

SECTION 1 INTRODUCTION AND BACKGROUND

CHAPTER 4 A DISCUSSION ON RESPONSIBILITY AND ACCOUNTABILITY

INTRODUCTION

4.1 During the preparation of this report it became apparent to the Board that the principles of responsibility and accountability are fundamental and relevant to the Board's consideration of the evidence in relation to those who were subject to a Regulation 33 Notices under the Defence (Inquiry) Regulations. Additionally, through parts of this Inquiry, submissions were made relating to personal responsibility of Commanders or Directors of Australian Defence Force (ADF) organizations for the actions of personnel in their charge. Several analogies were put to the Board which were couched in a Naval context and this is probably due to the well known cliché that 'the Captain always goes down with his ship', which reflects an extreme and ancient tradition relating to accountability. The argument being that this tradition is not applicable in the modern world.

4.2 The positions taken in relation to personal responsibility have far reaching implications if accepted by the Board without some examination and qualification.

4.3 At the outset, it should be borne in mind by the reader that the Board is not setting out to establish its own criteria and principles for responsibility and accountability. The intent is to examine current documents such as Defence Instructions, directives, charters and instrument of appointment and use those to demonstrate the principles of responsibility and accountability that are active and applied to specific appointments and, by their very nature, are applicable to all rank levels. As will be seen later in the chapter, an accountability framework will become obvious and this will assist the Board in its consideration of the performance of those persons subject to Regulation 33 Notices in other parts of this report. In that regard, such application of the accountability framework provides another perspective to support the understanding of the performance of individuals.

4.4 This discussion is situated early in the report before any consideration of evidence and making of findings. This chapter will not include comment or establish a position in relation to individual accountability of persons. That may be done when and where it is appropriate in the relevant chapters of the report. However, the conclusions reached in this discussion will help inform the Board in its consideration of individual performance.

RESPONSIBILITY AND ACCOUNTABILITY

4.5 In the Inquiry, the term 'personal responsibility' was used in the context of being 'held' responsible' for the actions of subordinates under [their] Command. The Board considers the word 'accountability' to be more appropriate in the context in which the analogies are made, and this is consistent with the ADF concepts of Command and Authority. In the context of those ADF concepts, the use of the word 'responsibility' relates to 'obligations' and/or duty

of an individual. In most parts of this report, the word responsibility will be synonymous with the word obligations, and in some cases will be provided in parentheses for emphasis.

4.6 The Royal Australian Navy (RAN) website on the Defence intranet includes a clear discussion on the concepts of Command and Authority and how these relate to Accountability. This appears to be a summary of the Defence Instruction (Navy) Admin 30-1 and includes the key elements of Command. The following paragraphs draw on this website to explain the concept of accountability.

Command in the ADF is the authority that a commander in the military Service lawfully exercises over subordinates by virtue of rank or assignment.

Command includes the authority and responsibility for effectively using available resources, planning the employment of, organizing, directing, coordinating and controlling military forces for the accomplishment of assigned missions. All commanding officers in the Navy are accountable to Chief of Navy through the appropriate chain of command.

Any person who delegates authority to a subordinate must ensure that the subordinate is:

- a. competent to exercise such authority.*
- b. understands clearly the responsibilities inherent in accepting the delegation,*
- c. has adequate resources to exercise the delegated authority, and*
- d. is provided with a framework for reporting and meeting accountability.*

Accountability, responsibility and authority are often confused.

- a. Authority is the power granted to individuals (possibly by their position) so that they can make final decisions for others to follow.*
- b. Responsibility is the obligation incurred by individuals in their roles in the formal organisation in order to perform assignments effectively.
(In this context, responsibility can be regarded as a 'duty')*
- c. Accountability is the state of being totally answerable for the satisfactory completion of a specific assignment.
(Accountability = Authority + Responsibility)*

Authority and responsibility can be delegated (downward) to lower levels in the organisation, whereas, accountability usually rests with the individual. Accountability is the summation of responsibility and accountability.

4.7 The above extract places accountability in the context of command in the ADF. It may be argued that the above concepts are not applicable to persons who are not in command of military forces, such as those who manage Defence directorates. To adopt such an argument would be incorrect as such persons attract the same tenet of accountability, as they are given authority by virtue of the position they are appointed to and their responsibilities are usually defined by a superior organization in some form of formal instrument.

