is due for release later in 2011.

Fraud Investigations
There were 406 fraud investigations registered within Defence and the DMO during 2010-11 and 460 investigations completed (a number of those completed were registered in previous years). Approximately 37 per cent of completed investigations resulted in criminal, disciplinary or administrative action. Of these, around 53 per cent related to action under the Defence Force Discipline Act 1982.
The determined fraud loss for completed cases in 2010-11 was $0.9 million, while monies recovered amounted to $0.4 million. As Table 6.1 shows, over the past five financial years detected fraud has averaged approximately $1.1 million per year, within a range of $0.7 million to $2.3 million.

Table 6.1 Determined Fraud Loss and Recoveries 2006-07 to 2010-11[^1]

<table>
<thead>
<tr>
<th></th>
<th>2006-07 ($)</th>
<th>2007-08 ($)</th>
<th>2008-09 ($)</th>
<th>2009-10 ($)</th>
<th>2010-11 ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss</td>
<td>707,230</td>
<td>2,302,281</td>
<td>690,452</td>
<td>1,039,721</td>
<td>916,419</td>
</tr>
<tr>
<td>Recovery[^2],[^3]</td>
<td>112,320</td>
<td>189,494</td>
<td>300,796</td>
<td>359,393</td>
<td>422,691</td>
</tr>
</tbody>
</table>

Notes
1. The determined loss and recoveries information is based on investigations closed in the relevant year.
2. Debts are often not assessed and/or recovered in the same year that the loss occurred.
3. The relatively low rate of recovery of determined fraud loss is due primarily to the following factors. Firstly, investigations often confirm a loss to the Commonwealth, but recoveries are not possible due to evidentiary limitations and/or the lack of a suspect. Secondly, serious frauds which have resulted in successful convictions often establish significant reparation amounts. Subsequent recovery from a convicted offender who may have been imprisoned, is unemployed, has few assets and is (or becomes) bankrupt, can be very difficult. Even when a recovery arrangement has been successfully entered into with the offender, it can often be many years before the full amount owed is recovered.
Risk Management

The appropriate management of risk is an integral part of all aspects of Defence business, operations and reform activities. Defence is committed to ensuring that all Defence personnel have a knowledge and appreciation of risk management, commensurated with their duties.

Emerging from work on risk appetite in 2009-2010, Defence has focused on designing the framework to support an Enterprise Risk Management system throughout 2010-11. This Enterprise Risk Management system will be implemented during 2011-12 and will provide high-level context to risk-based decision-making across all areas of Defence.

Defence's Groups and Services continue to manage risks to the achievement of their objectives utilising a tailored approach that best reflects the unique context in which each Group and Service operates. The DC regularly considers the management of those risks that could have a significant impact on Defence as a whole. This approach ensures that risk management in Defence is a balance of 'top-down' and 'bottom-up' activity across all levels of the organisation. The creation of a formal Enterprise Risk Management plan will put further structure around this process.

Whistleblower Scheme

The Defence Whistleblower Scheme provides an alternative and independent way for any person—including ADF personnel, public servants in Defence or the DMO, and suppliers of goods and services—to report alleged misconduct or unethical behaviour. Whistleblowers may report information anonymously or request that their identity be protected. The Scheme aims to ensure that whistleblowers are properly supported and that they do not incur detriment as a consequence of making a report through the Scheme.

All allegations raised under the Scheme are assessed. Those assessed as warranting further examination are investigated by the Inspector General staff or referred to other relevant Defence investigative or review organisations, as appropriate. Where wrongdoing is judged to have occurred, appropriate action is taken, which can include action through the civil courts or under the Defence Force Discipline Act 1982 or the Public Service Act 1999. Wherever possible, feedback is provided on the outcome of investigations.

The Scheme is used to report a range of issues. Allegations of fraud and unethical conduct account for about 70 per cent of reports made through the Scheme. The remainder consists of matters such as harassment, mismanagement of resources, use of drugs, occupational health and safety, discrimination and security.

Table 6.2 shows the number of reports made to the Scheme over the past five years. The 242 reports made to the Scheme in 2010-11 are generally consistent with the number of whistleblower reports received in recent years.

Table 6.2 Reports made to the Defence Whistleblower Scheme

<table>
<thead>
<tr>
<th>Year</th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reports</td>
<td>168</td>
<td>176</td>
<td>213</td>
<td>255</td>
<td>242</td>
</tr>
</tbody>
</table>
SUPPORTING OUR MINISTERS AND THE PARLIAMENT

Defence continues to strive to provide the Government with quality and timely advice as the basis for well-informed decisions. While the volume of advice shown in the statistics is down on previous years, reflecting the significantly reduced workflow over the extended caretaker period, the actual parliamentary workflow since September 2010 continues to increase.

Over the course of the year, Defence has strengthened its approaches to the management of current and emerging issues improving the quality, timeliness and organisational coherence of advice to ministers. Defence has also improved in progressing more submissions of a better quality through Cabinet, although more remains to be done in this area.

The Secretary and CDF have committed to raising the awareness of the Senior Leadership Group to parliamentary processes, privilege and accountabilities. As a first step, seminars and workshops will begin early in 2011-12. The complexity and volume of parliamentary questions on notice also presented some challenges for Defence in providing timely responses throughout the year. Further efforts will be made to ensure Defence is more timely in responding to parliamentary questions on notice.

