

The Winston Churchill Memorial Trust of Australia Report

An Overview of Support Strategies for Australian Defence Force Bereaved Families

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Background

Kirstin Ferguson is a former RAAF officer who graduated from ADFA with a Bachelor of Arts (with Honours) in 1993. In her final year at ADFA she held the position of President of the Mess Committee (PMC) and was awarded the CDF Prize (Air Force) on graduation. Kirstin served as an Administration Officer at various units at RAAF Base Amberley, and had a secondary duty as Burials Officer. She is married to a current F-111 Navigator who is based at No 1 Squadron, RAAF Base Amberley.

Kirstin subsequently obtained a Bachelor of Laws (with Honours) and is admitted as a solicitor in NSW and QLD. She is also a trained mediator. Kirstin has previously worked in the London law firm, Ashurst Morris Crisp, and is now employed by the large Australian law firm Deacons, as their Director of Corporate Services. In this role Kirstin is responsible for managing approximately 90 staff across Australia who perform various support services functions in the firm.

Churchill Fellowship

Kirstin was awarded a Churchill Fellowship in 2003 to investigate innovative strategies for providing non-financial support to military widows and families after a death in service. As part of her Fellowship, Kirstin travelled to the US in December 2003 – January 2004 and met with numerous organisations including military, not-for-profit and corporate, that have been established to provide support for bereaved US military families.

In order to compare the strategies of those used in the military with other civilian organisations, Kirstin met with Australian astronaut Dr Andy Thomas to discuss the care for families after the Space Shuttle Columbia accident as well as the Director of the American Airlines Care Programme to investigate what non-financial support is provided to the airline's employees' families in the event of a major disaster.

Preface

Firstly, I would like to acknowledge the many **families** who have lost loved ones whilst serving in the ADF. I am extremely grateful to those families who chose to participate in the survey and in doing so, often had to relive very painful memories. Your experiences and intimate understanding of how a death in the ADF has impacted on your life has been essential in reaching the recommendations presented in this report.

I would also like to thank the **Chief of the Defence Force and the Chiefs of the Army, Navy and Air Force** for their consistent support. The ADF has been thoroughly helpful at all times in the preparation of this report and in my view, extremely willing and able to hear how the current situation may be improved. Future bereaved families stand a much better chance of having a positive experience, even after such a tragic event, as a result of the commitment shown by the current leadership of the ADF.

I would like to express my thanks and gratitude to the **Churchill Trust of Australia** for giving me the opportunity to travel to the US to conduct this research. This was an invaluable opportunity to meet American Armed Forces widows and bereaved families and to hear how their experiences compare to that of Australia. It was also beneficial to meet with the US military, NASA and American Airlines to compare the strategies being used to that of Australia.

Finally, I would like to thank those at **Deacons** who have provided me with specialist advice in relation to the litigation and Alternative Dispute Resolution issues that I deal with in this overview.

Disclaimer

The opportunity to prepare this overview has been given to me by, amongst others, my employer Deacons, however the views and opinions expressed therein are mine alone and should not in any way be taken to represent the views of Deacons or constitute an advice or opinion by that firm in relation to the issues, strategies and recommendations contained herein.

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Executive Summary

This report highlights a range of potential strategies and systemic improvements for handling support for ADF bereaved families in the event of a loved one being killed in service. The perceived need for this report arises due to the disproportionately high number of ADF families who feel compelled to take either legal action against the Commonwealth, or else choose to air their grievances in the media. This report attempts to address a range of areas that should be considered by the ADF in any proposed review of this area. It is far from an exhaustive analysis of all the relevant issues and is intended to highlight the further areas of investigation that should be undertaken by, or on behalf, of the ADF.

There are four distinct areas which have been addressed in this report and each have a number of recommendations for ADF consideration.

The key areas for review include that of military justice, communication, administrative issues and support mechanisms. There are recommendations for the creation of a new position within each Service HQ, the introduction of various new policies specifically addressed at next of kin (NOK) issues and a large number of practical administrative changes.

The ADF has the ability to be a world class leader in their management of bereaved families. Implementation of these recommendations would place the Australian military and the Australian government at the forefront of pro-active care for NOK.

Introduction

The majority of deaths which occur annually in the ADF are either health related or non-service related, such as motor vehicle accidents. Only a small percentage of deaths in the ADF are service related or are suicides (which are deemed or perceived to be service related).

Historically however, it these deaths which generate the most publicity and subsequent negative media comment towards the ADF. It is also these cases which are more likely to see the NOK decide to pursue litigation. Therefore, this paper specifically addresses strategies for the management of those situations where it is more likely than not, given events in recent years, that families will seek answers from the ADF, often in a very public way. Unfortunately this public path is often taken because bereaved families feel that their issues have not been properly addressed within the military.

For the large majority of cases in which a loved ones dies whilst serving in the ADF, bereaved families are extremely grateful for the level of support they receive from the military, in particular from such groups as the Defence Community Organisation (DCO). Where the death is not related to the ADF in any way, there is not the same level of questioning as to how the death occurred or the natural need to find someone to blame within a military context. These families are suffering their own levels of grief, but are cared for by the support mechanisms set up by the military. The support provided by the ADF in these circumstances goes well beyond that offered in any comparable civilian organisation in Australia.

The aim of this paper therefore is to understand better the concerns of bereaved families whose loved ones are killed as a result of a service accident or a suicide which is perceived to be service related.

Survey of Bereaved Families

Inquiries suggest this is the first time that existing ADF bereaved families have been surveyed to investigate which strategies worked well in their particular

circumstances and which experiences may have exacerbated an ongoing dispute with the ADF. The experiences of these families is essential in better understanding the issues which cause a family to take either legal action or go to the media. The majority of participants in this survey were families who lost their loved ones in a service related accident or in a suicide which was perceived to be service related. Therefore, the survey results are inherently based upon those who tend to be aggrieved in some way with the ADF.

Those families who participated in the survey were asked to give their views on a range of issues from the point of notification of death, through to why they may have taken legal action or spoken to the media. Families were asked to describe the level of non-financial support they received in the weeks and months following the death, as well as how they found communicating with a large organisation such as the ADF. Families were also asked to outline the level of information they received as to their entitlements and they were asked to detail their involvement in any subsequent investigations or Boards of Inquiry. Finally, families were asked to describe their experiences with respect to their sense of belonging and whether they felt they remained part of the ADF family.

A number of bereaved families in the US military and various Australian State police forces were also involved in the survey to provide a comparison of which strategies worked more effectively than others.

The Australian ADF families who volunteered to participate in the survey were contacted through word of mouth since there is no official network of this group. The unofficial network which exists is also evidence of the development of close relationships between many aggrieved families outside the ADF.

All surveys were provided under the condition of strict confidentiality, therefore no individual names have been used in this report. The only identification for each survey response is the decade in which their loved one was killed, as well as whether the response was from a parent or spouse.

Throughout this report there is also no reference to the particular Service in which the deceased member belonged. This is because the comments and feedback apply equally to all three services within the ADF and there was no particular service that received more positive or negative feedback than any other. It is important that any further review of this area continues on a tri-service basis so that a consistent approach is applied to all families in this situation.

Categorisation of Issues

Because of the breadth of matters considered in this report, the issues have been categorised into four main areas:

- Military Justice
- Communication
- Administrative Issues
- Support Mechanisms

Financial issues have not been considered in this report. The surveys of bereaved families indicate, as do investigations as to what motivates families to pursue litigation, that money is not the key issue.

Negative publicity for the ADF and / or litigation generally results from poor communication with the NOK from a very early stage. There is also a tendency to respond to any threats of litigation with a strictly legal interpretation of the ADF position. This is often counter-productive and does not take into account that issues can possibly be resolved through the use of mediation, apologies or increased communication.

Recommendations

This report outlines that whilst there are structural changes that could be considered, there are also a number of relatively simple improvements that can be made which will address a considerable number of the issues raised. Many of the issues will also require a more detailed analysis of how the changes would be

implemented within the ADF and it is not possible to go into that level of detail in this initial report.

Military Justice

In applicable cases, the military justice system is one of the most important aspects of an ADF death for bereaved widows and families. It is an opportunity for families to find out in detail what caused the death of their loved one and what action will be taken by the ADF to prevent such an occurrence happening again. However, if the families perceive the process is being mismanaged or lacks transparency, it can also exacerbate any anger and resentment felt towards the ADF from which there may be little prospect of positive resolution.

“The single most contentious issue and the source of the most distress, anger and frustration for the NOK concerns the accident investigation process and its outcomes.”¹

“Just a shockingly awful handling of the whole investigation.”²

In all cases of sudden or unexpected death, whether military or civilian, families seek an explanation as to how the tragedy occurred and also look to attribute blame. The situation is no different for families of those killed in a service related accident or suicide. The underlying difference between the two situations is that the military justice system does have the capacity to offer a means by which a cause of death can be better understood. However, there is a perception amongst families that investigations pursuant to that system are neither public nor transparent.


Risk Analysis

In analysing the complaints received regarding military investigations and Boards of Inquiry (BOI), a general trend emerges as to those causes of death which are likely to generate the most ongoing issues for the ADF. These issues may result in legal action and generally always involve negative publicity. It is the management of these cases particularly for which the recommendations in this report are directed.

¹ ADF widow, 90s


² ADF widow, 90s

Historically, service related deaths (or suicides perceived to be service related) have generally resulted in either of the least preferred outcomes occurring – litigation or negative publicity.

Risk Factor ³	Relationship to Deceased	Cause of Death
Highest	Spouse / Parents	Service related accident (see note*)
	Spouse / Parents	Suicide
	Spouse / Parents	Sudden death non-military related eg. car accident
	Lowest	Spouse / Parents

***Note: Service Related Accident**

It should be noted that “service related accident” can be further broken down into the following sub-groups (which are again listed in order of risk):

Risk Factor	Service Related Accident
Highest	Combat related and high profile ⁴
	Catastrophic loss (ie. Black Hawk, F-111 crash, HMAS Westralia) which are by their nature high profile
	Where suicide is deemed service related
	Lowest

³ “Risk factor” refers to risk of litigation and or/negative media comments as a result of the military’s management of the NOK from the point of notification of death. The risk factor may increase significantly depending on the level of non-financial support perceived by the NOK to be received.

⁴ Where there are a high number of casualties, the level of risk can reduce – this situation has been seen during major conflicts such as WW2 and within the US where there have been significant losses in Iraq. This may be attributed to the cultural change which often occurs when a nation is in a crisis and losses in combat are expected.

In addition, where the service-related accident has been a high profile accident, ready access to the media is already available for bereaved families and the ADF needs to manage this reality.

RECOMMENDATION - It is recommended that the ADF conduct a Risk Analysis immediately at the time of death utilising an assessment tool that takes into account the risk factors shown above. Doing so will not only benefit the ADF to ensure that disputes are not unduly escalated, but will also benefit the affected families who will not be needlessly caused any additional anguish.

Boards of Inquiry

Managing Expectations

The feedback received from families shows that there tends to be a general misunderstanding amongst bereaved families as to the reasons a BOI is established. There is often an expectation that the investigation will uncover an individual, or even the ADF generally, who can be held accountable for their loved one's death. This is not the purpose of a BOI and this needs to be clearly articulated to bereaved families.

Historically, a BOI is convened to determine the facts and circumstances surrounding an incident or situation so that an informed decision may be taken about the consequential action required including, where appropriate, action to avoid a recurrence.⁵

An analogy with the role of a Coroner in the civilian process is helpful in this regard. The role of the BOI, as well as determining the relevant facts and circumstances, should in the words of a former State Coroner of NSW "...demand an ability to demonstrate skill and sensitivity to the parties in the often tragic circumstances that surround the inquiry. The Coroner not only has to deal with the bereaved, but has to

⁵ ADFP 202, Chapter 7, *Boards of Inquiry*, (7.3)

investigate and analyse that which caused them pain and anguish. Tantamount to the successful execution of the office is an innate compassion.”⁶

If this was taken as an inherent component of the role of the BOI, a great deal of perception both misplaced and real, would be addressed.

