

The Auditor-General

Audit Report No.46 1998-99  
Performance Audit

# Redress of Grievances in the Australian Defence Force

Australian National Audit Office

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Canberra ACT  
10 June 1999

Dear Madam President  
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit of the Australian Defence Force in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Redress of Grievances in the Australian Defence Force*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—  
<http://www.anao.gov.au>.

Yours sincerely



P. J. Barrett  
Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

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# Summary and Recommendations





# Summary

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## Introduction

1. Members of the Australian Defence Force (ADF) have informal and formal complaint mechanisms available to them to address grievances. Initially, members are advised to seek resolution of their complaint at the lowest possible level, through the normal command channels and administrative arrangements.

2. A member who is not satisfied that a complaint has been resolved in this manner may use the Redress of Grievance (ROG) system to submit a formal complaint (a 'grievance') to the commanding officer (CO) of the member's unit. If still dissatisfied, the member may have the complaint referred to the relevant Service Chief<sup>1</sup> or, if the member is an officer or warrant officer, to the Chief of the Defence Force (CDF). Complaints made to a Service Chief are coordinated through the Department's Complaint Resolution Agency (CRA).

3. Complaints may be made in relation to such matters as employment conditions, allowances, accommodation, postings, promotions, discharges and disciplinary action. The number of complaints made at unit level is not recorded but around 200 Applications for Redress of Grievance (AROG) are referred to the Service Chiefs annually. The time taken to resolve complaints varies. In the sample of 100 cases reviewed by the ANAO, the average elapsed time to resolve complaints varied from 239 days for complaints regarding discharge, which are given priority, to 493 days for complaints of a personal nature. The minimum time for resolution of a complaint in the ANAO sample was 11 days. The maximum time was 1154 days.

4. ADF members' access to a formal complaints-handling system is considered necessary to maintain morale and thus help to achieve the Defence mission. However, the ADF has been concerned about inefficiencies in the ROG system arising from delays in resolving members' complaints and from diversion of senior officers from other important duties.

5. The objective of this audit was to ascertain whether the ROG system could be refined to improve the efficiency and timeliness of processing of complaints while preserving the equity and transparency the current system provides.

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<sup>1</sup> Chief of Army, Chief of Navy, Chief of Air Force or, in the case of joint units, the Vice Chief of the Defence Force.

## Overall conclusion and proposed changes

6. The Redress of Grievance system is clearly time-consuming and resource-intensive. Some grievances have taken as long as four years to resolve. Some could be resolved by administrative means rather than through recourse to grievance processes. The system contains various inefficiencies that detract from its cost-effectiveness from the viewpoint of the ADF and individual members. In addition many members are unaware of the system or do not have a high level of confidence in its effectiveness.

7. The ROG system could be improved by:

- reinforcing the importance of early resolution of complaints administratively by requiring the pursuit of administrative and negotiated solutions before a grievance is processed;
- providing for grievances to be dealt with by officers with the delegation necessary to amend the original decision;
- ensuring that grievances are addressed by officers with access to the necessary expertise to review the substance of the complaint;
- avoiding up to three successive reviews of decisions that were procedurally sound in the first instance; and
- ensuring that, where a grievance or class of grievances indicates that there could be benefit to the ADF in reviewing a particular procedure or policy, the relevant area is informed and appropriate follow-up arrangements put in place.

8. The CDF and the Service Chiefs would retain ultimate responsibility for the redress system but the key feature of the revised system proposed by the ANAO would be the targeting of the most appropriate Redress Action Authority. Under this system the Complaint Resolution Agency<sup>2</sup> would be tasked with this targeting function, in accordance with any guidance provided by the CDF and the Service Chiefs, and staffed accordingly. Except where the CDF and Service Chiefs retained the right of review, they would deal only with grievances that CRA considered were most appropriately dealt with by them, consistent with any guidance referred to above.

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<sup>2</sup> See paragraph 1.12.

9. The ANAO's specific recommendations made in this report would change the redress system so that it had the following essential features. All reasonable administrative solutions would be considered before a complaint was processed as a formal grievance. Once accepted (and unable to be resolved by the member's commanding officer), it would be referred to an appropriate officer (or a committee in some cases) with the delegated responsibility for review and resolution. This targeted review would generally be the only formal internal review of the grievance. A member still dissatisfied could pursue the matter with the Defence Force Ombudsman.

10. Under the new system, commanding officers, apart from ensuring that all reasonable administrative resolutions had been canvassed, would deal only with grievances about decisions that they had authority to amend, and where they had no apparent conflict of interest from association with the decision.

11. The proposed changes would be consistent with the military command-based system. They would also be consistent with the responsibility of CDF and the Service Chiefs for the resolution of members' grievances, in turn reflecting the ethos of responsibility of commanders at all levels for the men and women under their command. The proposed changes would put the onus on the command system to try to resolve members' grievances promptly. The command system would have the opportunity and impetus to resolve members complaints before they are processed as formal grievances.

12. The ANAO's recommendations would accord with the principle that command responsibility is generally delegated to the most appropriate officer without the need for reference to the most senior ranks in most cases. CDF or a Service Chief would become involved in a matter only if it were appropriate for the matter to be addressed at that level, although the CDF and Service Chiefs would retain authority to intervene in any AROG if they so wished. Most of the grievances reviewed by the ANAO that were formally referred to a Service Chief were in practice delegated to a Brigadier (or equivalent rank) with appropriate authority and expertise. The ANAO's recommendations recognise that logically there is a single, most appropriate authority for the review of any decision and that a grievance against the decision should be delegated to that authority. In many cases, adopting the approach outlined would deliver improvements in the performance of the redress system and lead to earlier resolution of complaints.

## Main findings

### Redress of Grievance system—an expensive option

13. Processing a complaint through the ROG system is clearly time-consuming and resource-intensive. Many complaints formally pursued through the system could be resolved through administrative means by referral to appropriate officers and by open discussion. Early resolution requires that the complaints system ensures that all reasonable avenues for resolution are pursued before a complaint becomes a formal AROG. The ANAO recommendations would reinforce the need for any reasonable administrative avenues to be pursued before a complaint assumed the more onerous processing and evidential requirements of a formal AROG.

14. Some AROGs are submitted to delay implementation of an inevitable decision. Resolution of any complaints should be expedited as soon as they are identified to minimise the time from submission to resolution, thereby allowing early implementation of the original decision or reducing the resources devoted to resolving such grievances. It would also discourage such complaints in the future.

15. The ANAO has also recommended that members, when preparing an AROG, be encouraged to access specialist advice to help clarify its purpose and identify an actionable request for redress.

### Processing AROGs—long delays could be reduced

16. The ROG system is extremely slow, taking as long as three to four years to resolve some of the more difficult complaints, particularly those of a personal nature. Even where the redress is granted, it has sometimes been so long after the event that the member is not fully satisfied with the result. The length of time taken also causes significant distraction to the members, their peers and supervisors. When it takes so long to resolve an AROG, members can also feel that the complaint is not being taken seriously. This can cause discontent at unit level and a lowering of morale.

17. There are a variety of reasons for the ROG process to be so protracted. The main cause of delay is the latitude given to all participants in the process, including the complainant, in responding to the information needs of the process. The other main reason for delay is the need, under the current system, for the AROG to be reviewed at several levels, some of which cannot, or will not, have any impact on the overall resolution of the complaint. Recommendations made in this report are directed to introducing more discipline into the process with respect to response times and streamlining the review of AROGs so that the single most appropriate review is performed consistent with a fair and equitable outcome.

## **Fair and equitable resolution**

**18.** The value of a complaints system tends to be directly related to the users' perception about it providing a fair and equitable response to their complaints. If users do not feel that their complaints are taken seriously, or that the complaint system is simply a mechanism to support management decisions, there will be little respect for the system. This will add to any disillusionment or disenchantment users may already feel.

**19.** From the ANAO's interviews with members, it was apparent that many were unaware of the ROG system or had only a limited understanding of it. Many of those who had made a complaint, or indeed read the relevant Defence Instruction, had difficulty understanding how to use the system. Others doubted that any AROG they submitted would be treated fairly. Some were concerned about possible adverse treatment if they submitted an AROG against a decision of a superior officer.

**20.** Some members who had experience of the system indicated concern about delays in resolving AROGs and apparent inconsistencies in decisions. Other problems mentioned were in relation to a lack of transparency: it was often difficult for the member to gain an understanding of the way the decision was reached or the reasons for giving little weight to some of the issues. ANAO review of cases supported the validity of these comments to some extent and identified problems with the training and experience of investigating officers. The ANAO's recommendations aim to make the system more accessible and transparent and to provide the basis for greater consistency in decisions. They also address training for investigating officers and others involved in processing AROGs.

## **Other ROG system issues**

**21.** The audit focused on ways of improving the ROG system, which is necessarily a reactive casework system. But the efficiency of an organisation's complaints-handling system ultimately depends on the organisation having, and using, a capacity to learn from experience and to avoid similar complaints arising in the future. Accordingly, the ANAO has recommended introduction of a means of ensuring that a particular complaint prompts a review of relevant general requirements and results are widely disseminated.

**22.** Other issues that call for attention are: the cost of processing AROGs; a perceived lack of confidentiality in relation to AROGs; and Service staffing of the CRA.

## **Recommendations and responses**

**23.** The ANAO made 14 recommendations aimed at improving the efficiency and effectiveness of the current Redress of Grievance system. The Department agreed to all of the recommendations, although with six recommendations agreement was qualified.

# Recommendations

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*Set out below are the ANAO's recommendations with report paragraph references and an indication of the Defence response. The ANAO considers that Defence should give priority to Recommendation Nos 1, 2, 5, 6, 7 and 13, indicated below with an asterisk.*

**\*Recommendation No.1**  
**Para. 2.14** The ANAO *recommends* that, to help resolve members' complaints before they enter the formal investigative process, Defence:

- a) require members submitting an AROG to accompany it with a checklist based on a pro forma which sets out the steps they had taken and the personnel they had contacted in attempting to assess their situation and obtain advice on their complaint; and
- b) permit Commanding Officers, or CRA, when they receive an AROG to request that the member seek to discuss the complaint with an appropriate ADF Office or Officer the checklist indicates the member has not contacted.

***Defence response:*** Agreed, with qualification

**\*Recommendation No.2**  
**Para. 2.24** The ANAO *recommends* that, to avoid having the Redress of Grievance system used for inappropriate purposes, Applications for Redress of Grievance which result in the suspension of executive action be identified early and processed promptly.

***Defence response:*** Agreed

**Recommendation No.3**  
**Para. 2.28** The ANAO *recommends* that, to make processing, investigation and resolution of Applications for Redress of Grievances more efficient and effective, Defence encourage members to seek specialist advice when preparing them.

***Defence response:*** Agreed

**Recommendation No.4**  
**Para. 3.26** The ANAO *recommends* that Defence provide that Applications for Redress of Grievance be considered first by the member's Commanding Officer, who, if unable to resolve the complaint to the member's satisfaction within a defined period, would forward it to the Complaint Resolution Agency.

***Defence response:*** Agreed

**\*Recommendation No.5**  
**Para. 3.31** The ANAO *recommends* that, after initial consideration by the member's Commanding Officer, all Applications for Redress of Grievance (AROGs) be submitted to the Complaint Resolution Agency. After ensuring that all reasonable administrative and negotiated solutions had been sought, CRA would manage the process including: identifying an appropriate Redress Action Authority; providing advice on the appointment of the Investigating Officer where required; taking responsibility for ensuring the adequacy of the investigation; and providing briefing papers to the relevant RAA.

***Defence response:*** Agreed, with qualification

**\*Recommendation No.6**  
**Para. 3.35** The ANAO *recommends* that, to expedite consideration of Applications for Redress of Grievance (AROGs) and to avoid their referral to officers without the authority to provide the redress sought, an AROG be considered by only one Redress Action Authority, independently selected by the Complaint Resolution Agency (with provision for the member to pursue further complaint action with the Defence Force Ombudsman).

***Defence response:*** Agreed, with qualification



**\*Recommendation No.7**  
**Para. 3.46** The ANAO *recommends* that, to promote fairness and more effective administration in the Redress of Grievance system, the various processes regarding Applications for Redress of Grievance (including submitting and investigating AROGs and providing information and documents) be made subject to appropriate time limits, with provision for extension of time where the circumstances clearly justify such extension.

***Defence response:*** Agreed, with qualification

**Recommendation No. 8**  
**Para. 4.7** The ANAO *recommends* that, to improve the transparency of the Redress of Grievance system, a redress officer, when informing a member of the decision on his or her Application for Redress of Grievance (AROG), provide the member with a copy of the investigation report on the AROG, unless the investigation has been conducted under the Defence (Inquiry) Regulations.

***Defence response:*** Agreed, with qualification

**Recommendation No.9**  
**Para. 4.10** The ANAO *recommends* that personnel responsible for deciding grievances explain clearly the reasons for their decision on an AROG to help the member understand the factors considered in reaching the decision.

***Defence response:*** Agreed

**Recommendation No.10**  
**Para. 4.19** The ANAO *recommends* that, to promote consistency in the treatment of Applications for Redress of Grievance (AROGs), the Complaint Resolution Agency establish (subject to cost-effectiveness considerations) a database of AROGs that would record the salient details of significant cases without disclosing the identity of individual complainants to users of the database outside the CRA.

***Defence response:*** Agreed

**Recommendation No.11**  
**Para. 4.28** The ANAO *recommends* that, to help make the Redress of Grievance (ROG) system accessible to all members, the Australian Defence Force publicise widely the general complaints procedure and also provide a brochure on the ROG system for the information of members proposing to make a formal complaint.

***Defence response:*** Agreed

**Recommendation No.12**  
**Para. 4.34** The ANAO *recommends* that, to enhance the skills of personnel involved in advising on complaints and processing Applications for Redress of Grievance (AROGs), Defence develop a strategy to ensure that all personnel involved in the processing of AROGs are adequately trained in the process, with ready access to resource materials on complaints handling and any model documents needed in submitting and processing AROGs.

***Defence response:*** Agreed, with qualification

**\*Recommendations No.13**  
**Para. 5.5** The ANAO *recommends* that Defence ensure that relevant areas of the department are advised of the need to review legislation, policy or procedures if such a need becomes apparent during consideration of an AROG and that there is a follow-up on action taken to conduct such a review.