Improvements in processes through increased use of technology continue to be pursued through the implementation of a new parliamentary workflow system, which is transforming the manner in which material is tasked, cleared, tracked and reported.

Responsiveness to Ministers

Defence has put increased efforts into better coordinating issues, resulting in improved advice to ministers. This has involved greater coordination of Group and Service activities to ensure a ‘One Defence’ approach to the management of complex and sensitive issues. Defence has also worked to develop better situational awareness of activities in the strategic issues and media spaces, with a focus beyond the immediate responses to media issues.

During 2010-11, a total of 8,546 submissions and items of correspondence were completed in support of our ministerial team compared to 9,782 for 2009-10. Table 6.3 provides a breakdown on these figures across the last three years. The decrease in the volume of material provided to our ministers and parliamentary secretary can be attributed to the 2010 Federal Election and an extended caretaker period.

Taking into account other items of ministerial advice not reported in previous years, including question time, visit and event briefs, the total number of items of advice and correspondence completed is 11,349. The overall timeliness of advice remains high with 86 per cent of ministerial items provided on time.

Table 6.3 Responsiveness to Ministers

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correspondence processed</td>
<td>6,975</td>
<td>6,112</td>
<td>5,525</td>
</tr>
<tr>
<td>Submissions and briefs</td>
<td>4,273</td>
<td>3,670</td>
<td>5,824[1]</td>
</tr>
<tr>
<td>Total Submissions and Correspondence handled</td>
<td>11,248</td>
<td>9,782</td>
<td>11,349</td>
</tr>
<tr>
<td>% provided on time</td>
<td>85</td>
<td>85</td>
<td>86</td>
</tr>
</tbody>
</table>

Note
1. Includes ministerial items not previously reported.
Cabinet

In 2010-11, Defence provided a total of 67 submissions, memoranda and briefings to either Cabinet or the National Security Committee of Cabinet. This is a 248 per cent increase from the 27 items provided in 2009-10.

Throughout 2010-11, Defence has implemented a number of changes, which have resulted in improvements in meeting deadlines and progressing quality Defence submissions through Cabinet and its various committees. This has included the commencement of regular fortnightly Cabinet Review Meetings chaired by the Secretary and CDF to provide guidance on the shaping and timing of submissions. Defence has also implemented more rigorous quality assurance and there has been a marked increase in early consultation with central agencies.

In 2011-12, Defence will continue to build on the improvements demonstrated in 2010-11, including improving Departmental awareness of Cabinet requirements in order to achieve greater success in progressing Defence business through Cabinet committees in a timely and robust manner.

Best practice in providing effective parliamentary workflows

The Defence Parliamentary Workflow System (DPAWS) continues to be rolled-out across Defence in support of our core business of managing the flow of documents from creation to approval in the Department, and to and from the ministers’ offices.

The Department continues to work in conjunction with the Department of Education, Employment and Workplace Relations in a collaborative effort for the ongoing development and release of future DPAWS modules. Currently, DPAWS is successfully being used to manage question time briefs, committee questions on notice and Senate Estimates Briefs. In the first half of 2011-12, DPAWS will expand to incorporate ministerial correspondence, ministerial advice (submissions and briefs), media releases, talking points and the tracking of Cabinet documents within Defence. The wider release of DPAWS across the Department follows on from a successful trial program of the key modules by specific user groups.

Parliamentary Business

Defence was subject to a high level of external scrutiny in 2010-11 through its appearance at a range of parliamentary committees. Defence attended three estimates hearings before the Senate Standing Committee on Foreign Affairs, Defence and Trade in October 2010, February 2011 and May 2011. Defence responded to 239 questions on notice.

Many of the questions received by Defence were complex in nature and consisted of various sub-questions that required significant effort to address. These presented some challenges in providing timely responses.

Defence also appeared at 13 hearings of various Senate, House of Representatives and Joint committees providing evidence on a range of issues. From these hearings, Defence responded to 58 questions on notice, provided 12 written submissions to inquiries, contributed to three whole-of-Government submissions and either tabled or contributed to five government responses to parliamentary committee reports throughout the year.
To assist parliamentary committee members in gaining a better understanding of Defence issues, Defence also provided six private briefings on a range of subjects including submarines; HMAS Success; improvised explosive devices; equity and diversity; and operations, personnel and capability matters. The Asia Pacific Civil-Military Centre of Excellence also provided a private briefing on Australia’s approach to civil-military engagement.

In relation to questions taken on notice from the Senate and House of Representative notice papers during 2010-11, Defence responded to 104. Further information on Defence’s specific parliamentary committee activities can be found in Chapter 7.

**Ministerial Awareness and Training**

To ensure Defence provides high quality advice to ministers in a timely and accurate manner, Defence has continued to place a high emphasis on the development and delivery of training products to assist all Defence personnel to enhance their skills in providing support to ministers.

Defence will expand its suite of ministerial and parliamentary courses in 2011-12, particularly in relation to increasing the awareness of the Senior Leadership Group in dealing with parliamentary committees and understanding parliamentary privilege and accountability.

The table below shows the breakdown of ministerial courses offered to Defence personnel and the number of participants for 2010-11.