4.8 Directives or similar instruments are not generally necessary for lower command positions such as COs of units (but they may be) as their authority and responsibility are

usually clearly defined in standing Defence Instructions, regulations and/or the Defence Act 1903. As a general practice, the Board notes that instruments are given to senior appointments and these can include Senior Commanders (such as the Maritime Commander) and/or Defence Civilians or officers of the ADF appointed to management positions of ADF or single service organisations, such as Director General Technical Airworthiness.

4.9 As implied above, this discussion and the consideration is applicable and appropriate to all rank levels and this will be demonstrated later in the chapter for illustrative purposes and to provide those junior readers with understanding that they too fit into an accountability framework.

Directives and Frameworks Relevant to this Inquiry

4.10 There are several examples of frameworks established to support the efficient management of the ADF, and the Navy in particular. These frameworks serve to identify the authority, responsibilities, boundaries and reporting requirements. During the course of this Inquiry, some frameworks were presented to the Board as evidence. These and others will be used as the basis for this discussion. Some of those frameworks relevant to this Inquiry are identified below:

- a. **Chief of Navy (CN).** The CN derives his authority to undertake several activities in the context of commanding, leading and managing the Navy from the Naval Defence Act 1910. He also has certain functions described in the Defence Act 1903 and with other specific authorities under the Defence Force Discipline Act 1982. CN has boundaries imposed on him by these Acts as well as by Chief of the Defence Force (CDF), the Defence Secretary and the Minister of Defence. As the Head of the Navy, CN has an obligation to provide a framework for the management of the Navy and this is accomplished within a framework of Defence Instructions (Navy) (DI(N)) and the adoption of Defence Instructions (General) (DI(G)), a range of Regulations and other instructions and directives to address short notice or short term management issues.
- b. **Maritime Commander Australia (MCAUST).** MCAUST derives his authority from his appointment by CN to the position as Maritime Commander Australia. He has a Directive from CN that defines his authority, span of command, and his responsibilities for: command; provision of mission capable forces; governance and compliance; and other lines of responsibilities.¹ He is guided by, adopts and complies with the requirements of DI(N) and applicable DI(G) and other instructions and directives as they arise. He provides his framework for the efficient management of Maritime Command via Maritime Command Orders (AFTP1), Australian Fleet Memorandums and appropriate instructions, directives and delegations. This framework also includes instructions on maritime warfighting, training and exercises.
- c. **Force Element Group Commanders.** There are seven FEG Commanders and each derive their authority from their appointment by CN and each have a directive issued jointly by the Deputy Chief of Navy and MCAUST. The FEG Commander's Joint Directive provides the necessary framework for him to

¹ Chief of Navy Directive to Maritime Commander (RADM R.C. Moffitt RAN) dated Jun 04.

discharge his roles and responsibilities. It identifies his authority, mission, role, responsibilities and reporting requirements. Paragraph 1 of the joint directive issued to the Aviation FEG Commander reads as follows:

You have been appointed by CN as Commander Navy Aviation Group and principle adviser to DCN and MC on Naval Aviation matters. You are responsible for coordinating and managing supplies and service providers, such that Aviation force elements are provided to the MC for employment. You are acting with our authority in managing these requirements.

As can be seen from the above extract, the Directive establishes the basis for the Aviation FEG Commander's Authority and defines his primary Responsibility (obligation).

- d. **Director General Technical Airworthiness (DGTA).** The person appointed as the DGTA derives his authority from his appointment by Chief of Air Force (CAF). His authority and accountability are defined in a Charter issued by CAF who is appointed by CDF as the ADF Airworthiness Authority. This charter makes direct reference to accountability in paragraph 2:

You are accountable to me, through the Deputy Chief of Air Force for your performance, the performance of your Agency and for the performance of those you authorise and those you delegate authority to having regard to the statutory responsibilities of all parties.

The above extract provides a clear statement of DGTA's accountability.

- e. **Commanding Officer 817 Squadron (CO 817 Squadron).** CO 817 Squadron derives his authority from his appointment by CN as a CO of a RAN Squadron. DI(N) Admin 30-1 says:

Air Squadron Command is the authority to exercise command of naval air squadrons.²

Instructions for the CO are found in DI(N) Admin 30-3³ and more specific instructions on responsibilities with regard to aviation are found in ABR 5150.⁴ The Squadron CO issues his own Standing Orders and other instructions that define his management framework for the organization he commands.

