

**NEW ZEALAND  
DEFENCE FORCE**  
TE OPE KAATUA O AOTEAROA



The Report of the Court of Inquiry into Conditions of Service prescribed for members of the Armed Forces seconded to the United Nations has been disclosed by authority of the Chief of Defence Force in accordance with Armed Forces Discipline Rule of Procedure 159.

A Court of Inquiry is a legally constituted fact-finding body which is assembled under the Armed Forces Discipline Act 1971, s 200. It has the power to summons witnesses, evidence given before it is generally on oath and contempt of its proceedings is an offence. It does not, however, make findings of guilt or blame and it has no power to punish. Courts of Inquiry are particularly used to investigate events which could affect future operations, both inside and beyond New Zealand. Courts of Inquiry provide a speedy and effective method by which the causes of such events can be ascertained, so that action can be taken to avoid a repetition of the event. It should be noted, however, that the report of a Court of Inquiry is purely the expression of the opinion of the Court based on the evidence it has heard. Accordingly any of the findings of the Court which may affect individuals outside of the NZDF cannot be regarded as definitive until they have had the opportunity to be heard on the matter. For rules relating to Proceedings of Courts of Inquiry see Armed Forces Discipline Rules of Procedure Part XIV.

The report of the court of inquiry commences at page 86 of the record of proceedings. Witness statements are not releasable in accordance with Official Information Act 1982. Preliminary and procedural documents have not been included at this time.



# NEW ZEALAND DEFENCE FORCE

*Te Ope Kaatua o Aotearoa*

HEADQUARTERS NEW ZEALAND DEFENCE FORCE

Private Bag, Wellington, New Zealand

Telephone: (04) 496 0999, Facsimile: (04) 496 0869, Email: hqnzdf@nzdf.mil.nz

5202/DLS/Housing Allowance

21 August 2008

**Minister of Defence**

## **ASSEMBLING AUTHORITY'S COMMENTS - COURT OF INQUIRY INTO CONDITIONS OF SERVICE PRESCRIBED FOR MEMBERS OF THE ARMED FORCES SECONDED TO THE UNITED NATIONS**

1. I have now considered the Court of Inquiry into Conditions of Service Prescribed for Members of the Armed Forces Seconded to the United Nations. The Report of the Court of Inquiry has been supplemented by additional statements and interviews, conducted by me, from the Vice Chief of Defence Force and other officers to clarify their knowledge and involvement with this matter. The issue, at its simplest, is that four officers have ticked a box indicating that they were not in receipt of accommodation assistance from New Zealand while seconded to staff officer positions in United Nations Headquarters, when in fact they were, or knew that they would be. To understand these actions the issue has to be approached holistically if we are to avoid the perception of creating scapegoats for a far more complex problem.

### **Institutional Issues**

2. It seems to me from the evidence presented that the following issues need to be understood in our resolution of this matter.

- a. No "double-dipping." Allegations of "double-dipping" (i.e. obtaining payment twice in respect of the one expense) are without basis. From the outset staff effort within the NZDF has been principally directed to ensuring that officers seconded to the UN receive essentially the same conditions of service as all other officers posted to similar positions overseas – especially those posted to New York. The allowances paid to these officers are calculated to ensure that they are neither markedly better off, nor worse off, as a result of performing their duties in a foreign location. The calculations are based on data received from an internationally recognised commercial provider of salary benchmarking information for international human resources (ECA International). The allowances that these officers received in total equates to the sum that the NZDF, relying on this data, had calculated as appropriate for them to receive in order to serve in one of the most expensive overseas posting locations. None of these officers has received any money that exceeds

the amount calculated by the NZDF as appropriate to their living expenses in New York. The amounts have been completely accounted for and have not been directed to any unlawful purpose.

- b. The purpose of the secondment arrangement. At the heart of the matter has been the development of policy and practice to place "non-gratis" secondees within the United Nations Headquarters in New York. The "non-gratis" seconded officer arrangement is one by which we have given over to the United Nations a number of very able senior officers to perform tasks which are not of any immediate value to NZDF. NZDF has carried much of the cost of having these officers working in one of the most expensive locations abroad. More significantly it has borne the cost of not having these officers available for other positions in New Zealand and on operations at a time of high tempo and some critical staff shortages. Although the arrangement produced some indirect benefit for both the NZDF and the officers concerned through exposure to a particular area of experience, from the outset the principal beneficiary of this arrangement was intended to be the United Nations Organisation in the conduct of its purposes of maintaining international peace and security. Any thought that this arrangement had the intention of defrauding the UN for pecuniary gain is unfounded.
- c. Fundamental inconsistency between NZDF conditions of service and UN Rules. It is now clear that the conditions of service package applicable to these officers, almost in its entirety, conflicts with the UN staff rules for seconded personnel. The accommodation allowance is but one part of the problem. Under section 45 of the Defence Act 1990 I am bound to take into account the need to fairly remunerate members of the Armed Forces in prescribing their conditions of service. Given the gap between what the UN provides to such officers and what our data indicates is fair, I cannot give proper effect to that criterion without violating the strict demands of functional Independence required by the UN. Even calculating the period of service as time served towards medallic recognition, superannuation and promotion appears to breach the UN rules. Paradoxically the UN still required the officers in question to wear NZDF uniform and thereby represent New Zealand. Nevertheless, any future secondment would have to be on the basis that the officer in question received only UN pay and allowances. Such a complete level of severance from the NZDF may be achievable only if officers volunteer for leave without pay for the period of the secondment; potentially at considerable expense to their pocket and their careers. Alternatively, future secondments to the United Nations Headquarters may need to be entered under a special arrangement that recognises and acknowledges my legal duty to the secondees.
- d. Actions of other nations. Staff effort has been distinctly influenced by a desire to remain in-step with the practices believed to have been followed by other similar states. The practice of other states has only been revealed to us informally, and requests for clarification have not produced concrete answers.

Nevertheless it must be said that, whether the belief is true or not, the fact that a number of other states were believed to be doing essentially the same thing assumed a real and inappropriate importance in the development of this policy. Furthermore

there seems to have been a concern that “breaking ranks” with these other countries would jeopardise the entire arrangement, not just the NZDF’s part in it.