Bereaved families’ expectations need to be managed in this regard and this includes ensuring, where possible, that communication with families remains at a level that ensures there is an understanding of the BOI process, the timeframe involved, the purpose of the BOI and above all, procedural fairness. Such communication needs to take into account the families’ grieving and be at such a level with which the families are comfortable. The current practice of often assigning DCO staff to act as support and advisors for families assists but there must be a specific and consistent communication to the family that explains the BOI process and the role of the DCO advisor. The role of the BOI in the grieving process needs to be acknowledged and recognised.

Whilst that does not go to the investigation as a root cause of an incident, it assists in giving the aggrieved family the opportunity to express their views. Civil experience, particularly in the realm of Alternative Dispute Resolution, has shown that once the aggrieved has been presented with a forum to say his or her piece, they are far more amenable to cooperate firstly, in the investigatory process and secondly, more conciliatory towards settling any claims.

“We had input into the Terms of Reference although a lot of our points were ignored... The (ADF) did appoint a solicitor to liaise with us but it was this solicitor who ignored our requests for changes.”⁷

Written material designed specifically for NOK as well as training programs for DCO advisors will assist in this regard. Consultation and active participation by the bereaved families should also be sought.

⁶ Kevin Waller, Coronial Law and Practice in NSW, 3rd ed, Butterworths, 1994

⁷ ADF parents, 00s

RECOMMENDATION – A detailed information booklet should be prepared for NOK involved in BOI proceedings which includes information on the purpose of a BOI and the entitlements of the bereaved family in the process. This ensures that current and consistent information is given to all NOK involved. Information on the BOI procedures should also be included on the bereaved families website (discussed in more detail below).

In addition to a booklet for families, an ADF policy should be prepared that deals with all aspects of the NOK participation in the BOI process. Many of the subject areas to be considered in the proposed ADF policy are outlined below.

Lack of Independence

Because of historical concerns over the transparency of the BOI process and questions as to whether the families have been afforded the requisite degree of procedural fairness, quite a number of families commented on their perception that the BOI were generally biased. Suspicions are raised amongst bereaved families that the military is only seeking to protect its interests and not truly interested in resolving what caused the accident or event. This is the subject of a current Senate Inquiry and therefore will not be dealt with in detail in this report, however the feedback received in the surveys warrant consideration.

“Although the opening of BOI proceedings to the public and the inclusion of civilian specialists on BOI’s are welcome changes, they have done little to assure the NOK and the public of the independence of the inquiry process. This is primarily because the inquiry process remains completely controlled and conducted internally.”⁸

“Our main aim was to get an independent person onto the inquiry but that did not happen. The reason for this was that we do not trust the

⁸ ADF widow, 90s

*(ADF) to conduct an inquiry into itself and the result has been that some of our allegations were overlooked or watered down.*⁹

*“There was no transparency of the investigation and information for my benefit was severely restricted. The relationship with the (ADF) deteriorated significantly at this stage and I lost all trust. I lost all faith in the honesty of senior officers.”*¹⁰

*“In my opinion the investigation was lacking in certain areas and has caused our family much frustration, trauma and anxiety in not getting a clearer picture on what did actually happen to, or cause the (death) of my son.”*¹¹

Until these concerns are overcome through the introduction of some level of impartiality, objectivity and a guarantee of procedural fairness in the process, complaints of this nature will continue to be received by bereaved families and suspicions will remain difficult to counter in any forum.

RECOMMENDATION – Further consideration needs to be given as to how NOK can be reassured that the BOI process is open, honest and procedural fairness instilled. Steps have already been taken by the ADF to provide public hearings and the appointment of civilian specialists should be attempted for every BOI. These changes need to be further reinforced by clear visible means. Proactive measures need to be investigated so that bereaved families feel that an objective investigation is being undertaken. This may include the availability of an independent interview with the civilian specialist involved or actually having the civilian specialist act as President of the BOI in appropriate circumstances.

⁹ ADF parents, 00s

¹⁰ ADF widow, 90s

¹¹ Submission by Ms Joan Gurr to the Senate Foreign Affairs, Defence and Trade References Committee, 14 January 2004

Perceptions of Secrecy & Cover Up

Relations with bereaved families also tend to break down during proceedings due to what is perceived as the secretive nature of inquiries. A number of families commented on the way they were treated when they attended the Boards of Inquiry. This contributed to their feelings of suspicion and a possible cover up.

“At the inquest we were ignored by the senior officers and were only spoken to by other (junior officers). During the inquest, (ADF personnel) were warned that they could do their careers harm if they say anything out of place. After that comment it was obvious that they were guarded in their answers.”

“As the BOI loomed, people were ordered not to discuss the accident with me and I became very isolated. I desperately needed the information – at that time not legally, just for my own ability to make some sense of the tragedy.”¹²

“Barriers began to form quite early on...people had been told not to talk with us and so they became very careful, cagey even, in any contact...I did not think that the officers we knew did not care about us, but I believe they were too firmly enmeshed in the restraints of a bureaucracy and too afraid of career ramifications if they were seen to be fraternising with the possible enemy”.¹³

“I did feel that there was a closing of the ranks concerning the accident.”¹⁴

“This was the first time the barriers were effectively put up and progressively reinforced.”¹⁵

¹² ADF widow, 90s

¹³ ADF widow, 90s

¹⁴ ADF widow, 80s

¹⁵ ADF widow, 90s

It is essential during the BOI process to keep families fully informed as to progress and outcomes. Often families feel that the military has purposely or intentionally neglected to keep them informed of progress, particularly if they are unable to attend the whole BOI. This leads to further enhancement of the feeling of suspicion with the process.

"I knew...that there would be a Board of Inquiry but any information about the progress was never effectively passed down – it was all a big secret."¹⁶

"I was shocked to learn that a soldier had been charged over my son's death."¹⁷

Families typically have an ongoing desire to know as much as possible about their loved one's death, and an expectation that they will be kept informed of the progress of any investigation. As a comparison, USAF Instruction AF134 – 1101 provides an excellent summary of how information should be relayed to bereaved families at various stages throughout the investigation process.

RECOMMENDATION - A policy similar to that used by the USAF should be introduced at a tri-service level which outlines a timeline and guidelines for the provision of information to bereaved families during the investigation and BOI process. It is also important that ADF participants (and the civilian specialist involved) understand how they should communicate with the NOK. Measures need to be taken to ensure that families feel an open flow of information is in place. These issues can be addressed in an ADF policy regarding NOK involvement with BOI which should include the appointment of a civilian specialist with authority to communicate with the NOK as to the progress and outcome of the BOI.

¹⁶ ADF widow, 90s

¹⁷ ADF parents, 90s

Exclusion

Bereaved families commented that they felt they were outsiders during proceedings and, due to a misunderstanding of what would occur, attending the BOI sharply reminded them that they were no longer part of the military family.

“On the last day of the BOI, it was declared over, the BOI members, the legal reps (including mine) and everyone else walked off to the mess and they left me ... to drive myself home. Watching them all walk off and ignore us reinforced the fact that I was no longer part of the (ADF) and that I was the enemy.”¹⁸

“Conditions at the BOI location were inappropriate for us as a family ie. no place to work, examine our notes, obtain food or drinks. On one occasion we were offered a portion of the Inquiry panel members lunch.”¹⁹

“The system as it stands is not supportive, and there are no guidelines for people involved in the tragedy on how to act towards the grieving family.”²⁰

“I don’t think the ADF was concerned for caring for me. They were concerned about not telling me too much, not contradicting the investigation findings and not opening themselves to litigation.”²¹

RECOMMENDATION – Consideration needs to be given to the preparation of guidelines for the attendance of bereaved families at BOI proceedings, including the provision of escort officers, work areas, meals and transport. All participants in the BOI should be instructed on how they should communicate and interact with the participating bereaved families so as to not cause additional distress. These matters should be dealt with in an ADF policy on

¹⁸ ADF widow, 90s

¹⁹ ADF parents, 90s

²⁰ ADF widow, 90s

²¹ ADF widow, 90s

NOK participation at BOI. Consideration needs to be given to the nature and extent of representation for bereaved families.

Lessons Learnt

It is very important for bereaved families to feel that the loss of their loved one has not been in vain and that the cause of death will be fully investigated so that similar accidents do not occur in the future. This is a key issue that needs to be addressed with families so that they are aware of the changes the military is making to procedures as a result of the investigations. It is often this perception that “nothing is being done” that leads the families to the media in order to advocate for the changes they perceive are needed.

“I would like to have been better informed as to the outcome and resultant actions coming out of the Board of Inquiry in the hope that something positive and constructive has been done after the tragic loss of my son.”²²

“We went to extreme lengths and cost to obtain the BOI report and findings many months after they were finalised... A lack of detail on what documents were available to access and subject matter covered meant that much of the information requested and provided was not appropriate ... the majority was simply uninformative and in some cases contained facts we would have chosen not to know.”²³

“Prompt action on the part of the (ADF) to act on the findings and recommendations of the Board of Inquiry ... would have satisfied me that no further action, let alone legal action, was required. Instead they forbade (ADF) personnel from speaking with me.”²⁴

²² Submission by Ms Joan Gurr to the Senate Foreign Affairs, Defence and Trade References Committee, 14 January 2004

²³ ADF parents, 90s

²⁴ ADF widow, 90s

“I would not have pursued legal action (and did not want to have to) if the (ADF) had acted on its own BOI recommendations.”²⁵

RECOMMENDATION – NOK should be fully debriefed on BOI findings in person and provided with a copy of the report explained in Plain English. This occurs in most cases already, but some families appear not to have received this information or have required support in understanding the findings and outcomes which has caused significant distress. Consideration should be given to have the civilian specialist who participates in the BOI available to the NOK for this purpose. Follow up with NOK should occur at regular flagged intervals after the recommendations of the BOI so that they are aware of the progress of any changes put in place as a result of the inquiry. These issues can be addressed in an ADF policy on NOK participation in BOI.

Legal Action

Many bereaved families either take, or consider taking, legal action against the Commonwealth. The reasons they choose for doing so are varied, but most see legal action as the only way they can obtain information or make the ADF accountable for their loss.

“In hindsight, legal action may have seen the (ADF) more accountable and not so able to hide behind the organisation.”²⁶

“I did take legal action... a very dragged out affair lasting 7 years and finally settled out of court... it was something I felt I had to do to get answers, but I didn’t.”²⁷

“Honesty, independent open inquiry and genuine apology and acceptance of responsibility (where it is due of course) is the only way to avoid litigation.”²⁸

²⁵ ADF widow, 90s

²⁶ ADF widow, 90s

²⁷ ADF widow, 80s

²⁸ ADF widow, 90s

RECOMMENDATION – Consideration should be given to how the Commonwealth or ADF respond to any threats of legal action from bereaved families. Immediate steps to pursue alternative dispute resolution strategies should be implemented in accordance with the proposed ADF policy.

Alternative Dispute Resolution

Perceptions of Bullying

Many families considering legal action reported that they felt pressured by the ADF into avoiding taking legal action against the Commonwealth. Whilst it is in the interests of all involved to prevent legal action where possible, it is not in the interests of the ADF if it, or its legal representatives, are perceived to be bullying bereaved families in trying to prevent legal action. Such behaviour only further alienates the already aggrieved and disaffected NOK.