4.11 The example frameworks briefly described above have differences in the method of articulating authority and responsibilities, but all are consistent in that they do provide such articulation. These frameworks were not chosen randomly, or especially sought out to fit the intent of this chapter. The fact that all key persons involved in this Inquiry, including CO 817 Squadron have their authorities and responsibilities clearly defined is a clear statement by CN in particular and other Service Chiefs that they expect their commanders and managers to be accountable for their actions.

4.12 The DGTA Charter provided by CAF goes further to specifically state that DGTA is accountable for the actions of personnel in his organisations. In this regard, Navy goes further

² DI(N) Admin 30-1 of 28 Nov 01 para 28.

³ DI(N) Admin 30-3 of 12 Nov 02.

⁴ ABR 5150 annex A to Ch 2 – Instructions to Squadron COs.

to state this accountability for actions of subordinates by explaining the relationship of Command authority and responsibility as follows:

Command includes the authority and responsibility for effectively using all available resources and for training, organizing, directing, coordinating, controlling and planning the employment of personnel for the accomplishment of assigned missions or tasks in accordance with stated policies, directives and operational orders.⁵

4.13 The above extract indicates that the Commander employs his people to accomplish his mission, and to do so he is required to appropriately train, organize, direct, coordinate control and plan such employment. The Commander therefore controls all inputs to the mission and is therefore accountable for the outcome of the actions of his subordinates in achieving that mission.

4.14 The significant corollary is that CN and CAF, by providing such management frameworks (Defence Instructions, Directives and Charters) to their commanders and managers to ensure they perform their duties in accordance with the respective Service Chiefs wishes, are both demonstrating recognition that they themselves are accountable for the actions for all persons in their Service. They expect all persons in their Service to comply with that framework.

4.15 The cascading nature of frameworks identified above further recognizes the theme of accountability down through organizations where authority and responsibilities can be clearly defined.

ANALOGIES PRESENTED

4.16 The following paragraphs identify the nature and context for the analogies relating to 'personal responsibility' that were made during the course of the inquiry and closing submissions.

Quote:

12. *The notice is also deficient in its own right because it assumes the existence of a duty on the part of my client – to ensure that the work done by his subordinates and the Minute of 19 September 2003 accurately addressed the task he had defined as DGTA for his subordinates in his Minute of 28 July 2003. There is no evidence to found such an assumption. Accordingly I suggest that the Board could not find that he should have personally ensured that the work done or the Minute sent reflected the task he had assigned to his subordinates.*
13. *In respect of the Chapter 7 notice I would suggest an appropriate analogy would be that of a junior naval officer who is required to prepare a passage plan for his captain, who briefs the plan to the captain in the presence of his training officer, and the ship's navigator, and who is given written directions (known to the TO and NO) by the captain. On the premise underlying the most recent notice to my client, the captain would apparently be personally responsible for any departure from the passage plan, even if it was executed in his absence and without his knowledge. I suggest that such an extreme approach to vicarious liability is untenable and contrary to law.*

⁵ DI(N) ADMIN 30-3 para 6.

Unquote.

4.17 Quote:

(T9216-25) It is not a case, which I think might well have been traditionally how it was viewed in the Navy, that the Captain is always responsible for the disasters occurring to his ship. That formula was pretty much in evidence in the first Voyager/Melbourne Royal Commission, when CAPT Robertson was made to shoulder the blame for the sinking of Voyager in the collision with Melbourne, he having been the Captain of the Melbourne, and it took a further Royal Commission and great deal of discussion in Parliament before CAPT Robertson's position as Commanding Officer of Melbourne was vindicated and he was exonerated.

What one can infer from that outcome is a reversal of this general proposition that in all circumstances the captain is responsible for what happens in his ship and, by analogy, the head of a large technical organization is always personally responsible for the actions of his subordinates.

Unquote.

4.18 The above analogy was commented on by another Counsel in closing submissions in the following terms:

(T9221-26) Just because your ship goes down doesn't mean that you [the captain] are automatically responsible in modern terms. Whether we look at politicians or elsewhere, we see how these things have shifted over time.