- e. Failure of Staff Work. There is evidence of poor staff work, in particular a reluctance to place unpalatable choices before decision-makers. There was a failure to identify and enunciate the fact that the entire remuneration scheme for seconded officers ran contrary to the conditions of service regime operated by me (and my predecessors) under section 45 of the Defence Act – that in effect NZDF could not meet the UN’s requirements and still be a good employer to the secondees. It is hard to understand why the staff process followed this path. Clearly there was no personal benefit involved for the staff officers or anyone else. My assumption is that there was a reluctance to present a problem for which there was no apparent solution other than jeopardising the secondment arrangement. In my experience we have an institutional aversion to presenting “can’t –do” options to our commanders.
- f. Poor Communication. There are two stark instances of information within HQ NZDF not being taken through to its natural conclusion. I will deal with this further below.

### **The 2001 Staff Process**

3. The first of the “non-gratis” secondments took place in 2001 and the officer sent to fill that position arrived in New York long before any policy relating to his conditions of service was established. This was a mistake. It was left to the officer in question to argue what his conditions of service should be, through no apparent command chain, against a background of poor communication back from HQ NZDF

4. The Military Adviser in New York of the time, *Witness 10*, is now Vice Chief of Defence Force. Because he outranks the officers conducting the Court of Inquiry, I was legally required to deal with his involvement separately. In viewing the evidence I was particularly concerned about an e-mail he sent to the seconded officer in February 2001. This e-mail seemed internally contradictory and on one reading suggested that the UN did not need to know about arrangements concerning conditions of service for the seconded officer. I required VCDF to provide me with an explanation of his involvement. He clarified the e-mail to my satisfaction and directed my attention to a minute that he wrote to HQ NZDF on 22 May 2001 in which he makes it clear that if a member state wishes to pay housing allowance to a seconded “...the UN must be advised.” I am satisfied with *Witness 10’s* explanation that he did not condone or encourage misleading the UN and that he informed HQ NZDF of the disclosure requirement.

5. What happened in respect of that information is, however, not so easy to determine. Officers who were in critical positions back then have left the Service in the meantime. Furthermore recollections of events of seven years ago, about one piece of staff advice amongst hundreds, are not surprisingly, now unclear. The trail of communication relating to the secondment seems to run out at 21 May 2001 when the then Deputy Chief of Defence Staff wrote to Chief of Air Staff advising that: “The NZDF is in reality breaking the UN contract which states that a member state cannot support an employee under contract to the UN.” However there is no indication that the branch of NZDF that could have pulled all of the threads of advice on this matter

together were made aware of the true extent of the problem or tasked with solving it. Given the passage of time and the fact that none of the individuals involved in the process in a meaningful way still serve, I do not propose to take personal responsibility for this institutional failure of staff process any further.

### The 2005 Staff Process

6. In 2005 the issue resurfaced and resulted in a more complete survey of the applicable conditions of service being undertaken by Personnel Branch. There is, however, a complete disconnect between the draft minute prepared by Personnel Branch in August 2005 which clearly identifies the declaration of assistance to the UN as a problem, and the minute actually sent by Personnel Branch to the CDF on 6 December 2005 which does not.

7. I have spoken to the then Chief of Defence Force, [REDACTED], and the then Assistant Chief of Defence Force Personnel (AC Pers), WITNESS 2, [REDACTED] who has confirmed that:

- a. He never received the draft advice of August 2005, or any advice to that effect;
- b. That he would not have approved any arrangement which involved breaching UN rules.

8. WITNESS 2 [REDACTED] has also confirmed that he never discussed the issue with [REDACTED] and that he never raised with him the issue of inconsistency between UN rules and the NZDF Conditions of Service. It appears that (WITNESS 2 [REDACTED]) had an incomplete understanding of the issue himself.

9. The failing, therefore, seems to have been located entirely within the staff work and communications between Personnel Branch and the Military Adviser in New York. This is explainable in the early period by the fact that not all of the players in the puzzle were possessed of all of the relevant information. This state of affairs, to the extent that it existed from 2001 through to 2005 came to a conclusive halt (at the latest) on 4 Aug 05. On that date the Military Adviser, WITNESS 8, inserted comments onto a draft Personnel Branch Minute actively advocating the adoption of the so-called "STATE Model" which implicitly required the secondee to not report the provision of assistance to the UN.

10. This matter should have been brought to the attention of the then CDF to enable him to make a decision as to the continued viability of the secondment under the extant arrangement. It was not. I do not consider that to be acceptable. I have admonished the staff officers involved. In doing so I was forced to pay cognisance to the fact that :

- a. During the period in question there was a great deal of staff upheaval within Personnel Branch. Four different officers cycled through the appointment of Assistant Chief Personnel, in short succession; the position of Deputy Assistant Chief Personnel was often vacant; and staff officers were frequently taken away from work in policy development in order to perform other more pressing tasks, including operational service overseas;

- b. The conditions of service related to (at any point in time) just one officer, meaning that a disproportionately large amount of effort was being diverted to deal with the issue; and,
  - c. None of the officers concerned had any improper purpose for dealing with the matter they way they did.
11. Now that I have been fully apprised of the issues involved I have considered the viability of the arrangement and I have decided that it is not viable in its current form. I have therefore suspended the sending of any further secondees to UN Headquarters until the remaining issues are resolved between UN Headquarters and NZDF.
12. The Court of Inquiry identifies at paragraphs 46 – 62 that there are four officers who made "false declarations." A Court of Inquiry is not a disciplinary body that can attribute blame, the expression "false" in this context must be interpreted simply to mean that the statement was not accurate, not that the officers in question are guilty of any offence. As is now public knowledge, the housing allowance declaration formed part of the original investigation against WITNESS A. In the event no charges were made against WITNESS A relating to this particular matter because the evidence available did not support the element that WITNESS A did not believe that he had a claim of right to make the statement.
13. In respect of other officers it is clear that:
- a. All three expected no personal benefit from the statement – but in fact thought that the arrangement was solely for the purposes of making an otherwise unworkable arrangement, workable;
  - b. All three thought that making the declaration was expected of them by the NZDF. But for the belief that the NZDF either condoned or required their actions, these officers would almost certainly not have acted the way they did.
  - c. The personal circumstance of each officer was known in general terms to responsible officers within the NZDF.
  - d. Each of these officers has been completely frank with the Court of Inquiry.
14. Nevertheless I am disappointed that these officers acted the way they did and I have censured them appropriately.
15. In doing so I fully accept that the NZDF holds institutional responsibility for failing to react to the situation in a timely and appropriate manner not once, but twice. This has caused considerable embarrassment to the NZDF and also exposed it to a reputationally damaging situation that would not have come about had our policy and staff work been up to scratch. The staff officers involved accept this and have apologised for it, and on behalf of the NZDF, so do I.