“The intimidating stance of officers delivering the position of the Dept of Defence and the Dept of Veterans Affairs demonstrated the reality of the basis of our legal advisor’s views. We were bluntly informed ... that the Government has a vast array of resources to protect their vested interest, not the least of which is to ensure that no compensation claim such as ours should succeed as the floodgates could open.”²⁹

“Even though I believe I have grounds to (take legal action) from the report as there was definite negligence, I do not have the energy to take on the Federal Govt and their bullying tactics.”³⁰

Threats by bereaved families to take legal action often arise as a ‘last resort’ and at this stage may be successfully managed through mediation. Ideally, the situation should be managed so that it does not reach the point where NOK feel they need to consider a legal option.

²⁹ ADF widow, 90s

³⁰ ADF parents, 00s

RECOMMENDATION – Consideration should be given to how any representatives of the Commonwealth or ADF respond to threats of legal action delivered by bereaved families. Any allegations of bullying received by bereaved families should be addressed immediately and apologies offered in appropriate cases. This includes adopting a position that includes prevention of litigation wherever possible. Families should not be placed in the position of having to address, whether verbally or in writing, what are often complex legal positions presented by ADF lawyers. Consideration should be given as to how the ‘playing field’ might be levelled in this regard.

Preventing Litigation

In a number of instances involving bereaved families it appears that litigation could have been avoided. It is not in the interests of the families and it is certainly not in the interests of the ADF, in a reputational sense, to participate in litigation commenced by bereaved families. In relative terms, the amount of compensation generally recovered by or on behalf of a family is totally disproportionate both to the more intangible value to the ADF of damage to its reputation, and the costs of the litigation exercise.

It is critical for the prevention of litigation that an adversarial approach not be taken towards families and that the ADF is both seen to be, and is actually, working with the families to provide every assistance. Families reported seeking legal assistance merely because they felt they could not obtain information any other way. Disputes that result in legal action also take up considerable amounts of time and resources and further increase the anguish suffered by bereaved families.

“I see legal action as a last resort and one that could probably be avoided if things were handled better.”³¹

“I tried every avenue prior to taking legal action ... I received no help, no advice, no support and felt truly brushed off in my quest to right the wrongs ... Eventually, my attempts to work (with Defence) were

³¹ ADF parents, 90s

*exhausted and I turned to a lawyer and the cost – emotional and financial – has been enormous ... this legal distress is just so unnecessary.*³²

*“The public backlash and the negative PR must surely outweigh the obvious difficulty the organisation has in admitting problems and apologising.”*³³

When a bereaved family does choose to take legal action, there is an enormous personal toll on them both emotionally and financially. The ADF, and through its legal counsel, have an obligation to ensure that they take all means possible to avoid this occurrence. This means ensuring that all methods of alternative dispute resolution are thoroughly investigated.

*“I commenced legal action ... I must admit however that it was the second most distressing, harrowing and emotionally draining experience of my life (after the death of my husband).”*³⁴

*“I commenced legal proceedings ... it was an immensely draining experience to go through... I would not have willingly put myself through this ordeal except for the principle involved.”*³⁵

DI(G) PERS 34-4 – *Use and Management of Alternative Dispute Resolution in Defence* makes no mention of the applicability of this program to civilian families of ADF members. Consideration should be given to reviewing this policy so that mediation can be offered in all appropriate cases.

RECOMMENDATION – An ADF policy should be drafted which details the procedures for mediating disputes with Defence families. The adversarial approach should be one of last resort. The process should commence with a mediation based solution aimed at achieving a “win – win” outcome. Mediation training (for those in contact with the NOK) which specifically

³² ADF widow, 90s

³³ ADF widow, 90s

³⁴ ADF widow, 90s

³⁵ ADF widow, 90s

provides information regarding dealing with the bereaved is also recommended.

Early Action Required

It is essential for the ADF to be proactive in those cases where, historically, negative PR or litigation has generally followed. As shown in the table, outlining causes of death and associated risk level, there is a sharp distinction that needs to be drawn between deaths which occur in circumstances completely unrelated to the ADF and those which are in some way, or are perceived in some way, to have been caused by service in the ADF. In such circumstances, it is essential that the ADF acts quickly to prevent issues or disputes arising.

“Based on my personal experience, this feeling of ‘seeking to apportion blame or responsibility’ arises very early and unless it is resolved, perhaps within 48 or 72 hours, can become a permanent feature of the grief process. Should it become so, it seems to have the capacity to negate any offers of assistance and indeed it may very well freeze the grieving process. A vicious spiral of ‘blame’ can easily ensue, leading to the destruction of any meaningful relationship between the aggrieved and Defence.”³⁶

A number of families surveyed recognised that they indeed went down the path referred to by Group Captain Morrall (Retired) :

“The only remedy available through the legal system is a financial one. This is often seen by others as the motivating factor for the NOK, but it is the desire to make the (ADF) accept some responsibility and to “pay” in some way for a death that drives the NOK to pursue this action, often at great emotional cost to themselves. The substantial financial cost to the Commonwealth of fighting what turns into a

³⁶ GPCAPT (Rtd) P.L. Morrall, AM CSC, *Defence Family Matters*, 2003 – GPCAPT Morrall's son, FLGOFF Luke Morrall, was killed in an aircraft accident in 2002

*lengthy and acrimonious legal battle with the NOK should be a matter for consideration by the ADF”.*³⁷

It is essential that all legal advice received by the ADF or Commonwealth as a result of proposed (or actual) litigation initiated by bereaved families takes into account the full range of Alternative Dispute Resolution options available, including mediation. In addition, the impact of legalistic correspondence prepared on behalf of the ADF upon often unrepresented families must also be considered. Legal advice must be received by the ADF in its strategic context bearing in mind that the resulting negative media may outweigh any potential legal victory.

RECOMMENDATION – The proposed ADF policy should implement timelines for approaching bereaved families as early as possible in the process so that potential disputes are not unnecessarily escalated. Potential involvement with the media should also be considered at this stage. Consideration should also be given to whether an immediate written apology, acknowledging the families loss, is appropriate at this stage.

Potential Financial Savings

Avoiding litigation brings with it the possibility of significantly reduced legal expenses for the Commonwealth. The Director of the ADF Alternative Dispute Resolution program, CAPT Helen Marks CSM, has been working with her team on a litigation tool called ‘Predictor’ which demonstrates by time line the various steps in the litigation process, and the likely budgeted cost for each such step. In particular, the timeline identifies the considerable cost savings available as a result of the early settlement of litigation as opposed to a settlement well into the proceedings, or not at all. These principles, which can be applied to any third party litigation, should be adopted in potential disputes with bereaved families.

In the UK, all Government Departments and Agencies have made a commitment to considering ADR for use in all suitable cases. As a result, these Departments have estimated that they have made savings of over GBP 6 million.

³⁷ ADF widow, 90s

RECOMMENDATION - The ADF should consider formalising a policy and structure to consider ADR in all suitable cases with appropriate timelines for the various steps. The existing ADR team within Defence should be given all necessary resources to ensure that they are included very early in discussions with next of kin where a dispute is possible.

Use of Apologies

The most common feedback received from bereaved families was the simple need for an apology – a recognition of their loss and an indication of genuine regret by the ADF for the death of their loved one. Bereaved families wish to feel listened to, understood, respected and, where appropriate, provided with an explanation and apology. This will often avoid the escalation of a dispute and the significant cost in time and resources that can be involved.

The civil law experience in litigation has demonstrated repeatedly that often all the aggrieved party seeks is a face to face meeting with the Chief Executive (or equivalent) and the opportunity to express their grievances and concerns. That civil experience has shown that the outcome of that process, often merely a handshake or an agreement to disagree, had led to both a disinclination to litigate further or the moderating of compensation demands by the aggrieved such that a resolution can be achieved through the assistance of an experienced mediator.

In some cases apologies have been forthcoming from the ADF however these seem to occur on an ad hoc rather than systematic basis.

“I believe the ADF standing in the community would be greatly enhanced if they could just ‘fess’ up to the fact that, like everyone else, they make mistakes, they are sometimes careless and accidents happen. We never wanted money and we never wanted to hurt the (ADF). But, what we did want was genuine sorrow for our son’s death.”³⁸

³⁸ ADF parents, 90s

“I only sued because I didn’t get the truth, I didn’t get an apology (not until well after the litigation started) and my husband’s reputation was shamelessly besmirched as the (ADF) misguiding the media on the causes of (his death).”³⁹

In the past, public sector agencies and public officials have been reluctant to give apologies as this could be taken as an admission of liability leaving them open to action through the courts from a person seeking compensation⁴⁰. However, each State and Territory has, within the last two years, enacted legislation to outline the instances whereby apologies are not considered an admission of liability and in most cases will be inadmissible in future proceedings.

In principle, the most effective apologies are given promptly and sincerely and incorporate the following elements⁴¹ :

- **Scope** – a description of the relevant act or omission to which the apology applies;
- **Detriment** – recognition that the bereaved family has suffered a loss and acknowledgement of the types of consequential detriment suffered as a result of this loss;
- **Cause** – where possible, an explanation of the facts surrounding the incident (care must be taken because legislative protection only extends to the apology);
- **Responsibility** – an acceptance of responsibility or accountability;
- **Apology** – an expression of sorrow, sympathy or regret or a general sense of benevolence or compassion; and
- **Action taken or proposed** – statement of action taken or specific steps proposed to address the incident and to ensure it will not recur.

³⁹ ADF widow, 90s

⁴⁰ Public Sector Agencies Fact Sheet No 1, Apologies by Public Officials and Agencies, NSW Ombudsman, April 2003

⁴¹ Public Sector Agencies Fact Sheet No 1, Apologies by Public Officials and Agencies, NSW Ombudsman, April 2003

RECOMMENDATION – In all cases where an ADF member has been killed in service, consideration should be given to an immediate written apology being provided to the bereaved family. The scope, format and content of this apology will vary depending on the circumstances and also the timing in which it is given. Careful case management from the outset should be able to determine the correct timing for any further apologies which may deal with cause. It is essential that any apology offered avoids legal jargon and is a genuine expression of regret.

Communication

The perceived lack of communication between bereaved families and the ADF was the next most pressing issue raised in the surveys.

Pre - Funeral Contact

Generally all families surveyed were satisfied with the level of contact in the period leading up to the funeral. If anything, there can be too much contact as a flurry of activity descends on the NOK's home. DCO assists in managing this period. Most bereaved families commented that ADF personnel were in their home daily assisting where possible with personal arrangements.

Post - Funeral Contact

Again, almost without exception, all families surveyed commented that from the day after the funeral, contact with the ADF almost completely ceases. Most families state that they did not feel they were given the power to decide when and how contact ceased. This is particularly the case for those families whose loved ones have been killed in a service related accident because there is a sense that an extra 'duty' is owed by the ADF.

"After the funeral...the contact virtually disappeared."⁴²

"It all appeared to be a play for the media, because once the memorial service was over we were dropped like 'hot cakes' – no support was available, no counselling was on offer and we were basically left to our own resources."⁴³

⁴² ADF widow, 90s

⁴³ ADF widow, 90s

“From the time of the funeral onwards, contact with the (ADF) diminished considerably, just when I needed the support – as it sank in that I would never be part of the (unit) again.”⁴⁴

“After the funeral, I never heard from anyone... I felt totally abandoned.”⁴⁵

“Before XX was buried, the (ADF) was at my house every day. The day after the funeral I never heard from them... I found this extremely distressing, particularly after being at my house every day for two weeks and then nothing.”⁴⁶

“Contact from (unit) ceased after the funeral... Promises of invitations for attendance at (unit) ceremonies were never received and newly appointed senior officers made it abundantly clear that we would not be welcomed.”⁴⁷

“At first, we were advised there would be weekly contact with the CO of (unit)... but this very quickly became fortnightly, and finally haphazard.”⁴⁸

The sense of having to ‘battle bureaucracy’ becomes an issue for the majority of families who are not familiar with how a large organisation, such as the ADF, operates. It is especially difficult during a period of grieving and becomes a source of anger at the organisation for its perceived involvement in the death of their loved one.