4.19 The above analogies and extracts from Counsels' closing submissions are repeated above to provide context to the reader on the issues that relate to the understanding of accountabilities for persons who are in command or senior director/manager appointments. It is not intended to refute the positions indicated above but to discuss the issues and provide a basis for consideration of the applicability of them during consideration of actions or inaction by persons relevant to this Inquiry.

Analogy of Junior Officer Preparing a Passage Plan

4.20 The situation briefly described above in the analogy of a junior officer preparing and briefing a navigation passage plan for the Captain's approval occurs regularly and is an essential part of a junior officer's training. The analogy makes reference to written instructions which are assumed to be a standard framework (a set of rules and instructions) that all Captains of ships in the Navy have in place to ensure compliance with the approved passage plan and for the safe conduct of the ship under all conditions and circumstances. This framework is detailed in the front of the Captain's Night Order Book and is a list of occasions when the Captain is to be called. This is known as the 'Call Me as Usual' instructions.

4.21 The submission is that if there is a departure from the approved passage plan, holding the Captain responsible, even if the passage plan was executed in his absence and without his knowledge, is untenable and contrary to law. For the analogy to be used in that context, a more full context of how a Captain manages the execution of the passage plan must be

understood as, while the Captain's framework may be specifically designed for the safe conduct of the ship, it has broad applicability across any management situation.

4.22 In the first instance all Navy COs know and understand that they are accountable for their actions and the actions of subordinates in their command, because Navy instructions tell them that:⁶ 'The Commanding Officer is **responsible** for the safe conduct of the ship' and to ensure the safe conduct of the ship 'The Commanding Officer of a ship ... has **authority** over all officers and sailors borne, irrespective of rank or seniority, in matters concerning the activities and operations of the ship or establishment' (emphasis added).

4.23 The two quotes above identify the Responsibility and Authority of the CO. If he is to be held accountable for the safe conduct of the ship, then the Captain will ensure that the officers and sailors on his ship conduct their business to his framework, and he is given the authority over all personnel in that ship to make it so.

4.24 The following paragraphs provide a more detailed description of how the Captain of the ship ensures that the passage plan is executed as approved by him and how he is kept informed of any deviation from it. Building on the analogy provided by Counsel is considered important by the Board to demonstrate that firstly the Captain of the ship can be held responsible for the actions of his staff and to highlight the circumstances when he may not be held responsible. This description is based on the experience of Board members and does not rely on evidence presented before the Board. Just as Counsel introduced the analogy as a hypothetical scenario, the expanded description of the analogy is provided by the Board also as a hypothetical scenario, but is based on actual practices employed by RAN COs.

Playing Out the Passage Plan Analogy

4.25 When the Captain agrees to a passage plan he is approving a plan that he has checked to be safe and clear of known navigation hazards. He does this by specifically noting the planned track marked on every large scale chart used for the plan. He also confirms other details relevant to the plan such as departure and arrival times, time zone changes, sunrise and sunset periods, speed and fuel consumption information. He expects the plan to be executed as approved and he delegates the execution of the plan to the Officers of the Watch (OOW) – the qualified bridge watch keepers. The Navigation Officer (NO) provides general oversight of the execution of the plan by the OOW. Any deviations to the passage plan can only be made with reference to the Captain. However, the instructions in the front of the Captain's Night Order Book provide guidance and limitations to the officers who are executing the plan, namely the OOWs, on what actions they may take without reference to him, as well as when they must call him – the 'Call Me as Usual' instructions. The Captain may modify these rules, or impose more restrictions depending on existing or foreshadowed navigation situations during the execution of the plan.

4.26 An example of these rules that provide some latitude to the OOW is as follows:

The OOW may alter the ship's course by up to five degrees and the ship's speed by up to two knots to counter the effects of wind and current to maintain the planned track (navigation plan); and

⁶ DI(N) Admin 30-3 para 43.

If the OOW cannot maintain the navigation plan within these limitations he is to call the Captain.

4.27 The 'Call Me as Usual' instructions allows the captain to establish a set of standing instructions that are applicable for the normal conduct of sailing the ship and are designed to accommodate any eventuality or circumstance that may arise during the execution of that or any navigation passage plan. Examples of the 'Call Me as Usual' rules include:

4.28 These are all designed to ensure the captain is informed of circumstances in advance of them becoming critical to allow the captain to come to the bridge to evaluate the navigational situation, be briefed by the OOW on his intended action and approve the subsequent action.