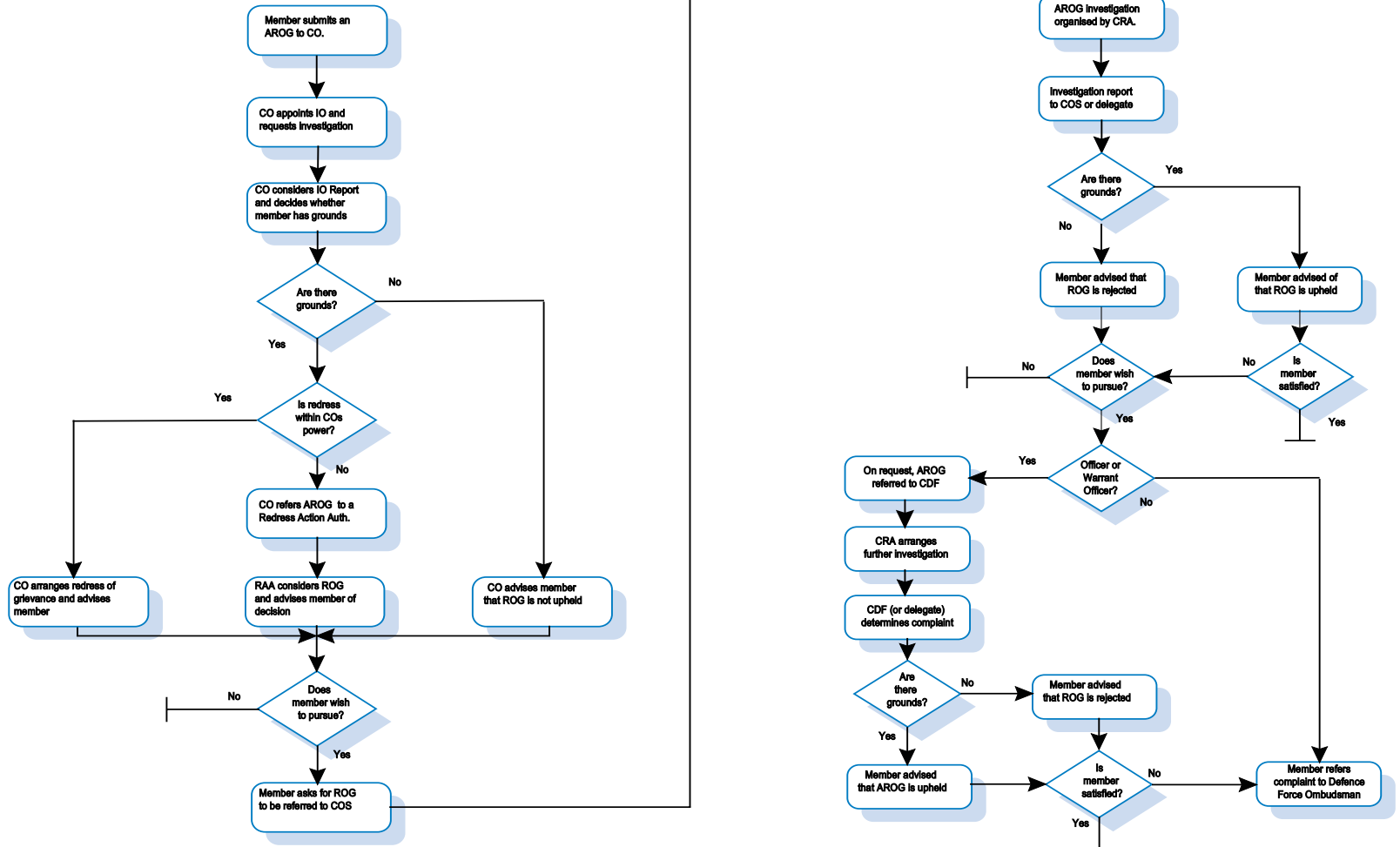
***Defence response:*** Agreed

**Recommendation No.14**  
**Para. 5.13** The ANAO *recommends* that, to provide flexibility to the Director of the Complaint Resolution Agency (CRA) to assign staff to the highest priority work, irrespective of the Service which the work originated from, the CRA be staffed on a tri-Service basis.

***Defence response:*** Agreed

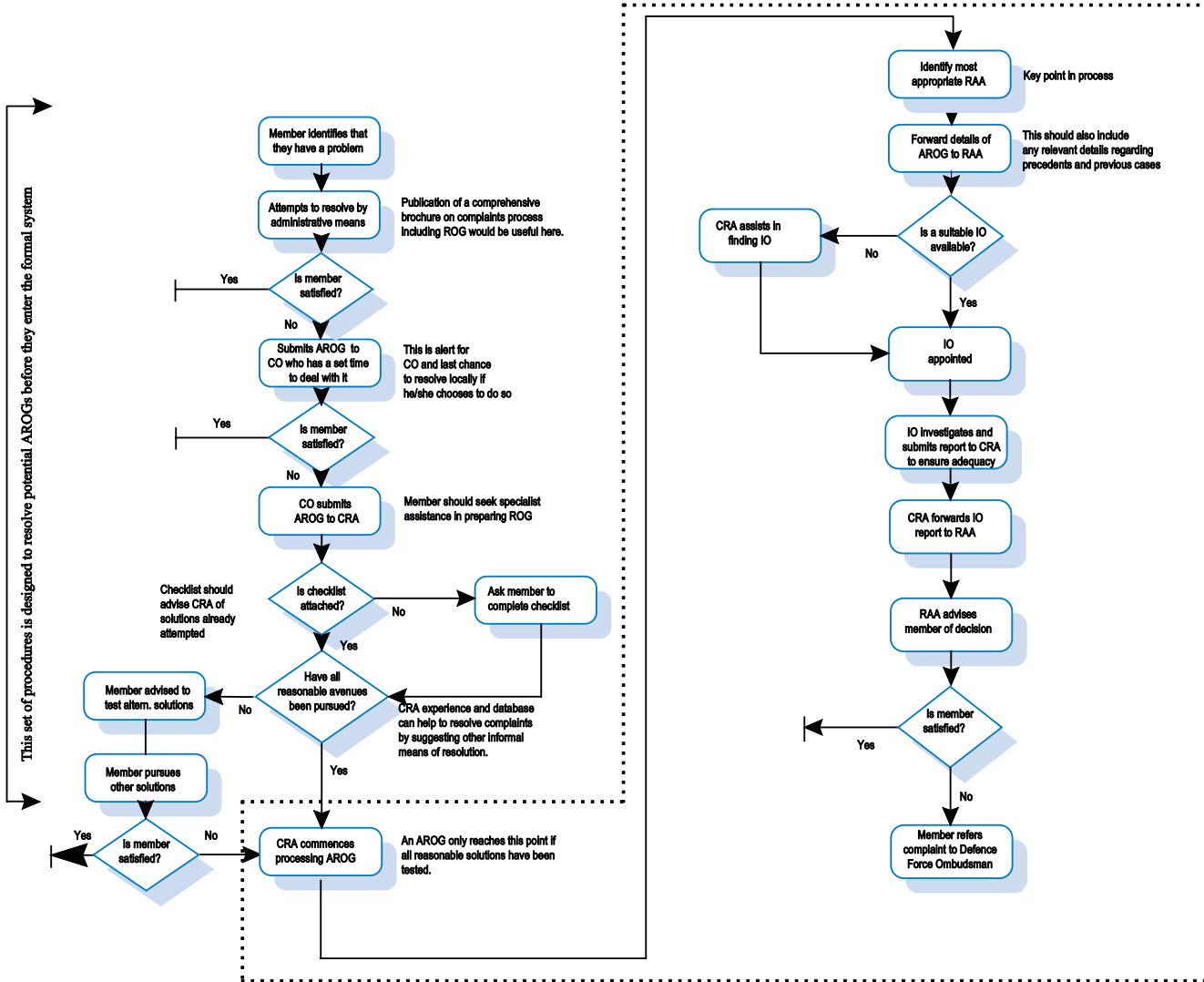
Figure 1 is a flowchart of the present system. Figure 2 is a flowchart representation of the proposed streamlined complaint system if ANAO recommendations are implemented.

**Figure 1**  
**Flowchart of the present Redress of Grievance system**



**Figure 2**

**Flowchart of the Redress of Grievance system as it would operate if the ANAO recommendations are implemented.**



*Note:*  
Area inside dotted line represents the same scope of activities as the system in Figure 1. Area outside dotted line represents the formalisation of some processes that may occur under the present system.

# Audit Findings and Conclusions



# 1. Introduction

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*This chapter provides the background to the audit, including the operation of the Australian Defence Force (ADF) Redress of Grievance (ROG) system and the Complaint Resolution Agency (CRA), and the audit objective, methodology and criteria.*

## Background

**1.1** The three armed Services (Army, Navy and Air Force) together comprise the Australian Defence Force (ADF). The ADF has some 55 500 members in the permanent forces and 27 000 in the reserves. There are informal and formal complaint mechanisms available to them to address grievances. Initially, members are advised to seek resolution of their complaint at the lowest possible level, through the normal command channels and administrative arrangements.

**1.2** If the member is not satisfied that the complaint has been resolved at this level, the Redress of Grievance (ROG) system is used to submit a formal complaint (a 'grievance') to the commanding officer (CO) of the member's unit. If still dissatisfied, the member may have the complaint referred to the relevant Service Chief<sup>3</sup>. If the member is an officer or warrant officer, he or she may then have the complaint referred to the Chief of the Defence Force (CDF). The ROG system is not available to the Department of Defence's civilian employees, who, as Commonwealth public servants, have other complaints procedures available to them.

**1.3** There is no system for recording complaints at unit level, but about 200 formal complaints ('grievances') are referred to the relevant Service Chief every year, and around 10 of these are later referred to CDF. The ADF has been concerned about inefficiencies in the ROG system arising from delays in resolving members' complaints and from diversion of senior officers from other important duties to deal with such complaints.

## Redress of Grievance (ROG) system

**1.4** The relevant legislation is Part XV of the Defence Force Regulations (see Appendix 2 to this report). Procedures and administrative aspects of the ROG system are contained in Defence

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<sup>3</sup> Chief of Army, Chief of Navy or Chief of Air Force.

Instruction (General)<sup>4</sup> Personnel 34-1 and supplementary single Service instructions. The system is confined to complaints ('grievances') about matters relating to the member's service in which the member has a personal interest. Figure 1, shown earlier, is a flowchart representation of the system.

**1.5** Under present procedures a member submits an Application for Redress of Grievance (AROG) to the CO of the member's unit, who investigates the complaint and determines whether the member has grounds for complaint; has no grounds for complaint; or may have grounds for complaint. If the CO finds that the member does have, or may have grounds for complaint but the redress sought is not within the CO's authority, the AROG must be referred to a more relevant Redress Action Authority (RAA). The ROG Defence Instruction defines an RAA as *'the person who has the authority or power to take the action required to redress the grievance'*.

**1.6** A member who is dissatisfied with the response to the AROG at unit level may refer it to the relevant Service Chief. The Defence Force Regulations allow the Service Chief to delegate his or her resolution authority to an officer of not less than Brigadier-equivalent<sup>5</sup> rank. The Military Redress Section of the Department of Defence's Complaint Resolution Agency (CRA) has the responsibility for investigating AROGs at this level, or arranging such investigation, and providing suitable recommendations to the relevant Service Chief or the delegate.

**1.7** AROGs submitted to a Service Chief for consideration are analysed by the investigator, who may ask questions of the member, specialist staff and other personnel involved. The investigator may consult with the relevant staff in order to seek resolution of the complaint, without formal submission to the Service Chief or the delegate. CRA is independent of the authorities responsible for Defence policy and administration and has no power to grant or deny the redress sought.

### **Services have different procedures**

**1.8** The investigator obtains either an approval for granting the redress desired or an explanation for refusal of the redress. In Navy and Army the investigator's report is submitted direct to the Chief of Navy or Chief of Army (or delegate) for final decision. In Air Force the procedure is different.

**1.9** If an AROG in Air Force is rejected, CRA advises the member of the result and that there is a right to ask for the complaint to be referred

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<sup>4</sup> Defence Instructions (General) are issued by the Secretary and Chief of the Defence Force jointly under section 9A of the *Defence Act 1903*.

<sup>5</sup> A Brigadier in Army is equivalent to a Commodore in Navy and an Air Commodore in Air Force.



to the Chief of Air Force (CAF). The member is also advised that CAF will rely heavily on the report prepared by CRA and, unless the member has further information, the AROG is unlikely to convince CAF to uphold the AROG.

**1.10** An officer or warrant officer who is dissatisfied with the Service Chief response to his or her AROG may have it referred to CDF. In these cases, CRA conducts a new investigation into the member's AROG before providing a brief to CDF.

**1.11** An ADF member below the rank of warrant officer, who is dissatisfied with the response to his or her AROG at the Service Chief level, has the right of referral to the Defence Force Ombudsman (DFO), who is also the Commonwealth Ombudsman. An officer or warrant officer who is dissatisfied with CDF's response to his or her AROG is entitled to the same right of referral. The DFO will generally deal only with matters that have been pursued within the ADF through the Redress of Grievance process. If the DFO receives a complaint from a serving member and that complaint has not been the subject of an AROG, or that AROG has not been finalised within the ADF, it will request the applicant to submit an AROG to the relevant authority.

## Complaint Resolution Agency (CRA)

**1.12** On 1 July 1997, as part of the Defence Reform Program, a combined CRA was created in the Defence Personnel Executive (DPE). This brought together the redress investigation and resolution functions that were previously performed by the Service Headquarters in each of the Services. The ANAO noted, in making its recommendations, that CRA is emerging from a period of restructuring and significant change in the way it coordinates the resolution of AROGs. Currently CRA's role, in relation to individual grievances, is restricted to those AROGs that have been referred to the relevant Service Chief or the CDF.

**1.13** CRA's Business Plan (April to December 1998) states that its goal and mission are, respectively:

*To achieve best practice in complaint resolution.*

*and*

*To develop and maintain an independent, high quality, cost effective complaint management system for the Defence Organisation.<sup>6</sup>*

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<sup>6</sup> The Complaint Resolution Agency consists of a Military Redress Section, responsible for processing Applications for Redress of Grievance, and a Complaints Resolution Section, responsible for processing Australian Public Service Grievances in the ACT region, and complaints referred by the Defence Force Ombudsman and the Human Rights and Equal Opportunity Commission.

**1.14** The Business Plan also states that CRA will:

- ensure common processes for complaint handling as far as practicable;
- ensure that complaint handling policies are known to external agencies and the wider Defence community;
- ensure timely resolution of complaints; and
- ensure quality management reporting.

### Number and nature of complaints

**1.15** Complaints may be made in relation to such matters as employment conditions, allowances, accommodation, postings, promotions, discharges and disciplinary action. CRA does not have a tri-Service database for registering and classifying AROGs and recording the outcomes. Each of the Services keeps some records on the nature of AROGs submitted although this varies between the Services. A summary of AROGs for the three Services over a five year period is presented in Table 1. This information only relates to those ROGs that have been processed by CRA or its single-service predecessors.

**Table 1**

**Number and nature of complaints processed by the Complaint Resolution Agency (or by its predecessors in each of the three Services) by Service, 1993–97.**

	<i>Conditions of Service (b)</i>	<i>Discharge (c)</i>	<i>Discipline (d)</i>	<i>Work force (e)</i>	<i>Other</i>	<i>Total complaints</i>	<i>Total ADF members 1993-97</i>
<b>Army (a)</b>	73	68	6	102	13	262	26 458
<b>Navy</b>	42	60	0	151	12	265	14 721
<b>Air Force</b>	168	55	12	235	23	493 (f)	17 699
<b>TOTAL</b>	<b>283</b>	<b>183</b>	<b>18</b>	<b>488</b>	<b>48</b>	<b>1020</b>	<b>58 878 (g)</b>

*Source: Complaint Resolution Agency databases.*

Notes: a) Army data is for 1993–94 to 1997–98. Navy and Air Force data is for 1993 to 1997.