<table>
<thead>
<tr>
<th>Course</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developing Complex Submissions</td>
<td>153</td>
<td>77</td>
<td>134</td>
</tr>
<tr>
<td>Defence Government Awareness</td>
<td>203</td>
<td>69</td>
<td>48</td>
</tr>
<tr>
<td>Working with Government</td>
<td>68</td>
<td>13</td>
<td>72</td>
</tr>
<tr>
<td>Defence Ministerial Writing</td>
<td>409</td>
<td>469</td>
<td>391</td>
</tr>
<tr>
<td>Defence Graduate Workshop</td>
<td>124</td>
<td>67</td>
<td>80</td>
</tr>
<tr>
<td>Question Time Tours</td>
<td>217</td>
<td>241</td>
<td>247</td>
</tr>
<tr>
<td>Our Democratic System of Government (e-learning module)</td>
<td>785</td>
<td>762</td>
<td>540</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,959</strong></td>
<td><strong>1,698</strong></td>
<td><strong>1,512</strong></td>
</tr>
</tbody>
</table>
**COMMUNICATION AND MEDIA**

In January 2011, Defence’s Public Affairs Branch was restructured into two branches: a Communication and Media Branch within the Strategic Reform and Governance Executive, and a Strategic Communication Branch within the Vice Chief of the Defence Force group. This has enhanced the delivery of quality and timely support to portfolio ministers, Defence senior leaders and the media, and through them to the Australian public.

The Communication and Media Branch manages day-to-day media processes that support ministers and senior Defence leaders. It also delivers communication products such as the Navy, Army and Air Force newspapers and *Defence Magazine*, and administers ministerial and Defence’s public affairs websites including imagery and video.

The Strategic Communication Branch undertakes strategic communication planning and provides advice to commanders at the military strategic, operational and formation headquarters levels. It also delivers military public affairs training and preparedness functions; as well as assigned military public affairs personnel, who deploy at short notice for short duration tasks to obtain imagery and video to report on Defence personnel serving in Australia and overseas.

**Communication and Media Branch**

ADF operations and Defence’s work attracted significant media and public attention over the year. The Branch coordinated comprehensive responses to 7,717 media enquiries, managed 5,247 public enquiries and issued 1,063 media releases and alerts to support ministerial and Departmental announcements and to respond to emerging public affairs issues.

Sixty-nine editions of the Navy, Army and Air Force newspapers were produced with over 1.3 million copies distributed to Defence personnel and subscribers, with online versions attracting 9.5 million page views. Seven editions of the *Defence Magazine* were also produced with 90,000 copies distributed.

New imagery and video web sites were commissioned during the year with 24,353 still images and 623 video web clips processed for viewing by the public and used by the media. Broadcast vision of 117 hours of edited video was released to the media.

Other communication support included the ‘hometown’ program that saw 660 stories distributed to local newspapers throughout Australia to highlight the contribution of regular and reserve ADF personnel on operations, exercises or humanitarian aid missions. Support was also given to 45 entertainment media productions with an estimated viewing audience of over 11 million people.
Strategic Communication Branch

Military public affairs personnel deployed extensively throughout Australia to cover 52 national tasks including assistance to the Queensland floods and Cyclone Yasi, Defence Force Recruiting, Australia-United States ministerial talks, and the repatriation and funerals of Australian soldiers killed on operations. Support was also given to Mission Rehearsal Exercises that prepare ADF personnel for service on overseas operations.

Branch personnel deployed on two short notice overseas missions in support of whole-of-Government assistance to Pakistan and Japan, as well as supporting six planned operational deployments to Afghanistan, Solomon Islands, East Timor and Egypt.

Media awareness training and evaluation was delivered to over 7,500 Defence personnel to prepare them for deployment on operations and their day-to-day duties.
IMPROVING INFORMATION MANAGEMENT

In September 2010, the Defence Information Management Strategic Framework was introduced. It establishes a set of objectives and suite of critical projects across the corporate warfighting and intelligence domains. The initiatives seek to ensure that Defence decision makers have access to the right information at the right time.

Implementation of the Defence Records Management Strategy is one of the key reforms. The upgrade and rollout of the Defence records management system Objective to Version 7, which provides a more user-friendly system and improved functionality, was completed in October 2010. Over the next three years Defence will continue to rollout Objective, targeting approximately 30,000 additional users. The system supports the move from a paper-based to an electronic information environment, and on completion it will have in excess of 60,000 users in Australia and overseas.

On 1 July 2011 Defence launched a revised System of Defence Instructions (SoDI) framework and business processes, designed to fast-track the provision of reliable policy documents that are consistent, timely, accurate, current and legally enforceable. The streamlining of the administrative structure and the SoDI processes will strengthen information management and decision-making capabilities across Defence.

The governance arrangements established to support these improvements include Information Managers, at the 1 Star/Senior Executive Service Band 1 level, in each Group and Service; and the Information Management Steering Committee, which monitors the progress of each of the information management initiatives.

Freedom of Information (FOI)

Table 6.5 shows the number of Freedom of Information (FOI) requests received and completed or otherwise managed in 2010-11. The figures refer to requests for access to documents under section 15 of the Freedom of Information Act 1982 (the FOI Act).

Defence also manages requests under Part V of the FOI Act for amendment or annotation of records of personal information. In 2010-11, Defence received four applications for amendment and completed five. Defence also received 15 applications for internal review and completed 12, including applications carried over from 2009-10. One application was made to the Administrative Appeals Tribunal for review of a FOI decision, two were withdrawn and one was completed, with two in progress as at 30 June 2011.

