

Reviews of Defence Culture

Background

- 5.1 In April 2011, following an incident at the Australian Defence Force Academy (ADFA), the Minister for Defence announced that a series of urgent reviews would be conducted on a wide set of aspects of Defence culture.
- 5.2 The reviews announced by the Minister were:
- *Review of the use of Social Media in Defence*
 - *Review into the Treatment of Women at ADFA and in the wider Australian Defence Force (ADF) (conducted by the Sex Discrimination Commissioner, Ms Elizabeth Broderick)*
 - *Review of the use of Alcohol in the ADF*
 - *Review of Personal Conduct of ADF Personnel*
 - *Review of the Management of Incidents and Complaints in Defence*
 - *Review of Defence Australian Public Service (APS) Women's Leadership Pathways*
- 5.3 The Minister also announced the *DLA Piper Review of Allegations of Sexual and Other Forms of Abuse in Defence*.
- 5.4 The Reviews point to opportunities to improve Defence systems and processes and also evolve Defence cultures. Moreover, they provide an opportunity to continue the work of making Defence workplaces safe and equitable for all.
- 5.5 The Reviews were overseen and coordinated by a Steering Committee chaired by the Vice Chief of the Defence Force (VCDF). Defence's comprehensive response to these cultural Reviews, the *Pathway to Change*:

Evolving Defence Culture outlines how the recommendations of the reviews will be implemented consistent with the wider Defence reform programme.

- 5.6 The Committee sought an update from Defence on the progress of implementation of these various reviews. In eliciting this update, the Committee focussed on issues related to all these reviews with the exception of the *Review of the use of Social Media in Defence*.
- 5.7 In addition to exploring issues related to these Reviews, the Committee was mindful to explore two further culture-related issues:
- the progress of the 'Reconciliation Action Plan', an important initiative concerning Defence's engagement with Indigenous persons and issues.
 - Disability programs in Defence, particularly initiatives assisting injured personnel.
- 5.8 There are two sections in this chapter:
- a summary of the various Defence Culture Reviews; and
 - a summary of the Committee's exploration of Defence culture-related issues primarily arising from these reviews.

Summary of reviews

Review of personal conduct of ADF personnel

- 5.9 Major General Craig Orme led this review which focused on assessing the effectiveness and current policies governing ADF conduct, and identifying areas of strength and weakness. The Review recommended:
- A culture that is just and inclusive.
 - The ADF will more explicitly state values and behaviours on enlistment, and reinforce them through education and practice.
 - The Navy, Army and Air Force will continue to improve avenues of communication for members to report concerns about personal conduct through the formal chain of command and through confidential methods of reporting.¹

¹ The Hon Stephen Smith MP, Minister for Defence, 'Reviews into Defence and Australian Defence Force Culture', *Media Release*, 7 March 2012, p. 1.

Review of the treatment of women in the Australian Defence Force

- 5.10 Ms Elizabeth Broderick, the Sex Discrimination Commissioner, conducted the Australian Human Rights Commission Review of the Treatment of Women in the ADF. The Review was conducted in two phases:
- Phase One of the Review – into the Treatment of Women at ADFA – was tabled in Parliament on 3 November 2011. Phase One of the Review found that there have been improvements in the culture at the Academy since the mid-1990s. The Review acknowledged that the experiences of both male and female midshipmen and officer cadets at the Academy are for the most part positive. However, the Review also found widespread, low-level sexual harassment, inadequate levels of supervision, cumbersome complaints process and an equity and diversity environment marked by sanction rather than positive engagement. The Review also identified areas in ADFA’s culture which could be improved and recommended improvements such as providing quality staffing at ADFA, management of complaints, accommodation for students and mechanisms to better manage the risk of injury to female cadets.
 - Phase Two of the Review – into the Treatment of Women in the ADF – was tabled in the Parliament in August 2012. Phase Two dealt comprehensively with the careers of women in the ADF from recruitment and retention to career choices, work-life balance practices and policies, leadership and topics such as sexual harassment, discrimination and sexual assault. Phase Two made 21 recommendations covering five key principles that aim to:
 - ⇒ Actively promote a broad organisational understanding of diversity as both a core Defence value and an operational imperative linked to capability and operational effectiveness;
 - ⇒ Address the significant under-representation of women at decision making level;
 - ⇒ Increase the number of women recruited to the ADF as a whole, but also to specific occupational areas and units;
 - ⇒ Improve the level to which the ADF assists serving women and men to balance their work and family commitments; and
 - ⇒ Establish a new and more robust approach to responding to unacceptable sexual behaviours and attitudes.²

2 The Hon Stephen Smith MP, Minister for Defence, ‘Reviews into Defence and Australian Defence Force Culture’, *Media Release*, 7 March 2012, p. 1.