RECOMMENDATION - All steps necessary need to be taken to ensure that one point of contact is provided to families, and this point of contact is empowered to assist with what are often difficult issues for the ADF to resolve.

⁴⁴ ADF widow, 90s

⁴⁵ ADF widow, 00s

⁴⁶ ADF widow, 00s

⁴⁷ ADF parents, 00s

⁴⁸ ADF parents, 90s

Role of Defence Community organisation (DCO)

Most families surveyed stated that DCO contacts were not seen as the main point of contact on the sorts of key issues that can lead to a family feeling they are not getting answers from the ADF.

“After the first few weeks, when we needed to contact the (ADF) it was difficult to identify the person we should be addressing our questions at and contact was often unhelpful and extremely difficult.”⁴⁹

“We had no specific nominated contact point after the funeral had taken place. From the notification of death, it is critical for a single designated point of contact at least for the first year. The contact should have a reasonable level of authority to deal with issues and get things done effectively. In our circumstances we needed someone that could have co-ordinated communications with the (ADF)... We experienced many frustrating and expensive telephone calls...when attempting to get settlement of matters left unresolved.”⁵⁰

It needs to be recognised that levels and appropriateness of communication with families needs specific attention, in addition to the provision of information regarding funerals, entitlements or other administrative information offered by DCO. A structured system needs to be established that prompts the ADF to remain in touch with families and to keep them updated on the progress of investigations, where appropriate.

This is not a responsibility of DCO since Military Support Officers are often not qualified or the most appropriate people to discuss these sorts of matters with the families. Bereaved families want to feel that their issues are being responded to by the relevant service chief.

⁴⁹ ADF parents, 90s

⁵⁰ ADF parents, 00s

RECOMMENDATION - DCO is crucial in providing a high level of communication in the weeks immediately following the death, but thereafter a relationship should be established at a Service HQ level in those cases assessed as potentially high risk in terms of litigation and / or negative publicity for the ADF.

Family Contact at Service HQ Level

The Army has created a position of Director Personnel Operations which appears to work effectively. This position, and the associated Directorate, is responsible for dealing sensitively and quickly to any potential issues from bereaved families. The benefit of this position is that there is a direct link to the Chief of Army so that potentially high profile issues can be dealt with immediately.

It is important that this Directorate works closely with DCO and conducts a handover in the initial weeks following the funeral. In most cases involving a death due to health reasons or non-service related accident, there will be little ongoing involvement. However, in those cases recognised as high risk, proactive measures to engage the family should be made early on.

This position should also work closely with the Director of Alternative Dispute Resolution and Conflict Management so that any potential disputes are addressed at a very early stage.

This Directorate should maintain a database of all bereaved families, with a comment on their status, so that at any time the relevant Service has the relevant contact details and an update on the last relevant contact. This Directorate should be responsible for ensuring that condolence letters are sent out on the anniversary of death, Service newspapers are arranged if requested and invitations to relevant Service events are made. This Directorate should be advertised to the families as the primary point of contact for any ongoing issues they may have with the ADF.

RECOMMENDATION – An equivalent Directorate of Personnel Operations – Army should be created in the RAAF and RAN to manage ongoing relations with bereaved families. This position should be responsible for ensuring high

levels of communication with NOK and for facilitating Alternative Dispute Resolution where appropriate.

If this Directorate is created, it should re-establish contact with all existing bereaved ADF families and inform them of the new initiatives the ADF is introducing. It should inquire whether the families require any assistance at this point in time, whether contact with the ADF is welcome, invite families to visit the dedicated website, offer subscriptions to the relevant Service newspaper and provide details on the point of contact within the Directorate for any future enquiries.

Managing Informal Lines of Communication

Many bereaved families comment that they receive information via informal means, such as through friends who remained in the ADF or through serving members' spouses. It is important that this issue is addressed with surviving ADF personnel very early after a death, and in particular where a service accident occurs.

In the days after the Space Shuttle Columbia accident, all remaining astronauts and their spouses were called to a briefing by the Director of the Astronauts Office and given all the facts as they were known at the time. These briefings continued as the investigation progressed so that anyone who may have had contact with the bereaved families were passing on only factual information. It was also important to reassure surviving astronauts and their spouses that all measures were being taken to ensure that such an accident did not happen again.

Unfortunately it is often the case that in order to prevent informal information reaching bereaved families, local commanders have instructed their units simply not to discuss anything with NOK. This is often not practically enforceable, can be counter-productive and such an instruction merely fuels the suspicion and distrust between NOK and ADF.

"The contact was good at first however when I asked difficult questions the door was closed on him by his superiors... I was able to get information via other wives and from the Coroners inquest. I

*also had 'strangers' contact me with information as they felt the (ADF) was withholding information.'*⁵¹

RECOMMENDATION – Proactive measures need to be taken at a Unit level to brief all surviving ADF personnel, and their spouses, on any facts surrounding a service accident. Measures also need to be taken at a Service HQ level to ensure that Unit Commanders do not issue general instructions not to talk to bereaved families given the additional suspicion this often generates.

Remaining part of the 'Military Family'

Most Defence Force families have an expectation that, even in the event of the member's death, they will remain part of the 'military family'. This expectation is established throughout a serving member's career when families are often thanked for their sacrifices and reminded that they are the backbone of the ADF.

*"We feel that to some degree we will always be tied to the military and it would be better for that factor to be recognised no matter how visible we may or may not be."*⁵²

As a result, the expectation that a bereaved family will remain part of the 'military family' even in the event of a serving member's death requires active management since the reality is that a large bureaucracy will always have difficulty maintaining such a relationship with bereaved families.

*"The (ADF) initially kept saying "You're part of the '(ADF) Family', but due to the circumstances it quickly became evident that I was an embarrassment to the organization ... it was very quickly obvious that it was required rhetoric."*⁵³

"I felt totally disconnected from all my social contacts, all my (ADF) family. I felt they no longer wanted me around. I don't believe the

⁵¹ ADF widow, 90s

⁵² ADF parents, 90s

⁵³ ADF widow, 90s

(ADF) could have helped this situation. It comes down to the group dynamics of a social group faced with their own infallibility.¹⁶⁴

"I think with a big organization...there is a lot of talk about 'family'. The other widows and I used to laugh that we were like the leper colony. We felt very uncomfortable at gatherings with other complete families."¹⁶⁵

"This was probably the worst aspect of the organisation's response to the accident. From the moment of the accident I began to feel that I was being pushed away from the (ADF) community. My presence at functions made people feel uncomfortable."¹⁶⁶

"I did feel estranged from the community as it was not a place for a widow and two children."¹⁶⁷

"This is the absolute worst aspect of being a family losing a young son in a (military accident). We had no sense of where we should place ourselves in relation to (the ADF) and service that was such a major part of my son's young life."¹⁶⁸

This is made more troublesome by the high turnover of ADF personnel due to postings and transfers which means that familiar faces are soon gone from the bereaved families' area.

"I suffered withdrawal symptoms with the separation from the service and felt that I no longer belonged. I was pushed out of the family of 20 years."¹⁶⁹

"There was a real sense of abandonment and of neglect."¹⁶⁰

⁵⁴ ADF widow, 90s
⁵⁵ Police widow, 90s
⁵⁶ ADF widow, 80s
⁵⁷ ADF widow, 80s
⁵⁸ ADF parents, 90s
⁵⁹ ADF widow, 70s
⁶⁰ ADF widow, 90s

RECOMMENDATION - Consideration should be given to the relatively straightforward ways in which those bereaved families who wish to remain close to the ADF can do so.

Consideration should also be given to recognising that the feelings of isolation and withdrawal from the ADF will be experienced in various ways by all bereaved families. Providing information to forewarn NOK in the initial weeks of feelings they may experience, and the dislocation that naturally occurs from the ADF, may assist this process.

Service Newspapers

A surprising number of families surveyed gave an unprompted comment stating that little gestures, such as asking whether they wish to receive a complimentary subscription to their relevant service newspaper, would go a long way to helping them feel they have not been forgotten.

“Being sent a copy of (Service) News would have been a help just to keep up with the old family.”⁶¹

“I also believe that families such as ours should be permanent recipients of (Service) News to keep us in touch with the day to day life of the (Service). We received it for a few years...but then suddenly it stopped. I feel hurt.”⁶²

“We subscribed to the (Service) magazine for five years and saw references to our son in several articles.”⁶³

RECOMMENDATION - Not all families will wish to receive the service newspaper, however an offer should be made for a complimentary life long subscription and a contact point provided should the family wish to start a subscription some time in the future.

⁶¹ ADF widow, 80s

⁶² ADF parents, 90s

⁶³ ADF parents, 90s

Invitations to Unit / Squadron Events

The following feedback was received in one way or another from most families :

*"I was invited to (an) anniversary of (unit). I made the effort to attend. It was very nice to be included and remembered... Generally I have been forgotten."*⁶⁴

*"I ceased to be invited to any social events and as I invariably found out about significant things that I was excluded from, I became very angry and depressed."*⁶⁵

*"There have been several reunions of the (unit) but I have never been invited to one of them."*⁶⁶

*"We have never been invited to an official function or any function since the first few weeks... We were advised we would be invited to (unit) birthday parades, but notifications were never received."*⁶⁷

Given the high turnover of personnel at ADF units, it is very difficult to control this particular aspect. It is also difficult to 'force' surviving ADF members to continue to include bereaved families in unit events.

What is essential, however, is to ensure that where a particularly appropriate and significant event is being held, such as a unit memorial day or base open day, that bereaved families are invited. Coordination of these invitations should rest with the relevant Service HQ.

RECOMMENDATION – Where any event such as a unit memorial service or base open day is being held, relevant bereaved families should be offered an invitation to attend. Any verbal promises made to families to attend specific events also need to be acted upon.

⁶⁴ ADF widow, 90s

⁶⁵ ADF widow, 90s

⁶⁶ ADF widow, 70s

⁶⁷ ADF parents, 90s

Remembering Anniversary of Death

Most families surveyed stated that they would have appreciated a card or letter on the anniversary of their loved ones death for at least the first year after death. This simple gesture reminds families that they are not forgotten by the ADF. This is all the more important for those families who have lost a loved one in a service accident given the additional sense of responsibility required by ADF.

“To receive a card on my husband’s anniversary would have been appreciated. It would have shown me his services weren’t forgotten.”⁶⁸

When the families are remembered it makes an enormous difference to how the families feel towards the ADF.

“We did receive a letter of acknowledgement from DCO on the 1st anniversary of XX death. It was much appreciated as it showed he was not just a statistic in their work diaries but a real person. A small action that meant a great deal.”⁶⁹

“We received a card from DCO on the first anniversary of XX death. It was a small thought, but we felt tremendously touched by the acknowledgement.”⁷⁰

“I received only this week a sympathy card for the [XX] year anniversary of the crash, and it was the only one that I have received in 10 years.”⁷¹

Consideration should be given to introducing a condolence letter to be sent at the one year anniversary point by the relevant CO. The USAF provides an example of an appropriate letter to be used in AF Instruction 34-1101. This letter states :

⁶⁸ ADF widow, 80s

⁶⁹ ADF parents, 90s

⁷⁰ ADF parents, 00s

⁷¹ ADF widow, 00s

Dear Mrs _____

A year has passed since we lost your husband, Major John Doe. We remember his contribution to the Air Force and still mourn his loss. I want you to know that you will always be a part of the Air Force family. We remain committed to providing you the most professional, timely, and compassionate assistance whenever required. Major XXX will call you in the next few weeks to see if we can be of any assistance at this time.