- b) 'Conditions of Service' covers AROGs regarding leave, pay, housing and allowances.
- c) 'Discharge' covers AROGs challenging decisions to discharge due to drug use, medical unfitness and retention not in the interest of the Service, redundancy and Return of Service Obligation (ROSO).
- d) 'Discipline' covers AROGs regarding administrative warnings, censure, disciplinary action and reduction in rank.
- e) 'Workforce' covers AROGs regarding posting, promotion, training, remustering/reclassification, annual assessment, medical assessment and harassment.
- f) The large number of Air Force AROGs may be due to the tendency of Air Force units to forward AROGs immediately to the CRA without a unit investigation. The knowledge of, and willingness to use, the ROG system is also greater in the Air Force so it is probable that the system is used more frequently in the Air Force. The difference between the data recording capabilities of the three Services may also affect the comparability of the data.
- g) Total ADF members does not include Reserve members, who submit only a small number of AROGs.

## **The cost of CRA**

**1.16** Using Defence's Commercial Support Program Ready Reckoner, the ANAO sought to estimate the cost of CRA in an attempt to cost the processing AROGs at this level. This is only a relatively minor component of the cost of processing AROGs across the ADF but, even at this level, significant costs are incurred for each AROG. The full cost of those staff in CRA concerned with processing AROGs is around \$1.2 million per annum (or \$6000 per AROG). When the amount of time spent on AROGs by ADF personnel at all levels outside CRA is taken into account, it is apparent that the real cost of the ROG system is much greater. However, Defence systems do not provide sufficient detail of resource usage to quantify this cost in even an indicative manner.

## **The audit**

### **Audit objective**

**1.17** The objective of this audit was to ascertain whether the ROG system could be refined to improve the efficiency and timeliness of processing of complaints without reducing the equity and transparency the current system provides.

### **Audit methodology**

**1.18** The audit proceeded by examining particular AROG cases and general complaints issues according to the audit criteria. For audit purposes, selections of cases were made by the CRA and the ANAO. The ANAO interviewed ADF members in the Darwin area who were involved in processing AROGs at unit level or who had lodged an AROG. Officers of CRA and DFO were also interviewed.

**1.19** The ANAO engaged a consultant, Mr Hugh Selby, to assist in the audit. Mr Selby, formerly a Senior Assistant Commonwealth Ombudsman and the Police Complaints Authority for Victoria, is currently a senior lecturer at The Australian National University's Law School.

### **Audit criteria**

**1.20** The following criteria were used in conducting this audit:

- whether ADF members are aware of the ROG system and their right of appeal under the system;
- whether ADF members with a grievance on matters relating to their service have full and free access to the ROG system;
- whether ADF members have access to appropriate legal advice from the time they decide to submit an AROG to the resolution of the AROG;

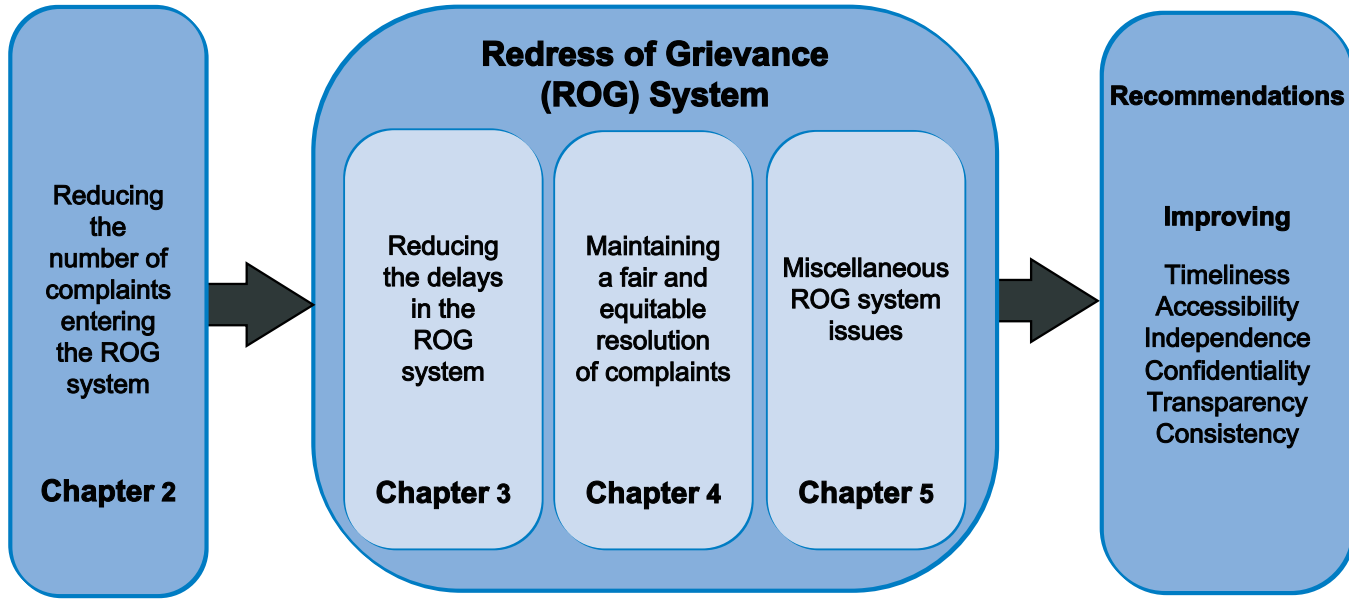
- whether ADF members are aware of the results of their grievance process, the reasons behind any decisions made and the avenues for progressing their complaint further under the ROG system;
- whether legal advisers, investigating officers (IOs) and decision makers have sufficient knowledge of all the relevant rules and procedures surrounding the subject matter of the AROG;
- whether decisions made under the ROG system are generally perceived as being fair and made without any inherent bias;
- whether decisions made under the ROG system are subject to actual bias on the part of decision makers, investigating officers or legal advisers; and
- whether the investigation and resolution of AROGs is undertaken in a timely manner and with adequate reporting, including to complainants.

**1.21** The audit began in April 1998. The proposed report of the audit was put to the Department in February 1999 after consultations with the Department during the audit. The report was completed in May 1999 having regard to comments provided by the Department and the Defence Force Ombudsman. The audit was conducted in conformance with ANAO auditing standards and cost \$270 000.

### **Report structure**

**1.22** The report is organised into four further chapters as shown in Figure 3. Chapter Two considers possible methods for reducing the number of AROGs entering the ROG system. Chapters Three, Four and Five examine key aspects of the ROG system. Chapter Three considers the long delays in processing AROGs. Chapter Four discusses those elements of the ROG system which impact on the ability of the system to deliver fair and equitable resolution of complaints. Chapter Five addresses miscellaneous issues concerning the ROG system which also need to be reviewed.

**Figure 3**  
**Report Structure**



## 2. Redress of Grievance system— an expensive option

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*This chapter considers possible methods for reducing the number of Applications for Redress of Grievance (AROGs) and the advantages to the Australian Defence Force (ADF) as a result. Methods include improving members' access to alternative dispute resolution mechanisms; early identification of complaints that suspend executive action; and provision of specialist advice to members prior to submitting an AROG.*

### **The number of AROGs should be minimised**

**2.1** From a Defence point of view the use of the Redress of Grievance (ROG) system to resolve a conflict between a member and the military organisation is an expensive process. If a complaint can be resolved without resort to the ROG system, the costs associated with the formality of that system (for example, the Investigation Report) can be avoided. Processing an AROG may involve (aside from the member) the member's immediate superior, the commanding officer (CO), personnel in the area responsible for the relevant policy, one or more investigating officers (IOs), personnel from the Complaint Resolution Agency (CRA), the Service Chief (or delegate) and even the Chief of the Defence Force (or delegate). It may also involve the member's peers as witnesses, or just as friends and supporters.

**2.2** Because the involvement of such a wide variety of personnel often requires complex lines of communication, the elevation of a complaint to AROG status generally results in a much longer time to resolve the problem than would be the case if the problem were resolved in the course of day-to-day administration. The protracted resolution of a complaint distracts personnel from their core responsibilities, which impacts directly on overall readiness and Defence capability. To look at this issue in another way, every hour someone spends submitting or processing an AROG is an hour they could have spent doing a task more directly related to the achievement of the Defence mission with greater job satisfaction for those concerned.

**2.3** Another aspect of a formal AROG, which makes it an expensive complaint-resolution option, is the necessity in a formal complaints system to document every step in some detail. This adds to the time to resolve the complaint and means that the personnel involved need to dedicate considerably more time to the process. Some of the files associated with

the cases reviewed during this audit had grown into several volumes and involved hundreds of pages of correspondence and documentation. This issue is not about achieving justice but whether such effort is required to achieve justice for the member concerned.

**2.4** The ROG system is the second-last step in the ADF complaints process. A member dissatisfied with the result of a grievance under the ROG system may make a complaint to the Defence Force Ombudsman. If the ROG system is to work efficiently and effectively, complaints should enter the system only when quicker and less-expensive means of resolution have been exhausted. The audit found that Defence has a large number of alternative complaint resolution mechanisms available but they are not accessed on a structured basis. Access depends largely on what the member knows about these mechanisms and what he or she decides to do as a consequence.

### **Alternative dispute resolution mechanisms**

**2.5** Complaints can be broadly classified into three types. These are:

- where the member has been treated prejudicially and has genuine cause for complaint;
- where the member has been dealt with fairly and according to the rules but has not had the decision adequately explained and so feels he or she has been treated unjustly; and
- where the member has been treated fairly and has had an adequate explanation of the decision but decides to make a formal complaint out of frustration with the decision or to delay implementation of the decision.

**2.6** Little can be done to avoid complaints of the third type as the member is often determined to take his or her complaint as far as it can go. This generally means through the ROG system to the Defence Force Ombudsman (DFO). Occasionally a dissatisfied member takes a complaint to the Minister of Defence and/or the media. A proposal for streamlining the processing of this sort of complaint is discussed below in paragraphs 2.20 to 2.23.

**2.7** It should be possible to solve many complaints of the other two types without resorting to the ROG system. The first avenue for a member to raise a complaint about a decision he or she is unhappy with, is through their immediate superiors. Unless the complaint was directly against a decision made by a supervisor, most members go first to their supervisor to discuss the matter and to seek advice on having the decision changed. Where the complaint goes from there depends on the issue itself and the knowledge, experience and involvement of the supervisor.

**2.8** Supervisors may not have a thorough knowledge of all the options open to a member to solve a particular problem. It may not occur to a supervisor to suggest, for example, that a member discuss a problem with the unit chaplain or a Defence welfare organisation. In the ANAO's interviews with some 50 members, there was a wide range of answers in response to a question regarding the first point of reference on a problem. For members at the base level—trooper, seaman or aircraftman—the most common initial answer was the member's direct supervisor or officer-in-charge (troop leader, flight sergeant or platoon commander). There was a definite preference to stay within the chain of command.

**2.9** For members in supervisory positions, there was no common answer to the question. The chain of command was preferred but, when pressed on where else they could obtain information or assistance, some mentioned the chaplain, the Defence Community Organisation, a Defence legal officer, the Administration Officer, the Chief Clerk or the relevant career management agency. In Navy, the most common answer was the Divisional Officer but even this was not universal as some members interviewed did not mention their Divisional Officer.<sup>7</sup>

### **Accessing alternative dispute resolution mechanisms**

**2.10** A member who has a problem that results from an order or condition of service which directly affects him or her does not necessarily seek advice from those best able to give it. Advice may be obtained from supervisors, peers or even non-Defence friends or relatives. Much of this advice, although well-meaning, can be ill-informed. Civilian advisers, for example, may encourage a member to make an official complaint (AROG), because the decision in question may appear unreasonable in civilian employment. A supervisor may suggest that a member should simply accept a decision because 'that's what you do in the Army'. Several members interviewed by the ANAO indicated that they would not consider using the ROG system for anything short of being discharged.

**2.11** Because of the inconsistent advice on service problems that members may receive, problems can become formal AROGs when they could have been dealt with in ways less expensive and less time-consuming in terms of both human capital and other resource costs. Many of the cases reviewed had been resolved when the decision or policy prerogative was explained to the member, which indicates that they could have been

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<sup>7</sup> The Divisional System is unique to Navy, which provides a support structure for personnel that parallels the chain of command. Each member has a Divisional Officer who will assist with any problem related to their service. The effectiveness of the system in solving problems before they get to the ROG system depends largely on the knowledge and interest of the Divisional Officer and their preparedness to become involved.



resolved much earlier. A Defence legal officer, for example, may explain to a member how a particular policy or instruction applies and that, although the member may feel aggrieved by a decision, it is not personal and any member would have been treated in the same way in the particular situation.

**2.12** It is in the interests of both the member and the ADF that, before a complaint is referred to the formal investigative process of the ROG system, all less formal avenues for resolving the complaint or obtaining an adequate explanation of the decision are taken. When a serving member refers a complaint to the DFO, the DFO checks that it has been processed through the ROG system first. The DFO will not take any action on a complaint until all internal avenues for resolution have been pursued.

**2.13** The ROG system would benefit from having a similar filtering mechanism. The system could be significantly more efficient if an AROG were accepted only if the member had tried all other reasonable means of obtaining information, advice and resolution. The CO, as the first point of contact for a member seeking to lodge an AROG, could advise the member whom they could obtain advice from and/or avenues to pursue to resolve their complaint. If a complaint concerns a housing matter, for example, the member could seek advice from the relevant housing officer, the base chaplain, the Defence legal officer or the Defence Community Organisation. If a member lodging an AROG also detailed the advice received and the steps already taken to try to resolve the complaint, it may be possible for the CO, or CRA if the matter was not resolved a unit level, to refer the member to another resource who could advise appropriately and perhaps solve the problem without the need to process the AROG. The very process of completing a checklist of actions taken could also prompt a member to access an appropriate resource that could resolve the problem without the member submitting the AROG.

## Recommendation No.1

**2.14** The ANAO *recommends* that, to help resolve members' complaints before they enter the formal investigative process, Defence:

- a) require members submitting an AROG to accompany it with a checklist based on a pro forma which sets out the steps they had taken and the personnel they had contacted in attempting to assess their situation and obtain advice on their complaint; and
- b) permit Commanding Officers, or CRA, when they receive an AROG to request that the member seek to discuss the complaint with an appropriate ADF Office or Officer the checklist indicates the member has not contacted.