Review of the use of alcohol in the ADF

- 5.11 Professor Margaret Hamilton, an executive member of the Australian National Council on Drugs, led an independent panel to review the overall strategy for managing the use of alcohol in the ADF. Immediate and specific initiatives included:
- The preparation of an evidence-based alcohol management strategy for implementation within Defence;
 - Defence to ensure that the pricing of alcohol available at Defence establishments is consistent with the alcohol management strategy;
 - Developing an approach to collecting and responding to alcohol related data to enhance its value in terms of managing individuals and strategic planning; this will include alcohol screening of individuals at recruitment and across important career transition points, particularly post-deployment, and a whole of ADF Alcohol Incident Reporting System;
 - Commanders to assess situations in which alcohol is proposed to be used informally or formally and where specific approval would then be required for the use and access to alcohol within ADF work location; and
 - Defence to form alliances and partnerships with other organisations and individual experts on alcohol outside Defence to provide their input into alcohol policy and program development and implementation.³

The Review of the use of social media in Defence

- 5.12 Mr Rob Hudson, from the external consulting company George Patterson Y & R, led a team to examine the impact of the use of social media in Defence, with the aim of developing measures to ensure that the use of new technologies is consistent with ADF and Defence values. His recommendations included:
- All policies relating to the use of social media, the internet or cyber activities to be reviewed, including a review of guidelines to ensure they are consistent with the overall social media policy and engagement principles;
 - Defence should consider reviewing social media training and the way it is prioritised and delivered in order to ensure consistency, including relevant resources, guidelines and support mechanisms; and

3 The Hon Stephen Smith MP, Minister for Defence, 'Reviews into Defence and Australian Defence Force Culture', *Media Release*, 7 March 2012, p. 1.

- Resources will be provided to support the understanding and management of social media in Defence.⁴

Review of the management of incidents and complaints

5.13 The Inspector General of the ADF, Mr Geoff Earley AM, conducted a review of the management of incidents and complaints in Defence, with specific reference to the treatment of victims, transparency and processes and the jurisdictional interface between military and civil law. His recommendations include:

- Funding to be provided as a matter of priority to contract out the task of reducing the current grievance backlog of cases to suitably qualified legal firms;
- Training and information to be provided to ADF members in relation to the management of incidents, and complaint processes will be simplified and improved;
- Defence's administrative policies to be amended to provide for administrative suspension from duty, including the circumstances in which a Commander may suspend an ADF member and the conditions which may be imposed on the suspended member; and
- An improved process to manage grievances in Defence will also be developed.⁵

Review of Defence Australian Public Service women's leadership pathways

5.14 The review into Defence as an employer of woman was led by the former Deputy Public Service Commissioner, Ms Carmel McGregor, who examined the effectiveness of current strategies and proposed recommendations across a range of issues relating to employment pathways for Defence APS women. Ms McGregor has subsequently been appointed to the position of Deputy Secretary People Strategies and Policy in Defence. Her recommendations include:

- The Secretary to issue an explicit statement to senior leaders and staff to reinforce the importance of gender diversity to build a sustainable workforce;
- The establishment of a rotation program for senior women at Senior Executive Service Band 2/3 with the broader APS;

4 The Hon Stephen Smith MP, Minister for Defence, 'Reviews into Defence and Australian Defence Force Culture', *Media Release*, 7 March 2012, p. 1.

5 The Hon Stephen Smith MP, Minister for Defence, 'Reviews into Defence and Australian Defence Force Culture', *Media Release*, 7 March 2012, p. 1.

- Ensure female membership in senior decision-making bodies;
- Implement a development program for Executive Level women that includes job rotation, as well as over-representing women in existing development programs;
- Embed a focus on identifying and developing women for leadership roles, including a facilitated shadowing and coaching component, in the new talent management system; and
- Establish a central maternity leave pool for central management of the full-time equivalent liability associated with maternity leave.⁶

DLA Piper Review of Allegations of Sexual and Other Forms of Abuse in Defence

- 5.15 On 11 April 2011 the Minister for Defence Stephen Smith announced an external review of allegations of sexual and other forms of abuse that were raised following the ADFA 'Skype' incident.
- 5.16 In response to these allegations, the law firm DLA Piper was engaged by Defence to review each allegation methodically and at arm's length from Defence to make recommendations for further action.⁷
- 5.17 On 11 October 2011, DLA Piper submitted Volume 1 of its Report – General Findings and Recommendations and the first tranche of Volume 2 in relation to Individual Allegations.⁸
- 5.18 On 7 March 2012, the Minister announced the release of redacted extracts of Volume 1: Facing problems of the past – General findings and recommendations.⁹
- 5.19 On 17 April 2012, the Minister announced he had received the final tranche of Volume 2 of the Report – Individual Allegations.
- 5.20 On 14 June 2012, under Freedom of Information provisions, the un-redacted Executive Summary to the DLA Piper Review Team's Volume 1 Report became public.

6 The Hon Stephen Smith MP, Minister for Defence, 'Reviews into Defence and Australian Defence Force Culture', *Media Release*, 7 March 2012, p. 1.