In addition to formal FOI requests, the Freedom of Information Directorate processed 630 requests for access to personnel records that were redirected for administration, in accordance with section 15A of the FOI Act. Section 15A provides for access to be given in such cases, outside the provisions of the FOI Act, through established administrative channels.

The Directorate assisted with the resolution of 691 other inquiries that did not require consideration under the FOI Act, which were also addressed through established administrative channels.
CHAPTER 6 GOVERNANCE AND ACCOUNTABILITY

Table 6.5 Requests for access to documents under Section 15

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of requests received</td>
<td>152</td>
<td>207</td>
<td>362</td>
</tr>
<tr>
<td>Number of requests finalised (including withdrawn and transferred to another agency)</td>
<td>152</td>
<td>246</td>
<td>325</td>
</tr>
<tr>
<td>Number of requests withdrawn</td>
<td>47</td>
<td>59</td>
<td>67</td>
</tr>
<tr>
<td>Number of requests transferred to another agency</td>
<td>2</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Total requests finalised under s15</td>
<td>103</td>
<td>185</td>
<td>257</td>
</tr>
<tr>
<td>Number of requests outstanding</td>
<td>40</td>
<td>19</td>
<td>55</td>
</tr>
</tbody>
</table>

Table 6.6 shows the performance of Defence in meeting the applicable statutory time limit for responding to requests for access to documents. Defence was 100 per cent compliant in 2010-11.

Table 6.6 Time taken to answer requests for access to documents under Section 15 [1]

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable statutory time period(with % of total)</td>
<td>9(8.35)</td>
<td>135(73.0)</td>
<td>257(100)</td>
</tr>
<tr>
<td>Up to 30 days over (with % of total)</td>
<td>30(29.1)</td>
<td>15(8.1)</td>
<td>-</td>
</tr>
<tr>
<td>Up to 31 to 60 days over (with % of total)</td>
<td>29(28.1)</td>
<td>9(4.9)</td>
<td>-</td>
</tr>
<tr>
<td>Up to 61 to 90 days over (with % of total)</td>
<td>9(8.35)</td>
<td>8(4.3)</td>
<td>-</td>
</tr>
<tr>
<td>More than 90 days over</td>
<td>26(25.2)</td>
<td>18(9.7)</td>
<td></td>
</tr>
</tbody>
</table>

Note
1. This table has been altered to align with the Office of the Australian Information Commissioner reporting requirements

In accordance with the reforms to the FOI Act in November 2010, Defence established an Information Publication Scheme (IPS), which commenced operation from 1 May 2011. The IPS, which can be found at <www.defence.gov.au/ips/index.htm>, forms the basis for an open and transparent culture aimed at providing access to information through agency-driven disclosure. A plan describing how Defence proposes to implement and administer the IPS in respect of its own information holdings has been developed and is available on the Defence website.

Information required to be published under subsection 8(1) of the FOI Act is available through the Defence IPS and can also be found on the online version of this report.

Further information about Defence’s handling of Freedom of Information requests, including information about costs incurred, will be published in the Freedom of Information Annual Report, which the Office of the Australian Information Commissioner is required to present to Parliament in accordance with section 93 of the Act.
Business Continuity Management

Continuity of Defence Operations is the term given to the Defence Business Continuity Management (BCM) program. BCM is a system that enables an organisation to carry out its essential functions should an incident occur that causes major disruption or loss to the organisation. BCM provides a framework for building resilience in an organisation and ensures a capability exists for an effective response. The BCM program provides regular updates to the DARC.

Since 2009, Defence has focused on undertaking Business Impact Analysis at the Strategic and Operational levels. The Strategic Business Impact Analysis was endorsed by the Secretary and CDF in October 2009 and sets the enterprise-wide priorities for BCM planning in Defence.

In May 2010, Defence commenced work on the Operational Business Impact Analysis Project, which seeks to identify the essential functions for each Group and Service, the impacts that result from the disruption to these essential functions, the required recovery times for each identified function, and the level of dependence each identified function has on Information and Communication Technology and Infrastructure.

This work has continued throughout 2010-11 and, when complete, will support the development of an effective, coordinated and sustainable business continuity response and recovery capability at all levels within the organisation. This capability will include:

- protecting personnel, critical facilities, equipment, records and other assets
- reducing disruptions to Defence business
- achieving timely and orderly recovery from an emergency and the resumption of full service to Government.

This work is consistent with international best practice for BCM planning.

In parallel with this activity, a comprehensive in-house national business continuity training program has been undertaken for those personnel involved in business continuity planning and management.
FEATURE ARTICLE

JOINT HEALTH COMMAND REFORM

In an environment in which healthcare costs are growing, Defence must continue to provide high-quality healthcare in a timely and affordable fashion that supports both operational capability requirements and efficient and effective health support to non-deployed members within Australia. To do this, the Australian Defence Force (ADF) is reforming healthcare delivery options to achieve greater efficiency and patient satisfaction.

Historically, Defence Health Services have been managed by single Services to meet single Service needs. In 2008 Joint Health Command (JHC) was created and this has ensured a coordinated, joint approach to healthcare delivery across all bases.