The Night Order Book instructions also accommodate situations that require immediate action by the OOW, such as a man overboard incident, where the Call me if a lighthouse is not raised when expected;

Call me if you are ordered by the Officer in Tactical Command to change the ship's allocated station or sector; and

Call me when a vessel is at a range of five miles if it has a closest point of approach of less than two miles.

4.29 OOW is given authority to initiate approved emergency reactions to recover the person, including the safe maneuvering of the ship and selection of the appropriate method of recovery. He is however required to call the captain after he has initiated the immediate reaction, who may then approve, veto or modify the OOW reactions. Similarly, if an immediate risk of collision arises, such as another vessel making an unexpected maneuver into the path of the ship, the instructions allow the OOW to initiate immediate evasive action, and then call the captain at the earliest opportunity.

4.30 The above discussion is an expansion of the analogy provided by Counsel and presents examples of actual authorities given to an OOW to deviate from an approved plan, but there is an obligation placed on him to inform the captain as he is doing so or when he has done so. It provides context to the execution of an approved course of action or tasks and the framework imposed by the 'manager' to ensure his wishes are always adhered.

4.31 If an OOW deviates from the rules and instructions he will lose the confidence of the Captain and can have his qualification removed regardless of who awarded the qualification or how long it had been held. The phrase 'confidence of the Captain' means that the Captain is confident that this particular officer will execute his bridge duties in accordance with the Captain's framework, call the captain when the captain needs to be called and in the event of immediate danger to the ship and its company (people) take the appropriate immediate reactions to safeguard the ship, while calling the Captain.

4.32 In addition to the framework established in the night order book (which allows the captain to be kept informed of developments), the captain regularly checks on the progress and the conduct of the execution of the passage plan, and other issues peripheral to it. The regularity of the captain's visits to the bridge is dependant on the navigation situation, shipping density and relative experience of the OOW, and the relative confidence the captain has in the OOW on watch at the time. He will modify his rules and his routines to accommodate experience and capability levels of individual OOWs, including directing the

NO or other officers to be in the vicinity of or on the bridge to keep a precautionary eye on the junior officers.

4.33 These Captain's rules and frameworks have developed over time and have their genesis dating back several centuries in the Royal Navy. They are modified to accommodate lessons learned from naval and maritime incidents, including the HMAS MELBOURNE/VOYAGER collision. They are reasonably standard but are generally written to reflect how an individual captain wishes to manage the safe navigation and overall conduct of his ship and reflects his experience and lessons he has learnt over his service in the Navy.

4.34 In summary, the rules and frameworks established by the captain allow him to:

- a. agree to a course of action and delegate responsibility for its execution;
- b. provide boundaries and/or limitations on what the officers can do without reference to the captain to execute the course of action;
- c. provide guidance and a reporting regime for what officers are to do in the event that they cannot execute the action within the boundaries and/or limitations provided and a reporting framework;
- d. review and measure progress against the approved plan; and
- e. modify the degree of oversight he provides to individuals as he considers necessary and circumstances dictate.

Personal Accountability

4.35 **The Captain.** If a navigation or maritime safety incident occurs such as a collision, grounding or near miss, the captain's conduct, rules and frameworks are scrutinized, as is the conduct of his OOWs. The captain will always be judged on the adequacy and completeness of the framework he provides his team. Judgements regarding accountability may take many other considerations into account, however in the context of the above analogy, accountability may be judged on the following bases:

- a. if his approved passage plan was safe, his rules and instructions were adequate and appropriate for the circumstances of the incident (thereby allowing the OOW to take the necessary actions), and his conduct and management of the incident were appropriate, then the captain may not be criticized;
- b. if his rules and instructions proved to be inadequate and did not accommodate the circumstances arising in the incident, such that the OOW complied with them but could not or did not act appropriately to avert the incident, then the Captain may be held accountable due to his deficient framework; and
- c. if the framework was appropriate and the OOW complied with it, but the outcome of the incident was unavoidable, neither may be held accountable.

4.36 **The Officer of the Watch** – If the Captain’s passage plan was safe and the rules and instructions adequate and appropriate for the circumstances of the incident, but the OOW went outside that framework, the OOW may be held accountable.

