



Australian Government

Australian Government response to the
Foreign Affairs, Defence and Trade References
Committee report:

Processes to support victims of abuse in Defence

May 2015

Recommendation 1

The committee recommends that the Australian Government extend the activities of the Defence Abuse Response Taskforce to support victims of abuse in Defence, including allowing new complainants to make claims up to 30 June 2015.

Government Response

Disagree.

As announced in December 2014, the Taskforce will continue its work until 30 June 2015, however, it is not the Government's intention to open the Taskforce up to new complainants. It remains the Government's view that allegations of abuse by Defence personnel after 11 April 2011 can be adequately dealt with through existing means such as the ADF Investigative Service, Sexual Misconduct Prevention and Response Office and the Values Behaviours and Resolutions Branch, as well as health professionals, chaplains, legal officers and/or Psychologists. In addition to this, independent avenues exist through which complainants can make allegations of abuse by Defence personnel.

Defence will continue to support the Taskforce in achieving its outcomes and fund its activities until its work is concluded.

Recommendation 2

The committee recommends that the Sexual Misconduct Prevention and Response Office (SeMPRO) develop resources to clearly advise persons considering contacting SeMPRO regarding options for the collection of forensic evidence and support options for former members of Defence.

Government Response

Noted.

SeMPRO's policy is to discuss options for the collection of forensic evidence with clients only where the collection of that evidence is possible (i.e. the disclosure is made within the 72 hour window required for primary forensic collections). SeMPRO will facilitate support for clients who have agreed to a medical check.

SeMPRO accepts contact from both current and former members of the ADF. The SeMPRO website has been redesigned and includes clear advice that former ADF members can contact SeMPRO, as well as the fact that, in some instances, forensic evidence can be collected. SeMPRO's webpage can be found at www.defence.gov.au/sempro.

Recommendation 3

The committee recommends that the Australian Government provide additional resources to SeMPRO to facilitate further outreach activities and personal support to victims of sexual assault in Defence.

Government Response

Noted.

SeMPRO is one of a range of responses to managing sexual misconduct in Defence. Defence strives to achieve a holistic approach to delivering support in response to sexual misconduct, which may include health professionals, the ADF Investigative Service, chaplains, legal officers or Psychologists, as well as SeMPRO support staff.

SeMPRO was established in July 2013 and resourced at that time to support its identified Initial Operating Capability. These levels may or may not remain appropriate for SeMPRO's ongoing activities, and this will need to be considered with reference to the uptake of SeMPRO's services to date and its planned future activities.

Recommendation 4

The committee recommends that following the next interim report of the Taskforce, the Minister for Defence table a formal substantive response to the systemic issues identified in the DLA Piper Review.

Government Response

Noted.

The establishment of the Taskforce was the formal Government response to the DLA Piper review. The Taskforce's terms of reference include a requirement to assess the findings of the DLA Piper review and the material gathered by that review, and any additional material available to the Taskforce concerning complaints of sexual and other forms of abuse by Defence personnel alleged to have occurred prior to 11 April 2011.

The Taskforce's *Report on abuse in Defence* was tabled in Parliament on 26 November 2014. This report deals with the Taskforce's conclusions in relation to the systemic issues identified in the DLA Piper review.

The Government is currently considering the findings and conclusions of this report and notes that these findings are relevant to informing Defence's cultural change program, *Pathway to Change*, which is now in its third year.

Recommendation 5

The committee recommends the Australian Government introduce amending legislation to remove the three year minimum service requirement for eligibility for Non-Liability Health Care (NLHC) and to make NLHC available to any person who has had completed any service.

Government Response

Noted.

An expansion of eligibility for NLHC along these lines would enable a greater number of victims of abuse to access treatment for specific mental health conditions. This proposal will need to be considered in the context of the Government's broader budget priorities.

Recommendation 6

The committee recommends that the Minister for Veterans' Affairs direct the Department of Veterans' Affairs (DVA) to commence consultation with veterans' representative organisations and to report back on:

- the legal and practical barriers there are to victims of abuse in the ADF succeeding in establishing the facts necessary to access entitlements to DVA benefits;
- what Defence and DVA could do and what resources they will require to gather and share information which could assist such individuals to establish those facts to the satisfaction of DVA and tribunal decision-makers;
- what can be done in liaison with veterans' groups, other Australian Government agencies and community groups, and what resources will be required to reach out to individuals affected by abuse who may be eligible for DVA benefits – including individuals who have previously applied and been rejected.

Government Response

Noted.

The Government currently engages with a number of veterans' representative groups and ex-service organisations on a range of issues affecting the veteran community. The Government is committed to ongoing consultation with veterans' representative groups and to reviewing its consultative mechanisms and will consider options to broaden engagement in order to better support abuse victims.

The findings of the consultation will be reported back to the Minister for Veterans' Affairs.