## *Defence Response*

**2.15** Agreed, with qualification. Defence agrees that administrative resolution of complaints should be fully explored; however, members should not be encouraged to go outside the chain of command to seek resolution of their complaints. Rather, administrative resolution should be explored through their Commanding Officer (CO). Defence considers that certain matters should be specifically excluded from exploration of administrative resolution. In particular, administrative decisions which have been taken following a formal 'show cause'<sup>8</sup> procedure. As a result of the process, the member has already had an opportunity to put his/her case before the matter was determined. Defence proposes that, with a view to expediting implementation of such decisions, a formal statement of reasons should be communicated at the time the decision is taken and that a complaint going simply to the merits of the decision should be referred to the Complaint Resolution Agency (CRA) immediately. If the complaint concerned procedural matters, Defence proposes that the administrative resolution recommended should be pursued subject to the above.

## **Mediation as a means of resolving complaints**

**2.16** The Merit Protection and Review Agency (MPRA) informed the ANAO that, in the wider community, mediation has become an important way of resolving complaints that are not rules-based. Complaints concerning, for example, perceived victimisation, harassment or unreasonable performance appraisal may be resolved in a mediated conference between the complainant and the decision-maker. However, to avoid the complainant's concerns increasing as a result of a mediated conference, it is important that the conference be conducted by a skilled and experienced mediator. The ANAO considers that properly conducted and credible mediation may be a means of resolving some complaints by members of the ADF.

**2.17** The ANAO suggested to Defence that it consider the use of mediation in some situations. Defence responded that '*mediation is not generally appropriate in the case of challenges to command based decisions*' and that '*In the ADF context, 'management prerogative' often translates into command based decisions.*'

**2.18** An MPRA survey of complaint resolution mechanisms in the private sector found that supervisors are commonly regarded as responsible for resolving employees' complaints. This assumption of responsibility relies on the notion that the supervisor should be able to

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<sup>8</sup> A 'show cause' procedure is one where the member has been asked to show cause as to why he or she shouldn't be dismissed from the Service following a breach of discipline.

either resolve the complaint, assist the employee to resolve the complaint, or convince the employee that the complaint is not reasonably based. This may not apply to many of the decisions made in a rules-based environment like the ADF. A large proportion of complaints in the ADF is likely to be outside the scope of the supervisor to resolve, but the notion of supervisor responsibility would be relevant for some types of decision.

**2.19** During the audit the ANAO came across several cases where the member's CO had made a significant commitment to assisting the member resolve a problem but been told that rules were non-negotiable and decisions did not need to be explained. For example, one member submitted an AROG seeking to obtain a detailed explanation for their lack of success in obtaining a desirable posting. Several administrative avenues had been used to obtain a satisfactory reply from the member's careers manager. The member advised the ANAO that initial responses to oral inquiries were vague and unconvincing and that, in replying to the member's written inquiry, the career manager did not adequately address the member's queries. Although the member required information only as to their assessed performance against the selection criteria, the Privacy Act was cited as the reason that the original decision could not be explained. Additional inquiries by the member's CO received the same unsatisfactory reply and the member submitted an AROG.

## Other measures which could reduce the number of AROGs

### Complaints made which delay executive action

**2.20** Some AROGs have little chance of success but delay the almost inevitable implementation of a decision. Such AROGs exploit the delays in processing AROGs and the ADF's practice of stopping relevant action until the AROG is determined. Other AROGs are submitted because the member feels personally aggrieved and wants to make a point in the most noticeable way possible.

**2.21** In these cases the member almost inevitably takes the AROG through the whole process. If the aim of the AROG is to delay implementation of a decision, frustrate a supervisor or call attention to perceived unjust treatment, the member may attempt to prolong the complaint process through as many levels of review as possible.<sup>9</sup> It would

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<sup>9</sup> The *Ombudsman Act 1976* provides that the Ombudsman or the Defence Force Ombudsman may decide not to investigate a complaint if, in their opinion, the complaint is frivolous or vexatious or was not made in good faith, etc (ss 6 and 19F).

be in the interests of the ADF if such AROGs were identified early and fast-tracked through the system. By processing these AROGs quickly, the cost and distraction they cause are minimised. When the complaints come before the DFO or the Minister, as they often do, the ADF can be seen to have processed the complaint quickly and efficiently. Presently an AROG concerning a member's discharge from the ADF can cause a delay in discharge for two years or more. The complainant remains a member of the ADF for this period. When that discharge is, for example, for disciplinary reasons or because retention is not in the interests of the Service, it is in the member's interests to submit an AROG, even if there is no hope of it being upheld. If the whole ROG process were to take only a few weeks, such members may not see it as worthwhile to enter into it.

**2.22** This is not to say that such complaints should not be treated fairly and investigated appropriately but they should be handled promptly. The member should be required to respond to any queries on the AROG within a clearly specified time limit and Investigating Officers should also be given firm time limits with the intention of resolving such complaints quickly.

**2.23** To give priority to such AROGs may be seen to be disadvantaging members with legitimate complaints. This would occur only if insufficient resources are allocated to the ROG system to resolve all complaints in a reasonable time. The staffing and procedures of the ROG system could take into account the need to resolve this class of complaints as quickly as possible. This would be an effective use of resources in that a significant reduction in the time frame for processing this type of complaint greatly reduces the motivation for submitting them in the first place.

## **Recommendation No.2**

**2.24** The ANAO *recommends* that, to avoid having the Redress of Grievance system used for inappropriate purposes, Applications for Redress of Grievance which result in the suspension of executive action be identified early and processed promptly.

### *Defence Response*

**2.25** Agreed.

### **Members should obtain appropriate assistance to prepare AROGs**

**2.26** In only a few of the cases examined by the ANAO had the member sought specialist advice on how to prepare the AROG. In those cases where the member had sought the assistance of a Defence legal officer,

for example, the AROG had complied with the terms of the Defence Instruction on AROGs by clearly setting out the nature of the complaint and the specific redress sought. This was not always the case with AROGs where no assistance had been sought. Defence legal officers informed the ANAO that, on many occasions, they had been approached to assist with the preparation of an AROG and had eventually convinced the member that they did not have a case, or that they could obtain the result they wanted in some other way. For example, an AROG submitted to obtain an apology from an officer will be unsuccessful because the ADF has no power to require a person to apologise. A Legal Officer can advise the member that this is the case and suggest some other solution.

**2.27** The ANAO understands that advice from Defence legal officers is readily available to all members. It is also possible to seek advice directly from the other specialists such as housing officers, Service career management agencies or medical officers. At present, whether a member seeks advice depends on whether it occurs to them, or someone close to them, to do so. Few non-commissioned officers (who are normally the first point of reference for a member with a problem) interviewed by the ANAO indicated that they would advise the member to discuss a problem with a legal officer or other specialist. Early access to appropriate expertise in the ROG process is beneficial to both the member and the ADF. It helps the member and the ADF focus on the merits of the complaint, the case supporting it and the appropriate redress. It also helps avoid unnecessary AROGs. The ANAO considers there would be advantages for members and the ADF if members were encouraged to obtain appropriate specialist advice in preparing an AROG.

### Recommendation No. 3

**2.28** The ANAO *recommends* that, to make processing, investigation and resolution of Applications for Redress of Grievances more efficient and effective, Defence encourage members to seek specialist advice when preparing them.

#### *Defence Response*

**2.29** Agreed.

### Conclusion

**2.30** Processing a complaint through the ROG system is a time-consuming and resource intensive option. Many complaints formally pursued through the system could have been resolved simply via administrative means or through negotiation or mediation. Early resolution requires that the complaints system ensure that all reasonable

avenues for resolution be pursued before a complaint becomes a formal grievance in the system. The ANAO recommendations for ensuring all appropriate administrative avenues have been pursued by seeking advice and discussing complaints to ensure that possible resolutions are canvassed are directed to reducing the number of AROGs which enter the system. Often AROGs are submitted to delay implementation of an inevitable decision. Resolution of these should be expedited as soon as they are identified to minimise the time from submission to resolution, thereby reducing the satisfaction achieved by those people intending to cause inconvenience or delay appropriate action.

**2.31** The ANAO has also recommended that members be encouraged to use appropriate specialist advice to prepare their AROG so that their purpose is clear and the required redress is identifiable and actionable.

## 3. AROG processing delays could be reduced

*This chapter reviews the long delays in processing Applications for Redress of Grievance (AROGs) and makes recommendations aimed at reducing the delays by removing redundant layers of review, targeting AROGs to the most appropriate decision-maker in the first instance and ensuring that the investigating officer and Redress Officer are selected carefully.*

### Redress of Grievance (ROG) process is long and cumbersome

**3.1** The ROG process can involve many individual processes and the time taken to complete any of them can involve undue delay. The process commences only when a member submits an AROG about a decision that affects them, which can be long after notification of that decision. In the ANAO sample of cases, the average elapsed time from notification of original decision to the submission of the AROG was 87 days (or 54 days if two extreme cases—1149 and 1585 days—are ignored).

**3.2** To measure the average time to resolve AROGs, the ANAO divided a sample of resolved cases into the following three categories of complaint: discharge, administration and personal. For the discharge cases, the average elapsed time to resolution was 239 days. But it is possible for members to delay their discharge for up to two years. The average time to resolve the administration and personal cases was 330 days and 493 days respectively. A summary of these cases is presented in Table 2 and Appendix 3.

**Table 2**

**Time taken to resolve sample of AROGs**

<b>AROG Category</b>	<b>Sample Size No.</b>	<b>Average Time to Resolution (days)</b>	<b>Minimum Time to Resolution (days)</b>	<b>Maximum Time to Resolution (days)</b>
Discharge	20	239	94	476
Administration	39	330	11	846
Personal	14	493	29	1154

*Source: Derived from the sample of resolved AROGs reviewed by the ANAO.*

**3.3** Each stage of the ROG process has the capacity to cause significant delay in grievance resolution. For the ANAO sample, the average time from receipt of the AROG by the member's unit until the determination

by the commanding officer (CO) was 64 days (range 0 to 359 days). Delays at this level of review are primarily related to the ability, experience and availability due to competing work priorities, of the investigating officer (IO). For example, an IO investigating a complex case covering diverse issues such as performance review, mismanagement and allegations of sexual harassment had to be replaced after 76 days. The member told CRA that the IO had said that 'he did not think that he could cope with the Redress and that he did not have the time nor the experience to deal with the matter and that he would have to hand it back'.

**3.4** A case in which a member submitted an AROG alleging that adverse comments of a personal nature had been written on his medical records required three investigations at unit level. The first two investigation reports were returned to the unit due to an inadequate examination of the issues raised by the AROG and the legal issues involved. During the third investigation, the CO negotiated an administrative resolution and the member withdrew his AROG (686 days after the AROG was submitted).

**3.5** In the ANAO sample of cases, the average time from receipt of the AROG by Defence's Complaint Resolution Agency (CRA) until the determination by the Service Chief was 227 days (range 7 to 782 days). A possible cause of delay was the low priority for investigation assigned to the AROG upon receipt by CRA. Cases given low priority are inevitably delayed. For example, CRA began investigating an AROG regarding adjustment of rank seniority on transfer of category some 224 days after receipt, and an AROG regarding charges for married quarters 198 days after receipt.

**3.6** Time to resolution increases significantly when a decision is made to review the member's AROG and relevant Defence policy concurrently. In one case, although the decision in question was in accordance with policy, the member argued that the legislation and policy were not flexible enough to cater for individual circumstances. CRA was able to negotiate an administrative resolution, 848 days after the AROG was submitted, as a result of a policy review.

**3.7** Delays occur when various issues affecting an AROG need to be evaluated or when a Statement of Reasons (SOR) needs to be obtained from Defence authorities. In the ANAO sample, 34 days (range 1 to 155 days) was the average time taken to respond to a request for an SOR. Of the 100 AROGs in the ANAO sample, 80 had been processed by CRA; of these, 28 had been submitted to Legal Services for a legal opinion. The average time for Legal Services to respond to a query from CRA was 45 days (range 1 to 214 days).



**3.8** Throughout the ROG process, long delays in the resolution of grievances often occur due to the time taken by complainants to articulate their case. The continual submission of additional documents in support of the original AROG; delays in submitting the AROG and referring it to the next level of review; and the inability of some members to specify the redress sought can significantly lengthen the time to resolution. In the ANAO sample, a quarter of the cases involved delays of more than 70 days, which were caused by the complainant.

**3.9** A member whose AROG concerned a discharge decision delayed the resolution of his AROG by requesting a copy of his psychological report 64 days after the CO had determined that the member had no grounds for complaint. He did not request that his AROG be referred to the Service Chief until a further 133 days later. Furthermore, eight days after the Service Chief's decision, the member requested that the resolution of his AROG be suspended. The member had applied for court transcripts of his criminal convictions and wished to include the documents as attachments to his AROG. As at 1 July 1998 the court transcripts had not been obtained, 148 days after the member had applied for them.

### **Delays can adversely affect morale and capability**

**3.10** The most frequent comment made to the ANAO during interviews with members was that the system is slow. Some members cited AROGs submitted by colleagues that had eventually been upheld but that took so long that the decision provided little satisfaction. The ANAO noted a case where a member who wanted to discharge from the Service submitted an AROG against the imposition of a Return of Service Obligation (ROSO) in respect of training that he had done. The ROSO required the member to remain in the Service for a further two years. Eventually the AROG was upheld, allowing him to discharge two months before the ROSO would have expired and over 20 months after he submitted his AROG.

**3.11** In another case a member submitted an AROG regarding a required change of work status that affected his prospect of promotion. He was due for posting elsewhere in the ADF late in 1998 and, depending on whether the AROG was upheld or not, he would have been posted to one of two different bases. The member told the ANAO in August 1998 that in the past year he had received a series of letters every 28 days saying that his AROG was not yet being investigated. He had just received advice that his AROG was being investigated. He was due to go on leave prior to posting two weeks later and was disillusioned by the process and very uncertain about his future.

**3.12** In a third case a member had submitted an AROG some two years ago in relation to a decision to discharge him over allegations of drug-

related offences which he had denied. He told the ANAO that delay in resolving the AROG had halted his career. As he was under notice of discharge he was not permitted to go on any training courses and was therefore continually passed over on the promotion list. He maintained that the process was affecting his attitude to his work, his relationships with those around him and his family life.

**3.13** In each of these cases, and in many more reviewed by the ANAO, the submission of an AROG was a major event in the member's life and the delay in having it resolved was a period of uncertainty and anxiety. In interviews with the ANAO, many members who had some experience of the ROG system indicated that they did not feel that the Department had invested their AROGs with the same importance as they themselves did in submitting them.

**3.14** Long delays in resolving members' AROGs create a significant, protracted distraction that can result in a reduction in the attention that the members and those around them pay to their main duties. These include the member's peers who are also sympathisers or confidants, the member's immediate supervisor as well as officers further up the chain of command who may be involved as witnesses, investigating officers and those officers whose decisions are being questioned by the AROG. Such a distraction must have some adverse effect on military capability. It is quite feasible that two or three ongoing AROGs in one small unit could make it significantly less effective in fulfilling its mission, particularly considering the impact on the individuals involved.