7 The Hon Stephen Smith MP, Minister for Defence, 'Release of Volume 1 of the DLA Piper Report: Allegations of sexual and other abuse in Defence', *Media Release*, 10 July 2012, p. 1.

8 The Hon Stephen Smith MP, Minister for Defence, 'Release of Redacted Extracts from Executive Summary and Findings of Volume 1 of the DLA Piper Report: Allegations of sexual and other abuse in Defence', *Media Release*, 7 March 2012, p. 1.

9 The Hon Stephen Smith MP, Minister for Defence, 'Release of Redacted Extracts from Executive Summary and Findings of Volume 1 of the DLA Piper Report: Allegations of sexual and other abuse in Defence', *Media Release*, 7 March 2012, p. 1.

- 5.21 On 10 July 2012, the Final Report of Phase 1 of the DLA Piper Review of Allegations of sexual and other abuse in Defence was released.¹⁰
- 5.22 On 26 November 2012, the Minister for Defence announced the Government's response to the *Review into Allegations of Sexual and other forms of Abuse in Defence*. The response included:
- A general apology to members of the ADF or Defence employees who have suffered sexual or other forms of abuse in the course of their employment
 - The establishment of an independent Taskforce to assess the individual complaints and any wider systemic issues to be headed by the Hon Len Roberts-Smith QC.
 - Access to a capped compensation scheme; and
 - A free telephone hotline (already established) so that complainants can access information about the Government's response.¹¹

The Pathway to Change: Evolving Defence Culture

- 5.23 Defence's response to these cultural Reviews, the *Pathway to Change: Evolving Defence Culture*, outlines how the recommendations of the reviews will be implemented consistent with the wider Defence reform programme. *Pathway to Change* also builds on the institutional and personal accountability reforms in Defence to implement the *Review of the Defence Accountability Framework* (the Black Review) announced in August 2011.
- 5.24 Implementation covers a series of systemic changes, as well as more immediate and specific initiatives. This includes:
- Increasing diversity within leadership groups;
 - Fully implementing ADFA reforms to address safety and behaviour issues at ADFA; and
 - Applying principles of the ADFA reforms to all new starter training institutes across Defence.
- 5.25 Most of these will require a 2-3 year period to fully implement and for their impacts to be embedded in Defence's culture. There are over 130

10 The Hon Stephen Smith MP, Minister for Defence, 'Release of Volume 1 of the DLA Piper Report: Allegations of sexual and other abuse in Defence', *Media Release*, 10 July 2012, p. 1.

11 Department of Defence, 'Pathway to Change' - DLA Piper Review of Allegations of sexual assault and other abuse in Defence', viewed 5 June 2013, <<http://www.defence.gov.au/pathwaytochange/docs/DLAPiper/index.htm>>.

recommendations in the *Pathway to Change* response comprising all of the recommendations from the reviews into Defence culture and relevant recommendations from the Black Review. To date, 33 recommendations from the Reviews have been actioned.¹²

Review updates and discussion

DLA Piper Review – update and discussion

5.26 The Committee inquired about particular issues related to the DLA Piper Review and its implementation.

Views of ‘abuse’ within Defence

5.27 The Committee questioned Defence about its view of the nature of abuse, within the context of the DLA Piper Review.

5.28 Defence assured the Committee of their recognition that the problems people have as a result of abuse is a Defence problem, not just a problem related to the person themselves.¹³

5.29 When the Committee sought further elaboration upon Defence’s view of the nature and scope of abuse, Defence explained in response:

I think we have got it clearly laid down in a number of our Defence instructions in terms of what sexual, physical abuse and so forth relate to.¹⁴

5.30 Further, Defence assured the Committee that they were actively dealing with psychological forms of abuse:

We certainly have policies around bullying, harassment and mental abuse in those terms of relationships with members of the ADF and in the department more broadly.¹⁵

5.31 Defence elaborated on the formal policies surrounding these types of abuse:

They go to the full spectrum and in fact there are a range of instructions that guide managers and commanders in the organisation. Firstly, there is the Defence Instructions (General) Personnel Management and Reporting of Sexual Offences;

12 The Hon Stephen Smith MP, Minister for Defence, ‘Implementation of Defence cultural reform – Pathway to Change’, *Media Release*, 26 November 2012, p. 1.

13 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 36.

14 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 38.