### **Summary of Other Actions**

16. As a result of this unsatisfactory state of affairs I have set in place the following activities:

- a. I have ordered that the United Nations be reimbursed for the accommodation element paid to the seconded officers.
- b. I have ordered that no further officers be seconded to the UN unless we can reach agreement with the UN which reaches a satisfactory balance between their need to maintain functional independence and my duty to set fair conditions of service.
- c. I have identified that our inability to set coherent policy on this occasion is due in no small part to the fact that we are forever pulling officers away from vital policy writing positions to deal with the exigencies of operational deployment. I also consider that we need to rethink the way that we set policy in its entirety. To this end I have asked the State Services Commissioner to assist me in reviewing our policy formulating process and in establishing a new process for policy development.

### Conclusion

17. In short, I am relieved to find that the circumstances relating to officers obtaining United Nations Housing Allowances was not motivated by a desire to obtain personal gain, nor was this its effect. All the money has been properly accounted for and will be returned to the United Nations. The motivation of the officers who signed these declarations seems to have been a misguided desire to make an otherwise unworkable arrangement workable, and an even more misguided desire to stay in-step with what we believed other nations were doing.

18. I am far from pleased to find, however, that there have been significant institutional failures in our reaction to information that was well within our knowledge, and a failure to produce good and timely policy advice on not one, but two occasions. I have set in train actions to repair, to the best of our ability, the damage that has been done, and to ensure that these failures are not repeated.



J. MATEPARAE  
Lieutenant General  
Chief of Defence Force

## REPORT OF THE COURT OF INQUIRY

### INTRODUCTION

1. The Terms of Reference (TOR) for this Court of Inquiry were issued on 1 July 2008, and paragraph 2 of those Terms of Reference was amended by the Assembling Authority on 2 July 2008. The Inquiry was carried out over the period 1 to 17 July 2008, during which the Court heard evidence from 19 Witnesses and received 55 Exhibits.
2. NZDF military personnel serving with the United Nations in New York are employed in a variety of ways:
  - a. The NZDF Military Adviser (MILAD) is employed within the New Zealand Mission to the UN. As with most other NZDF personnel posted overseas, the MILAD retains NZDF conditions of service including pay and allowances.
  - b. Some have served on the UN staff under 'gratis' conditions or '\$1 contracts', whereby salary and most allowances are paid by the NZDF, but travel and other on-occurrence costs are borne by the UN.
  - c. Others are seconded from the NZDF to posts within the UN, and required to enter into individual employment agreements with the UN. Their pay and allowances are set and funded by the UN. These so-called 'non-gratis' posts were introduced in 1999 to support the principle that UN staff should be seen to be independent of government influence. They also provide equity between UN staff from different nations, who previously received significantly different remuneration levels from their own governments.
3. Since January 2001 there have been four NZDF personnel seconded to the UN Department of Peacekeeping Operations (DPKO) in New York under the 'non-gratis' conditions, and who have received a special NZDF accommodation assistance allowance that supplements the UN rent subsidy scheme.
4. There have been public allegations that receipt of this assistance, as well as the UN Rent Subsidy, comprises 'double dipping' by senior NZDF officers. The Court considers it important to state from the outset that such allegations are without foundation. The orders for the NZDF accommodation assistance contain specific provisions to prevent any such abuse, and those procedures have been followed with the NZDF reimbursements being discounted by the actual rent subsidy paid by the UN.



5. The two issues that do cause concern, and that represent the main focus of this Inquiry, are the apparent contradiction between the provision of NZDF accommodation assistance on the one hand, and the UN Staff Rules and Regulations that preclude government support for seconded staff on the other; and that this assistance was not declared to the UN.

## DISCUSSION AND FINDINGS OF THE COURT

### TOR 1.a.

**When did the NZDF first start providing assistance towards the accommodation costs of members of the Armed Forces seconded to the United Nations?**

6. Up until 2000, NZDF personnel seconded to the UN were provided under 'gratis' conditions, where all pay and allowances, including accommodation, were provided by the NZDF.<sup>1</sup> The first NZDF officer to be seconded under the 'non-gratis' conditions was ~~Witness 5~~, who received the accommodation assistance shortly after his appointment in January 2001.<sup>2</sup>

**Finding 1:** The NZDF first provided assistance towards the accommodation costs of members of the Armed Forces seconded to the United Nations in early 2001.

### TOR 1.b.

**Under what authority has this assistance been provided since that time?**

7. As there was no existing policy to support this new category of seconded personnel, ~~the Assistant Chief of Personnel (AC Pers)~~, the Assistant Chief of Personnel (AC Pers), authorised various conditions of service for ~~Witness 5's~~ posting. It should be noted that these authorisations were made on an ad-hoc basis and occurred during the first year of ~~the~~ deployment. Amongst other things, these conditions of service included an element for accommodation assistance approved by the Chief of Defence Force (CDF)

8. These conditions were subsequently reviewed and approved by the CDF on 27 November 2001, and promulgated in Amendment List 5 to Defence Force Orders for Personnel (DFO 4), Chap 2, Section 15.<sup>4</sup>

9. There have been two amendments to the policy since 2001, both of which were approved by CDF and published in DFO 4:

---

<sup>1</sup> Exhibit B

<sup>2</sup> Fifth Witness. Exhibits AH, AK.

<sup>3</sup> Exhibit AK

<sup>4</sup> Exhibit A

- a. On 6 December 2005, the policy was extended to include conditions of service for seconded personnel with dependants. This specified the existing US\$3,500 per month rent ceiling; and introduced a US\$6,000 per month rent ceiling for personnel with dependant children.<sup>5</sup>
- b. On 10 June 2008, the policy was amended to identify the requirement for equity across UN staff and to remove specific accommodation entitlements.<sup>6</sup>

**Finding 2:** The accommodation assistance has been provided under the authority of CDF.

### **TOR 1.c.**

**To what extent was the provision of any such assistance in conflict with the United Nations Staff Rules and Regulations, or any other United Nations rules that applied to seconded staff?**

### **NZDF Conditions of Service for Seconded Personnel**

10. NZDF accommodation assistance is but one of several elements of the Conditions of Service for UN seconded personnel that are authorised under DFO 4 and that may conflict with the UN regulations. These conditions can be varied by CDF in consultation with all parties to recognise the particular needs of the NZDF and/or the individual concerned, and are only available if there is no entitlement to a similar provision under their UN employment contract. The conditions, some of which have been varied during this period as noted in TOR 1.b. above, include:<sup>7</sup>

- a. NZDF employer superannuation contributions continue to be paid, provided that the individual also continues to pay the personal contribution.
- b. Accommodation assistance as discussed above.
- c. Storage of household effects at public expense.
- d. Refund of costs incurred in sale and/or purchase of a home.
- e. Income compensation insurance for injury-related loss of employment.
- f. Injury, medical emergency and personal effects insurance.