I also want to remind you about the Air Force Survivor Assistance Office. This office is the single point of contact in the Air Force that marshals all available resources together to help families. You can reach them by XXX.

A similar letter would be appropriate to be sent to bereaved families in the ADF since it lets families know they are not forgotten, and it also invites them to make contact if there are any issues pending.

RECOMMENDATION – Establish a system at Service HQ level whereby families are automatically sent a condolence letter at the one year anniversary of the death.

Administrative Issues

Notification of Casualty

Generally, this was an issue that most families felt was, in the circumstances, conducted in as professional a manner as possible. There was some general feedback from families which is useful to consider.

ADF Personal Data - PMKeyS

An issue that may cause some difficulties in particular cases is that the current PMKeyS database only requests the name of a 'Primary Emergency Contact'. This person does not necessarily need to be a member's NOK and may in fact be a roommate or neighbour. This person may not have any contact information for the NOK and therefore there may be some instances where the actual NOK are delayed in the notification of their loved one's death. In the case of a high profile service accident, this could mean the NOK hear about the death in the media before being officially notified. Consideration should be given to ensuring that member's completing this form understand that this name should be the person they wish to have notified immediately of their death and should be their NOK.

RECOMMENDATION – The field on the ADF Personal Database – PMKeyS requiring Emergency Contact information should be reworded so that it is clear that only NOK details should be included.

Manner of Notification

Consideration should be given across the ADF to requiring personnel to complete additional details on PMKeyS, in consultation with their families, that outlines the preferred method of notification in the event of their death. This was recently done in the RAAF (on a separate form) by the Air Combat Group. This assists in a number of ways, not least that it ensures families consider that such an event may occur and also ensures they feel somewhat confident that despite the event, their wishes have been adhered to from the first moment by the ADF.

When dealing with NOK, the outcome of the ongoing relationship with the ADF is often determined by the personalities involved. Therefore the ADF will be in an advantageous position if it can be prepared for the individual with whom it will primarily be dealing. It is also of benefit to the current serving members and their families if they can feel confident that the ADF cares enough about their loved ones to think ahead to such an eventuality and they are acknowledging the families valued role in service life.

Issues to consider include manner of notification, preferred person to notify, whether they should be dressed in uniform and who else should be contacted immediately.

RECOMMENDATION – Consideration should be given to requiring all ADF personnel to complete details on PMKeyS, similar to that recently used by the Air Combat Group, which requires specific information on the means of notification in the event of death. A field should also be included asking ADF members to state whether they have a will, and if so, when it was last updated and where it is located.

Presence of Chaplains

It should not automatically be assumed that all NOK wish for a Chaplain to be present. Most commented that they preferred to be able to request a Chaplain should they need him to attend.

“At some stage a Catholic Priest arrived – this struck me as ridiculous as neither [the deceased] or I were Catholic.”⁷²

RECOMMENDATION – It should not automatically be assumed that a Chaplain should accompany the person making the notification. Whether a Chaplain should be included in the notification party should be indicated on PMKeyS.

⁷² ADF widow, 90s

Multiple Casualties

In the event of a multiple casualty accident, it needs to be remembered that the NOK should not be treated as part of a group for the purposes of notification. In one incident, there were multiple casualties after an ADF accident and all widows were notified at the same time in one room. This is an unsatisfactory manner of notification – whilst it may be the most convenient and efficient way of presenting the news to families, it does not take into account the varied needs of the people being informed and does not recognise that these families may not know one another at all and therefore will not feel comfortable grieving and recovering from the shock of such news in public.

“The OC wanted to make a formal announcement. In the room were other spouses and unrelated people. After a considerable time the OC announced “ladies, you know the situation - there are no survivors”, turned and left. We were then left to ourselves.”⁷³

RECOMMENDATION – In the event of multiple casualties, policy and procedures need to reflect that all NOK should be treated individually and not as part of a group.

Funeral Arrangements

This is certainly the most positive aspect of current ADF practices and most families were very satisfied with the way the military organised each of the various funerals. A number of families did mention however that they felt a pressure to hold a military funeral, especially those involved in high profile accidents.

“There was an immediate assumption that it was going to be full military honours and that was what had been told to members of the unit. I made it clear that it was not going to be but the (ADF) insisted ... they kept pushing little things”.⁷⁴

⁷³ ADF widow, 90s

⁷⁴ ADF widow, 00s

“When the funeral was organised I felt an intense pressure to have a military funeral... Even when I said no they insisted on us all sitting down and going through what they could offer.”⁷⁵

RECOMMENDATION – Regardless of how high profile the funeral is likely to be, it is essential that DCO staff making the funeral arrangements ensure that only the wishes of the NOK are taken into account. This may include DCO working with the relevant Service HQ and Unit Commanders to ensure that no undue pressure is placed upon NOK to follow any preferred path.

Human Remains

The identification of, and subsequent discovery of additional human remains, is obviously an important and very emotional issue for bereaved families. It is also one issue that some families in the surveys stated as not being handled well by the ADF.

“The other widow and I were denied DNA testing of certain pieces of recovered personal items... which was distressing.”⁷⁶

“Most distressing was the knowledge that salvage crews found human remains at the site and they chose to (leave them at the accident scene) rather than send them home for DNA analysis and burial or even to have treated those pieces of my husband with dignity and respect by at least burying them under the cross already near the crash site.”⁷⁷

After the Space Shuttle Columbia crash, human remains were found across a number of US states for many months. In order to manage the wishes of families, each family involved was asked what procedure they would like followed in the event additional remains of their loved one were found. These requests were adhered to for each individual. Preparation for this eventuality through pro-active

⁷⁵ ADF widow, 00s

⁷⁶ ADF widow, 90s

⁷⁷ ADF widow, 90s

discussions with the NOK averted many of the potential distressing issues which may have arisen.

RECOMMENDATION – Consideration should be given to ensuring human remains are identified wherever practicable in the event of multiple fatalities.

Where human remains are likely to be found after the initial search, the bereaved family should be consulted about what they would prefer occur in that event.

Memorials

Those families who have had memorials arranged for their loved ones are extremely grateful that it has occurred. The memorial service can go a long way to assisting families to deal with their loss.

“It is important to have a place where people can go.”⁷⁸

“Annual memorial services have been held and they have been nice – the entire family appreciates the remembrance and an opportunity to have morning tea at his old (unit). It is important to feel he is remembered and we are valued.”⁷⁹

“I was recently invited as a guest to the (unit) anniversary celebrations. (Service Chief) made special mention of the XX (personnel) who died in the context of the past, present and future of the (unit). It was a most important healing exercise after some of the hurts of the past.”⁸⁰

There is however an expectation by bereaved families that the military will provide such a memorial, in addition to the normal funeral entitlements, and so when this does not occur the expectation does need to be managed.

⁷⁸ ADF widow, 90s

⁷⁹ ADF widow, 90s

⁸⁰ ADF widow, 90s

“Considering the amount of my husband...left at the accident scene I feel the (ADF) should have put a memorial at the site. One year after the accident a group of my husband's military friends travelled with me to XXX and erected memorials ... at their own expense... (The failure of the ADF to fund the memorial) was perceived as a gross insult to my husband's memory ... and was a significant kick start to my deteriorating relationship with them.”⁸¹

RECOMMENDATION – A consistent approach needs to be taken towards the establishment of memorials for bereaved families. Due to the provision of memorials on an ad hoc basis, there is disappointment amongst those families who do not receive ADF support. Families should be clearly informed as to their entitlements and this information should also be available on the website.

Inclusion of Families

There is also a difficulty where memorials are arranged, but the family is not involved. The failure to include Mrs Kylie Russell in the memorial service for her late husband, SGT Drew Russell, involving President George Bush and Prime Minister John Howard was a recent high profile example.

“Establishment of memorials did not involve us as a family in any way and we weren't advised of the dedication of either memorial but found out informally during attendance at the BOI.”⁸²

“The (ADF) organized a memorial ... I was simply informed that it had been done – not even of where it specifically is.”⁸³

“There is an annual award in XX name presented to someone deemed worthy. Initially, I was given their name and background information. I always contacted them. Unfortunately, I'm no longer

⁸¹ ADF widow, 90s

⁸² ADF parents, 90s

⁸³ ADF widow, 90s

*told anything although the award is still given. I received some wonderful replies from the people who got the award. I think it's sad I'm no longer involved.*⁸⁴

It is vital that with any memorial or similar event in the name of the deceased ADF member that the bereaved family is consulted and included in any arrangements. Communication should be via the relevant Service HQ because the memorials are often arranged some time after the funeral and therefore DCO involvement has diminished.

Consideration also needs to be given where there are multiple casualties since each bereaved family will have different views on how they would like to see a memorial created.

*"The problem ... was that there were XX widows involved. Some widows have very strong ideas on what a memorial should look like and how often services should be held."*⁸⁵

RECOMMENDATION – Bereaved families should always be consulted and involved in any arrangements for a memorial. Coordination of this communication should come from the relevant Service HQ.

Annual Memorial Service

For those families who have been fortunate enough to have a recurring memorial held on the anniversary of their loved ones death each year, it has been very well received.

*"The yearly memorial service and morning tea has been really, really special and done very well."*⁸⁶

The majority of families however do not have such an event organised, not least because the high level of turnover amongst members of the former unit mean that it

⁸⁴ Police widow, 90s

⁸⁵ ADF widow, 90s

⁸⁶ ADF widow, 90s

relies on the corporate memory of those unit members left. Consideration should be given to one day a year being recognised as a memorial day for all ADF personnel killed whilst serving in the military, regardless of cause of death, so that all families can feel included. This memorial day may be included in an existing event such as Anzac Day or Remembrance Day.

RECOMMENDATION – In order to ensure that all ADF personnel killed in service are remembered, consideration should be given to an annual memorial service for all those killed whilst a member of the ADF, regardless of cause of death. Families of those killed should be invited to attend their local military establishment or the base where their loved one last served.

Memorial Lapel Pins

Consideration should be given to the presentation of a lapel pin, or similar item, which allows bereaved families to proudly wear something to memorial services signifying their loss. Offers to present a lapel pin to existing bereaved families retrospectively should also be made.

“DCO provided us with a small lapel pin depicting the rising sun. As time passed, this small gift has proven to be of great significance to us. We only have two, but they are worn often.”⁸⁷

“Lapel pin memento equates to recognition and belonging.”⁸⁸

“There is no sign of appreciation given for your loss – no medal, or plaque, just nothing which feels really empty.”⁸⁹

The US Armed Forces provides for the presentation of a lapel button to NOK and also have provision for a Gold Star Lapel Button for those killed in combat.

RECOMMENDATION – Consideration should be given to the presentation of a lapel pin to all NOK of those lost whilst serving in the ADF, regardless of the

⁸⁷ ADF parents, 90s

⁸⁸ ADF parents, 90s

⁸⁹ ADF widow, 00s

cause of death. This should become a standard procedure in post-death administration and should be presented by the Unit Commander. Those families who lost loved ones in recent years should also be retrospectively presented with a pin.

Memorial Certificate

All servicemen and women killed whilst in the US Armed Forces receive a parchment certificate signed by the current President expressing the nation's recognition of a service member's military service. This is a small token, however each US bereaved family surveyed stated that it was very important to receive and had considerable significance to them.

Given the relatively small number of certificates that would be produced per year, consideration should be given to a similar certificate being produced in Australia and signed by the Prime Minister.

RECOMMENDATION – Consideration should be given to producing a Memorial Certificate for NOK, signed by the Prime Minister which recognises the ADF member's military service.