15 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 38.

secondly, there is a Defence Instructions (General) Personnel Management and Reporting of Unacceptable Behaviour which is very broad, however within those guidelines there is quite specific guidance; thirdly, the Defence Instructions (General) Personnel Jurisdiction under *Defence Force Discipline Act*. That is guidance for military commanders. Fourthly, there is Defence Instructions (General) Reporting and Management of Notifiable Incidents. That then goes to various parts of the organisation who have particular remits depending on which part of the workforce they are dealing with and the type of offence or mistreatment.¹⁶

Scope of DLA Piper Review Allegations

- 5.32 The Committee focused on the scope of allegations falling within the ambit of the DLA Piper Review's processes.
- 5.33 Regarding the scope of allegations, Defence stated that it was unaware of any reports made against existing members of the force in relation to the Review.¹⁷
- 5.34 The Committee sought information from Defence regarding the process of dealing with allegations under the DLA Piper Review, and particularly the process of determining whether an allegation occurs within the scope of the Review. The Committee was mindful to ensure that the process allowed cases to be dealt with in a fair and just manner.
- 5.35 Defence responded by explaining the bounds of the review in general terms, as initially intended by the Minister for Defence:

The announcement by the Minister, even before formal terms of reference were identified, focused on certain areas of allegations. It was not framed in terms that there would be a review of every issue that every person ever had with any arm of the Australian Defence Force, the Department of Defence or any entity which might now be reflected within that construct. We were not going back to all questions, for instance, about why a person did not enlist; we were not going back to contractual questions; we were not going back to a whole range of things because they were excluded of their nature by the type of work. In matters where people had identified their issue, in some cases, when you applied that fairly simple precept, the matters fell outside what were

16 Ms McGregor, Department of Defence, *Transcript*, 15 March 2013, p. 38.

17 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 36.

intended. There are other avenues for some of those matters, but they were not intended to be covered by that.¹⁸

- 5.36 Defence elaborated on the process of determining whether a matter fell within or outside the intended scope of the Review:

The process of considering whether matters were in scope or out of scope has been identified publicly in a number of forums. It involved an initial decision which was formed within the team working on behalf of DLA. Where they came to a view that a matter was out of scope, they provided it to Defence Legal. Where we took a view that perhaps suggested we thought there was a question or something that they may have overlooked, we returned it to them. In other cases, if we considered that their view was sound, the matter went straight off to the ombudsman. Any matter that – if I can put it this way – both DLA and we felt was beyond the terms went to the ombudsman.¹⁹

- 5.37 Defence then explained that all these decisions regarding whether a matter fell within the scope of the Review, are now being reviewed by the independent Taskforce established in November 2012:

In all circumstances in any case, in terms of the current handling, all of those matters are part of what Mr Roberts-Smith and the taskforce are reconsidering. So regardless of the past... the issues are back before the entirely independent taskforce. So that whether any of those views were valid, questionable or found wanting, Mr Roberts-Smith and his taskforce entirely independent from any part of Defence Legal will look at them.²⁰

- 5.38 The Committee further inquired into this issue with particular regard to persons contractually dealing with the ADF. The Committee specifically asked whether a person, not directly employed by Defence, who felt they had been a victim of abuse by someone employed by Defence, would be able to bring their case before the Defence Abuse Response Taskforce (DART). Defence responded by stating:

... it depends on the type of abuse. In a sense, this is a somewhat academic discussion at this point, because the ultimate test is a test of what the taskforce pursues at this stage, regardless of what has happened in the past.²¹

18 Mr Cunliffe, Department of Defence, *Transcript*, 15 March 2013, p. 37.

19 Mr Cunliffe, Department of Defence, *Transcript*, 15 March 2013, p. 36.

20 Mr Cunliffe, Department of Defence, *Transcript*, 15 March 2013, p. 37.

21 Mr Cunliffe, Department of Defence, *Transcript*, 15 March 2013, p. 37.

5.39 Whilst Defence explained that these decisions whether claims are in scope are the responsibility of the independent Taskforce, the Committee was concerned that decisions may be made that are contrary to the revised understanding of the DLA Piper terms of reference.

5.40 Specifically, the Committee quoted from the 'Defence Abuse Reparation Scheme Guidelines':

I will give you this specific reference. It is 3.1.4, sub paragraph (c). It says 'A person is eligible if they were at the time of the alleged abuse employed in Defence.' This automatically appears to exclude an individual who may have been representing a company who was dealing with a Defence official. That seems at odds with the revised understanding of the DLA Piper terms of reference.²²

5.41 Defence responded by stating that the interpretation of those terms of reference is a matter for the independent taskforce.²³

5.42 However, noting that the intent of the terms of reference must be absolutely clear, the Committee questioned whether Defence could seek to have these terms of reference clarified. Defence responded by re-iterating that these are issues for the independent taskforce:

I do not think we can help you clarify the intent because the taskforce is entirely separate to the department, and is operating entirely separately to the department.²⁴

Terms of reference drafting

5.43 The Committee was engaged in an in-depth exploration of the Review's terms of reference. Specifically, the Committee sought to clarify the role of Defence Legal in the writing of these terms of reference.

5.44 Defence responded by explaining the process of drafting and finalising the terms of reference:

They were finalised and settled by the Minister in the Minister's office. But, yes, Defence Legal were involved in terms of preparing some of the wording.²⁵

22 *Transcript*, 15 March 2013, p. 37. These guidelines provide for reparations to people who plausibly suffered abuse in Defence prior to 11 April 2011, as part of the Australian Government's response to the *Report of the Review of allegations of sexual and other forms of abuse in Defence*.