4.37 The paragraphs above introduced the concept that subordinates, the OOW, can be held accountable. This could be viewed as contrary to the Navy website that said: ‘Authority and responsibility can be delegated (downward) to lower levels in the organisation, whereas, accountability usually rests with the individual’. The OOW specific accountability is established in DI(N) Admin 30-15 *Instructions to the Officer of the Watch* which says the following:

Para 4. Every person on board not being a senior officer exercising tactical command or flying their Flag or Broad Pennant, the Commanding Officer (CO) or the officer posted as the Executive Officer (XO), is to be under the authority of the OOW, in respect of matters concerning the performance of the duties with which the OOW is charged.

and

Para 6. So far as it is within the control of the OOW they are responsible for the safety of the ship and the safety of all persons on board. The OOW’s responsibilities are subject to any orders which may be received from the CO.

4.38 The two extracts above establish the accountability of the OOW in the context of his authority and responsibility for the safety of the ship and all persons when he is performing the duty of the on-watch OOW. In that context it is worth revisiting the four requirements for delegation and exercise of authority introduced very early in this chapter. The Board calls this the Accountability Framework. While these are related to the OOW, the reader can to relate these to their own circumstances, or the circumstances of other persons relevant to this inquiry.

- a. **Competent to exercise such authority [vested in him]** – The OOW holds a Bridge Watchkeeping Certificate (BWC) that is earned after a lengthy and rigorous training and assessment process, that establishes his/her competence.
- b. **Understands the responsibilities inherent in accepting the delegation, duty of OOW** – The BWC qualification is awarded only after the officer has demonstrated such understanding. The individual CO only allows the OOW to stand bridge watches when he is confident that the OOW understands his responsibilities. In the context of the CO delegating a separate responsibility or task (such as changing station on another ship) the normal practice is for the CO to ensure the OOW understands clearly the responsibilities of the that task before approving its execution.
- c. **Has adequate resources to exercise the delegated authority** – The ship’s organisation, equipment outfit, machinery and its personnel are the resources made available to the OOW. If these are insufficient for certain circumstances the OOW is to inform the captain immediately any deficiency is identified.
- d. **Is provided with a framework for reporting and meeting accountability** – The Captain’s Night Order Book, Call Me as Usual instructions and Standing Orders

provide the framework for the OOW to execute his responsibilities and these include a reporting regime.

4.39 The above discussion draws heavily on the content of extant DI(N) and current practices that establish the captain's relationship with his OOW. Although the Captain-OOW analogy presented by Counsel is expanded by the Board based on specific experience of Board members, there has not been any interpretation of the analogy by the Board to arrive at a preconceived position. A key determinant for accountability is the adequacy or otherwise of the captain's framework and the OOW's compliance or non compliance with it. This basic principle is directly applicable to this inquiry, and to all of the persons who were issued a Regulation 33 Notice.⁷

Junior Rank Accountability

4.40 The OOW analogy identified the basis for a junior person to be held accountable, noting the award of the OOW qualification marks the award of his primary qualification as a Seaman Officer and is gained at the start of his career, at a young age and normally at the Sub Lieutenant rank.

4.41 In the OOW's case, he/she has authority and responsibilities clearly identified in a Defence Instruction. He/she is provided with an additional more detailed framework by the Captain that provides him/her with the parameters and boundaries within which he discharges his responsibilities and he/she has a reporting regime identified for him/her. It may be said that the OOW is a unique case because he/she has such a crucial role in the safe conduct of the ship. However the accountability framework can be applied to almost any rank and qualification. For the purpose of this Chapter, it is intended to address this issue for an Aviation Technical sailor.

4.42 **Consider an Able Seaman ATA (ABATA) QM3** – He has been delegated a maintenance task to install a part of the aircraft tail rotor assembly. He is accountable for the correct conduct of that maintenance activity.