Presentation of Australian Flag

There is currently no entitlement to the receipt of an Australian flag for a bereaved family who has lost a loved one in service. However, there is an expectation by all families that they will receive a flag and there is considerable distress from some families when they realise this will not be the case. There are also inconsistencies in that many Service representatives elect to give the bereaved family the flag used at the service, despite the lack of entitlement.

Under US law, the NOK of US Armed Forces personnel are all presented with a flag at the conclusion of a military funeral. In addition, a wooden presentation box is also arranged.

RECOMMENDATION – NOK should be presented with an Australian flag at the conclusion of the funeral by the relevant service representative.

Access to Memorials

A number of families have stated that they find it very difficult to access memorial sites or places of death because they are located on military establishments. Many of the access issues arise due to the high turnover of staff, and each visit requires a full explanation of who the families are and why they require such access.

*“Soon after the accident (ADF personnel) from (unit) constructed an individual memorial on the accident site. We have fundamental problems gaining access to this site as it is on (military base) ... because it is too difficult to arrange access with the (ADF)”.*⁹⁰

*“Eventually (unit) funded its own memorial site but access to the site for most family members is restricted due to its location within the perimeters of XX base.”*⁹¹

Visits of this nature should be directed to the relevant Service HQ and families should be given a central contact to whom they should make such access requests.

RECOMMENDATION – A contact at Service HQ should be provided to all bereaved families so that they can ‘fast track’ access to relevant military establishments should they wish to visit memorial sites.

Lack of Training & Experience

Many senior officers and other service personnel find themselves in the situation of having to comfort grieving families, while they themselves are also grieving for the loss of a colleague. Service personnel then find themselves caught between having to present the ADF view on the accident to the NOK, whilst also receiving

⁹⁰ ADF parents, 90s

⁹¹ ADF widow, 90s

demanding, but completely natural, questions from bereaved families as to what happened.

“The problem with [members of the (unit) as liaison officers] was that they had no experience in (dealing with) grieving widows. They tried their best but they were at the same time grieving themselves. Consequently, the contact dropped off over the first few weeks. The liaison officers had to deal with their losses as well.”⁹²

This is a very difficult position for any ADF personnel to be placed in after an accident, especially when they are also grieving for the loss of their colleague. In the case of service accidents where a BOI is to be held, Unit Commanders are often very unclear as to what they can and cannot say to NOK which only exacerbates the potential for distrust to develop. This can be a particularly stressful time for Unit Commanders and therefore a far more wide ranging level of support needs to be provided to ADF personnel placed in this position, as well as a broader range of training provided at a CO level.

‘Just in time’ training and counselling should be provided to any officers or other ADF personnel coming into contact with bereaved families. It is important that regardless of rank or position, all levels within the ADF are aware of the most appropriate way to manage and communicate with bereaved families. Often bereaved families will seek out those they feel most comfortable with (as opposed to their allocated DCO contact) and it is therefore important for the ADF to ensure these people are confident in their ability to provide assistance rather than potentially cause additional grief for those involved.

The *Handbook for Commanders* being prepared by the RAAF should also be introduced to the ARA and RAN for this purpose since it provides a reference guide for COs placed in this position. It has been prepared by an ADF widow and so deals with many of the issues outlined in this paper. A similar guide should be available to all Unit Commanders to consult in the event of a death occurring under their command.

⁹² ADF widow, 90s

RECOMMENDATIONS – ‘Just in time’ training and counselling should be provided to any ADF personnel likely to come into contact with NOK after a service accident to ensure that all communications are helpful and beneficial to families.

A *Guide for Commanders* should be produced and presented at Staff College so that they have a reference guide for issues to consider in the event that a death occurs under their command. They should also receive training and support as to how to balance their responsibilities in the ADF with the often competing demands to care for a bereaved family.

Defence Community Organisation

There was generally very good feedback on the service provided by DCO, including from those families who eventually went to the media and/or courts with their grievances against the ADF. This is because almost without fail, the bereaved families who were surveyed saw DCO as helpful in organising the funeral and providing peripheral support in the early stages, however they were not seen as connected to the ADF in the sense that they could answer the difficult questions regarding the causes of their loved one’s death.

“DCO was the support mechanism offered by the (ADF) and after the first two months we did not attempt to contact them again and they have not contacted us.”⁹³

An increased reliance on DCO in recent years by the respective Services also has the potential to leave bereaved families in a vacuum when trying to seek someone within the military to respond to their more specific issues, especially relating to cause of death. This is really only relevant in those cases where the loved one has been killed in a service accident and therefore NOK are seeking answers as to how the investigation is progressing and what changes are being made as a result of their loss.

⁹³ ADF parents, 90s

“A single point of contact in the form of a DCO liaison officer was appointed...he was very good but problems were :

- *He was from a different service*
- *He knew no-one at the (unit)*
- *Not everything came through him*
- *I did not know him, therefore it was quite some time before a rapport and trust developed*
- *Problems were already massively in place by the time he was appointed*
- *No one person was ‘in charge’ of any particular aspect – there were always multiple people that I had to deal with.¹⁹⁴*

RECOMMENDATION – A formal handover should occur with families between DCO and the relevant Service HQ contact at a point shortly after the funeral. This is particularly important in the event of a service accident.

Lack of Continuity

It is an issue for bereaved families when there are many changes in the ADF personnel dealing with their particular case.

“DCO officers provided support for us at the BOI two months after the funeral, however these were not the same (location) based DCO, nor the same contact/support officers we spoke to over the first 2-3 weeks. The lack of continuity was as much a problem for

⁹⁴ ADF widow, 90s

*DCO as it was for us, as it required reiteration of our painful circumstances many times over.*⁹⁵

*“DCO had very limited personnel and phone answering machines with recorded messages meant no one was available when urgent assistance was needed. Changes to personnel and lack of case history further exacerbated the difficulties. However, if one had the emotional stamina to persist, good outcomes usually eventuated.”*⁹⁶

RECOMMENDATION – The recommendation that a specific Directorate of Personnel Operations be created in each Service should alleviate these issues. It is also important that this Directorate maintain a case file and / or database of all bereaved families so that any action taken is recorded on the file for access by future personnel dealing with the families.

Provision of Information

This is an area where the ADF can improve significantly through relatively easy changes. The lack of information available on entitlements, contact details and general administrative issues was commented upon by most families. DCO produces a small 28 page booklet called *Information for the Next of Kin and Beneficiaries of Deceased Members of the ADF*, however this is not comprehensive enough for most families and still requires families to do most of the ‘leg work’ to gather the information.

“DCO provided information ... the brochures were very poor, not well researched and contained no contact details for local community organisations to which we could turn for assistance... We received information about entitlements verbally from DCO mainly in relation to funeral expenses. DCO served as the gatekeeper to information provision, and services they could offer were strictly limited. As far as

⁹⁵ ADF parents, 90s

⁹⁶ ADF parents, 90s

we were concerned we understood this to mean that we had no entitlements without remonstrations.⁹⁷

“Letters of condolence were received from the Minister for Defence Personnel, very senior ranking (ADF) officers ... however the letters contained no specific offers of assistance or directions to sources where support would be accessible.⁹⁸

“I think a comprehensive booklet would be of great value. When this situation happens those left are in a state of shock. Though the information given is correct it can become jumbled and confused by the state of mind of the next of kin.⁹⁹

“I had to work it out for myself by phoning all the different Govt departments to find out my entitlements... I am still not 100% sure if I am getting what I am supposed to be.¹⁰⁰

Consideration should also be given to the appropriate timing for the provision of this information to the families. A number of families commented on the significant amount of information they were given too early, when they did not remember what was told to them or where the information was later located.

“Whilst the (ADF) did provide some information after the accident, it was provided too early to be of any real use. When I needed the information I had to seek it out. This was very difficult to obtain... the information provided quite often was inaccurate or incomplete. They showed little or no compassion.¹⁰¹

⁹⁷ ADF parents, 90s

⁹⁸ ADF parents, 90s

⁹⁹ ADF parents, 00s

¹⁰⁰ ADF widow, 00s

¹⁰¹ ADF widow, 90s

Website for ADF Families

It is essential that a dedicated website for bereaved ADF widows and families be created which can provide a central access point for all necessary administrative information and helpful links. At present, there is no mention of bereaved families anywhere on the DCO website. This exclusion compounds the view amongst some families that they are no longer part of the ADF family.

The dedicated website should also have a comprehensive list of contact details to assist in dealing with the bureaucracy, as well as a facility for NOK to email their relevant questions. These emails should then be diverted to the relevant contacts at Service HQ level. The website should provide links to other support organisations as well as to initiatives such as the ADF Mental Health Strategy. Families should also be able to subscribe by email for news updates from relevant organisations such as DCO or their particular service. Information on open days and memorial services should also be made available.

Importantly, the website should also contain an area dedicated to posting photos or memorials of their loved ones – this is something which a number of families raised is being important to them. An example of this sort of website is that of the US organisation TAPS - Tragedy Assistance Program for Survivors. The website can be found at <http://www.taps.org/>

Each Armed Force in the US has a site dedicated to information sharing amongst survivors. As examples:

- US Army site - <http://www.perscom.army.mil/tagd/cmaoc/cmaoc.htm>
- USAF site - <http://www.afpc.randolph.af.mil/casualty/>

Due to the significantly fewer deaths in service in Australia, only one website would be required for the ADF.

A further benefit of a website for bereaved families is that it allows their support people – whether friends, family or work colleagues – to also find out first hand information on their entitlements and where they should go for more support.

RECOMMENDATION – A dedicated website for ADF bereaved families should be created as a central point for accessing all information on entitlements, contact details and links to support organisations.

Entitlements

Because of the number of different Government departments involved after an ADF death, there seem to be a number of families who were given incorrect advice regarding their entitlements. It is essential that current entitlement information be located in a central place to make it as easy as possible for bereaved families to obtain.

In some cases, widows have only found out about their entitlements after appearing in the media. Whilst the ADF is not responsible for the granting of pensions, compensation or Gold Cards, there is a general impression amongst bereaved families (and in particular those where their loved one was killed in a service accident) that the ADF should facilitate access to this information.

“Minimal information was provided, it was generally available from talking to outside organisations or talking to the other wives.”¹⁰²

“Information was spread far and wide and was impossible to source from one location. When I was in the initial stages of grief, it was impossible to deal with. It remains difficult XX years on.”¹⁰³

In addition, the perceived failure of the ADF to facilitate access to information on issues such as compensation leads some families to believe that the ADF is doing so deliberately. It is important to dispel such beliefs by being as helpful and open as possible when directing bereaved families to the correct Government department for further information. A website with links to various areas would be particularly helpful in this regard.

¹⁰² ADF widow, 90s

¹⁰³ ADF widow, 90s

"I believe the (ADF) is deliberately not giving us any information regarding compensation (which could perhaps require court involvement and therefore public scrutiny) and perhaps through offering all these other things such as [memorials] it puts the focus on positives for them rather than the negativity of compensation."¹⁰⁴

RECOMMENDATION – Information on entitlements and links to the various Government departments should be available on a dedicated website for bereaved families.

Defence Civilians

Consideration should be given to the ADF support arrangements in place in the event of any Defence civilians killed in an ADF service related accident.

This issue created an additional complication for those responsible for support in the aftermath of the Space Shuttle Columbia crash and also after the September 11 attacks on the Pentagon. Where there are multiple casualties comprised of both Defence personnel and Defence civilians, consideration needs to be given to how non-financial issues will be managed given the comparison between support services offered which will invariably occur. This includes such things as notification information, repatriation of remains, involvement of DCO, whether counselling services should be made available and information regarding accident investigations and / or BOIs. Defence civilian families should also be considered in the arrangement of any memorial services held as a result of the accident.