23 Mr Richardson, Department of Defence, *Transcript*, 15 March 2013, p. 38.

24 Mr Richardson, Department of Defence, *Transcript*, 15 March 2013, p. 38.

25 Mr Cunliffe, Department of Defence, *Transcript*, 15 March 2013, p. 36.

- 5.45 When questioned on whether Defence Legal having a role in the drafting of the terms of reference could constitute a potential conflict of interest, Defence definitively rejected this idea:

No, I do not and I would not [call this a conflict of interest]. What we do is serve the Defence interest, and in this respect the Minister and the leadership's interest in terms of trying to formulate the wording for the independent work. The final settling of that was for the Minister, and I think the degree to which there might be argument about the terminology is an issue which goes to the policy formulation, which we tried faithfully to reflect.²⁶

Review of the use of alcohol in the ADF – update and discussion

- 5.46 The Committee explored the issue of the use of alcohol in the ADF. In order to place this exploration in the context of society as a whole, Defence's attention was drawn to an Australian Medical Association (AMA) report into alcohol use amongst young Australians. This report specifically looked at people in the age group of 14 – 24. It found that 80 per cent of the alcohol consumed by people in this age range is consumed in ways that put the drinker's (and others') health at risk.²⁷ It was suggested that the findings were particularly relevant for the ADF, as most people entering ADFA or other military training are under the age of 24.
- 5.47 The report's findings regarding behaviours associated with alcohol use amongst this age group, including sexual misconduct and assaults were noted. These behaviours occur at particularly high levels in residential boarding situations. It was suggested that this report was highly relevant to Defence particularly in the context of behaviour at ADFA.
- 5.48 Defence responded by acknowledging the significance of the report and expressing a high motivation to confront these issues in the context of the ADF:

We are taking this very seriously. In fact, that AMA report that came out about young people under the age of 24 drinking to harm was what really struck a chord with us with our own experiences... Given our demographic, we should be leading in this space.²⁸

26 Mr Cunliffe, Department of Defence, *Transcript*, 15 March 2013, p. 36.

27 Australian Medical Association, *Alcohol Consumption and Alcohol Related Harms – 2012*, viewed 5 June 2013, < <https://ama.com.au/position-statement/alcohol-consumption-and-alcohol-related-harms-2012>>.

28 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 41.

- 5.49 Furthermore, Defence outlined the background of the Hamilton Report, which looked at alcohol use in the ADF, and the development of plans to implement reforms in this area:

The Hamilton review is one of eight reviews conducted in 2011-12. We have an implementation plan now working its way through in response to that, and the aim of the plan is to build the ADF's capacity to effectively manage alcohol and therefore enhance its operational capacity, reduce personal harm – which is a very important part of this – and minimise organisational costs. We have been working for quite a while; early in 2011, before the announcement that the Hamilton review was to be undertaken, we were working with the Australian Drug Foundation to develop an alcohol management system... Joint Health Command has been working in very close step with that organisation. I hope we will have a nationally ground-breaking approach to alcohol management in the ADF when we complete that strategy.²⁹

- 5.50 Notably, Defence not only outlined plans for a new approach, but also explained practical measures that have already been taken as a response to the Hamilton Review:

We have not been idle though. In the meantime, we have taken a number of initiatives. We have looked at ADF's alcohol policy in regard to the access to and management of alcohol on our bases. We are in the process of looking at the management of garrisons, reducing bar hours and making them more appropriate to work conditions, and changing the nature of alcohol that can be served on our bases.

We have put out a statement on alcohol behaviour expectations. We have produced an alcohol management guide for our leadership at all levels and we have put out new guidelines for ADF hospitality management so that we set an example across the organisation about when and where the consumption of alcohol should occur and costs related to that. The alcohol management strategy, when it emerges, will be ground-breaking, I believe.³⁰

Review into the Treatment of Women in the Australian Defence Force – update and discussion

- 5.51 The Committee sought evidence from Defence regarding the status of implementation of the *Review of the Treatment of Women in the ADF*

29 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 40.

30 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 41.

recommendations. The Committee was eager to canvass the general implementation of this Report, but with a particular focus on standards of behaviour within ADFA.

5.52 Defence responded by offering a detailed explanation of the practical measures taken to implement the Review:

After the events of April 2011, we had a major review conducted by the Sex Discrimination Commissioner, Elizabeth Broderick, who produced a report about the treatment of women at ADFA. We have been diligently working through the recommendations of that review, phase 1, and we will receive the Sex Discrimination Commissioner's report on our progress, I think, in the next month or close to.