Recommendation 7

The committee recommends the Department of Veterans' Affairs examine options to provide financial assistance to support a national, sustainable community-based approach to assisting veterans who have suffered abuse.

Government Response

Noted.

The Government agrees to examine options to provide financial assistance to support a national, sustainable community-based approach to assisting veterans who have suffered abuse. This proposal will need to be considered in the context of the Government's broader budget priorities.

Recommendation 8

The committee recommends that the Taskforce and the Australian Government assess the appropriateness of a range of responses to abuse in Defence, in addition to determining whether a Royal Commission should be established. The welfare of victims of abuse in Defence should be the primary consideration in any decision made.

Government Response

Noted.

Defence has a range of resources to support victims of abuse. In particular, Defence is working closely with the Taskforce to conduct Restorative Engagement conferences and learn from the experiences of these conferences to incorporate the lessons learnt into alternative dispute resolution measures within Defence.

Recommendation 9

The committee recommends that no further parts of Volume 2 of the DLA Piper report should be released in summary or redacted form.

Government Response

Agreed.

Other matters – dissenting reports and additional comments

Dissenting report of Senator Jacqui Lambie, Palmer United Party

Recommendation

- A. I recommend the Government immediately call a Royal Commission into the ADF and the sexual and physical abuse suffered by their staffs by other employees of the ADF since 1970. The Commission should be given wide ranging terms of reference which would give it sufficient powers to take and collect evidence from the ADF, the Department of Veteran Affairs, the State and Federal Police Services and any other relevant source in relation to the cases of sexual and physical abuses and tortures, as well as ADF management's response to those events.
- B. I recommend that the Royal Commission should be given wide terms of reference which would enable it to gather and take evidence from any relevant source necessary, including the ADF to establish what the overall management response was, and has been by management of the ADF to this problem (which has been well known to them by at least the 1970's).
- C. I recommend that the Royal Commission should be given wide terms of reference which would enable it to gather and take evidence from any relevant source necessary to identify the personal and public costs suffered by ADF staff who were victims of sexual and physical abuses in the ADF and the true number of ADF staff members who have suicided as a result this abuse. The ramifications of the effects on the community and individuals of this would be learning for other agencies in the future. Learning designed to proactively encourage that these terrible chain of events is never allowed to again prosper as it has in the ADF for so long.
- D. I recommend the Royal Commission which is established be headed by an appropriately qualified judicial officer who has no direct or indirect connect, past or present with the ADF. This will provide confidence to the public and the men and woman of the ADF in its true and perceived independence.
- E. I recommend that the Royal Commission be given powers to prosecute people it finds has, or may have (to the relevant criminal standard of proof) committed offence/s; or alternatively
- F. Immediately refer the matter to the relevant State or Federal police for prosecution, any persons it finds during its investigation and hearing of this matter, is responsible for commission of any State or Federal criminal offences.

Government Response

Noted.

The Government notes Senator Lambie's dissenting report and that the recommendations contained within the report are premised on the establishment of a separate Royal Commission into matters of abuse within Defence.

The Government notes that the Taskforce's *Report on abuse in Defence* was tabled in Parliament on 26 November 2014. This report deals with the Taskforce's conclusions in relation to a general Royal Commission and notes that the Taskforce does not make a final recommendation.

The Government has issued revised Terms of Reference to the Taskforce which require it to make a recommendation in relation to this matter by 30 June 2015.

Additional comments by Senator Xenophon

The Government notes Senator Xenophon's additional comments.

Recommendation

The Minister of Defence should direct Defence to report to the committee on what specific decisions have been made by the ADF and the Government about each of the 35 systemic issues identified in the DLA Piper Review report within 30 days of tabling of this report.

Government Response

Disagree.

The Government notes that the Taskforce's *Report on abuse in Defence* was tabled in Parliament on 26 November 2014. This report deals with the Taskforce's conclusions in relation to the systemic issues identified in the DLA Piper review.

The Government is currently considering the findings and conclusions of this report and notes that these findings are relevant to informing Defence's cultural change program, *Pathway to Change*, which is now in its third year.

Recommendation

That there be a Royal Commission to inquire into:

- **the adequacy of Defence and Government responses to abuse in the ADF;**
- **the adequacy of Defence and Government responses to support all victims of abuse in the ADF – not just those who have come into the Taskforce's processes;**
- **what can be done to improve rates of reporting of abuse in the ADF;**
- **what can be done to improve confidence of ADF personnel in ADF processes for responding to allegations of abuse; and**
- **whether there are still perpetrators of abuse in the ADF and if so what to do about that.**

Government response

Noted.

The Government notes that the Taskforce's *Report on abuse in Defence* was tabled in Parliament on 26 November 2014. This report deals with the Taskforce's conclusions in relation to a general Royal Commission and notes that the Taskforce does not make a final recommendation.

The Government has issued revised Terms of Reference to the Taskforce which require it to make a recommendation in relation to this matter by 30 June 2015.