---

<sup>5</sup> Exhibit B

<sup>6</sup> Exhibit C

<sup>7</sup> Exhibits A, B, C

- g. Routine medical and dental care.
- h. Secondment period to count towards eligibility for Long Leave and Incentive Leave.
- i. Entitlement to End of Posting Leave.
- j. Household Removal Leave.
- k. Rank seniority to continue to accrue, and personnel eligible for promotion during secondment.
- l. Secondment period to count towards Long Service and Good Conduct awards and such other financial and non-financial benefits based on length of service that may be established in the NZDF.

### **United Nations Staff Regulations and Rules**

11. NZDF seconded staff are required at the commencement of their contract to sign a personal declaration that they will abide by the UN Staff Regulations and Rules. Regulation 1.2 (j) of the UN Staff Regulations and Rules states that “No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government.”<sup>8</sup>

12. The UN interpretation of this regulation is explained in the Stated Basic Rights of UN Staff Members, which contains a Commentary to Regulation 1.2 (j)<sup>9</sup>. Although not published in the Staff Rules, this Commentary is available to staff and reflects the guidance that would have been provided by UN administrative staff to NZDF seconded personnel:<sup>10</sup>

“... In proposing the language of staff regulation 1.2 (j), the Secretary-General believed that it would be appropriate for the General Assembly to stress the importance of the appearance of strict independence and impartiality of staff and thus to reaffirm the absolute prohibition on acceptance of benefits from Governments. The Secretary-General also believed that the prior exception in former staff regulation 1.6 and former staff rule 101.9 (b), which enabled a staff member to accept honours for war service prior to appointment with the United Nations, should also be abolished. By General Assembly Resolution 52/252, the Assembly abolished that exception.

“Staff regulation 1.2 (j) contains the basic rule that staff may not accept any honour, decoration, gift or remuneration from any Government. This rule applies whatever the reason for the award, even if the award is unrelated to the staff member’s service with the Organization, since it

---

<sup>8</sup> Exhibit AW

<sup>9</sup> Exhibit AN

<sup>10</sup> Fifth Witness

is imperative that an international civil servant be perceived as independent from any national Government.”

13. Note j to that Commentary states that:

“... The United Nations has also accepted housing from Governments and when staff are assigned to such housing, rental deductions from emoluments are applicable.”

14. The formula for these Rental Deductions (where staff receive housing free or at rents substantially lower than the New York average) is outlined in the General Information on Conditions of Service<sup>11</sup> and detailed in the UN Administrative Instruction ST/AI/2000/16. The Court has obtained a copy of this document from the UN Website.<sup>12</sup> In order to obtain the UN subsidy staff are required to declare whether they receive any other housing assistance; and UN Staff Rule 104.4 (b) requires them to report any subsequent change of status.

#### **Conflict between NZDF Conditions of Service and UN Staff Regulations and Rules**

15. In selecting staff for UN posts, both the NZDF and the UN share common goals: to provide high quality staff who can conduct their UN duties in an impartial manner. It is the different approaches to achieving these goals that cause difficulties. As discussed earlier, the UN approach is to emphasise the independence of the international civil service by requiring Governments to sever all support to UN staff members. By contrast, the primary NZDF concern is to ensure that personnel are not financially disadvantaged by serving in the UN; and thus encourage highly skilled volunteers for these posts while maintaining equity for NZDF personnel.

16. Although the UN's absolute prohibition on Government support may be achievable in the civil sector, it is incompatible with the secondment of active military personnel to the DPKO. NZDF seconded personnel remain subject to the Defence Act and the Armed Forces Discipline Act, and CDF retains responsibilities to set and maintain terms and conditions of service in accordance with Section 45 of the Defence Act. This includes protecting the employment conditions of NZDF personnel both during and following service with the UN.

17. The Commentary to the regulation 1.2 (j) clearly indicates the extent to which those UN prohibitions are to be enforced. As staff are not permitted to receive any benefits from a Government, provisions such as storage of household effects, or employer contribution to NZDF superannuation schemes, appear to contravene this regulation.

---

<sup>11</sup> Exhibit AL

<sup>12</sup> Exhibit BC

18. In the sole case of housing assistance, regulation 1.2 (j) is modified by the existence of routine UN procedures to allow the declaration of such assistance<sup>11</sup>, as well as by Note j to the Commentary to Regulation 1.2 (j) (resulting in loss of UN subsidy and also a Rental Deduction from salary). The UN administrative practices demonstrate implicit acceptance of Government housing subsidies.

19. The original advice that NZDF would fund the residential accommodation for WITNESS 5, noted that he would be in receipt of the UN subsidy, and stated that "This supplement is to be used to offset the overall monthly rent".<sup>13</sup> Subsequently the November 2001 policy stated that the NZDF would provide accommodation assistance "... less any allowance provided by the UN ..."; and the 2005 policy used the words "... less the rental subsidy provided by the UN" (emphasis added).<sup>14</sup>

20. While these provisions clearly remove the possibility of 'double dipping', the wording creates an expectation that the officer will receive both the NZDF accommodation assistance and the UN subsidy (even though the UN subsidy would no longer be payable under these circumstances).<sup>15</sup> Such an interpretation does not alter the legal obligations regarding declarations, but it may help to explain why some witnesses believed that they were required by the NZDF to ensure that they received the UN subsidy as well as NZDF accommodation assistance.<sup>16</sup>

**Finding 3:** The UN's absolute prohibition on Government support to seconded military personnel is incompatible with the CDF's responsibilities under the Defence Act to protect the employment conditions of Regular Force members both during and following service with the UN.

**Finding 4:** Many (if not all) of the NZDF conditions of service for UN seconded personnel are in conflict with UN Regulation 1.2 (j).

**Finding 5:** The accommodation assistance component of the NZDF conditions of service is in conflict with Staff Regulation 1.2 (j), but is not in conflict with the published UN practice and procedures, provided that it is declared to the UN.

**Finding 6:** The language and procedures of the NZDF policies are inconsistent with the rules and practice of the UN as they imply that an officer will be in receipt of both the NZDF accommodation assistance and the UN rental subsidy. This situation could only occur if the NZDF assistance was not declared to the UN.