We have done a number of things in response to her report. We have established a residential support officer scheme within each of the residential blocks and so forth in the cadet accommodation. We have created a dedicated 24/7 emergency and support hotline for the cadets, their families and the staff – so broader than the institution itself. ADFA midshipmen and cadets have been provided details of a range of support options regarding health and wellbeing, sexual and personal abuse, and violence. We also have links to a number of external support services. All of these are in accordance with Ms Broderick's recommendations. That links into the broader phase 2 review, where we are well progressed in implementing a number of those recommendations. We have developed a database relating to individual complaints. This is one of the key things that came out of Ms Broderick's report into both the ADF and the ADFA, and that is in place in ADFA now. We have completely revised our teaching of equity and diversity in the academy. It is much more scenario based, practical and related to the age and situation, and there is a very clear separation between equity and diversity training and the complaints procedures because they had become merged and were not being put into place properly.³¹

5.53 Further, the Chief of the Defence Force, General Hurley, placed these actions in the particular context of ADFA and the standards of behaviour within the Academy:

I have every confidence in the Defence Force Academy. I have said this at a number of parades I have attended. I say it to parents. I would put the performance and the record of the Australian

31 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 41.

Defence Academy against any major similar residential institution in the country. We have a good crop of young people there; I think they are well led. They have been through a difficult time and, if you were to go and talk to them now, particularly those who have been there over the last two years, yes, they have learnt a lot – hopefully, they have learnt a lot about leadership. But I think they have shown a strength and resilience that we should all be very proud of. They are a good bunch of young people.³²

Standards of behaviour in the ADF

5.54 The Committee further explored this issue of standards of behaviour in the ADF. Particularly, the Committee questioned Defence about whether they aim for a standard of behaviour which reflects broader community standards, or a higher standard. The Committee inquired about this in the context of reference to the previously mentioned AMA report which outlined worrying trends in relation to alcohol abuse for persons under 24.

5.55 Whilst stating that the ADF aims for standards higher than the broader community, Defence cautioned that these broader standards are very difficult to definitively measure, but that ADF standards of behaviour are currently high:

I think our standards across the board, particularly in ADFA, are very high. I have said on a number of occasions, when we talk about Pathways to Change, that the ADF needs to reflect the community it comes from more closely than it might have in the past and that we will be held to higher standards than the general community. If you look at the Pathways to Change, the thrust of what we are trying to achieve there, we recognise that. It is very hard to say what is the measure of Australia's standards. You can get quantitative data; it is probably harder to get qualitative data. But even on the quantitative sense, if we rank ourselves around general communities, or populations of the size of 100,000 people, our standards and our behaviours are something we should be proud of. To go back to DLA Piper and the stories it tells us, it is an aspect of ADF history that we should not be proud of, but again, I have been very, very strong in statements that the ADF is not an abusive organisation. I think its standards are high on the whole and we should continue to work to keep them there.³³

32 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 41.

33 Gen. Hurley, Australian Defence Force, *Transcript*, 15 March 2013, p. 41.

Women's careers strategies

- 5.56 Both the *Broderick Review*³⁴ and the *Review of Defence APS Women's Leadership Pathways* outlined the importance of strategies seeking to advance career opportunities for women in the Australian Defence Organisation (ADO).
- 5.57 The Committee sought evidence from Defence regarding the implementation of strategies associated with career development, particularly for women. Within this issue, the Committee focussed particularly on workplace flexibility as an issue affecting both men and women.
- 5.58 Defence responded by offering a detailed explanation of the actions they are taking to provide a flexible workplace:

...that whole area of workplace flexibility was one that Liz Broderick observed in her reports, and it is No.1 of the bulletin terms of concerns that people have about being able to participate fully in the ADF and the broader department. Similarly, in the *Review of Defence APS women's leadership pathways*... it was a very significant issue. It was gender neutral – men and women – in a modern workplace... In terms of the work we have been doing, inside the department there have been a range of initiatives over the last 12 months that the services have been really pushing for and wanting to have put in place in a policy sense.

I will run through a couple of them: 1 December 2012 – carer's leave provisions for ADF members came into effect. That means members had an increase in the number of carer's leave days that they could access from five days to 10, and the scope of carer's leave was broadened to include situations where a member is required to provide care and support to the dependents who live with them, so when they are injured or affected by an unexpected emergency as well as if they are sick. Changes to the Paid Parental Leave scheme came into effect on 28 February and that meant that members had greater flexibility in how they accessed paid parental leave and were able to choose parental leave at full pay, half-pay or a combination of both. Work is currently being undertaken in regard to purchasing recreation leave, but we will have to develop a system to enable members to purchase that leave. It is anticipated that we will have that in place by the middle of this year and that will benefit all members. We are also looking at non-dependent carers living in Defence housing and allowing

ADF members to have an au pair live in their subsidised housing for the purpose of providing assistance with child care.