- a. **Competent to exercise such Authority** – The ABATA is trained and gains skills and competencies through a graduated competency training process. He is assessed as competent by an independent authority. He is further authorized to conduct maintenance by the Squadron Senior Maintenance Manager (MM) and is reauthorized on a regular basis. When allocating a task, the MM is required to ensure that the task is within the qualification level of the tradesman such as QM3. The tradesman in this situation can be considered to be competent.
- b. **Understands clearly the responsibilities inherent in accepting the Delegation** – The all encompassing responsibility (obligation) is to conduct the maintenance in accordance with approved maintenance procedures. AT sailors are taught and examined in the correct conduct of maintenance and approved maintenance procedures and it could be assumed that these are understood by the tradesman assigned the task, but the MM assigning the task is obliged to confirm such understanding. If the tradesman is unsure, he is required to seek advice. The

⁷ Defence Administrative (Inquiry) Regulations 33 – relates to the issuing of notices to potentially affected persons of issues that may affect them.

responsibilities of junior tradesmen defined in ADF Airworthiness Publications are very prescriptive and provide very little discretion. They include, but are not limited to:

- (1) use of correct tools;
 - (2) consult appropriate maintenance manuals and publications;
 - (3) use correct parts;
 - (4) do not progress beyond the step that requires mandatory inspections;
 - (5) certify completion of task within 30 minutes, and only certify maintenance work that he has been personally conducted;
 - (6) report anomalies; and
 - (7) correct maintenance of Aircraft Maintenance Documentation.
- c. **Has adequate resources to exercise the delegated authority** – The CO of the Squadron is to ensure that holdings of tools are correct, spares, publications and manuals available and in good condition, ground support equipment maintained and in date, and systems in place. The MM is to ensure that the tradesman has the appropriate resources available for his specific task. The tradesman is to advise his supervisor when resources are inadequate.
- d. **Is provided with a framework for reporting and meeting accountability** – The frameworks available to the tradesman include the Maintenance Regulations that define his responsibilities as a tradesman, Squadron standing orders and special instructions. The MM, task supervisor and Flight Senior Maintenance Sailor (FSMS) may provide additional verbal direction and instructions, and there may be Flight/Detachment written instructions that provide the FSMS's personal framework for the maintenance team. All these should provide the ABATA with the necessary framework for him to conduct the maintenance correctly and in accordance with approved procedures. These also identify reporting requirements, and the MM may provide other special reporting requirements.

4.43 In the course of maintenance work on the Tail Rotor Assembly, should the ABATA deviate from the very specific framework provided to him, for example using an incorrect tool that causes damage to a component that later fails in flight, he may be held accountable for his deviation from correct maintenance procedures. That deviation is a violation of the Maintenance Regulations. Supervisors and inspectors will also be subject to scrutiny and may also be held accountable for deficiencies in the framework they provided to the tradesman.

4.44 The application of the accountability framework above makes it clear that an ABATA can be held accountable because he has clearly defined authority to conduct maintenance and he has clearly defined responsibilities. Significantly, and consistent with the Captain and OOW analogy, judgements about the ABATA accountability will be made considering the other parts of the accountability framework and these include the adequacy of the performance of supervisors at all levels who have obligations in defining the task, ensuring

understanding, availability of resources, providing additional guidance necessary for the task, and monitoring conduct of the maintenance activity.

4.45 It is not necessary to apply the accountability framework to all ranks and other command or management positions as its universal applicability should now be obvious. The OOW and the ABATA analogies made it clear that accountability considers obligations / responsibilities and conduct of the 'worker' and the supervisor(s). As such the framework requires interaction between the two key parties: the tradesman and his supervisor; the OOW and the Captain; the Captain and the Admiral; the Department Head and the Chief Executive Officer.

Navy Out of Touch?

4.46 Some readers or observers may comment that the above analogy and conclusions relating to accountability are only applicable to Navy and the command of ships, and that Navy is out of touch with modern management concepts, which is what was implied during submission to the Board during this Inquiry. However, if one examines the principles of the framework established by the captain in the expanded analogy, these amount to common sense and prudent management practices that may be sensibly applied to any business environment. A test that any commander, [corporate] manager, or supervisor at any level may apply is to ask the following questions of his framework:

- a. does it allow me to define and agree a course of action and then delegate its execution?;
- b. does it identify occasions where staff have freedom to act without reference to me, and the limitations/boundaries on these actions?;
- c. does it provide guidance or cues on the occasions they are to refer to me for advice or further direction?;
- d. does it allow the organisation to deviate from those limitations when essential, but impose a requirement on keeping me informed at the first opportunity?;
- e. do I have a set of routines or processes that allow me to detect unauthorized or undesirable deviations and/or check on the progress of implementation and/or completion of the plan or course of action that I have delegated?; and
- f. do I have a set of Standing Orders/Instructions where I promulgate a wider set of instructions and orders for the efficient management of the organisation overall, including circumstances of my absence on leave or duty?