---

<sup>13</sup> Exhibit AK

<sup>14</sup> Exhibits A, B

<sup>15</sup> Exhibits S, AT

<sup>16</sup> Fifth, Sixth, Eighth, and Eleventh Witnesses; Exhibit S

**TOR 1.d**

**Were any staff officers who were responsible for, or involved in, the development of the relevant accommodation assistance policy aware of any conflict with the relevant United Nations regulations and if so, who?**

**TOR 1.e.**

**If staff officers were aware of a conflict or potential conflict with the relevant United Nations rules, why did they develop the policy in that manner?**

21. The challenge facing the NZDF is how to reconcile three issues: the contradiction between the UN rules and UN procedure; the NZDF aim to provide equity between seconded and posted personnel; and the requirement to provide an adequate standard of living to encourage volunteers for these posts.

22. The Terms of Reference 1.d and 1.e will be considered together, and grouped by the different time periods when the policies were being initiated or reviewed. Those periods were:

- a. the preparation in 2000 for the initial posting;
- b. the first formal policy of 2001;
- c. the review in 2005; and
- d. the review in 2008.

**Initial Posting**

23. The principles used to set NZDF conditions of service for personnel posted overseas are that there should be equity between personnel posted to the same region; and that personnel should be neither financially advantaged nor disadvantaged by undertaking such a posting. In the case of the UN posts the overarching NZDF principle was to ensure equity in conditions between personnel posted to the UN and those who are seconded.<sup>17</sup>

24. Investigation of the options available for secondment under the UN non-gratis conditions commenced in early 2000. During March and April 2000 WITNESS 10, the Military Adviser in the New Zealand Mission to the United Nations (MILAD) outlined the current practice and options, and advised that

---

<sup>17</sup> Ninth Witness

payment of NZDF accommodation assistance does not infringe UN regulations and was seen as a good option.<sup>18</sup> He also forwarded a copy of the relevant UN instructions.

25. In May 2000 AC Pers provided a cost comparison of scenarios and determined that under the UN provisions the seconded officer would be substantially disadvantaged compared to officers posted to the same location under normal NZDF conditions of service.<sup>19</sup> The preferred option, with the UN funding the salary and allowances while NZDF provided accommodation assistance, provided an equitable outcome and was (correctly) stated to be acceptable to the UN.

26. On 10 January 2001 the MILAD was advised of CDF's approval for accommodation assistance of up to \$3,500 per month, and that the UN Rent Subsidy of approximately \$862 per month "... is to be used to offset the overall monthly rent."<sup>20</sup> At that time the relevant staff were not aware that the UN subsidy could not be claimed concurrently with the NZDF assistance.<sup>21</sup>

27. During the initial preparation for this post, personnel policy staff were focused on the NZDF deployments to East Timor and the administration of one individual was not high in their priority of work.<sup>22</sup> The work that was conducted into supporting **WITNESS 5** was focused on other issues, particularly the implications of loss of ACC coverage because he would no longer have a New Zealand salary.<sup>23</sup> Finally, these conditions of service were developed with a limited understanding of the UN rules and regulations.

**Finding 7:** During 2000 and early 2001 staff involved in developing the initial conditions of service were not aware of any conflict with the UN regulations.

### Development of December 2001 Policy

28. After **WITNESS 5** arrived in New York, Personnel Branch commenced a review of the DFO 4 guidance on secondments in order to formalise provisions for the unique UN circumstances. On 22 May 2001 a proposed policy drafted by the Director of Military Personnel Policy Development (DMPPD) was distributed for comment.<sup>24</sup>

29. During the ensuing consultation process, concerns were raised by the MILAD and Defence Force Services staff that if NZDF accommodation

---

<sup>18</sup> Exhibit AS

<sup>19</sup> Exhibit AF

<sup>20</sup> Exhibits AK, BB

<sup>21</sup> Nineteenth Witness

<sup>22</sup> Fourth Witness

<sup>23</sup> Fourteenth Witness

<sup>24</sup> Exhibit AP

assistance is provided it must be declared to the UN.<sup>25</sup> In his Minute of 11 June 2001 the Assistant Director Attaché Liaison (AD Att L) stated: "... it is very important that the UN be made aware of this arrangement. The UN will readjust any subsidy." And again: "... it is imperative that the UN be advised that this will be the case so as to remain within the conditions of the UN Conditions of Service." The resulting Minute of 13 June 2001 from the Director Defence Force Services to AC Pers used less strident language: "...there is a requirement for this to be reported to the UN."<sup>26</sup> This Minute was forwarded to DMPPD.

30. DMPPD then drafted for CDF's approval an amendment to DFO 4 specifying conditions of service for UN seconded personnel.<sup>27</sup> This included provision for NZDF to provide assistance towards accommodation, less any allowance provided by the UN. It was drafted without access to or knowledge of UN rules and procedures. Accordingly, it made no mention of the requirement to declare NZDF assistance to the UN as this was considered to be a routine administrative issue. Nor was there any recognition of the conflict between the overall conditions of service and UN regulation 1.2(j).<sup>28</sup>

31. The final policy was almost identical to the 22 May 2001 Minute that was circulated for comment, indicating that concerns raised on the draft policy were not incorporated into the final version. The Court notes from the coversheet for the final policy document, that personnel staff in single Services were consulted on the proposed DFO 4 amendment; but Defence Force Services Staff were not consulted to confirm whether their original input had been adequately taken into account. An opportunity to rectify the failure to declare accommodation support was missed.

32. Separately, the Deputy Chief of Defence Staff (DCDS), WITNESS 6, noted from the MILAD monthly report that WITNESS 5 administration had not been finalised. In his Minute advising the Chief of Air Staff (CAS) of this, he also highlighted a potential conflict regarding the payment of accommodation assistance to a UN secondee.<sup>29</sup> The Court understands that subsequent staff action resulting from this Minute focussed solely on the administrative arrangements rather than any potential conflict.

**Finding 8:** During the 2001 policy development process the MILAD and Defence Force Services staff were aware that any NZDF accommodation assistance must be declared to the UN.

**Finding 9:** DMPPD was not aware of any conflict with the UN rules or procedures, and therefore the NZDF policies were developed in good faith and were assumed to be compatible with the UN rules and procedures.

---

<sup>25</sup> Exhibits AR, AU

<sup>26</sup> Exhibit AU

<sup>27</sup> Exhibit AV

<sup>28</sup> Nineteenth Witness

<sup>29</sup> Exhibit AH



**Finding 10:** DCDS was aware of a possible conflict. The Court believes that in response to DCDS's concerns undue emphasis was placed on solving <sup>WITNESS 5</sup> conditions of service rather than addressing the potential conflict that existed. J.V.