RECOMMENDATION - An ADF policy needs to be prepared outlining what levels of non-financial support will be provided in the event of a service accident with multiple casualties, both service and civilian.

¹⁰⁴ ADF parents, 00s

Financial Planning

In the past, ad hoc arrangements have meant that some NOK have been given access to financial planners paid for by the ADF and others have not. It is essential that this service is offered to all NOK since dealing with the myriad of financial issues that arise in the aftermath of the death requires careful planning and for many NOK, the provision of much needed practical help. The quantum involved is also significant and therefore some assistance in facilitating referrals to a financial planning expert should be provided.

“There is a critical need to seek out not only emotional support, but financial counselling too.”¹⁰⁵

RECOMMENDATION – All NOK should be given access to an independent financial planner to assist in making decisions regarding investment strategies for financial entitlements, both government funded and otherwise.

Awareness for all ADF Personnel

There is generally a view, whether in the ADF or civilian society, that a death of a loved one is ‘not going to happen to me’. However, military operations and training carries with it an inherent risk of loss. Therefore, the ADF has an ongoing obligation to ensure that their personnel are aware of those risks and manage them responsibly. In turn, ADF personnel owe it to their families to keep them aware of the nature of their duties and the hazards they entail.

Issues that families should discuss include whether they have each have a valid will, whether life insurance is valid and for an appropriate amount, where all financial information is held, whether a power of attorney should be considered and any preference for funeral or cremation.

¹⁰⁵ ADF parents, 90s

Whilst the ADF cannot make this mandatory, it is important to have regular promotions of this issue other than at the recruitment stage. Consideration should be given to an initiative promoting the need for each.

RECOMMENDATION – An ADF wide initiative should be undertaken which raises the awareness amongst serving members and their families of the need to consider the administrative and financial consequences of a death. This should include regular initiatives to ensure that all ADF personnel have a valid will, have considered the need for personal insurance and regularly consider their financial affairs. A field should be created on PMKeyS which requires personnel to state whether they have a will and if so, when it was last updated and where it is located.

Member's Guide to ADF Pay and Conditions of Service

The 2003-2004 edition of the *Members Guide to ADF Pay and Conditions of Service* makes no mention of what families of ADF personnel killed in service can expect in terms of funeral entitlements or retention of married quarters. Given the nature of the guide, there is also no information as to the non-financial support which will be made available (such as grief counselling or assistance by DCO).

Consideration should be given as to how ADF personnel can appropriately inform their families, what to expect should the unthinkable occur. It is important that the expectation is managed before the event occurs, and therefore managed for families of those serving in the ADF now.

RECOMMENDATION – Any future editions of the *Members Guide to ADF Pay and Conditions of Service* should include a brief overview of all entitlements in the event of a service death.

Media Relations

Many military families choose to go to the media to air their grievances after a death in the military. There are many reasons for this, not least of which is that families feel that their grievances are not being adequately dealt with by ADF. Invariably the

media will always provide significant coverage to high profile service accidents, and to any potential negative story relating to the military. It is important therefore for the ADF to recognise and be proactive in managing relations with bereaved families so that they do not feel the need to air their issues in public.

“In hindsight, the media may have helped to have proper procedures followed. It may have pushed (the ADF) to be more thorough and more transparent.”¹⁰⁶

“It was our decision to go to the media at the conclusion of the investigation because we felt the public should know what goes on in the (ADF). We were also wary that the (ADF) may try to “gag” us as they had with other families so we took the initiative ... Our story was aimed at both the (ADF) and the Government.”¹⁰⁷

“The frustrations of my relationship with the (ADF) most definitely contributed to any negative media comments I have made.”¹⁰⁸

“I went to the media ... this was a very hard decision given my attempts for 12 months to get away from them. However the Government refused to acknowledge my concerns and I felt I had no other choice.”¹⁰⁹

“I used the media extensively ... I was aiming to bring attention to my dissatisfaction with the Commonwealth over the legal issues, and the (ADF) over their failure to acknowledge and therefore remedy any shortcomings which contributed to the accident.”¹¹⁰

Most families have no experience in dealing with the initial media interest, especially in the week leading up to the funeral. Families surveyed generally felt that some

¹⁰⁶ ADF widow, 90s
¹⁰⁷ ADF parents, 00s
¹⁰⁸ ADF parents, 90s
¹⁰⁹ ADF widow, 00s
¹¹⁰ ADF widow, 90s

assistance should be provided in this respect by the ADF. For those families where assistance was provided, it was most welcome.

“We were contacted by the media constantly in the early days after the accident. The (ADF) did not speak with us at all at any time about this and did not offer advice.”¹¹¹

“Media contact was ferocious and we were not given anyone to help us.”¹¹²

“The handling of the media was a disaster.”¹¹³

RECOMMENDATION – NOK should be given full assistance in dealing with the media at any time after the member’s death. This may include in some circumstances access to an independent PR company for advice.

¹¹¹ ADF parents, 90s

¹¹² ADF widow, 90s

¹¹³ ADF widow, 00s

Support Mechanisms

Grief Counselling

Quite a number of comments were made by families regarding the extent and / or appropriateness of grief counselling.

"I had no support and I didn't know where to turn to. My daughter has been through a terrible time and is still affected very much by her father's death. If there had been some kind of counselling then I feel we all would have worked through this a lot better... I feel very strongly that the employer has a duty to care for the families whose lives are shattered by a work related death and need a lot of support and they need to know where to get it. .. For me the memories of those difficult years and not knowing where to turn will always stay with me."¹¹⁴

"No grief counselling was offered and I sought private help...(my request for this to be paid by the ADF) was knocked back on the grounds that I should have approached them immediately following XXX death ... but now it was too late."¹¹⁵

"I found I was comforting family and friends which only delayed my opportunity to grieve and then when I finally succumbed to grief I was criticized as it was expected that I should have 'moved on'. Delayed grief is not imaginary and is equally debilitating therefore assistance should be available for any period after the event."¹¹⁶

"DCO was hopelessly under resourced and we eventually paid for a private counsellor."¹¹⁷

¹¹⁴ ADF widow, 80s

¹¹⁵ ADF parents, 90s

¹¹⁶ ADF widow, 90s

¹¹⁷ ADF parents, 90s

“Grief counsellor was the (ADF) social worker. I don't think that is appropriate at all...Should have been an independent grief counsellor.”¹¹⁸

RECOMMENDATION – Consideration needs to be given to the level, timing and appropriateness of grief counselling provided to bereaved families. This will depend on the circumstances and full flexibility should be shown if NOK do not wish to undertake this counselling immediately. It is also not always appropriate, particularly in the case of a service accident, for counselling to be provided by an ADF social worker.

Support Networks

Transitioning Support from Defence to the Community

No single organisation can meet the complex needs of bereaved families. There are a number of organisations external to the ADF which are set up to provide support for bereaved families in the long term, however the ADF does not facilitate an organised transition to these groups. Little official information is relayed from the ADF to these groups alerting them to families who may need assistance.

“We searched the Internet on many occasions, but could locate nothing that was of support or assistance at that time.”¹¹⁹

“We were not put in contact with any support groups. Legacy approached me ... they have activities for the children and have an annual camp.... The Social Worker on base at the time had no contact with me and provided no information about support groups. The (ADF) could have provided more information.”¹²⁰

¹¹⁸ ADF widow, 00s

¹¹⁹ ADF parents, 90s

¹²⁰ ADF widow, 90s

“Activities to seek out external support services required energy and persistence, something we did not have in great supply.”¹²¹

“The (ADF) had nothing to do with any support groups and in fact does nothing to encourage its serving members to join.”¹²²

“The second year is a huge empty space and it is when that empty space becomes so apparent. Those around you have moved on, they have not forgotten just moved on. It is at this time that the information about support groups could again be advised to the next of kin by Defence.”¹²³

“I think Defence needs to take a more active interest in making sure you are OK rather than just dumping you over to Vets Affairs and Legacy.”¹²⁴

RECOMMENDATION – The ADF should facilitate the transition from DCO to local community support groups where appropriate. Information and links with respect to all relevant groups should also be available on the dedicated website for bereaved families.

Network of ADF Bereaved Families

Many bereaved families would like to be able to share their experiences with other ADF families in the same situation. There is no facility for this to occur and currently this occurs in an unofficial way.

“I sought out widows and parents of other (ADF) accident victims and we have provided one another with most welcome support. I see great value in (the ADF) actively supporting and even instigating these groups. It would be a goodwill gesture and one that could benefit both the (ADF) and bereaved families greatly and could help to prevent

¹²¹ ADF parents, 90s

¹²² ADF widow, 90s

¹²³ ADF parents, 90s

¹²⁴ ADF widow, 00s

*some of the very negative feelings that can build up between the organisations and families. The isolation experienced following an ADF death is particularly difficult.*¹²⁵

*“A website would be a terrific idea. I felt very isolated. It would be great to get in contact with other families. It made me feel more ‘normal’ to share my feelings and thoughts with other women.”*¹²⁶

The Tragedy Assistance Program for Survivors in the US has at its core a Volunteer Grief Mentor program which is made up of those who have lost a loved one in the Armed Forces. They provide a number of counselling services to bereaved families and of the US families surveyed, all stated that this service made an enormous difference to their recovery. Military bereaved families are able to learn more about the grief process and the traumatic effects that can follow from the loss of a loved one specifically to a sudden or violent death.

RECOMMENDATION - The ADF should recognise that an unofficial network of bereaved families exists at present. The support of this group should be harnessed rather than kept at arms length. The introduction of a website and possibly ‘memorial wall’ on the website could assist in this regard. For those bereaved families who consent (in order to comply with the *Privacy Act*), their details could be made available to other NOK in similar circumstances.

Serving Spouses

An added complexity in caring for bereaved families is where the NOK of the deceased member is also serving in the ADF. Many widows report that not only have they lost their husbands, but they also end up having to end their career in the military.

*“It appeared the serving spouses were an embarrassment and (they) wanted us out – we were a reminder.”*¹²⁷

¹²⁵ ADF parents, 90s

¹²⁶ Police widow, 90s

“I felt totally disconnected from all my social contacts, all my (ADF) family. I felt they no longer wanted me around. If I did go to the Mess, I felt they were uncomfortable around me and would have preferred I wasn’t there. I was a reminder of the risk they all face each day and they didn’t want to be reminded.”¹²⁸

“The (ADF) failed in many ways from the initial contact time right through to discharge from the service. They appeared to cover or attempt to cover elements of the accident and it also appeared that they were reluctant to want or desire to have spouses remain in the service and made things difficult not only to get promoted or remain a serving member.”¹²⁹

“The contact from Defence was quite hostile. I’m sure that this was a result of uncertainty of what to do in the circumstances and guilt. I was given no grief counselling and eventually arranged for this myself. I remained inside Defence for a year after the accident. After twelve months I left due to what I perceived as hostility and an ongoing lack of support. It was as though Defence wanted to put some distance between the organisation and the widows. I felt like a pariah and a constant reminder of how the organisation had failed.”¹³⁰

“When both partners belong to the ADF, there often exists a strengthened commitment and loyalty to the organisation. However, the first blow to this allegiance is delivered when one partner dies in the service of the organisation. Interestingly enough, this in itself does not necessarily mean that the first thoughts of the NOK will be to leave the Service. This arises later after the second blow, when the member perceives that no-one in the organisation appears to be genuinely interested in retaining them in the organisation. The third blow usually comes when the organisation’s attitude to the accident, and their

¹²⁷ ADF widow, 90s

¹²⁸ ADF widow, 90s

¹²⁹ ADF widow, 90s

¹³⁰ ADF widow, 90s

*willingness or otherwise to acknowledge any contributing organisational factors, becomes apparent to the survivor.*¹³¹

RECOMMENDATION – Special support and consideration should be made available to serving ADF personnel who also become bereaved family members. It is important that training is provided to their ADF colleagues and that their Unit Commanders are aware of ensuring they are not disadvantaged in their military careers as a result of their spouse’s death.