### **Delays in the system are self-perpetuating**

**3.15** As noted earlier, the often drawn-out nature of the ROG system prompts some members to submit AROGs to gain the benefit of delays. If someone is to be discharged for medical or behavioral reasons, the complaints process can delay this by several years. Likewise the presence of this sort of AROG in the system takes up resources and slows the processing of all AROGs, which in turn may encourage more members to put in AROGs to delay the implementation of a decision.

### **Causes of delay**

**3.16** The most common factor that leads to delays all the way through the complaints process is the time that elapses pending responses to queries. The ROG system involves protracted correspondence between personnel, many of whom have other duties and do not regard the AROG as high priority. Table 3 shows the sorts of activities that could happen, with indicative times, for a simple AROG. This model is constructed from the ANAO's review of cases; none of the events or times indicated in the table are unusual.

**Table 3**  
**Illustrative example of delays in processing an AROG**

Day 1	Decision made to deny a member an opportunity to go on a course Member considers this will reduce promotion opportunities.
Day 2	Member goes to supervisor to seek reasons for decision Member does not agree with reasons
Day 3	Member asks to have matter referred to CO
Day 8	CO responds by saying that he agrees with decision
Day 13	Urged by peers, member decides to submit AROG
Day 20	Member submits AROG
Day 21	AROG referred to CO, whose assistant acknowledges receipt
Day 25	AROG reaches top of CO's in-tray
Day 30	CO appoints Investigating Officer, requests report in 14 days
Day 40	Investigating Officer goes on a course, asks CO to extend time
Day 54	IO returns from course and asks decision-maker for statement of reasons (SOR)
Day 55	IO finds decision-maker is away on exercise and asks for further extension
Day 65	Decision-maker returns from exercise and asks IO for a couple of days to prepare report
Day 67	IO receives SOR and has completed all other avenues of investigation
Day 81	IO submits report to CO
Day 83	CO dissatisfied with report and asks IO for further investigation
Day 86	IO sends amended report to CO
Day 87	CO decides not to uphold AROG. Phones member to tell him
Day 88	CO prepares minute to member
Day 101	Member, after days of urging by fellows about injustice, decides to push AROG to CoS
Day 111	Member writes to CO asking for AROG to be referred to CoS
Day 116	AROG reaches CRA where it is put at the bottom of the list
Day 139	CRA writes to member to advise AROG is not yet being investigated
Day 167	CRA writes to member to advise AROG is not yet being investigated
Day 195	CRA writes to member to advise AROG is not yet being investigated
Day 223	CRA writes to member to advise AROG is not yet being investigated
Day 251	CRA writes to member to advise AROG is not yet being investigated
Day 261	AROG reaches top of priority list. IO is appointed and RAA decided
Day 276	IO discovers AROG lacks full supporting documentation, rings member, rings unit for SOR
Day 279	CRA writes to member to advise that AROG is now being investigated
Day 296	Member provides further documentation to support case
Day 306	IO submits case and proposed report to Legal
Day 351	Response received from Legal that report is legally acceptable
Day 360	IO completes report and sends it to RAA
Day 390	RAA makes decision and informs member. If RAA decides that the member should have been allowed to attend the course and that his or her career progress was adversely affected by not attending, the Service must then decide how to redress the grievance.

## **Selecting the right person for the task**

**3.17** Aside from the complainant, the key people in the complaint process are the person who will initiate remedial action, if any is required, in response to the AROG (the Redress Action Authority); the person who manages the processing of the AROG (the Redress Officer); and the person who investigates the AROG (the investigating officer).

### **Redress Action Authority**

**3.18** The Redress Action Authority is the person who has the authority or power to take the action required to redress the grievance. In many cases identification of an appropriate RAA is straight-forward but in other cases it can be a difficult decision requiring an extensive knowledge of Service operations and responsibilities.

**3.19** Many of the cases reviewed by the ANAO were, in the first instance, sent to RAAs who were not in a position to uphold the AROG even if they did have the authority to do so. For example, there were a number of cases where members argued that they should be allowed to stay in the Service even though they had been found to have used marijuana. Almost all of these cases were rejected and the member was discharged from the Service. On two occasions, however, the Service Chief agreed to give the member the benefit of the doubt because the reading from the blood test was borderline and could have arisen from passive smoking. The prohibition of illegal drug use is a Service-wide issue. Given past practice, the most appropriate person to re-consider decision in these cases is the Service Chief. In the light of this experience, AROGs of this nature could be sent direct to the appropriate Service Chief, bypassing the intermediate levels.

**3.20** Conversely, if a member argues that he/she was not responsible for damage to married quarters because there was only normal wear and tear, a local assessment of the case should decide the issue. The ANAO did not see any cases of this type where appeal to the Service Chief overturned the decision made at a lower level. Appealing to the Service Chief can result in unnecessary expenditure of time and resources unless the matters under review have Service-wide ramifications.

### **Redress Officer**

**3.21** The Redress Officer is the officer responsible, in accordance with the provisions of Part XV of the Defence Force Regulations (ie. a CO or Service Chief) for investigating (or causing to be investigated) a complaint and deciding that the member has, has not or may have grounds for complaint. Generally speaking, Redress Officers do not undertake the investigation themselves, except in simple cases. However, the

appointment of the Redress Officer also needs to be considered carefully to avoid any conflict of interest and ensure that the Redress Officer is in a position to appoint an appropriate IO and obtain co-operation from the relevant personnel. Under present arrangements the Redress Officer is decided more by circumstance rather than by appropriate selection criteria, since the Redress Officer is generally the member's CO or another officer in the member's unit, even if the substance of the complaint is outside their authority and expertise.

**3.22** The Defence Instruction on ROG states:

*18. A member's CO has the primary responsibility for attempting to resolve the member's complaint and for ensuring that the procedures detailed in this Instruction are adhered to.*

*19. Where a member's complaint is against a decision or actions of the member's CO, the CO may take action which satisfies the complaint. If the CO does not take such action, the CO should not investigate the complaint personally, but should consult the CO's superior and cause the complaint to be investigated by another officer.*

**3.23** The role of the CO as Redress Officer is to solve the problem if possible. But any action that the CO can take could have been taken when the member first complained, before submitting the formal AROG. An AROG should be submitted only if the member does not accept the result he or she achieves at the local level through normal means. It then follows that the CO's involvement in processing the complaint past this point is of little value. The CO, as part of his or her command responsibility, should be made aware of the case the member is putting forward but, unless the member is raising issues that he or she has not raised previously, the CO should already have considered the problem by the time an AROG is submitted.

### **An alternative process**

**3.24** There is still a need for the CO to be aware of the process that is occurring and to have an opportunity to review the whole case proposed by the member before it proceeds to formal investigation. In order to meet this need, the ANAO proposes that, as a mandatory precursor, all AROGs be submitted first to the member's commanding officer to review the complaint and reconsider the decision in question. This would give the CO notice of an AROG and may help to resolve the complaint before it proceeds. If, after a defined period (say, two weeks), the CO cannot resolve the matter to the member's satisfaction, the CO would submit the AROG to the Complaint Resolution Agency where it would enter the

formal investigative process. There would be benefit in informing the CRA of the initial submission of an AROG to the CO, since this would:

- provide forewarning of a potential AROG;
- ensure transparency in the treatment of the member's complaint; and
- provide information on the nature of problems giving rise to complaints.

**3.25** An AROG once submitted would be dealt with by an appropriate Redress Officer designated by an independent authority such as CRA subject to the proviso that the CDF and Service Chiefs would retain a reserve power to intervene in the light of their ultimate responsibility for the redress system. The Redress Officer may still be the member's CO but only if the CO was the most appropriate person for such a task. Alternatively CRA could perform the Redress Officer duties of managing the process and ensuring the adequacy of the investigation.

## **Recommendation No.4**

**3.26** The ANAO *recommends* that Defence provide that Applications for Redress of Grievance be considered first by the member's Commanding Officer, who, if unable to resolve the complaint to the member's satisfaction within a defined period, would forward it to the Complaint Resolution Agency.

Note: This recommendation is likely to require a change to regulation 77 of the Defence Force Regulations (see Appendix 2). It presently requires the commanding officer to investigate a complaint without delay. This would need to be changed to provide for the commanding officer to resolve the complaint or refer it to the relevant authority (the Complaint Resolution Agency) within a defined period. An alternative may be to provide more guidance in the relevant Instruction to indicate that the term 'investigate' may mean a brief review of the AROG and that forwarding the AROG to the Complaint Resolution Agency could be seen as causing it to be investigated.

### *Defence Response*

**3.27** Agreed. It appears appropriate to link this recommendation with Recommendation Nos. 1 and 3 such that the CO is responsible for ensuring that administrative resolution of the complaint has been fully explored and that any formal complaint is submitted in proper form. If the CO's own decision is concerned, these responsibilities could be performed by the next officer in the chain of command (or his staff).

## **The investigating officer (IO)**

**3.28** The manner of selecting an IO varies from unit to unit. In some of the units visited, the IO was the most readily available junior lieutenant. In others, the IO was chosen with reference to the subject matter of the complaint. In some situations (for example, on a patrol boat) the choice of IO is extremely limited. One CO commented to the ANAO that, since his officers could 'investigate anything', it did not matter who he chose to investigate an AROG. In some cases in the audit sample, it appeared that the IO at the unit level did not perform well enough to resolve the issue and, in others, exacerbated the problem. One Adjutant explained to the ANAO that, in simple cases, it was possible to get by with the most convenient choice but complicated cases called for specialist expertise to have the matter resolved promptly. Another officer suggested that, once matters became complicated, the investigation required experience and expertise.

**3.29** An informed decision needs to be made on each AROG on the subject matter knowledge and investigation expertise required to investigate the matter. For example, the investigation of an AROG regarding unsatisfactory medical treatment used two IOs. Those aspects of the complaint, which required any degree of medical knowledge, were investigated by an independent Reserve medical officer and those aspects, which related to administrative procedures, were investigated by the Officer Commanding. Although it would not be practicable for a central area to select all IOs, CRA could provide advice on the selection of an appropriate IO. It would also be useful for CRA to maintain a database of personnel in various locations with AROG investigation experience to advise units that are having difficulty identifying an appropriate IO.

**3.30** The ANAO recommendations envisage a greater co-ordination and guidance role for CRA which would require a greater investment in staffing and IT systems. This would relieve units of much of the administrative work in processing AROGs and enable more efficient processing at the unit level. This in turn would allow a shift of unit resources from this aspect of personnel management into more mission-oriented areas.

## **Recommendation No.5**

**3.31** The ANAO *recommends* that, after initial consideration by the member's Commanding Officer, all Applications for Redress of Grievance (AROGs) be submitted to the Complaint Resolution Agency. After ensuring that all reasonable administrative and negotiated solutions had been sought, CRA would manage the process including: identifying an

appropriate Redress Action Authority; providing advice on the appointment of the Investigating Officer where required; taking responsibility for ensuring the adequacy of the investigation; and providing briefing papers to the relevant RAA.

Note: This recommendation is likely to require a change to regulation 77 of the Defence Force Regulations (see Appendix 2). It presently requires the commanding officer to investigate a complaint without delay. This would need to be changed to provide for the commanding officer to resolve the complaint or refer it to the relevant authority (the Complaint Resolution Agency) within a defined period. An alternative may be to provide more guidance in the relevant Instruction to indicate that the term 'investigate' may mean a brief review of the AROG and that forwarding the AROG to the Complaint Resolution Agency could be seen as causing it to be investigated.

### *Defence Response*

**3.32** Agreed, with qualification. The main thrust of the recommendation that AROGs should be decided by one officer only is supported, subject to the understanding that CDF and the Chiefs of Service retain responsibility for the Redress system and the determination of complaints. As an adjunct of this responsibility, Defence agrees that CDF and the Chiefs of Service should retain the power, but not the obligation, to reconsider an AROG already determined by a Redress Action Authority (RAA). Such power would be exercised, for instance, if the original decision was perverse and contrary to the merits, at the request of the Defence Force Ombudsman or in the event of new evidence coming to light which was not reasonably available at the time of the initial decision.

### **One level of internal review**

**3.33** The ROG system allows for a number of levels of review of an AROG. From the cases the ANAO examined, it appeared that the most appropriate level of review of an AROG is the level at which it is most likely that the decision can be reviewed independently by an officer with the authority and the ability to amend the decision if that is found to be necessary.

**3.34** If the ANAO recommendations regarding the pursuit of administrative and negotiated solutions are implemented, a complaint will be closely reviewed prior to becoming an AROG. If the AROG when submitted is decided by the most appropriate person, there is little point in it being reviewed by anyone else unless the process has been biased



or unfair or the CDF or Service Chief decides to intervene in the light of their ultimate responsibility for the redress system. If the member feels that the process has been biased against them, even though the AROG has been decided by an officer selected as the most appropriate do so, the next level of formal review should be someone with expertise in complaints investigation and procedural fairness<sup>10</sup>. In such circumstances, referral to the Defence Force Ombudsman (DFO) would seem to be much more effective than referral to some other level in the ADF.

## Recommendation No.6

**3.35** The ANAO *recommends* that, to expedite consideration of Applications for Redress of Grievance (AROGs) and to avoid their referral to officers without the authority to provide the redress sought, an AROG be considered by only one Redress Action Authority, independently selected by the Complaint Resolution Agency (with provision for the member to pursue further complaint action with the Defence Force Ombudsman).

Note: To implement this recommendation, regulations 76 and 79 of the Defence Force Regulations would need to be repealed.

### *Defence Response*

**3.36** Agreed, with qualification. The main thrust of the recommendation that AROGs should be decided by one officer only is supported, subject to the understanding that CDF and the Chiefs of Service retain responsibility for the Redress system and the determination of complaints. As an adjunct of this responsibility, Defence agrees that CDF and the Chiefs of Service should retain the power, but not the obligation, to reconsider an AROG already determined by a RAA. Such power would be exercised, for instance, if the original decision was perverse and contrary to the merits, at the request of the Defence Force Ombudsman or in the event of new evidence coming to light which was not reasonably available at the time of the initial decision.

### **Significant changes to the ROG system**

**3.37** Recommendations Nos 1, 4, 5, and 6 would, if implemented, significantly change the way complaints are handled within the ADF. The recommendations would result in a different system with the following essential features. All reasonable administrative solutions would be considered before a complaint was accepted as a formal grievance. Once accepted (and unable to be resolved by the CO), it would

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<sup>10</sup> See Appendix 1.

be referred to an appropriate officer (or a committee of appropriate officers) with the delegated responsibility for review and resolution. This targeted review would be the only formal internal review of the grievance. A member still dissatisfied could pursue the matter with the Defence Force Ombudsman.

**3.38** The key feature of the revised system would be the targeting of the most appropriate Redress Action Authority. Under this system the Complaint Resolution Agency would be tasked with this targeting function, in accordance with any guidance provided by the CDF and the Service Chiefs, and staffed accordingly. Except where the CDF and Service Chiefs retained the right of review, they would deal only with grievances that CRA considered were most appropriately dealt with by them, consistent with any guidance referred to above. Likewise, apart from being given a short period to resolve the complaint before it was submitted to CRA, Commanding Officers would deal only with grievances about decisions that they had authority to amend and where they had no apparent conflict of interest from association with the decision.