### Development of 2005 Policy Amendment

33. During 2004 when planning commenced for <sup>THIRD SECONDEE</sup> <sup>WITNESS 6</sup> posting to the UN, NZDF Personnel Staff sought a copy of the employment agreement of an NZDF officer already seconded to the UN.<sup>30</sup> Perusal of that document highlighted a potential conflict between the provision of accommodation assistance, and Regulation 1.2(j). The DMPPD raised these concerns to AC Pers, <sup>WITNESS 2</sup> and discussed the limitations of the UN 'non-gratis' policy. He was directed to investigate the conditions of service applied by other nations and to provide a range of options.<sup>31</sup>

34. On 2 September 2004 AC Pers advised of the standard conditions of service available, but included a statement that the policy was under review and that the accommodation assistance should not be provided because the UN rules prohibit receipt of it in conjunction with the UN subsidy.<sup>32</sup> Over one year later, on 25 November 2005, <sup>WITNESS 6</sup> was advised that the accommodation assistance policy was still under review; but that he would receive assistance in accordance with the extant policy (including an increase in the rent ceiling reflecting the larger family size).<sup>33</sup>

35. On 18 November 2004 in response to the proposal to remove accommodation assistance the MILAD, <sup>WITNESS 8</sup> emphasised the perceived financial impact for secondees and strongly recommended that the status quo remain.<sup>34</sup> He calculated that "... the cost to the secondee to pay all these issues would be near to 65% of their net salary." There was no explanation of how this figure was derived.

36. During 2005 Personnel staff developed a draft Minute to CDF that identified that the extant policy did not comply with the UN rules because the NZDF accommodation was not declared to the UN.<sup>35</sup> If it was declared, it would result in withdrawal of the UN Rent Subsidy, and also a UN Rent Deduction charge against the individual's salary. The paper then provided three options, and recommended that the NZDF accommodation assistance be continued but required that it be declared to the UN. Three versions of this document have been presented to the Court; however it remained in draft

---

<sup>30</sup> Fourth Witness

<sup>31</sup> Fourth Witness

<sup>32</sup> Exhibit X

<sup>33</sup> Exhibit AJ

<sup>34</sup> Exhibit AG

<sup>35</sup> Exhibit L

form and was not released.<sup>36</sup> The draft Minute was forwarded to the MILAD for comment.

37. On 4 August 2005 the MILAD provided his comments and proposed amendments to the draft.<sup>37</sup> He advised that the subject of accommodation assistance is very sensitive, and so is not declared to the UN. He inserted and recommended a fourth option that would circumvent the UN regulations by channelling the UN pay and allowances directly to the NZDF, and paying seconded personnel under NZDF rather than UN conditions. This, and similar options were not accepted by personnel branch as they were not seen to be compliant with UN regulations.<sup>38</sup> WITNES & also suggested that a financial analysis of the options be conducted.

38. In November 2005 personnel staff developed a financial comparison of three scenarios (benchmark NZDF conditions; UN only conditions; and status quo of UN pay and allowances with NZDF accommodation assistance) and this was included in the final policy proposal of 6 December 05.<sup>39</sup> This analysis indicated that secondees would be significantly disadvantaged under the UN conditions and therefore proposed essentially a continuation of the status quo. In doing so it removed the clause requiring declaration to the UN.

39. The staff officer who developed this draft explained that the specific declaration requirement was removed because it was considered more appropriate to apply a general caveat against "double-dipping" rather than individual caveats against each element of the policy.<sup>40</sup> The general caveat, under the heading "Administration", states that "Contracted personnel are only entitled to the provisions below if there is no entitlement to a similar provision under their UN contract". The Court believes that this resulted in the inadvertent removal of an important protection; and that it perpetuated the expectation that an officer would be in receipt of both NZDF accommodation assistance and UN rental subsidy. Again, an opportunity to rectify the failure to declare accommodation support was missed.

40. The original proposal to remove the NZDF accommodation assistance was based on the false assumption that the UN Rent Subsidy would be financially similar to the NZDF package. Although they had access to UN documentation, personnel staff were unaware of the different policy basis for setting UN rent subsidy and rent reductions.

41. The financial comparison developed for this exercise did not take account of the UN rent reduction provisions, because the policy staff did not understand that it impacted on salary. The Court sought assistance from a financial auditor who calculated that this UN deduction would have resulted in

---

<sup>36</sup> Exhibits L, AY

<sup>37</sup> Exhibit AY

<sup>38</sup> Fourth Witness

<sup>39</sup> Exhibit B

<sup>40</sup> Eighteenth Witness

a salary reduction ranging between US\$3,250 and \$6,500 per annum for the individuals involved.<sup>41</sup>

**Finding 11:** During the 2005 policy development process, AC Pers ( WITNESS 2 ) and his policy staff were aware that personnel could not receive both the NZDF and UN accommodation support. The MILAD WITNESS 8 was also aware of this conflict.

**Finding 12:** The original proposal to continue the accommodation allowance, but require that it be declared to the UN, would have resolved the conflict with the UN regulations and practice.

**Finding 13:** During the 2005 policy development the weighting applied to equity concerns, combined with a protracted policy development process, resulted in personnel staff losing sight of the original problem identified (failure to comply with UN rules).

### 2008 Policy Amendment

42. In 2007 the UN advised the NZDF that ~~in seconded~~ WITNESS 8 had not declared his receipt of NZDF accommodation assistance.<sup>42</sup> The Vice Chief of Defence Force, , then directed a Military Police investigation which was conducted in August and September 2007.<sup>43</sup> This led to a further review of the policy for seconded personnel, and on 10 June 2008 CDF approved an amendment to DFO 4 that removed the accommodation assistance provision.<sup>44</sup>

### TOR 2

**Any Other Matters Relevant to the Terms of Reference, including comment on the application of the NZDF housing assistance policy for personnel seconded to the United Nations by seconded personnel and other members of the NZDF. This is to include whether or not any member of the NZDF appears to have made a false or misleading declaration in any official document, including any United Nations document.**

43. The findings above relate to the *development* of NZDF policy on the provision of accommodation assistance; but do not cover the *application* of those policies. This report will now address the administration of the policy and the circumstances of the seconded officers.

---

<sup>41</sup> Eighth Witness

<sup>42</sup> Exhibit E

<sup>43</sup> Twelfth Witness

<sup>44</sup> Exhibit C

## Administration

44. Throughout this period the accommodation assistance was correctly administered in accordance with the provisions of NZDF policy, with reimbursements being discounted by the actual UN Rent Subsidy paid. The total NZDF and UN assistance received by the individuals was the lesser of the actual rent paid, or the specified NZDF rent ceiling.<sup>45</sup> The Court has viewed documentation that confirms there was no “double-dipping”.