The benefits from the reform program will be seen in the improved control and management of ADF healthcare costs, improved services to ADF personnel and increased training opportunities for all ADF health practitioners.

In 2009, the Strategic Reform Program was introduced, prompting a full review of health services in Defence. The review identified six key reform initiatives to achieve $154 million in savings across the decade 2009-19. The reform activities are:

1. Rationalisation of health facilities - this initiative rationalises the number of health facilities from 109 down to 58 over the decade. The benefits comprise a reduction in the number of staff and lower operating costs for buildings.

2. Introduction of the Joint e-Health Data and Information System (JeHDI) - implementation of a new clinical management system to enable a single health record from entry to discharge, and reduce the overall staff effort required to maintain records. The JeHDI contract was awarded in January 2011 and is currently on track to achieve a delivery timeframe of 2013-14.

3. Integrated health workforce - converting the currently contracted health professional workforce to Australian Public Service, and where appropriate replace some General Practitioner positions with alternate healthcare providers. JHC has committed to 154 contractor conversions across the current health workforce and has confirmed 45 contractor conversions to date with an additional 68 conversions underway.

4. Multidisciplinary primary healthcare delivery on base - streamlined approaches to on-base surgical capability, radiology and in-patient facilities. JHC has released a Request for Tender (RFT), which was released on 25 August 2011. The RFT covers the provision of medical services to the ADF, both on and off base.

5. Industry partnering, strategic alliances and outsourcing - entering into arrangements with civilian healthcare facilities to use their specialised equipment and facilities rather than maintaining our own. Current negotiations for the delivery of services are progressing in Queensland as part of a pilot program that will include the establishment of a Reserve Military Surgical Team and a limited number of permanent force registrar positions within Queensland Health.

6. Policy review and rationalisation - aligning medical policies to wider community standards where appropriate, for example screening for bowel cancer. JHC is currently reviewing all of its policies and has already amended four of its critical policies covering bowel cancer screening, pre and post deployment checks, annual health assessments and post separation checks.
The JHC reform program ensures that there is no change to the basic health related conditions of service for ADF members arising from ADF health policy. Emergency and high clinical urgency cases will continue to be dealt with without delay. Similarly, members critical to operational readiness will continue to be closely managed to ensure that Australia's defence capability is not compromised. JHC is now in a much better position to ensure that uniformed members will continue to enjoy comprehensive health support and a full capacity to return to optimal physical or mental health whenever required.
CHAPTER 7 EXTERNAL SCRUTINY

EXTERNAL SCRUTINY

PARLIAMENTARY COMMITTEES

This section reports on Defence's activities in relation to Parliamentary Committee inquiries and activities from 1 July 2010 to 30 June 2011. Further information on the parliamentary reports, inquiries and hearings detailed below can be accessed through the Australian Parliament House website <www.aph.gov.au>.

Joint Committees

<table>
<thead>
<tr>
<th>Joint Committee on Public Accounts and Audit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report 422: Review into the 2009-10 Major Projects Report</td>
</tr>
<tr>
<td>Defence witnesses appeared at a public hearing on 28 February 2011. One question was taken on notice. The Committee tabled its report on 11 May 2011 with nine recommendations relating to Defence. Defence is preparing a Government Response.</td>
</tr>
</tbody>
</table>

| Report 417: Review of Auditor-General’s Reports |
| The Committee tabled its review on 22 June 2010 with five recommendations relating to audit reports relevant to Defence. The Government Response was provided to the Committee on 15 March 2011. |

<table>
<thead>
<tr>
<th>Joint Standing Committee on Foreign Affairs, Defence and Trade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inquiry into the Defence Annual Report 2007-08</td>
</tr>
<tr>
<td>The Government Response was tabled on 16 July 2010.</td>
</tr>
</tbody>
</table>

| Inquiry into the Defence Annual Report 2008-09 |
| The Committee tabled its report on 2 July 2010 with three recommendations from a minority report. Defence prepared a Government Response which was presented for tabling on 28 June 2011. |

| Inquiry into the Defence Annual Report 2009-10 |
| On 25 March 2011, Defence witnesses attended a public hearing on the Committee’s review of the Defence Annual Report. Twenty-seven questions were taken on notice at the hearing and a further three written questions were submitted by the Committee. |

| Inquiry into Australia’s relationship with African countries |
| Responses to three additional questions on notice were provided to the Committee on 10 July 2010. Defence submitted a supplementary submission to the Committee in June 2011. The Asia Pacific Civil-Military Centre of Excellence submitted a supplementary submission to the Committee in June 2011. |

| Visits by the Committee |
| On 4 March 2011, the Defence Sub-Committee visited the Australian International Airshow and the Aerospace and Defence Exposition at Avalon. |
| On 24 June 2011, the Defence Sub-Committee visited the Weapons Training Simulation Unit at Duntroon. |

| Private Briefings |
| On 1 March 2011, Defence privately briefed the Defence Sub-Committee on improvised explosive devices. |
| On 22 March 2001, the Asia Pacific Civil-Military Centre of Excellence privately briefed the Defence Sub-Committee on civil-military matters. |
| On 14 June 2011, Defence privately briefed the Sub-Committee on fairness and resolution. |
| On 21 June and 5 July 2011, Defence privately briefed the Sub-Committee on the future submarine project. |
| On 24 June 2011, Defence privately briefed the Sub-Committee on operations, personnel and capability matters. |
### Joint Standing Committee on Treaties

**Inquiry into Agreement between the Government of Australia and the Government of Japan concerning Reciprocal provision of supplies and services between the Australian Defence Force (ADF) and the Self Defense Forces of Japan**

On 7 February 2011, Defence witnesses attended a public hearing on the Committee’s review of the agreement. One question was taken on notice and was provided to the Committee on 30 March 2011.