There are a range of these things which we are pleased are coming to fruition. There is still much more that we can attend to, but I think it is starting to demonstrate to people that we are being able to respond to their needs and provide a contemporary flexible workplace.³⁵

5.59 Defence elaborated on the other actions it was taking to ensure its employees had access to the greatest possible level of workplace flexibility:

The current policy relating to flexible employment is under review in order to:

- Broaden the parameters and reaffirm Defence's commitment to flexible employment, reinforcing full-time and part-time flexible employment options, as well as part time options;
- Establish targets for flexible employment for each Service, in line with Recommendation 13 of the Broderick Review (phase 2); and
- Develop strategies within the current workforce management systems to collect data on access and uptake of flexible employment, which will be reported annually in the "Women in the ADF" report, in accordance with Recommendation 3 of the Broderick Review (Phase 2).³⁶

5.60 Furthermore, Defence told the Committee that:

ADF positions are not formally designated as being specifically part-time or full-time. Decisions to approve part-time filling of positions are made on a case by case basis under the board policy context that:

- ADF personnel are entitled to access part-time work on return from Maternity or Paternity leave for a period of up to two years, this includes adoptive parents; and
- ADF personnel are not limited by location to access part-time or full-time flexible employment.³⁷

Indigenous participation in the Australian Defence Organisation

5.61 The Committee invited evidence from Defence regarding initiatives to increase Indigenous participation in both the civilian and force spheres of the ADO.

35 Ms McGregor, Department of Defence, *Transcript*, 15 March 2013, p. 42.

36 Department of Defence, *Submission No. 5*, p. 42.

37 Department of Defence, *Submission No. 5*, pp. 42-43.

5.62 The *Defence Annual Report 2011-12* outlined the background to these initiatives:

The Diversity Directorate within Defence People Group oversees the implementation of initiatives and strategies arising from the *Defence Reconciliation Action Plan 2010-14* and the whole-of-government targets set under the Closing the Gap on Indigenous Disadvantage agenda. Funding for these strategies is provided under the *Defence White Paper 2009*.³⁸

5.63 Further, the Report explained that implementation of the 'Reconciliation Action Plan' (RAP) entails a 'refreshed strategy' in 2011-12:

During the 2011-12 reporting period there has been a focus on the Indigenous Employment Strategy, with strategies being examined that will improve recruitment of Indigenous peoples into Defence. A refreshed strategy is being considered for implementation during the new reporting period.³⁹

5.64 The Committee noted that the RAP was very detailed, and sought further information from Defence regarding the strategy underpinning that initial Plan, as well as the 'refreshed strategy' for 2011-12.

5.65 Defence responded by outlining the central themes of the RAP, in the context of an increased focus on employment strategies:

We are refreshing it as you have mentioned, and sometimes the detail and complexity does not help us, but we have the three thematic areas of changing perceptions: going to the heart of community and cultural engagement; providing specialised pathways, which are through the variety of the employment programs; and the support – that is, the networks and programs to support Indigenous employees. We will frame the plan and the responses under those themes. It is probably not as far advanced as we would have liked but it is definitely on its way.⁴⁰

5.66 Furthermore, Defence elaborated on the current status of Indigenous employment in both the ADF and APS sides of Defence:

You have got the ADF and the civilian side. The ADF is doing better than on the civilian side. We are having a look at Indigenous employment in defence on the civilian side at the moment. We are working through a systematic approach to that and our performances have not been very good. We are looking at what

38 Department of Defence, *Defence Annual Report 2011-12*, September 2012, p. 278.

39 Department of Defence, *Defence Annual Report 2011-12*, September 2012, p. 278.

40 Ms. McGregor, Department of Defence, *Transcript*, 15 March 2013, p. 42-43.

partnerships we might be able to develop with some colleges. We are looking at what more we might do. Particularly when we look at our civilian employment in Queensland and the Northern Territory, for instance, we do not do very well at all on the civilian side. We are working through some initiatives we might take to be able to improve our outcomes there. The ADF is doing a lot better.⁴¹

- 5.67 The Committee sought further specifics on the actions Defence is taking to improve Indigenous participation in the APS. Defence assured the Committee that they were exploring a variety of initiatives. For example, Defence considers questions such as whether to require consideration of a person's status as an Indigenous Australian when engaging contractors in the context of the current retendering for Defence's major contracts.⁴²
- 5.68 A significant initiative undertaken by Defence in this area has been the continued delivery of the 'Defence Indigenous Development Program' (DIDP) in Katherine and Cairns.
- 5.69 DIDP is part of the Government's Indigenous employment program. It is a joint initiative between the Department of Defence, the Department of Education, Employment and Workplace Relations (DEEWR) and the Northern Territory Department of Education and Training. The program's graduates complete a seven month live-in course to provide young Aboriginal and Torres Strait Islander adults with the life skills and confidence to secure opportunities and sustain continuous employment of their choice.⁴³
- 5.70 The Committee recognised the significance of this program and sought an update on its progress from Defence. Defence responded by explaining that:

We are currently in the assessment phase for this year. We have 58 people being assessed in the next couple of weeks, of which we are hoping 30 to 35 will be picked up in the Northern Territory. I actually do not have the breakdown of Katherine versus Darwin there, but that is the progress for this year. The course will actually start on 3 May...⁴⁴

41 Mr Richardson, Department of Defence, *Transcript*, 15 March 2013, p. 39.

42 Mr Richardson, Department of Defence, *Transcript*, 15 March 2013, p. 39.

43 Department of Defence, 'Defence News Archive - Trainees graduate from Defence Indigenous Development Program' viewed 5 June 2013, <<http://www.defence.gov.au/defencenews/stories/2012/nov/1114.htm>>.