## Declarations to the United Nations

45. Four Army officers have been seconded on UN ‘\$1 contracts’, under which they received NZDF pay and allowances but not UN housing allowance. They are outside the scope of this Court.

46. The Court is aware of four NZDF personnel who have been seconded to the UN in New York under the ‘non-gratis’ policy, and who are affected by the Terms of Reference of this Court:

- a. **WITNESS 5** January 2001 to August 2003.
- b. **WITNESS 11** :: February 2003 to March 2006.
- c. **WITNESS 6** :: 21 June 2005 to present.
- d. **WITNESS 8** October 2006 to October 2007 (and before that served as Military Adviser to the UN under NZDF conditions of service).

47. Each of these officers received both the NZDF accommodation assistance and the UN Rent Subsidy. Under this system the NZDF refunded rental costs up to a fixed ceiling, with the refund being reduced by the value of the UN Rental Subsidy. While this was in accordance with NZDF policy and procedures, it was not in accordance with the UN requirements.

48. In order to receive the UN Rent Subsidy each officer was required to sign three declarations, and also required to advise the UN of any subsequent change to their circumstances:

- a. a general declaration on arrival, including that they would abide by the UN Staff Regulations and Rules;
- b. a personal questionnaire that included whether they were receiving housing assistance; and
- c. the application for UN Rental Subsidy also included a declaration on housing assistance.

---

<sup>45</sup> Fifth, Sixth, Eleventh, Seventeenth witness, Exhibit J

49. The first declaration is automatically violated by the conflict between UN Regulation 1.2 (j) and the provision of NZDF general conditions of service (Finding 3 refers).

50. Although the Court has not seen all of these documents, it is satisfied that all four officers either made false declarations to the UN regarding receipt of the NZDF accommodation assistance; or failed to advise their change of circumstances when they did receive it.<sup>46</sup> Each of the officers state that they were reluctant to act in this way, but that they acted under an honestly held belief that they were compelled to do so in order to comply with NZDF requirements.

51. The circumstances surrounding each of these secondees will now be addressed as it provides context to the situation that these personnel found themselves in.

**Circumstances:** WITNESS S -

52. It is important to understand the circumstances surrounding WITNESS S, as the manner in which his conditions of service were formulated created the precedent for subsequent secondees.

53. When WITNESS S arrived in country in December 2000 his conditions of service had not yet been finalised. It was not until early 2001 that Personnel Branch and Defence Force Services (DFS) started to work through the myriad of issues such as superannuation, ACC coverage, medical insurance and accommodation provisions.

54. On 4 February 2001 WITNESS S - wrote to DAC Pers and the MILAD, discussing his conditions of service and in particular a personnel branch proposal regarding his pay. He stressed the importance of continuing to comply with the UN regulations, as he was concerned that any system that violated the UN rules would put him in an untenable position and preclude his employment in the UN.<sup>47</sup> He stated that he had applied for the UN Rent Subsidy of about US\$870 per month, and that this would be used to reduce the costs to the NZDF. He made no mention of any concerns in relation to accommodation assistance or declarations.

55. In his evidence, WITNESS S stated that he did not declare the accommodation assistance because of an honestly held belief that he was constrained by NZDF requirements to not do so. His answers to the Court indicate that he linked this issue directly to exposure of the NZDF in relation to the wider conflict with the general conditions of service. He understood that this was consistent with the approach taken by other nations, but that it was difficult to discuss this within the UN environment. He believed that the decision to declare or not declare held no financial implications for him

---

<sup>46</sup> Fifth, Sixth, Eighth, Eleventh Witnesses. Exhibit S

<sup>47</sup> Exhibit AM

because the NZDF's equity principles would ensure that seconded personnel were not financially disadvantaged.<sup>48</sup> It was for these reasons that WITNESS S felt that he had been put in an invidious position.

56. WITNESS S states that he raised his concerns on a number of occasions, and that his understanding of the NZDF requirements was based on discussions with the MILAD. The nature of any such advice from the MILAD is the subject of a separate inquiry.

57. As time passed, and the situation was not resolved, it became the accepted practice. In December 2001 the policy was formalised in DFO 4.<sup>49</sup> In his mind, WITNESS S was effectively locked into a position from which it was difficult to extract. This created the precedent for the three UN secondees that followed.

Circumstances: WITNESS 11

58. WITNESS 11 arrived in the UN in February 2003. Early on in her induction process she also signed a form she knew to be misleading.<sup>50</sup> She felt uncomfortable about doing this and raised her concerns with WITNESS S and the MILAD who was then. As a result WITNESS 11 was left with the impression that signing the document was a necessary and accepted practice and that it would 'soften the blow' for the NZDF.<sup>51</sup> In her mind the accommodation was always going to be paid for; it was simply a matter of whether it was the UN, NZDF or both. WITNESS 11 believed that she would be no better or worse off by making the false declaration.

Circumstances: WITNESS 6

59. WITNESS 6 faced similar circumstances to WITNESS 11. He also made a false declaration to the UN and expressed his concerns with his fellow NZ officer WITNESS 11 and MILAD WITNESS 8. WITNESS 6 was advised by these people that there was an expectation of him to sign the contract as he was in New York on 'government service' and in order to undertake that service he needed to sign the document.<sup>52</sup>

PRIVACY ACT

60. WITNESS 6 believed that it was a national issue and that the only way to receive the NZDF accommodation assistance was for the Government to make a formal application to seek a waiver from the

<sup>48</sup> Fifth Witness

<sup>49</sup> Exhibit B

<sup>50</sup> Eleventh Witness

<sup>51</sup> Fourth Witness

<sup>52</sup> Sixth Witness

Secretary-General.<sup>53</sup> This misunderstanding is consistent with the later OHRM Legal Note of 21 June 2007<sup>54</sup>, which refers to the Secretary-General's Bulletin on Financial Disclosure<sup>55</sup> and indicates that a waiver is only available on an exceptional basis. It states that "The pressure was such that the only senior official who had declared receiving a housing subsidy has now stopped receiving it." However paragraphs 2.1 and 2.3 of the Financial Disclosure Bulletin indicate that the Bulletin does not apply to NZDF secondees in the Professional (P) category. The effect of this (and any earlier similar) representation by the UN may be that staff did not understand that the NZDF allowance could be declared without jeopardising the NZDF contribution to the UN DPKO.

