

**SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES
COMMITTEE**

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

GOVERNMENT RESPONSE

March 2014

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
<p><i>Recommendation 1</i> <i>Paragraphs 7.5 - 7.6, page 68</i></p> <p>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.</p>	<p>Defence</p>	<p>Agree</p> <p>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.</p>
<p><i>Recommendation 2</i> <i>Paragraphs 7.7 - 7.21, page 68 - 72</i></p> <p>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.</p>	<p>Defence</p>	<p>Agree</p> <p>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.</p>

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<p><u>Recommendation 3</u> <i>Paragraphs 7.7 - 7.21, page 68 - 72</i></p> <p>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.</p>	<p>Defence</p>	<p>Agree</p> <p>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.</p> <p>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.</p>
<p><u>Recommendation 4</u> <i>Paragraphs 7.22 - 7.42, page 72 - 78</i></p> <p>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.</p>	<p>Defence</p>	<p>Agree</p> <p>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.</p>
<p><u>Recommendation 5</u> <i>Paragraphs 7.22 - 7.42, page 72 - 78</i></p> <p>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.</p>	<p>Defence (in consultation with the Defence Abuse Response Taskforce)</p>	<p>Agree</p> <p>Defence and the Defence Abuse Response Taskforce have agreed the value of providing an appropriately depersonalised database. Work is underway to achieve this outcome.</p>

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<p data-bbox="136 193 891 268"><i>Recommendation 6</i> <i>Paragraphs 7.22 - 7.42, page 72 - 78</i></p> <p data-bbox="136 304 891 635">The committee recommends that the Australian Government commission an independent review to determine whether any of the functions of the Defence Abuse Response Taskforce's should continue and how to ensure these functions can continue to be performed effectively. This independent review will report its findings and make recommendations to the Minister for Defence, the Attorney-General and the Minister for Veterans Affairs.</p> <p data-bbox="136 671 891 895">The committee recommends that, at the conclusion of this independent review, the Minister for Defence, the Attorney-General and the Minister for Veterans' Affairs, should assess whether any of the functions of the Defence Abuse Response Taskforce should continue in another form.</p>	<p data-bbox="891 193 1274 416">Defence (in consultation with the Defence Abuse Response Taskforce, Department of Veterans' Affairs and Attorney-General's Department)</p>	<p data-bbox="1274 193 2112 268">Agree in principle</p> <p data-bbox="1274 268 2112 560">The Australian Government notes that the Defence Abuse Response Taskforce is independent of Defence and it has advised that it sees value in some form of review taking place toward the end of its outcome delivery phase. Such a review could then be assessed by the Minister for Defence, the Attorney-General and the Minister for Veterans' Affairs, to decide if any of the functions of the Taskforce should continue in another form.</p> <p data-bbox="1274 596 2112 820">While the Australian Government is supportive of a review taking place, it considers that it is too early, at this time, to form a clear view on exactly what form the review should take. The Taskforce is currently approved to operate to the end of November 2014 and the terms and scope of any review should be reconsidered at a later stage.</p>

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