44 Ms Mcgregor, Department of Defence, *Transcript*, 15 March 2013, p. 38.

In Cairns there will be 20. We currently have around 34 people in the assessment phase.⁴⁵

Disability programs in Defence

- 5.71 In discussing programs to encourage greater participation by persons with disabilities, the Committee focussed particularly on initiatives assisting ADF personnel who have been injured on operations.
- 5.72 Defence reassured the Committee of the importance placed on this issue, particularly in the present context as approximately 279 ADF personnel have been injured in either Iraq or Afghanistan.⁴⁶
- 5.73 Moreover, Defence outlined the practical measures taken to assist injured and disabled personnel in the context of future employment in both the uniform and civilian side of Defence.
- 5.74 In the context of the APS, Defence explained that they are currently in the process of developing initiatives to assist with the employment of people emerging from operations with severe disabilities, particularly in the context of people returning from Afghanistan. Defence expressed confidence that positive results will come from this process within the next 12 months.⁴⁷
- 5.75 In the context of ADF personnel, Defence offered a detailed explanation of the processes involved in the rehabilitation of casualties, including future employment assistance:

Under the rehabilitation program – and it includes all our people, not just our battle casualties – we look at whether our members, whatever their injury or illness, are fit to stay in their current trade, whether they are fit to be retrained in another trade but stay in the military or whether they required to be discharged. It is about looking individually at their cases to see what can be provided. At the higher end of the injury scale, under the Simpson Assist program, we have commenced piloting two intensive rehabilitation centres, one in Holsworthy and one in Townsville at Lavarack Barracks. There we are looking at providing the rehabilitation high end. We have exercise physiologists, rehabilitation consultants, psychologists and general doctors. It is about rehabilitating people back to not just activities and daily

45 Ms Mcgregor, Department of Defence, *Transcript*, 15 March 2013, p. 39.

46 Mr Richardson, Department of Defence, *Transcript*, 15 March 2013, page 39.

47 Mr Richardson, Department of Defence, *Transcript*, 15 March 2013, page 39.

living but also meaningful work opportunities. As part of that we also identify people who we think will be discharged and offer them training opportunities within whatever area they would like. Some of them have trained as baristas, some of them are doing other TAFE courses; it is about working with the individual to see what opportunities they might seek when they look to discharge. It might be giving them an opportunity to see if this is the area they wish to go into, and we are trialling that activity.

There is a range of opportunities in the rehabilitation of individuals either as they stay in the military, change and retrain or as they move out.⁴⁸

- 5.76 Defence assured the Committee of the importance of each individual case of an injured or disabled ADF person, and the practical initiatives in place to offer appropriate assistance.

Committee comment

- 5.77 The Committee was mindful to ensure that Defence demonstrate a practical commitment to implementing the findings of their various culture reviews. This is especially important in light of the recent revelations of sexually inappropriate behaviour by a group of Defence personnel, which has so far resulted in the suspension of some personnel, and investigations into the conduct of others. The Committee also notes the strong response to this revelation by the Chief of Army.⁴⁹ Defence's detailed evidence assured the Committee that whilst there is still a lot of work to be done, numerous initiatives and reforms are being undertaken through the strategies outlined in *Pathway to Change* which reflect a commitment to enduring cultural reform.
- 5.78 The Committee notes that instances of inappropriate behaviour are not isolated to Defence and the ADF, rather they are issue which affect the whole of Australian society. The Committee understands that, when compared to rates of abuse in other parts of Australian society, the ADO has a relatively low number of incidents. Nonetheless, the Committee commends Defence's efforts to ensure that this relatively low number of incidents is further decreased.

48 Rear Adm. Walker, Australian Defence Force, *Transcript*, p. 40.

49 Department of Defence website, 'Chief of Army addresses allegations of unacceptable behaviour', *Media Release*, 13 June 2013, viewed 17 June 2013, <<http://news.defence.gov.au/2013/06/13/chief-of-army-addresses-allegations-of-unacceptable-behaviour/>>.

- 5.79 The Committee was concerned that there may be a lack of clarity regarding the nature of allegations fitting within the scope of the DLA Piper Review. While Defence stated that decisions regarding whether a claim fits within the scope are in the hands of the independent taskforce, the Committee was concerned that there exists a lack of clarity specifically regarding whether a complainant is excluded from the scope of the DART processes because they are not an employee of a Defence organisation. This uncertainty should be remedied.

Recommendation 1

The Committee recommends that the 'Defence Abuse Reparation Scheme Guidelines' and the Defence Abuse Response Taskforce terms of reference should be reviewed to clarify:

- **whether cases involving a complainant not employed by Defence fall within the scope of the relevant processes; and**
- **what abuses are defined as in and out of scope, including whether abuses which constitute offenses under relevant Commonwealth legislation are included.**