**Circumstances:** WITNESS 8

61. WITNESS was the MILAD for more than four years prior to becoming a UN secondee. In his role as MILAD WITNESS 8 had advised other secondees and was familiar with the NZDF policy for administering seconded personnel. In fact on a number of occasions, WITNESS 8 provided comment on draft versions of the policy.<sup>56</sup>

62. The Court notes that WITNESS 8 has already been subject to a separate MP investigation regarding false or misleading declarations to the UN. The relevant parts of the MP Inquiry that are relate to this inquiry have been included as Exhibits F through to Exhibit W.<sup>57</sup> At the time of signing the declaration, WITNESS 8 was not actually in receipt of NZDF accommodation allowance, although he subsequently received it and did not declare this to the UN.<sup>58</sup> WITNESS 8 states that DFO 4 'required' him to receive the UN subsidy; and not disclose his NZDF allowance to the UN in order for the top-up procedure to work.<sup>59</sup>

### Common Themes

63. Some common themes emerge from these cases:
- a. It appears that secondees were not fully aware of this issue prior to leaving NZ, and on arrival in New York were required to sign initial declarations as part of the induction process.<sup>60</sup>
  - b. They were aware of the broader policy conflict (for conditions other than accommodation assistance) for which there was no mechanism to declare or resolve with the UN.<sup>61</sup>

---

<sup>53</sup> Sixth Witness.

<sup>54</sup> Exhibit E

<sup>55</sup> Exhibit D

<sup>56</sup> Exhibits L, AI, AG, AY

<sup>57</sup> Exhibits F through to Exhibit W refer.

<sup>58</sup> Twelfth Witness

<sup>59</sup> Eighth Witness

<sup>60</sup> Sixth and Eleventh Witnesses

- c. There was a commonly held belief that they were required to 'not declare' in order to allow the NZDF policy to work; and that the NZDF would be exposed if they did declare.<sup>62</sup>
- d. The false declarations were not made for personal gain. Most of the officers believed that there was no personal financial impact as the NZDF would 'top up' any reduction or loss of UN Rent Subsidy, and they were unaware of the impact of UN Rent Deductions.<sup>63</sup>
- e. Throughout this period there has been speculation on how other nations operate within the UN system. The Court notes that military personnel of some other nations are typically remunerated at a higher level than the NZDF, and the non-gratis conditions would create a greater disparity for them. It is possible that NZDF personnel were influenced by the different circumstances and practices of other nations.<sup>64</sup>

**Finding 14:** The secondees' declaration to abide by UN Regulations and rules is automatically violated by the conflict between UN Regulation 1.2 (j) and the provision of NZDF general conditions of service.

**Finding 15:** Four NZDF officers either made false declarations to the UN, or failed to advise of a change of circumstances, in relation to receiving NZDF accommodation assistance.

**Finding 16:** There are a number of circumstances that may have influenced these officers, and supported their belief that they were acting in accordance with NZDF requirements.

## CONCLUSIONS

64. While the Terms of Reference for this Inquiry relate specifically to the NZDF accommodation assistance, which could and should have been declared to the UN, the understanding and actions of individuals involved at the time was overshadowed by the higher level conflict between the UN regulations and CDF's obligations for serving members of the NZDF. This conflict was not fully understood or addressed at an organisational level.

65. The UN policy on absolute independence from Government support is incompatible with CDF's responsibilities for seconded military personnel and the need for equity across NZDF personnel (**Finding 3**).

---

<sup>61</sup> Exhibit AM

<sup>62</sup> Fifth, Sixth, Eight and Eleventh Witnesses

<sup>63</sup> Fifth, Sixth, and Eleventh Witnesses

<sup>64</sup> Fifth, Sixth, Eight and Eleventh Witnesses



65. The UN policy on absolute independence from Government support is incompatible with CDF's responsibilities for seconded military personnel and the need for equity across NZDF personnel (**Finding 3**).

66. This, combined with a lack of knowledge and understanding of the UN rules and procedures, resulted in staff officers producing policy that was largely in conflict with UN rules and regulations (**Findings 4 and 5**). The language and procedures for the accommodation support were unachievable within the UN rules and procedures (**Finding 6**). The result was that the risk was transferred from the NZDF to the individual secondees.

67. The various strands of UN information necessary to understand the issue were available within the NZDF; but they were not collated and analysed (**Findings 8, 9, 10, 11**), and opportunities to rectify the conflict were missed.

68. The failure to declare accommodation assistance could have been resolved had this requirement been specified in the DFO 4 procedures (**Finding 12**). This was not helped by the protracted policy development cycle and the over-riding emphasis on equity concerns (**Finding 13**).

69. As a result of the uncertainty surrounding these issues, particularly at the time of the initial posting under non-gratis conditions, the secondees made false or misleading declarations to the UN under the belief that they were acting in accordance with NZDF expectations (**Finding 15**).

70. While the Court believes that the witnesses provided open and honest evidence, the passage of time as well as limited documentation make it difficult to ascertain the circumstances and motives particularly during the critical period in early 2001.

71. In closing, the Court notes that arrangements for the future secondment of NZDF officers to the United Nations will need to be reviewed in light of the wider conflict between UN Regulations and Rules, and CDF's responsibilities under Section 45 of the Defence Act.

Signed at Wellington, this 17<sup>th</sup> day of July 2008



K.I. POLLOCK  
Group Captain  
President



H.V. DUFFY  
Lieutenant Colonel  
Member

### ADDENDUM TO THE COURT OF INQUIRY

1. In accordance with Amendment No.3 to the Assembly Order, the Court was reconvened on 28 July 2008 for the purpose of affording the rights prescribed by Rule of Procedure 154 to the second, fourth and tenth witnesses.

2. The fourth and tenth witnesses had no further evidence to submit, whilst the second witness tabled a written statement. This is enclosed as Exhibit BD.

3. In considering the evidence tabled in Exhibit BD, the Court notes the following:

- a. The witness has made some amplifying comments regarding his original statement, which does not change the nature of his evidence. Furthermore, his statement reinforces the discussion and many of the findings of the Court.
- b. The witness draws attention to the staff turnover within Personnel Branch and especially the DAC Pers appointment. He also comments about the relative priority given to this policy when compared to higher level strategic initiatives. Whilst the Report raises this matter with respect to the 2000-01 timeframe, it is now clear that this was a concern throughout the entire period from 2000-07.

4. In summary, the Court believes that the additional evidence provided by the second witness reinforces many points raised in the Report, and does not necessitate any changes to the original findings.

Signed at Wellington, this 28<sup>th</sup> day of July 2008



K.I. POLLOCK  
Group Captain  
President



H.V. DUFFY  
Lieutenant Colonel  
Member