**Report 107 - Treaties tabled on 20 August and 15 September 2009**

 Defence provided input to the Department of Foreign Affairs and Trade led Government Response on 27 October 2010.

### Parliamentary Joint Committee on Intelligence and Security

**Annual Review of the Australian Intelligence Community Administration and Expenditure**

Defence lodged a submission with the Committee on 25 February 2011.

### Joint Standing Committee on Public Works

**HMAS Penguin and Pittwater Annexe Redevelopment Stage 1**

The project was considered by the Committee at a public hearing on 8 November 2010. The project was approved on 24 November 2010. The project will redevelop facilities at HMAS Penguin and Pittwater with construction planned to commence in mid 2011 and completed in 2013.

**Proposed Housing for Defence in Largs North, Adelaide**

The project was considered by the Committee at a public hearing on 9 November 2010. The project was approved on 24 November 2010. The project provides new housing at Largs North, Adelaide, with construction planned to commence in mid 2011 and completed in 2012.

**Facilities for Project LAND 121**

The project was considered by the Committee at a public hearing on 31 January 2011. The project was approved on 23 March 2011. The project will provide facilities to enable vehicle and conversion training with construction planned to commence in mid 2011 and completed in 2012.

**Australian Defence Force Academy (ADFA) Redevelopment**

The project was considered by the Committee at a public hearing on 3 June 2011. The project was approved on 7 July 2011. The project will provide new and refurbished accommodation at ADFA.

**Robertson Barracks Electrical Reticulation System Upgrade Project**

The project was considered by the Committee at a public hearing on 4 May 2011. The project was approved on 7 July 2011. The project will provide an upgraded high voltage electrical supply and distribution system.
## Senate Committees

### Senate Standing Committee on Foreign Affairs Defence and Trade

<table>
<thead>
<tr>
<th>Committee</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Supplementary Estimates 2009-10</td>
<td>Defence witnesses appeared at a hearing on 19 October 2010. Eighteen questions were taken on notice during the hearing. An additional 35 written questions were received following the hearing. Responses were forwarded to the Committee on 18 and 21 February 2011.</td>
</tr>
<tr>
<td>Additional Estimates 2009-10</td>
<td>Defence witnesses appeared at a hearing on 23 February 2011. Twenty-five questions were taken on notice during the hearings. An additional 60 written questions were received following the hearing. Responses were forwarded to the Committee on 26, 27 and 30 May 2011.</td>
</tr>
<tr>
<td>Budget Estimates 2010-11</td>
<td>Defence witnesses appeared at hearings on 30 and 31 May 2011. Thirty-six questions were taken on notice during the hearings. Defence also received an additional 65 written questions.</td>
</tr>
<tr>
<td>Inquiry into Defence’s request for tender for the provision of air support to the Middle East Area of Operations and other aviation contracts</td>
<td>Defence lodged a submission and additional supporting information with the Committee on 1 March 2011. Defence witnesses appeared at a public hearing on 29 March. Five questions were taken on notice and responses were provided to the Committee on 26 May 2011. Defence witnesses appeared at a further public hearing on 28 June 2011 with 11 questions taken on notice. These responses were provided to the Committee on 27 July 2011.</td>
</tr>
<tr>
<td>Inquiry in equity and diversity health checks in the Royal Australian Navy as they relate to recent events that occurred on HMAS Success</td>
<td>The inquiry remains ongoing. The committee awaits the findings of the Commission of Inquiry and the Government Response to those findings, before it decides how it will proceed with its own inquiry. Defence has published parts one and two of the Gyles commission of inquiry into HMAS Success matters. Part three is due to be finalised later this year.</td>
</tr>
<tr>
<td>Inquiry into equity and diversity health checks in the Navy as they relate to recent events that occurred on HMAS Success - Report on Parliamentary Privilege related to the HMAS Success inquiry</td>
<td>A Government Response was tabled on 12 May 2011.</td>
</tr>
<tr>
<td>Inquiry into Defence Legislation Amendment (Security of Defence Premises) Bill 2010</td>
<td>Defence lodged a submission with the Committee on 5 November 2010. A further supplementary submission was lodged in January 2011.</td>
</tr>
<tr>
<td>Inquiry into the provisions of the Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010</td>
<td>Defence contributed to a joint submission with the Department of Foreign Affairs and Trade and Attorney-General’s Department. The Committee submitted seven questions on notice prior to the public hearing on 3 March 2011. The Defence responses were lodged on 2 March 2011.</td>
</tr>
<tr>
<td>Inquiry into Procurement procedures for items identified in the Defence White Paper, “Defending Australia in the Asia Pacific Century: Force 2030”</td>
<td>Defence lodged a submission with the Committee on 2 May 2011.</td>
</tr>
<tr>
<td>Private Briefings</td>
<td>On 24 November 2010, Chief of Navy privately briefed the Committee on submarines. On 22 February 2011, the Chief of the Defence Force (CDF) and Chief of Navy privately briefed the Committee on HMAS Success.</td>
</tr>
</tbody>
</table>
Senate Standing Committee on Rural and Regional Affairs and Transport  
Inquiry into the Effectiveness of Airservices Australia’s management of aircraft noise  
A supplementary submission clarifying points relating to military control of airspace around Perth was lodged with the Committee on 23 July 2010.