**3.39** The proposed changes would be consistent with the military command-based system and with the responsibility of CDF and the Service Chiefs for the resolution of members' grievances, in turn reflecting the ethos of responsibility of commanders at all levels for the men and women under their command. The proposed changes would put the onus on that system to resolve any grievances members might have. Some of the recommendations would institute mechanisms to ensure that the command system is given the opportunity and impetus to resolve members complaints before they are formally investigated.

**3.40** These recommendations would accord with the principle that command responsibility is generally delegated to the most appropriate officer without the need for reference to the most senior ranks in most cases. As outlined above, CDF or a Service Chief would become involved in a matter only if it were appropriate for the matter to be addressed at that level. Most of the grievances reviewed by the ANAO which were formally referred to a Service Chief were in practice delegated to a Brigadier (or equivalent rank) with appropriate authority and expertise. The ANAO's recommendations recognize that there is a single appropriate authority for the review of any decision and that a grievance against the decision should be delegated to that authority.

### **Need for time limits on processes**

**3.41** The time taken to process AROGs is often protracted because there are few specific time limits. If someone receives a request for information relating to an AROG they may respond immediately or they may decide

that they have higher priorities. In one instance, an Administrative Officer disagreed with the IO's report and wanted to do more work on it but did not consider it to be a high priority and informed the member of this. On other occasions personnel have responded to an IO's request for information weeks or even months after the request is made. Sometimes the response is an argument against providing any information.

**3.42** There is also no limit on the length of time after a decision becomes apparent in which a member can submit an AROG in relation to the decision. Some members wait months before they submit an AROG. Likewise some members take weeks to respond to requests to provide information supporting their AROG. These delays make the system less responsive and can cause difficulties in reviewing the case and providing redress. There would be merit in applying time limits, with provision for extension of time in particular cases if the circumstances indicate that an extension would be reasonable.

**3.43** Time limits, with allowance for extensions where appropriate, are a feature of administrative law. Defence indicated concern, however, that introduction of time limits with provision for extensions may lead to complaints about decisions on extensions. The ANAO considers the benefits of tighter and more responsive administration of grievance matters are worth pursuing both for staff morale and improved management effectiveness.

**3.44** Often a CO will give an IO 14 days to report on an AROG but even this is not achievable if witnesses, information sources or the member concerned do not respond promptly when the IO requires information. The situation is exacerbated when the IO is a junior lieutenant and the person providing the information is of a higher rank and from a different unit who feels no obligation to change work priorities to respond to a request for information for an AROG.

**3.45** The low priority that people can give to providing information relating to AROGs is seen by some members as an indication of the low level of importance the ADF places on redress of grievances. Some members complained particularly about the form letter from CRA every 28 days advising them that the AROG was not yet being investigated. An identical letter every 28 days for more than a year, for example, does not reduce the complainant's anxiety with regard to the adequacy of the ADF's handling of the complaint. The ANAO considers that regular, informative and personalised updates are an opportunity to reassure the complainant that there is someone with a particular interest in resolving the issue in a timely manner depending upon the circumstances of the matter.

## Recommendation No. 7

**3.46** The ANAO *recommends* that, to promote fairness and more effective administration in the Redress of Grievance system, the various processes regarding Applications for Redress of Grievance (including submitting and investigating AROGs and providing information and documents) be made subject to appropriate time limits, with provision for extension of time where the circumstances clearly justify such extension.

### *Defence Response*

**3.47** Agreed, with qualification. There are considerable difficulties in establishing a decision making process for extensions of time which will not itself be the subject of complaint and application for review.

**3.48** The Defence Force Ombudsman also noted that the introduction of time limits could have resource implications for his office as the failure of the Department to meet time limits could itself become the cause of complaint.

### **Performance measurement**

**3.49** There is little statistical information available to enable monitoring of the overall processing of AROGS. This means that even if time-limits are introduced, monitoring their achievement would be ad hoc without a suitable database (management information) system that can provide statistics on the time taken in the various processing steps. CRA has advised that it has been allocated funding for the acquisition of such a database. The ANAO considers that this is essential to ensure that the ROG system meets reasonable performance standards. Such a system would also allow the Department to include information in its Annual Report about the occurrence of grievances and the way the system resolves those grievances.

## Conclusion

**3.50** The ROG system is extremely slow, taking as long as three to four years to resolve some of the more difficult problems, particularly where the nature of the grievance is personal. Even where the redress is granted, sometimes it has been so long after the event that the member is not satisfied with the result. The length of time taken also causes significant distraction to the member, their peers and supervisors. Some members' careers are stalled while awaiting a decision on a matter which may affect their promotion prospects or their continuation in the Service. When it takes so long to resolve an AROG, members can also feel that the complaint is not being taken seriously.

**3.51** There are a variety of reasons for the ROG process to be so protracted. The chief cause of delay is the latitude given to all participants in the process, including the complainant, in responding to the information needs of the process. The other main reason for delay is the need, under the current system, for the AROG to be reviewed at a variety of levels, some of which cannot, or will not, have any impact on the overall resolution of the complaint. Recommendations made in this report would introduce some discipline to the process with respect to response times and streamline the review of AROGs so that the single most appropriate review is performed.

**3.52** The Defence Force Ombudsman noted that, if Defence implemented the changes to the system proposed in this report, it would need to ensure that it invested a significant effort in gaining acceptance for the changes across ADF personnel.

## 4. Fair and equitable resolution

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*This chapter examines aspects of the Redress of Grievance system that affect the ability of the system to deliver fair and equitable resolution to complaints, and also to be seen to be doing so. Features which are seen as important include transparency, consistency, independence, timeliness, accessibility and the knowledge and training of the officers involved in the resolution of Applications for Redress of Grievance.*

### **Value of the Redress of Grievance (ROG) system**

**4.1** ANAO's interviews with members and CRA personnel provided a variety of opinions on the need for the ROG system. It was said variously to be 'a morale issue'; a means of 'achieving justice'; a 'conflict resolution' system; a means of 'keeping them honest'; a 'dispute resolution' system; a means of ensuring that 'the system pays attention'; 'a last resort for desperate people'; and a system for 'having unfair decisions overturned'.

**4.2** Despite the different perceptions, the common view was that the system should provide fair and equitable resolution for the complainant and be seen by all to do so. As with any justice system, users' perceptions of the system are of considerable importance.

**4.3** For a complaints system to be perceived as fair and equitable, it needs to display transparency, consistency, independence, timeliness, accessibility and good communication. Investigating and reviewing officers need to be well-informed and have the necessary skills and training to fulfil their role.

### **Transparency**

**4.4** Transparency implies that the member has visibility of (and access to) all statements made and actions taken in the process of resolving his or her complaint. If the process is to be seen as transparent by members, it must have a reputation for producing recommendations and decisions on the basis of sound evidence and for providing ready access to that evidence to affected parties.

**4.5** Given the nature of the military command structure, members of low rank are circumspect about questioning decisions of their superiors and reluctant to ask to see the file related to their AROG.

**4.6** The relevant Defence Instruction states that *'If requested, a redress officer should provide to the member a copy of the investigation report.'* Very few members interviewed by the ANAO had seen a copy of the investigation

report on their particular AROG and only one had asked for a copy. If the ROG process is to be seen to be transparent, the investigation report should not only be available on request, but should be sent to the member as a matter of course (except in the case of a report on an investigation conducted under the Defence (Inquiry) Regulations where release of an investigation report requires Ministerial approval).

## Recommendation No. 8

**4.7** The ANAO *recommends* that, to improve the transparency of the Redress of Grievance system, a redress officer, when informing a member of the decision on his or her Application for Redress of Grievance (AROG), provide the member with a copy of the investigation report on the AROG, unless the investigation has been conducted under the Defence (Inquiry) Regulations.

### *Defence Response*

**4.8** Agreed, with qualification. Adoption of this recommendation is likely to have resource implications for the CRA since all documents that are released have to be carefully vetted to ensure Defence compliance with the Privacy Act. In addition, caution will be required when applying the recommendation to all legal advice pertaining to some complaints. In certain cases it may be appropriate to claim legal professional privilege.

## Communicating the decision

**4.9** The other aspect of transparency is to ensure that the member can understand the reason for a decision. Generally, the decision-maker has given certain weighting to the various factors involved in the decision. In some of the cases reviewed, the factors ostensibly given high weighting did not appear to have influenced the decision. For example, a particular housing policy was said to be given a high weighting even though the policy supported the member's grievance and the grievance was rejected. The use of a bureaucratic form of explanation for the decision is often of little benefit to the member who cannot necessarily see a connection between the factors that have purported to have led to the decision and the decision itself. A member who cannot understand how a particular decision has been arrived at is more likely to think a mistake and/or injustice has occurred or that something is being withheld and to pursue the matter further. If the ROG system is to present an appearance of providing fair and equitable decisions, the reasons for making the decisions, and the judgments and assumptions supporting them, should be explained clearly to the member.

## Recommendation No.9

**4.10** The ANAO *recommends* that personnel responsible for deciding grievances explain clearly the reasons for their decision on an AROG to help the member understand the factors considered in reaching the decision.

### *Defence Response*

**4.11** Agreed.

### **Consistency**

**4.12** If members are to view the system as fair, like cases should produce like results. No two cases are likely to be identical but this should not be a reason to justify different treatment in similar circumstances. The ANAO found some significant differences in the treatment of similar cases but was told that the differences arose from differences in context. The ANAO acknowledges that the context varies in similar cases but often this variation does not justify ignoring decisions made in similar cases previously, particularly in the interests of fair play and confidence in the system.

**4.13** There is no system for advising decision-makers of the decisions made previously in similar cases or of the reasons for those decisions. One of the reasons for this is privacy. The Defence Instruction states:

*15. Privacy of Other Members. A member who wishes to quote another member's circumstances as a precedent for a complaint is not to identify that member without the permission of that member, unless the case has been given wide publicity and is known as a precedent case.*

AROG cases are not given wide publicity unless they have been unsuccessful and the member has pursued the case with the DFO, the Minister and the media. This restricts the ability of decision-makers to use precedents, particularly as members, once they have been through the long and often torturous ROG process, generally do not want to be involved in any way in another member's case.

**4.14** In one case the Soldier Career Management Agency (SCMA) was asked for the reasons for deciding to retain a particular member in the Army after he was given notice of discharge for drug use. It was hoped to use this information as a precedent in another case. SCMA sought advice from the Director, Army Legal Service and commented that *'I am concerned about the additional administrative burden on SCMA should each Discharge Authority be required to refer to other members' particular cases.'* He said that the request for information about a case for use in another case *'creates a precedence that actually detracts from the merits of an individual's*



case. *I believe that the issue should be proof of consistency in the application of policy, not a comparison of the merits of each individual.*' Reluctance to provide information on other cases puts members unable to cite relevant cases at a disadvantage when arguing their own case.

**4.15** It is generally accepted that precedent should be an important part of any formal review process. *'The doctrine of precedent ... is no more than a refined and formalised example of the normal decision-making process which seeks to avoid arbitrariness and to promote certainty and consistency.'*<sup>11</sup> To achieve this consistency and certainty, similar cases must be identified and analysed to decide whether there are grounds for applying a precedent from an earlier case.

**4.16** The system makes little provision for a case to set a precedent, as the details of decisions are not promulgated. Without a system for advising redress officers, Redress Action Authorities (RAAs) and investigating officers (IOs) of the details and results of previous AROGs, there is little chance of precedents being available to ensure consistency in the treatment of like grievances.

**4.17** Nor is there any repository of information about past cases. CRA has a database recording some details of cases that have progressed to Service Chief level. The details in this database are limited and do not provide sufficient analysis of the reasons for deciding in any particular case. It is therefore of little precedent value in deciding current cases.

**4.18** Establishment of a database of grievances would be a considerable adjunct to the ability of the ROG system to deal with grievances consistently. It could be made available to redress officers, RAAs and IOs. Subject to cost-effectiveness considerations, a database could record information on significant complaints, the circumstances, the redress sought, the decision made and the reason for the decision without details that could enable the complainant to be identified. The US Defense Office of Hearings and Appeals provides outlines of cases and decisions on the internet<sup>12</sup> in detail sufficient for use as precedents.

## Recommendation No.10

**4.19** The ANAO *recommends* that, to promote consistency in the treatment of Applications for Redress of Grievance (AROGs), the Complaint Resolution Agency establish (subject to cost-effectiveness

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<sup>11</sup> *Laying Down the Law*, Morris, G. et al Butterworths, Sydney, 1988 p. 35

<sup>12</sup> <http://www.defenselink.mil/dodgc/doha>

considerations) a database of AROGs that would record the salient details of significant cases without disclosing the identity of individual complainants to users of the database outside the CRA.

### *Defence Response*

**4.20** Agreed. This will be done following installation of the database identified by CRA and for which funding has been made available.

### **Independence**

**4.21** The ROG system is perceived to incorporate independent review of a complaint if the redress officer and IO have nothing personally invested in the decision in question. The relevant Defence Instruction, as noted above<sup>13</sup>, provides that the CO is the initial level of review of a redress, even if the CO is the subject of the complaint. The CO is thus responsible for referring the matter to another officer for investigation. Members may see that any involvement by the CO at all in such a situation is prejudicial to their interests. Any arguments that may be put by the member may be constrained by the knowledge that the CO will read them. The member may feel that the CO could choose to refer the complaint to an officer he knows would not be sympathetic to the member's point of view.

**4.22** If the CO's responsibilities were concluded once the member had submitted an AROG, after using all reasonable methods to resolve the complaint at a local level, and the AROG were required to be submitted to CRA if the CO was unable to resolve it in a short period, there would be little reason for the member to perceive a lack of independence. Implementation of recommendations made elsewhere in this report would give members confidence that, once they had formalised their grievance and submitted it to CRA through their CO, it would be dealt with by someone who had no vested interest in the outcome.

### **Timeliness**

**4.23** Delays in resolving AROGs, particularly those that are time-critical, can cause members to feel they are being treated unfairly even if they eventually get the result they want. For the ROG system to be regarded as fair and equitable, complaints need to be resolved in good time. As noted earlier, delays in the system are endemic and it is not unusual for a relatively simple administrative matter to take a year to be resolved.

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<sup>13</sup> Paragraph 3.22

**4.24** Implementation of the recommendations made in this report regarding the introduction of time frames and the streamlining of processing would improve the timeliness with which AROGs are resolved.

### **Accessibility**

**4.25** The ROG system is intended to be available to members at all levels. This should not be dependent on the training and experience of members. The ANAO's interviews indicated that officers were generally aware of the ROG system and the way to access it but that the lower ranks were not. Many of the members interviewed who held rank equivalent to private had not heard of the ROG system or were unclear about it. Likewise many of them had little or no knowledge of the existence or role of the DFO.

