SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

REPORT OF THE DLA PIPER REVIEW AND THE GOVERNMENT'S RESPONSE

GOVERNMENT RESPONSE

Introduction

The Australian Government is committed to supporting reforms to the management of allegations of abuse in Defence and implementation of Defence's cultural change program. The Australian Government acknowledges the contribution of the Senate Foreign Affairs, Defence and Trade References Committee's report on the 'DLA Piper Review and the government's response' to providing parliamentary oversight of this work.

On 26 November 2012, the response to the report of the DLA Piper Review into allegations of sexual and other abuse in Defence was announced. The response included a general apology to members of the Australian Defence Force and Defence employees who have suffered abuse in the course of their employment, the establishment of an independent Defence Abuse Response Taskforce to assess individual complaints and identify any wider systemic issues, and access to reparation.

Apologies delivered by the Chief of the Defence Force, General David Hurley AC, DSC and in the Parliament on 26 November 2012 offered a significant step in the healing process for those affected by past abuse in Defence.

A Defence Abuse Response Reparation Scheme, with payments up to \$50,000 for those who plausibly suffered abuse in Defence, was established to provide financial recognition that abuse is unacceptable and wrong and should never have occurred. Professional counselling and referral to other health services will further support victims of abuse on the road to recovery.

The work of the independent Defence Abuse Response Taskforce will include referral of appropriate matters to law enforcement authorities for criminal investigation while others, with the consent of the complainant, may be provided to Defence for investigation into possible administrative or disciplinary action. Complainants may also have the opportunity to participate in a restorative engagement conference, allowing their personal account of abuse to be heard, responded to and acknowledged by Defence.

March 2014 marks the second anniversary since the release of *Pathway to Change: Evolving Defence Culture*. This important document outlined Defence's strategy for achieving enduring cultural change. It sets out the requirement that Defence personnel demonstrate exemplary behaviour commensurate with the nation's expectations, in and out of uniform, on and off duty, and how the Defence leadership will require these standards are met.

Implementation of Pathway to Change by Defence and the work of the Taskforce are essential to ensuring Defence continues to serve Australia's national interests in a way that is consistent with modern community standards.

The Australian Government recognises concrete measures recently taken by Defence to improve support to victims of sexual abuse and move towards cultural change. This includes the launch of the Sexual Misconduct Prevention and Response Office on 22 July 2013, marking an important shift toward a victim-focused approach for responding to incidences of sexual misconduct and providing education about the prevention of sexual misconduct and assault in Defence.

The Australian Government and the Defence leadership remain absolutely committed to fully implementing the range of cultural reforms essential to managing and preventing occurrences of inappropriate conduct. Together, we will build a culture that gives confidence to the Australian people and creates a workforce genuinely reflective of the community it serves—just, inclusive and fair-minded.

AUSTRALIAN GOVERNMENT RESPONSE

SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCE COMMITTEE 'REPORT OF THE DLA PIPER REVIEW AND THE GOVERNMENT'S RESPONSE'

Recommendation	Lead	Proposed Response
<u>Recommendation 1</u>	Defence	Agree
Paragraphs 7.5 - 7.6, page 68 The committee recommends that Defence prominently display, and commemorate, the apology by the Minister of Defence and the Chief of the Defence Force to victims of abuse in Defence.		The apologies delivered by the Chief of the Defence Force and the then Minister for Defence are accessible to all Australians on the Defence Abuse Response Taskforce's website and on Defence's internal and external websites. Defence referred to the apologies in its Annual Report.
Recommendation 2 Paragraphs 7.7 - 7.21, page 68 - 72	Defence	Agree
The committee recommends that Defence formally respond to the systemic issues and findings of the DLA Piper Review in its public reporting on the progress of the implementation of the Pathway to Change Defence cultural reforms.		Noting that Pathway to Change is Defence's response to the Reviews initiated in 2011, Defence will consider the systemic issues and findings of the DLA Piper Review in this context.