Senate Standing Committee on Legal and Constitutional Affairs Legislation  
Inquiry into the Provisions of the Intelligence Services Legislation Amendment Bill 2011  
Defence contributed to a whole-of-Government submission provided to the Committee on 6 May 2011.

Inquiry into the Provisions of the Inspector-General of Intelligence and Security Amendment Bill 2011  
Defence provided a submission to the inquiry on 6 June 2011.

Senate Standing Committee on Finance and Administration  
Inquiry into the Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill 2010  
Defence provided a submission to the inquiry on 29 April 2011.

Joint Select Committee on the Christmas Island Tragedy of 15 December 2010  
Inquiry into Christmas Island Tragedy of 15 December 2010  

House Committees

House of Representatives Standing Committee on Infrastructure and Communications  
Inquiry into the Role and Potential Benefit of the National Broadband Network  
Defence provided a submission to the inquiry on 11 May 2011.
JUDICIAL DECISIONS AND DECISIONS
OF ADMINISTRATIVE TRIBUNALS

In June and August 2010, the Administrative Appeals Tribunal (the Tribunal) handed
down two decisions in respect of the Defence Home Ownership Assistance Act 2008 (the
Act). The matters of Perry and Secretary, Department of Defence (Perry) and Conroy
and Secretary, Department of Defence (Conroy) were the first two applications to come
before the Tribunal concerning decisions made under the Act. The effect of the
Tribunal’s decisions in these matters resulted in uncertainty about the Applicants’
statutory entitlements.

The Department of Defence appealed the decisions to the Federal Court in order to
provide clarity to the interpretation and operation of the legislative scheme,
particularly sections 5 and 17 of the Act, to assist the administrators of the scheme in
their future decision-making.

On 15 March 2011, the Federal Court ordered that the decision of the Tribunal in Perry
should be set aside and the application to the Tribunal should be dismissed because
Mr Perry ‘was simply not entitled to a certificate or to any benefit under the Act’
(Secretary, Department of Defence v Perry [2011] FCA 214).

On 16 March 2011, the Federal Court set the Tribunal’s decision in Conroy aside and
remitted the matter to the Tribunal for further consideration (Secretary, Department of

In November 2010, Dr William Atkin filed an application and statement of claim in the
Federal Court under section 39B of the Judicary Act 1903 (Cth) against Mr Paul Willee,
President of a Commission of Inquiry appointed under Part 8 of the Defence (Inquiry)
Regulations 1985 (Cth) and Air Chief Marshal Angus Houston, the Chief of the Defence
Force (CDF). On 17 January 2010, the CDF had appointed Mr Willee to inquire into the
circumstances surrounding the death of an Army member in an armored personnel
carrier in Victoria in June 2009. Dr Atkin was a witness at that Commission of Inquiry.

The application sought writs of prohibition and an injunction against the President and
the CDF in respect of finalising the Commission of Inquiry and its report.

The matter was heard by the Federal Court on 28 January 2011. On 30 May 2011, Justice
Gray handed down his decision and ordered that a writ of prohibition be issued to Mr
Willee prohibiting him from making, or expressing in any report of the Commission of
Inquiry, any finding concerning the conduct of Dr Atkin in relation to Dr Atkin’s dealings
with the Army member, and that the CDF pay Dr Atkin’s costs of the proceeding (Atkin v

Justice Gray made observations about the conduct of the Commission of Inquiry, which
provides useful guidance for the conduct of future Commissions of Inquiry undertaken
by Defence. Justice Gray makes clear that the power of a President to inform himself or
herself on any matter relevant to an inquiry ‘in such manner as the President sees fit’
(under regulation 116 Defence (Inquiry) Regulations 1985) has limitations.

While the orders made by the Federal Court would have allowed the President to
continue with the Inquiry and prepare a report, the CDF subsequently decided to revoke
the appointment of the President and a new Commission of Inquiry is to be appointed.
During the year the Administrative Appeals Tribunal reviewed two decisions made by the Director, Australian Defence Force Reserves Employer Support Payment (ESP) Scheme. In each case the decision of the Director was affirmed.

The purpose of the ESP Scheme is to provide financial support to employers who discharge their obligations to release Reservists to attend continuous Defence service. The ESP Scheme is authorised by the Defence (Employer Support Payments) Determination 2005 (the Determination), which sets out the requirements for eligibility for ESP payments to employers.

On 11 February 2011, the Administrative Appeals Tribunal handed down its decision in Food Safety Consulting Services Pty Ltd and Director, Employer Support Payments Scheme (No 2009/1273). The main issues for determination were whether the member was a ‘self-employed member’ for the purposes of the Determination, or whether he was a part-time or full-time employee of the applicant company. The Tribunal decided, for the same reasons provided by the Director, that the applicant company was not entitled to ESP payments in respect of the member because, although the member was a ‘self-employed member’ within the meaning of the Determination, the eligibility requirements of the Determination for payment of ESP were not satisfied, as the company did not provide the member’s principal source of income during the relevant period. The Tribunal also concluded that the member was neither a full or part-time employee. Accordingly, there was no entitlement to ESP payments under the Determination.