**4.26** Many members who said they had had cause to find out about the ROG system had found the Defence Instruction, as the basic resource, difficult to follow. There is no user-friendly document that provides an overview of the complaint process and the ROG system. The level of awareness of the system also differs between Services. In general, Air Force members at all ranks are more aware of the ROG system and what it can do for them than their equivalents in Army and Navy. If the ADF is to provide equal access to the ROG system to all members it needs to be better publicised. Brochures could provide a plain-language guide on how to submit and pursue a complaint. Responsibility for ensuring that all members are equally aware of the facility provided by the complaint system should rest with those areas that provide guidance to members on personnel matters, such as Army's Soldier Career Management Agency.

**4.27** The MPRA has produced a brochure on the APS grievance procedure which is freely available and which explains the main features of the APS grievance procedure in more usable form than the relevant legislation. The Defence Force Ombudsman has also produced a brochure on its role in the ADF Grievance process but there is no such brochure to explain the ROG system to members who may be considering whether they need to use it or not.

## **Recommendation No.11**

**4.28** The ANAO *recommends* that, to help make the Redress of Grievance (ROG) system accessible to all members, the Australian Defence Force publicise widely the general complaints procedure and also provide a brochure on the ROG system for the information of members proposing to make a formal complaint.

## *Defence Response*

**4.29** Agreed.

### **Well-informed decisions**

**4.30** For a complaints system to be fair and equitable, decisions on complaints must be made on the basis of good understanding of procedural fairness (see Glossary) and the facts of the case. The ANAO's review of cases found that this has not always occurred. The main point of weakness was where the IO at unit level lacked experience in handling formal complaints or any specific knowledge of the subject area of the complaint.

**4.31** Recommendation No.5 proposed that the CRA be able to provide advice on the selection of Investigation Officers. It also proposed that CRA assess the requirements of a Redress Officer and RAA. Implementation of this recommendation would help reduce weaknesses of the kind found in the review of cases.

### **Skills and training**

**4.32** As noted above there is limited awareness of the ROG system. Some non-commissioned officers indicated that they had some brief introduction to the ROG system during recruit training but they could not remember anything about the system. Others had not heard of the system. Likewise officers who may have some responsibility for assisting their personnel with submitting a complaint or who may have to act as IO generally could not recall any training on the system.

**4.33** If the ROG system is to be seen to function fairly, members who are occasionally called on to advise or who play an active role in processing AROGs must be seen to have a good understanding of the system. CRA should have responsibility for ensuring that any member who becomes involved in assisting with or processing AROGs has a thorough understanding of the system. The role played by the Inspector-General Division in promoting fraud awareness and prevention could be a model on which to base an education program on the ROG system and the way investigations should be conducted and reported. Such a program could provide models of the various documents that need to be prepared during the processing of an AROG. Models could be prepared from actual case documents that had met their objectives effectively. IOs also need to be aware of the potential for advice to be obtained from DFO, particularly in relation to matters of procedural fairness, and should be advised of this resource.

## Recommendation No. 12

**4.34** The ANAO *recommends* that, to enhance the skills of personnel involved in advising on complaints and processing Applications for Redress of Grievance (AROGs), Defence develop a strategy to ensure that all personnel involved in processing AROGs are adequately trained in the process, with ready access to resource materials on complaints handling and any model documents needed in submitting and processing AROGs.

### *Defence Response*

**4.35** Agreed, with qualification. The recommendation has resource implications and there are some practical difficulties envisaged in implementation, such as the provision of “model” documents, given the unique nature of individual complaints. These matters will require further study by Defence.

## Conclusion

**4.36** From a user’s point of view, the value of a complaints system is directly related to their perception that it will provide a fair and equitable response to their complaints. If the users of the system feel that their complaints are not being taken seriously, or that the complaint system is merely a mechanism to support management decisions, they will regard the system with suspicion, which will add to any disillusionment or disenchantment they may already feel.

**4.37** From a management point of view, a complaints system should deal with complaints expeditiously and objectively, providing a fair response in a timely manner. It is also in management’s interests to be seen to be providing a just and effective system to look after the well-being of staff and instill confidence in their environment.

**4.38** Many members were unaware of the system or knew little about it. Many of those that had used the system or looked at the relevant Instruction had difficulty understanding what was required. Some members interviewed by the ANAO were concerned that they may be adversely affected if they were to submit an AROG against a decision of a superior officer. Others said that they would be willing to submit an AROG if they considered the matter were serious enough, but they were generally not convinced that they would be treated fairly.

**4.39** Members who had experience of the system were mostly concerned about the length of time taken to resolve an AROG. Other

problems mentioned related to the lack of consistency in the system as well as a lack of transparency. The audit review of cases supported these comments to some extent although a number of members were quite positive about the system, particularly where the matter had been resolved in their favour. The ANAO also identified problems with the training and experience of investigating officers. Recommendations aim to make the system more transparent and to provide consistency in decisions. They also address the problem of accessibility and propose improvements in training investigating officers and others involved in the processing of AROGs.

## 5. Other ROG system issues

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*This chapter covers miscellaneous management issues concerning the ROG system. They include: lack of a database to provide important policy implications from AROGs submitted; the cost of processing AROGs and the need to avoid duplication of investigation work; confidentiality of AROGs and the staffing of CRA.*

### **AROGs as prompts to improve Defence policy and procedure**

**5.1** The audit focused on ways of improving the ROG system, which is necessarily a reactive casework system. But the efficiency of an organisation's complaints-handling system ultimately depends on the organisation having, and using, a capacity to learn from experience and to avoid similar complaints. Apart from its primary function as a complaint resolution mechanism, the ROG system may be a valuable source of information regarding the functioning of Defence procedures and systems. This information could help avoid future complaints. Many of the complaints pursued through the ROG system are specific to individual circumstances but several of those reviewed by the ANAO appeared to have ramifications beyond the boundaries of the specific complaint.

**5.2** For example, one of the complaints reviewed related to the policy that allows married members posted (transferred) to another position in the same locality (a 'back-to-back posting') to continue to reside in the married quarters they occupied during the first posting even though their second posting may have moved them out of the regional housing area. An officer posted to Randwick and then Holsworthy would be allowed to stay in his/her married quarters in Sydney's eastern suburbs under this policy. The policy indicates that this would be at the member's request but it is not clear whether the Service can set aside this request if it has a pressing need to reclaim the married quarters for a member currently serving at Randwick. The ROG system should flag a policy anomaly, such as this, as soon as it arises. The Defence Instruction provides as follows:

#### ***Deficiencies in Legislation, Policies or Procedures***

*48. Where, in the course of consideration of a complaint, a redress officer or RAA becomes aware of anomalies or deficiencies in legislation, policy or procedures, they should notify the relevant area of the Service of the deficiencies or anomalies. In the event that an ROG has been submitted against a defective policy, it is reasonable for the complainant to agree to the ROG being suspended whilst the administrative avenues of redress are pursued.*

**5.3** Except in cases where it was essential to resolve the policy issue before it was possible to resolve the AROG, the ANAO did not find any evidence that a redress officer or RAA had advised the relevant area that a policy or procedure needed to be changed. This may have been done informally but there does not appear to be a system for ensuring that the relevant policy area has been notified when such an issue arises. The ANAO suggests that a ‘sign-off’ by the redress officer or RAA for an AROG that specifically asks whether the relevant area in Defence has been advised of the need to review any legislation, policy or procedures would help to ensure that the broader implications of particular AROGs were dealt with. This should be accompanied by procedures to follow-up action taken to conduct such a review.

**5.4** Defence has advised that a database will be established which will have a facility for monitoring trends and obtaining proper statistics. This database will ensure that the information necessary to initiate a policy review will be available but the Department still needs to make sure that relevant trends and issues are referred to the appropriate areas.<sup>14</sup> It may also be helpful if a mechanism were introduced which provided for CRA to be informed of the response to the issues it passes on, including whether any recommendations have been accepted or rejected.

## **Recommendations No. 13**

**5.5** The ANAO *recommends* that Defence ensure that relevant areas of the department are advised of the need to review legislation, policy or procedures if such a need becomes apparent during consideration of an AROG and that there is a follow-up on action taken to conduct such a review.

### *Defence Response*

**5.6** Agreed. The CRA currently endeavors to monitor this issue and to refer appropriate matters for staff action.

### **Performance indicators**

**5.7** In addition to reporting on individual complaints, CRA should report on its overall activities in the interests of accountability for use of its resources and should have information facilities for this purpose. The

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<sup>14</sup> The report *Serving Australia: the Australian Defence Force in the Twenty First Century* (the ‘Glenn report’) 1995 recommended, inter alia, a separate avenue for complaints involving policy changes (report p235). As a result, consideration was given to establishing a strategic policy group to advise the Chief of the Defence Force. The ANAO understands that this did not proceed but that the Complaints Resolution Agency was formed in response to the report’s comments on complaints.



number of complaints resolved and unresolved, the average length of time to resolve complaints, the cost of operating the ROG system and the level of resolution of complaints are all informative performance indicators that could be reported periodically to allow ADF management to monitor the effectiveness of the ROG system. This system could also be used to report to the Chief of the Defence Force (CDF) and the Service Chiefs on the grievances processed and provide feedback on the operation of the directions issued to classify and deal with the various types of grievance.

### **Cost of processing AROGs and extra investigation for CDF**

**5.8** As noted earlier in this report there are significant costs associated with the ROG system in terms of time lost and distraction of military personnel from their primary work. AROGs can also consume considerable resources in undertaking the various processes involved in their resolution.<sup>15</sup> Redress officers, RAAs, investigating officers, legal resources and those personnel involved in supplying information about the subject matter of the grievance are all expensive resources. Some of the files reviewed by the ANAO comprised a number of parts and hundreds of pages, including minutes and reports from senior officers. The ANAO attempted to cost the processing of some of these AROGs but found there was insufficient evidence available. By the time an AROG reaches CDF it has involved a large number of members at a variety of ranks. Although most of the personnel involved in investigating and resolving an AROG are permanent military officers, and therefore could be said to represent a sunk cost, the additional workload placed on these personnel can result in a real 'opportunity' cost to the ADF.

**5.9** This cost comes about in two ways: firstly, because the additional stress placed on these personnel can result in inefficient practices and errors; and secondly, because they are liable to try and pass on some of their workload to subordinates which may eventually result in work being passed on to reserve personnel who may not otherwise need to be paid. Additionally, in many cases the Investigating Officer (IO) will be a Reserve Officer, who may also involve an additional variable cost.

**5.10** Since processing an AROG can be expensive, costs should be kept as low as possible as part of achieving an equitable outcome. Some of the recommendations made earlier in this report are designed to achieve that end. A particular cost that could be saved concerns the additional investigation on AROGs referred to CDF. When an AROG is to be referred to CDF, CRA organises another investigation. This is often the

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<sup>15</sup> See paragraph 1.16.

third investigation of the AROG, reviewing the same information that was available initially. There seems no need for an additional investigation just because the AROG is to be referred to CDF, unless the first investigation has not covered all of the relevant issues. In that case it should be redone and the decision reviewed by the original decision-maker. (This should not be confused with a situation where new information comes to light which could cause a reconsideration of the grievance by a Redress Action Authority and which may necessitate further investigation.)

### **Confidentiality**

**5.11** In the ANAO's interviews, many members expressed concern that the substance of their AROGs had become common knowledge within the unit even though they had not disclosed it to their colleagues. Other members had become aware of an AROG through conversations overheard in corridors, orderly room discussions, and/or mess talk. It should be of concern to all parties that the details of sensitive disputes can become a matter of common gossip. The ANAO did not seek to identify the sources of these unauthorised disclosures of AROGs but notes that many members at all levels believe that members who submit AROGs are just 'whingeing', with the pressure/conflicts that such attitudes can involve.

**5.12** The ANAO draws the Department's attention to a need to ensure the confidentiality of personnel matters, particularly at a unit level.

### **Staffing of Complaint Resolution Agency**

**5.13** CRA is currently staffed on a single Service basis (Army provides personnel to process Army AROGs, Air Force provides personnel to process Air Force AROGS etc). This means that if the backlog of Air Force AROGs is significantly longer than the backlog of Army AROGs, the Director of CRA (DCRA) is not able to deploy Army personnel to process the Air Force AROGs. This reduces the ability of CRA to manage the risks associated with delays in resolution of AROGs. For example, if there are a number of high-risk AROGs in Air Force, DCRA is not in a position to move resources to deal with them. If CRA were staffed on a tri-Service basis, DCRA would be able to manage the investigation and resolution of AROGs more effectively.

## Recommendation No.14

**5.14** The ANAO *recommends* that, to provide flexibility to the Director of the Complaint Resolution Agency (CRA) to assign staff to the highest priority work, irrespective of the Service which the work originated from, the CRA be staffed on a tri-Service basis.

### *Defence Response*

**5.15** Agreed.

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A handwritten signature in black ink, appearing to read 'P. J. Barrett', is positioned above the printed name and title.

Canberra ACT  
10 June 1999

P. J. Barrett  
Auditor-General



# Appendices



## Appendix 1

### Abbreviations/Glossary

<b>ADF.</b>	Australian Defence Force.
<b>Administrative resolution.</b>	Resolving a complaint without using the ROG system through research and application of the relevant rules and procedures.
<b>ANAO.</b>	Australian National Audit Office.
<b>Application for Redress of Grievance (AROG).</b>	A formal complaint submitted to the member's CO detailing the precise nature of the grievance, the redress sought and the grounds on which the member bases the AROG.
<b>CAF.</b>	Chief of Air Force.
<b>CDF.</b>	Chief of the Defence Force.
<b>CO.</b>	Commanding Officer.
<b>Complainant.</b>	Individual member submitting a complaint.
<b>Complaint Resolution Agency (CRA).</b>	The Military Redress Section of the CRA is responsible for investigating and processing AROGs to the relevant Service Chief or their delegate and CDF. The Complaints Resolution Section is responsible for processing Australian Public Service Grievances in the ACT region, and complaints referred by the Defence Force Ombudsman and the Human Rights and Equal Opportunity Commission.
<b>Defence Force Ombudsman (DFO).</b>	Investigates complaints, from current and former members of the ADF and their dependants, about the ADF relating to or arising from past or present service. The DFO is also the Commonwealth Ombudsman.
<b>Defence Personnel Executive (DPE).</b>	Assists the Secretary to the Department of Defence, CDF and the three Service Chiefs in the discharge of their command and administrative responsibilities in relation to ADF military and civilian personnel.
<b>Directorate of Sailor Career Management (DSCM).</b>	Implement manning and Career Management policy for sailors including postings, promotions, re-enlistments, discharges, transfer or branch, record of training and employment and personnel records.