4.47 The trend in the modern corporate world is increased pressure to ensure compliance with government regulatory frameworks imposed by legislation, such as Occupation Health and Safety (OH&S), Discrimination in the Workplace, and Environmental Pollution. Chief Executive Officers and company directors are being held accountable for the actions of persons within their organizations. The modern trend is for senior managers to be held more accountable by the imposition of corporate governance accountabilities via legislation, than less accountable. The degree of personal accountability may be dependant on the

appropriateness and completeness of frameworks those managers and directors establish to ensure compliance by their workforce.

4.48 The military commander and the Defence manager have increasing obligations to comply with these same corporate governance frameworks, or alternate frameworks applicable to the Defence management environment, as demanded by modern workforce and community expectations. The Navy would appear to not be out of touch with modern trends, but keeping pace with it, and in many cases leading the trend in governance and accountability.

4.49 The modern trend is for the military commander and Defence managers to be equally accountable as before for the actions of persons within organisations they lead, but in an environment of increasing responsibilities (obligations).

4.50 The Navy instructions on Command give a clear statement of CN's expectations regarding accountability and this is also applicable at Defence Managers:

Command is where the 'buck stops'. It is the Commander who must be prepared to lead, to make decisions, encourage, mentor, enforce discipline, direct, control and care for those under his or her command and be accountable for their actions.⁸

4.51 The preceding paragraphs provide clear examples of how, via cascading frameworks, large parts of ADF and Navy business are managed, and the examples relate to senior and junior level commanders, managers and supervisors indicating how their accountability is derived. The Captain-OOW and the Tradesman-Supervisor analogy provided a lower level example of accountability and is significant in that, although the OOW and tradesman are very junior persons in the big scheme of things, they can be accountable if they deviate from established management and regulatory frameworks.

4.52 The major difference between the lower ranks and higher ranks is the degree of prescription of their responsibilities. Junior aviation tradesmen and the OOW have frameworks that are very prescriptive and provide very little room for discretion for action, reporting and compliance. Their accountability may be based on regulations and specific instruction. The more the supervisor or commander is removed from the point of execution, the tradesman and the OOW, the greater the discretion allowed and expected. Such discretion requires the application of judgement, and the higher the rank and accountability, the greater the judgement required. Their accountability may be based on the quality of that judgement in the prevailing circumstances.

CONCLUSION

4.53 There has been considerable discussion in this chapter on the analogy related to the Captain and OOW relationship and the accountability of the captain. The RAN guidance on authority, responsibility and accountability and its application to the principal analogy was the cornerstone of the discussion and there is little doubt that these principles are widely accepted by Service Chiefs as the basic principles of command and managing Defence's business, illustrated by Defence Instructions and Directives and Charters that establish authority and responsibility frameworks.

⁸ DI(N) Admin 30-1 para 13.

4.54 The Board has not made its own determination or made judgements to counter the submission that the captain cannot be accountable for the actions of his subordinates. This has already been determined by Service Chiefs. What has been made clear in the discussion up to now is that the framework a commander or manager imposes on his subordinates to manage the output of his organisations, in addition to other regulatory or legislative frameworks, is a personal statement of how that commander or manager wants the organisation to conduct itself. Any failure of a subordinate due to the inadequacy of the framework imposed on him, is a failure of the commander or manager. There is a significant risk to good order, discipline and morale that derives from senior commanders and managers not accepting accountability for their own actions and the actions of subordinates who operate within the framework imposed on them. The following is an extract from DI(N) Admin 30-1 and is a quote from The Wall Street Journal, of 14 May 52, in discussing the disastrous collision between the aircraft carrier USS WASP and the destroyer USS HOBSON:

'On the sea there is a tradition older even than the tradition of the country itself – it is the tradition that with responsibility goes authority and with them both goes accountability. It is cruel, this accountability of good and well intentioned men. But the choice is that, or an end to responsibility and finally, as the cruel sea has taught, an end to the confidence and trust in the men who lead, for men will not long trust leaders who feel themselves beyond accountability for what they do'.

Nias Island Sea King Board of Inquiry Report

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