On 28 February 2011, the Administrative Appeals Tribunal handed down its decision in Doug Knight and Director, Australian Defence Force Reserves Employer Support Payment Scheme (No. 2010/1666). The issue for determination was whether the applicant member, a sole trader, was eligible to receive ESP payments as a ‘self-employed member’ within the meaning of the Determination. The Tribunal decided, for the same reasons provided by the Director, that the applicant was not a ‘self-employed member’ and was not eligible for ESP payments because his business did not provide his principal source of income, nor did it provide his principal employment for the relevant periods for which payment was claimed.
AUDITOR-GENERAL'S REPORTS

This section provides specific information on the Auditor-General's Reports that were completed in 2010-11 that relate to Defence's and the Defence Materiel Organisation's (DMO) activities.


The objective of this audit was to examine the effectiveness of Defence's management of explosive ordnance by the end users of this materiel in the Air Force, Army and Navy. In particular, the focus was on the effectiveness of arrangements for the oversight and physical control of explosive ordnance once it is issued to Service units. Defence agreed to the five recommendations made in the report.


The objective of the audit was to assess whether Defence is effectively managing the Explosive Ordnance Services Contract. The audit focused mainly on Defence's contract management framework, including the arrangements to monitor the contractor's performance in delivering services under the contract. The audit also examined the processes used by Defence to develop the current version of the contract and the extent to which the revised contract provides an assurance of better value for money when compared to the original contract. Defence agreed to three recommendations made in the report, and disagreed with one recommendation.


The objective of the audit was to examine the effectiveness of the management of maintenance of the Defence estate, taking particular account of planning and delivery aspects. The audit examined: Defence's policies, procedures, processes and supporting tools related to the planning and delivery of the maintenance of the estate; and services provided to Defence by private sector firms in relation to maintenance activities. Defence agreed to the two recommendations made in the report.


The objective of the audit was to report on the effectiveness of Defence's approach to the acceptance into service of Navy capability, and to identify where better practice may be used by the Capability Development Group, the Defence Materiel Organisation and Navy. Defence agreed to the eight recommendations made in the report.

Cross-Portfolio Reports

There were no cross portfolio Auditor-General's reports tabled during 2010-11 that directly included Defence.

OMBUDSMAN'S REPORTS

There were no formal reports to the CDF pursuant to section 15 of the Ombudsman Act 1976, nor were any reports raised under section 16, 17 or 19 of the Act relating to the operations of the ADF during 2010-11.
FEATURE ARTICLE

CAPABILITY DEVELOPMENT GROUP REFORMS

During 2010-11, the Capability Development Group (CDG) refined processes to ensure that it can meet the challenging schedule of projects set out in the 2009 Defence White Paper. CDG achieved the historical average for Government Project Approvals, with a total of 28 comprising: eight first pass; 13 second pass; and seven 'other' types of approvals, including studies that support project development. CDG has implemented a number of reforms and reviews, outlined below, to increase its approval rate to achieve delivery of the Defence Capability Plan (DCP), while not compromising on accountability.

CDG has amended the capability development committee process to provide a more robust review process before projects are presented to Government. This includes the instigation of Project Initiation Boards that will provide early direction and guidance to projects for work leading to the Options Review Committee, ensuring that a project’s boundaries, risks and issues are identified early. The Capability Development Board, recently recast as a Capability Gate Review Board, now conducts a whole-of-Defence assessment of the maturity and completeness of a project’s documentation suite before the project’s options can be presented to Government.

CDG has also conducted a detailed review of the DCP Forward Work Program to improve DCP achievability. Recommendations of the Kinnaord and Mortimer reviews are progressively being implemented and have resulted in reduced slippage rates of project timelines.

As part of the Mortimer recommendations, CDG has developed Project Directives to be issued by the Secretary and the Chief of the Defence Force (CDF). The Project Directives establish clear lines of accountability and ensure that the Government’s directives and parameters, relating to first and second pass Project Approvals, are articulated to all those involved in the project.

The Capability Development Advisory Forum (CDAF), chaired by the Chief Capability Development Group (CCDG), provides a forum for senior industry representatives to provide industry advice to CCDG. In 2010-11, the five Environmental Working Groups (EWG) of CDAF were re-vitalised to provide enhanced virtual and physical engagement between Defence (largely CDG) and industry. Four EWG have met this year and the fifth (Integrated Capability) is being established. The aims are to enhance mutual understanding of industry and Defence requirements, capabilities, considerations, limitations and concerns, to better inform the capability development process. Initial indications have been very positive.

Photo: Ex RFA Largs Bay, to be commissioned as HMAS Choules.
The Defence Capability Development Handbook was also updated during 2010-11 to include guidance on: Capability Manager roles and responsibilities; the introduction of Project Directives; revised capability committee processes; improved project initiation arrangements; and a bolstered technical risk assessment framework.

CDG is committed to delivery of the DCP based on rigorous analysis to support the realisation of Force 2030 and will continue with these reform initiatives into 2011-12. Consistent with recent Ministerial direction to improve the accountability of capability, further improvements in the rigour, transparency, scrutiny, accuracy and effectiveness of capability development processes are being pursued.