<b>*Grievance.</b>	The real or perceived ground of the AROG.
<b>Investigating Officer (IO).</b>	Responsible for investigating a grievance and preparing a written report.
<b>Merit Protection and Review Agency (MPRA).</b>	An independent administrative review body responsible for the external review of decisions and actions affecting Commonwealth public sector employees in relation to their employment.
<b>Procedural fairness (natural justice).</b>	Applies to any official who makes a decision under a statute that affects the rights, property or interests of an identifiable person. It requires the official, when making such a decision, to comply with basic recognised procedures to ensure fairness in decision-making. In summary these are: to act fairly, in good faith, without bias and without connections that suggest bias; to give all affected persons a real chance to put forward their version of the facts and their consequences; to alert them to material which the official knows is adverse to an affected person; and to give them the opportunity of comment on adverse findings that may later be made about them or their interests.
<b>* Redress.</b>	Provision of a remedy, correction, relief or adjustment.
<b>* Redress Action Authority (RAA).</b>	Person who has the authority or power to take the action required to redress the grievance.
<b>Redress of Grievance (ROG) system.</b>	System by which a member of the ADF with a grievance concerning a matter relating to their service may make a formal complaint to their CO. The system consists of four levels of review: CO, Service Chief, CDF (for officers and warrant officers) and DFO.
<b>* Redress Officer.</b>	Officer who has the responsibility for investigating (or causing to be investigated) a grievance and deciding that the member has, has not or may have grounds for complaint.
<b>Return of Service Obligation (ROSO).</b>	Obligation on a member of the ADF to deliver a period of effective service to the ADF.



<b>Service Chief.</b>	Chief of Army, Chief of Navy or Chief of Air Force for each of the three Services or, for joint-service units, the Vice Chief of the Defence Force
<b>Soldier Career Management Agency (SCMA).</b>	Implement manning and Career Management policy for soldiers including postings, promotions, re-enlistments, discharges, transfer or branch, record of training and employment and personnel records.
<b>Statement of Reasons (SOR).</b>	Step-by-step explanation of the process that has been followed in reaching a decision.

\* As defined in Defence Instruction (General) Personnel 34-1

## Appendix 2

# Defence Force Regulations<sup>16</sup>

## Part XV—Redress of Grievances

### 74 Interpretation

- (1) In this Part, unless the contrary intention appears, complaint means a complaint made under subregulation 75 (1).
- (2) In this Part, a reference to the referral of a complaint is a reference to the referral of the complaint under this Part.

### 75 Making of complaint

- (1) Subject to this Part, where a member considers that he or she has a grievance concerning any matter relating to his or her service, the member may make a complaint to his or her commanding officer.
- (2) A complaint shall be in writing.

### 76 Referral of complaint

- (1) Subject to subregulation (2), if a member is not satisfied with the decision of a commanding officer on a complaint, the member may refer the complaint:
  - (a) in the case of a member of the Navy—to the Chief of Navy;  
or
  - (b) in the case of a member of the Army—to the Chief of Army;  
or
  - (c) in the case of a member of the Air Force—to the Chief of Air Force.
- (2) If:
  - (a) the complaint relates to service by the member:
    - (i) in a unit or an organisation that is responsible directly to Headquarters Australian Defence Force and comprises personnel drawn from more than one arm of the Defence Force; or
    - (ii) in Headquarters Australian Defence Force; and
  - (b) the complaint is not connected only with the member's own arm of the Defence Force;  
the complaint must be referred to the Vice Chief of the Defence Force.

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<sup>16</sup> Made under the *Defence Act 1903*.

**77 Investigating and reporting outcome of complaint**

An officer to whom a complaint is made under subregulation 75 (1) or referred under regulation 76, must:

- (a) investigate the complaint without delay or cause it to be investigated without delay; and
- (b) notify the member of the results of the investigation without delay.

**78** (repealed 1995 No. 69)

**79 Further referral of officers' complaints**

- (1) In this regulation, officer includes warrant officer.
- (2) If an officer is not satisfied with the result of a referral under regulation 76, the officer may refer the matter to the Chief of the Defence Force.

**80 Offences in relation to complaints**

A member shall not:

- (a) prevent or dissuade, or attempt to prevent or dissuade, any member from making a complaint or from requesting the referral of a complaint;
- (b) prevent or dissuade, or attempt to prevent or dissuade, a member from investigating a complaint, referring a complaint, redressing a grievance or taking any other action in relation to this Part; or
- (c) cause a member to be victimised, penalised or in any way prejudiced for making a complaint or requesting the referral of a complaint.

Penalty: \$500 or imprisonment for 3 months.

## 81 Delegations

- (1A) The holder of the office of Chief of the Defence Force or Vice Chief of the Defence Force may, by instrument, delegate all or any of the powers of that office under this Part, other than this power of delegation, to any of the following officers:
- (a) an officer of the Navy not below the rank of Commodore;
  - (b) an officer of the Army not below the rank of Brigadier;
  - (c) an officer of the Air Force not below the rank of Air Commodore.
- (1) A service chief may, by instrument, delegate to:
- (a) in the case of the Chief of Navy—an officer of the Navy who holds a rank not below the rank of Commodore;
  - (b) in the case of the Chief of Army—an officer of the Army who holds a rank not below the rank of Brigadier; or
  - (c) in the case of the Chief of Air Force—an officer of the Air Force who holds a rank not below the rank of Air Commodore; all or any of the powers of the service chief under this Part, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall for the purposes of this Part, be deemed to have been exercised by the person delegating the power.
- (3) A delegation under subregulation (1) does not prevent the exercise of power delegated by the person delegating the power.

## 82 Grievances to which this Part does not apply

Nothing in this Part authorises a member to make a complaint in relation to:

- (a) the member being aggrieved by a decision, judgement or order made by a civil or criminal court, a service tribunal or the Defence Force Discipline Appeal Tribunal; or
- (b) a liability arising under section 15 or 42 of the *Financial Management and Accountability Act 1997*.

## Appendix 3

### Resolved AROGs in the audit sample

Of the 100 AROGs in the sample used in the ANAO audit, 73 had been resolved. These AROGs were divided into three categories: discharge (Table A3.1), administrative (Table A3.2) and personal (Table A3.3).

**Table A3.1**

**Time to resolution of Applications for Redress of Grievance (AROGs) concerning a discharge decision.**

	<i>Service</i>	<i>Rank</i>	<i>Reason for Discharge</i>	<i>Final Level of Review</i>	<i>Final Decision</i>	<i>Time to Resolution</i>
1	Army	WO2	Criminal Convictions	Service Chief (d)	Not upheld	476 days
2	Army	PTE	Drug Use	Service Chief (d)	Upheld	431 days
3	Army	PTE	Medical grounds	Service Chief (d)	Not upheld	409 days
4	Air Force	CPL	Medical grounds	Service Chief	Not upheld	399 days
5	Air Force	SGT	Medical grounds	Service Chief	Not upheld	345 days
6	Army	TPR	Conduct (alcohol-related)	Commanding Officer	Not upheld	343 days
7	Army	SCDT	Medical grounds	Commanding Officer	Upheld	302 days
8	Navy	ABWTR	Medical grounds	Service Chief (d)	Not upheld	238 days
9	Army	SCDT	Inferior performance	Service Chief (d)	Not upheld	223 days
10	Navy	MIDN	Inferior performance	Service Chief	Upheld	213 days
11	Navy	ABET	Drug use	Service Chief (d)	Not upheld	210 days
12	Navy	SMNBM	Inferior performance	Service Chief	Not upheld	177 days
13	Navy	ABMTP	Non-approval to re-enlist	CRA Investigation	Upheld	158 days
14	Navy	ABMTP	Non-approval to re-enlist	Service Chief (d)	Not upheld	143 days
15	Army	PTE	Criminal convictions	Commanding Officer	Upheld	134 days
16	Navy	SMNMT	Drug use	Service Chief (d)	Upheld	126 days
17	Air Force	ACW	Inferior performance	Service Chief	Not upheld	124 days
18	Navy	ABBM	Drug use	Service Chief (d)	Not upheld	122 days
19	Air Force	AC	Inferior performance	Service Chief	Not upheld	113 days
20	Navy	ABMT	Drug use	Service Chief (d)	Not upheld	94 days

Source: Derived from the sample of resolved AROGs reviewed by the ANAO.

Notes: In 'Final Level of Review':

1. 'Service Chief (d)' indicates a delegate of the Service Chief.
2. 'CRA Investigation' indicates that the AROG was resolved before submission to the Service Chief.

**Table A3.2****Time to resolution of Applications for Redress of Grievance (AROGs) concerning administrative matters.**

	<i>Service</i>	<i>Rank</i>	<i>Topic of AROG</i>	<i>Final Level of Review</i>	<i>Final Decision</i>	<i>Time to Resolution</i>
1	Air Force	FSGT	Promotion	Service Chief	Not upheld	846 days
2	Army	COL	Educational Assistance	CDF	Upheld (p)	809 days
3	Army	MAJ	Housing Allowance	CDF	Not upheld	720 days
4	Air Force	SQNLDR	Pilot Retention Bonus	Service Chief (d)	Not upheld	718 days
5	Air Force	FLTLT	Extension of Appointment	CDF	Upheld (p)	699 days
6	Army	WO2	Medical Assessment	N/A	Withdrawn	686 days
7	Army	CPL	Removal	Service Chief (d)	Upheld	669 days
8	Army	MAJ	Living Out Allowance	CDF	Not upheld	610 days
9	Navy	LCDR	Married Quarters Repairs	N/A	Withdrawn	510 days
10	Air Force	FLGOFF	Return of Service Obligation	RAA	Upheld (p)	509 days
11	Air Force	SQNLDR	Return of Service Obligation	CDF	Not upheld	467 days
12	Army	LT	Salary	Service Chief (d)	Not upheld	454 days
13	Army	CFN	Return of Service Obligation	Service Chief	Not upheld	446 days
14	Navy	POET	Married Quarters Repairs	Service Chief (d)	Not upheld	421 days
15	Navy	LSMUSN	Redundancy Payout	Service Chief (d)	Not upheld	408 days
16	Army	CPL	Standard of Accommodation	Service Chief (d)	Not upheld	387 days
17	Navy	CMDR	Flying Allowance	Service Chief (d)	Upheld (p)	345 days
18	Air Force	CPL	Retention Benefit	CRA Investigation	Upheld	325 days
19	Navy	PONPC	Married Quarters Repairs	Service Chief (d)	Upheld (p)	322 days
20	Air Force	LAC	Living In Policy	Service Chief (d)	Upheld	301 days
21	Air Force	SGT	Promotion	Service Chief	Upheld	299 days
22	Navy	ABWTR	Full Time Service Contract	Service Chief (d)	Upheld	267 days
23	Navy	POPT	Posting	Service Chief (d)	Not upheld	204 days

	<b>Service</b>	<b>Rank</b>	<b>Topic of AROG</b>	<b>Final Level of Review</b>	<b>Final Decision</b>	<b>Time to Resolution</b>
24	Navy	ABET	Posting	Service Chief (d)	Not upheld	178 days
25	Army	CAPT	Married Quarters Retention	N/A	Withdrawn	177 days
26	Navy	AMPH	Transfer of Branch	Service Chief (d)	Upheld (p)	167 days
27	Air Force	FSGT	Travel Costs	CRA Investigation	Upheld	152 days
28	Army	SGT	Posting	Service Chief (d)	Not upheld	136 days
29	Army	COL	Salary	RAA	Upheld	112 days
30	Army	TPR	Educational Assistance/ Annual Commitment Bonus	Commanding Officer	Upheld	91 days
31	Air Force	WOFF	Vehicle Allowance	CRA Investigation	Upheld	76 days
32	Air Force	FSGT	Removal	CRA Investigation	Not upheld	73 days
33	Air Force	LAC	Promotion	Commanding Officer	Not upheld	72 days
34	Army	SPR	Compassionate Travel	Commanding Officer	Upheld	61 days
35	Air Force	SQNLDR	Extension of Appointment	RAA	Not upheld	49 days
36	Army	CAPT	Living Out Allowance	Commanding Officer	Not upheld	46 days
37	Air Force	CPL	Medical Treatment	Commanding Officer	Upheld (p)	38 days
38	Air Force	CPL	Posting	Commanding Officer	Not upheld	21 days
39	Army	SGT	Removal	Unit Investigation	Upheld	11 days

Source: Derived from the sample of resolved AROGs reviewed by the ANAO.

Notes: In 'Final Level of Review':

1. Service Chief (d) indicates a delegate of the Service Chief.
2. CRA Investigation indicates that the AROG was resolved before submission to the Service Chief.
3. Unit Investigation indicates that the AROG was resolved before submission to the Commanding Officer.

**Table A3.3****Time to resolution of Applications for Redress of Grievance (AROGs) concerning personal matters.**

	<b>Service</b>	<b>Rank</b>	<b>Topic of AROG</b>	<b>Final Level of Review</b>	<b>Final Decision</b>	<b>Time to Resolution</b>
1	Navy	LEUT	Performance Assessment	CDF	Not upheld	1154 days
2	Army	MAJ	Allegations against member	CDF	Not upheld	1115 days
3	Army	WO2	Performance Assessment	CDF	Upheld (p)	899 days
4	Army	WO2	Harassment	CDF	Upheld (p)	899 days
5	Army	MAJ	Performance Assessment	CDF	Not upheld	817 days
6	Army	SGT	Harassment / Mismanagement	Service Chief (d)	Not upheld	493 days
7	Navy	SBLT	Performance Assessment	CDF	Not upheld	467 days
8	Navy	POWTR	Performance Assessment	CDF	Not upheld	410 days
9	Air Force	CPL	Defamatory comments	N/A	Withdrawn	277 days
10	Air Force	SGT	Harassment	CRA Investigation	Upheld	134 days
11	Army	SGT	Performance Assessment	Commanding Officer	Upheld	84 days
12	Air Force	CPL	Defamatory comments	N/A	Withdrawn	69 days
13	Air Force	LTCOL	Defamatory comments	Service Chief	Not upheld	61 days
14	Navy	CPOMT	Performance Assessment	RAA	Upheld	29 days

Source: Derived from the sample of resolved AROGs reviewed by the ANAO.

Notes: In 'Final Level of Review':

1. Service Chief (d) indicates a delegate of the Service Chief.
2. CRA Investigation indicates that the AROG was resolved before submission to the Service Chief.



## Appendix 4

### Performance audits in the Department of Defence

Set out below are the titles of the ANAO's performance audit reports in the Department of Defence tabled in the Parliament in recent years.

Audit Report No.5 1993–94  
*Explosive Ordnance*

Audit Report No.11 1993–94  
*ANZAC Ship Project—Monitoring and Contracting*

Audit Report No.19 1993–94  
*Defence Computer Environment Supply Systems Redevelopment Project*

Audit Report No.27 1993–94  
*US Foreign Military Sales Program Explosives Factory Maribyrnong*

Audit Report No.2 1994–95  
*Management of Army Training Areas Acquisition of F–111 Aircraft*

Audit Report No.13 1994–95  
*ADF Housing Assistance*

Audit Report No.25 1994–95  
*ADF Living-in Accommodation*

Audit Report No.29 1994–95  
*Energy Management in Defence ANZAC Ship Project Contract Amendments Overseas Visits by Defence Officers*

Audit Report No. 31 1994–95  
*Defence Contracting*

Audit Report No.8 1995–96  
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