Recommendation	Lead	Proposed Response
Recommendation 3 Paragraphs 7.7 - 7.21, page 68 - 72 The committee recommends that Defence actively encourage senior officers to participate in the Defence Abuse Response Taskforce's restorative engagement program with victims of abuse.	Defence	Defence has affirmed to the Chair of the Defence Abuse Response Taskforce, the Hon Len Roberts-Smith RFD QC, its commitment to supporting and participating in the Restorative Engagement Program. The Defence Abuse Response Taskforce and Defence are working collaboratively to establish arrangements for implementing the program, including a framework underpinned by the best practice principles and values of restorative practice and mediation.
Recommendation 4 Paragraphs 7.22 - 7.42, page 72 - 78 The committee recommends that Defence provide a waiver of any confidentiality or non-disclosure agreement which could prevent a person from engaging with the Defence Abuse Response Taskforce.	Defence	Agree Defence, in consultation with the Defence Abuse Response Taskforce, has prepared a 'limited waiver of confidentiality and deed of release and indemnity' so that persons who have previously settled a claim against Defence involving allegations of sexual or other forms of abuse by Defence personnel are not prevented from having their matter dealt with by the Taskforce.
Recommendation 5 Paragraphs 7.22 - 7.42, page 72 - 78 The committee recommends that, following the conclusion of the Defence Abuse Response Taskforce's operation, the Minister for Defence facilitate the productive use of the Taskforce's depersonalised statistical database of information regarding reported incidents of abuse in Defence.	Defence (in consultation with the Defence Abuse Response Taskforce)	Agree Defence and the Defence Abuse Response Taskforce have agreed the value of providing an appropriately depersonalised database. Work is underway to achieve this outcome.

Recommendation	Lead	Proposed Response
Recommendation 6	Defence (in consultation	Agree in principle
Paragraphs 7.22 - 7.42, page 72 - 78	with the Defence Abuse	
	Response Taskforce,	The Australian Government notes that the Defence Abuse
The committee recommends that the Australian	Department of Veterans'	Response Taskforce is independent of Defence and it has
Government commission an independent review to	Affairs and Attorney-	advised that it sees value in some form of review taking place
determine whether any of the functions of the Defence	General's Department)	toward the end of its outcome delivery phase. Such a review
Abuse Response Taskforce's should continue and how to		could then be assessed by the Minister for Defence, the
ensure these functions can continue to be performed		Attorney-General and the Minister for Veterans' Affairs, to
effectively. This independent review will report its		decide if any of the functions of the Taskforce should continue
findings and make recommendations to the Minister for		in another form.
Defence, the Attorney-General and the Minister for		
Veterans Affairs.		While the Australian Government is supportive of a review
		taking place, it considers that it is too early, at this time, to
The committee recommends that, at the conclusion of		form a clear view on exactly what form the review should take.
this independent review, the Minister for Defence, the		The Taskforce is currently approved to operate to the end of
Attorney-General and the Minister for Veterans' Affairs,		November 2014 and the terms and scope of any review should
should assess whether any of the functions of the		be reconsidered at a later stage.
Defence Abuse Response Taskforce should continue in		
another form.		

Recommendation	Lead	Proposed Response
Recommendation 7	Defence	Agree
Paragraphs 7.43 - 7.47, page 78 - 80		
		This recommendation was agreed as part of Pathway to
The committee recommends that Defence implement		Change and is being implemented.
recommendation 19 of the Inspector-General of the		
Australian Defence Force's review - that the		
appointment of case officers to support complainants		
and respondents should be required in all cases.		
<u>Recommendation 8</u>	Defence	Agree
Paragraphs 7.43 - 7.47, page 78 - 80		
		The Australian Government notes action by Defence in
The committee recommends that Defence assess		Pathway to Change that will, through sustained effort to
whether additional support services for victims of non-		implement practical measures, corrective processes, and
sexual forms of abuse should be included within the		structure and support, achieve Defence's cultural intent.
Pathway to Change cultural reforms.		
<u>Recommendation 9</u>	Defence (in consultation	Agree
Paragraphs 7.43 - 7.47, page 78 - 80	with the Department of	
	Veterans' Affairs)	Defence will examine, in conjunction with the Department of
The committee recommends that Defence engage in		Veterans' Affairs, avenues for dialogue.
dialogue with associations which represent the interests		
of victims of abuse in Defence.		
<u>Recommendation 10</u>	Defence	Agree in principle
Paragraphs 7.48 - 7.51, page 80 - 81		
		Noting existing mechanisms of reporting and oversight of
The committee recommends that, at the completion of		Pathway to Change by Government and the Parliament, the
the implementation of the Pathway to Change strategy,		Australian Government will consider the necessary activity for
the Australian Government conduct an independent		evaluating Defence's efforts to achieve cultural change and
review of its outcomes and an assessment of the need for		measures of success.
further reform in Defence.		