Retired ADF Personnel

For those retired star rank officers entitled to a service funeral, consideration should be given to producing a booklet setting out contact details and entitlements in the event of a Retired Member’s death. A database of all contact details should also be held at Service HQ. This information should also be included on the website established to provide information to bereaved families.

RECOMMENDATION – A booklet dedicated to entitlements for Retired Star Rank officers should be produced and information included on the dedicated website.

Support for Children

Consideration should be given to the level of support that can be provided specifically for the children of those killed whilst members of the ADF.

“No real acknowledgement was made of the children who lost their fathers, especially that it was so close to Christmas.”¹³²

“I don’t think the (ADF) should feel the need to keep in contact with the children but a birthday card for the first year or two would be a nice gesture.”¹³³

¹³¹ ADF widow, 90s

¹³² ADF widow, 90s

¹³³ ADF widow, 80s

“ADF families are the backbone of the services. The kids endure many moves, loss of friends, changes of schools, long absences of parent etc. They deserve to have their father’s work colleagues in the ‘military family’ continue to acknowledge their loss with a simple card ... minimal cost, maximum gratitude.”¹³⁴

RECOMMENDATION – Further investigation should be conducted into what specific support measures can be provided to children of those killed in service.

¹³⁴ ADF widow, 90s

Summary of Recommendations

This list is not exhaustive and considerable further investigation and analysis is required.

Suggested Structural Changes

1. The structure and scope of the ADF Alternative Dispute Resolution team should be reviewed and provided with all necessary training and resources. Protocols should require that this team is included very early in discussions with NOK where there is the potential for a dispute.
2. In all cases where an ADF member has been killed in service, consideration should be given to an immediate written apology being provided to the bereaved family. The scope, format and content of this apology will vary depending on the circumstances and also the timing in which it is given. It is essential that any apology offered avoids legal jargon and is a genuine expression of regret. A standard apology format should be avoided and each should be tailored to the situation.
3. An equivalent to the Directorate of Personnel Operations – Army should be created in the RAAF and RAN to manage ongoing relations with bereaved families. This position should, amongst other things, be responsible for :
 - ensuring high levels of communication with NOK;
 - facilitating Alternative Dispute Resolution where appropriate;
 - conducting a formal handover with DCO at a point shortly after the funeral. This is particularly important in the event of a service accident;
 - ensuring that families are automatically sent a condolence letter at the one year anniversary of the death;

- working with DCO to ensure no undue pressure is placed on NOK to have a particular type of funeral;
- coordinating of any 'ad hoc' memorials and liaising with NOK so that they are involved in planning these events;
- acting as a point of contact for NOK who require 'fast tracked' access to military establishments to visit memorials; and
- maintaining a case file and / or database of all bereaved families so that any action taken is recorded for future personnel dealing with the families.

Suggested Policy Changes

4. An ADF policy should be prepared that considers some of the following aspects regarding NOK participation in the BOI process including :
 - the constitution of the Board (and whether there should always be a civilian member in attendance);
 - the appointment of a civilian specialists (both legal and technical) to provide expert input to the BOI;
 - ability for civilian specialists to have the authority to communicate with the NOK on the progress and outcome of the BOI;
 - timelines and guidelines for the provision of information to bereaved families during the investigation and BOI process;
 - guidelines for ADF participants (and the civilian specialist) involved in the BOI to assist them to understand how they should communicate with bereaved families so as to not cause additional distress (including issues such as the final wording of the BOI findings);

- guidelines for the attendance of bereaved families at BOI proceedings including the provision of escort officers, work areas, meals and transport;
 - information on how NOK will be fully debriefed on BOI findings and provided with a copy of the report explained in Plain English; and
 - timelines for following up with NOK at regular flagged intervals after the recommendations of the BOI so that they are aware of the progress being made towards any changes put in place as a result of the inquiry.
5. An ADF policy should be drafted which details the procedures for mediating disputes with Defence families. This policy should include information on :
- how representatives of the Commonwealth or ADF will respond to any threats of legal action from bereaved families. Immediate steps to pursue Alternative Dispute Resolution strategies should be implemented which includes adopting a position that includes prevention of litigation wherever possible;
 - timelines for engaging bereaved families as early as possible in the process so that potential disputes are not unnecessarily escalated;
 - mediation training for those involved with the BOI process who will be in contact with NOK; and
 - formalising a structure to consider mediation in the first instance in all cases.
6. Existing casualty notification policies should be amended to reflect that in the event of multiple casualties, all NOK should be treated individually and not as part of one group.

7. An ADF policy needs to be prepared outlining the levels of non-financial support which will be provided in the event of a Defence civilian being killed in a service accident.

Suggested Operational Changes

8. It is recommended that the ADF conduct a risk analysis as soon as possible after being informed of a service death utilising an assessment tool that takes into account the various risk factors outlined in this report.
9. Further consideration needs to be given as to how NOK can be assured that the BOI process is open, honest and that procedural fairness has been instilled. This may include :
 - ensuring a civilian specialist sits on all BOIs;
 - availability of independent interviews with the civilian specialist or having the civilian specialist act as President of the BOI in appropriate cases; and
 - ensuring that BOI are open to the public.
10. Proactive measures need to be taken at a Unit level to regularly brief all surviving ADF personnel, and their spouses, on any facts surrounding a service accident and the status of investigations.
11. After a service accident, instructions need to be issued from a Service HQ level to ensure that Unit Commanders do not issue general instructions not to talk to bereaved families, given the additional suspicion this often generates.
12. An ADF wide initiative should be undertaken to raise awareness amongst serving members and their families of the need to consider the administrative and financial consequences of death. This should include regular initiatives to ensure that all ADF personnel have a valid will, have considered the need for personal insurance and regularly consider their financial affairs.

13. Special support and consideration should be made available to serving ADF personnel who also become bereaved family members. It is important that training is provided to their ADF colleagues and that their Unit Commanders are actively ensuring they are not disadvantaged in their military careers as a result of their spouse's death.
14. 'Just in time' training should be provided to any ADF personnel likely to come into contact with NOK after a service accident to ensure that all communications are helpful and beneficial to families.
15. Consideration should be given to recognising the feelings of isolation and withdrawal from the ADF that all bereaved families will experience. Information should be provided to forewarn NOK in the initial weeks of feelings they may experience in this respect, and the dislocation that naturally occurs from the ADF over time.
16. Regardless of how high profile the funeral is likely to be, it is essential that DCO staff making the funeral arrangements ensure that only the wishes of the NOK are taken into account. This may include DCO working with the relevant Service HQ and Unit Commanders to ensure that no undue pressure is placed upon NOK to follow any preferred path.
17. In order to ensure that all ADF personnel killed in service are remembered in a consistent way, consideration should be given to an annual memorial service for all those killed whilst a member of the ADF, regardless of cause of death. Families of those killed should be invited to attend their local military establishment or the base where their loved one last served.
18. All NOK should be provided access to an independent financial planner to assist in making decisions regarding investment strategies for financial entitlements, both government funded and otherwise.
19. NOK should be given full assistance in dealing with the media at any time after the member's death. This may include in some circumstances access to an independent PR company.

20. The ADF may like to consider recognising that an unofficial network of bereaved families exists at present. The support of this group should be harnessed rather than kept at arms length. For those bereaved families who consent (in order to comply with the *Privacy Act*), their details could be made available to other NOK in similar circumstances.

Suggested Administrative Changes

21. A dedicated website for ADF bereaved families should be created as a central point for accessing all information on entitlements, contact details and links to support organisations. This website should include :

- Information on BOI procedures and NOK involvement;
- Discussion of some of the feelings that are natural to expect as a newly bereaved family including the natural dislocation that will occur from the ADF family;
- General information on the stages of grief;
- Information on entitlements and links to relevant Government departments;
- Hints for surviving ADF personnel on how they may help the NOK, assistance that is welcome during this difficult time and where they themselves can seek grief counselling;
- Information and links to support groups in the community;
- Memorial page where families can post pictures, poems and messages about their loved ones; and
- Information on funeral entitlements for Retired Star Rank officers.

22. A detailed information booklet should be prepared for NOK involved in BOI proceedings which includes information on the purpose of a BOI.

23. The proposed Directorate of Personnel Operations should re-establish contact with all existing bereaved ADF families and :

- inform them of the new initiatives the ADF is introducing;
- inquire whether the families require any assistance at this point in time and whether contact with the ADF is welcome,
- invite families to visit the dedicated website;
- offer subscriptions to the relevant Service newspaper (a function which DCO should manage routinely going forward);
- apologise for any failures in communication on the part of the ADF in the past and indicate that this will be rectified in future with the creation of the Directorate for Personnel Operations for any future enquiries families may have.

24. Consideration should be given to the relatively straightforward ways in which those bereaved families who wish to remain close to the ADF can do so. These include :

- offering a complimentary life long subscription to service newspapers;
- where any event such as a unit memorial service or base open day is being held, relevant bereaved families should be offered an invitation to attend. Any verbal promises made to families to attend specific events also need to be acted upon.

25. Various fields on the ADF Personal Database – PMKeyS should be amended which include :

- renaming 'Emergency Contact' so that it is clear that only NOK details should be included;
- introducing fields, similar to that in the form recently used by the Air Combat Group, which requires specific information on the means of notification in the event of death (including whether or not it is

appropriate for a Chaplain to be included in the party who makes the notification); and

- requiring personnel to indicate whether they have a valid will, and if so, when it was last updated and where it is located.
26. Consideration should be given to ensuring remains are identified wherever practicable in the event of multiple fatalities and where human remains are likely to be found after the initial search, the bereaved family should be consulted about what course of action they would prefer to have occur in that event.
 27. A consistent approach needs to be taken towards the establishment of memorials for bereaved families which can be managed at a Service HQ level bearing in mind the disappointment amongst those families who do not receive ADF support where others have.
 28. Bereaved families should always be consulted and involved in any arrangements for a memorial service or dedication. Coordination of this communication should come from the relevant Service HQ.
 29. Consideration should be given to the presentation of a lapel pin to all NOK of those lost whilst serving in the ADF, regardless of the cause of death. This should become a standard procedure in post-death administration and should be presented by the Unit Commander. If this recommendation is implemented, those families who lost loved ones in recent years should also be retrospectively presented with a pin.
 30. Consideration should be given to producing a Memorial Certificate for NOK, signed by the Prime Minister which recognises the ADF member's military service.
 31. NOK should be presented with an Australian flag at the conclusion of the funeral by the relevant service representative.
 32. A *Guide for Commanders* (based on the RAAF model) should be produced and presented at Staff College so that Unit Commanders have a reference guide for issues to consider in the event that a death occurs under their

command. They should also receive training and support as to how to balance their responsibilities in the ADF with the often competing demands to care for a bereaved family.

33. Any future editions of the *Members Guide to ADF Pay and Conditions of Service* should include a brief overview of all entitlements in the event of a service death.
34. Consideration needs to be given to the level, extent and appropriateness of grief counselling provided to bereaved families. This will depend on the circumstances and full flexibility should be shown if NOK do not wish to undertake this counselling immediately. It should also be remembered that it is not always appropriate, particularly in the case of a service accident, for counselling to be provided by an ADF social worker.
35. The ADF should facilitate the transition from DCO to local community support groups where appropriate.
36. A booklet dedicated to entitlements for Retired Star Rank officers should be produced in addition to the information being available on the website.
37. Further investigation should be conducted into what specific support measures can be provided to children of those killed in service.