

# **Report of the Review of allegations of sexual and other abuse in Defence**

**Facing the problems of the past**

## **VOLUME 1**

General findings and recommendations

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## Chapter 1—Establishment and conduct of the Review

The Review was established following receipt by the Minister of hundreds of communications about abuse within Defence following the so-called Skype incident at ADFA.

Dr Gary Rumble, partner, DLA Phillips Fox,<sup>1</sup> was appointed to lead the Review and Ms Melanie McKean, partner, DLA Phillips Fox and Professor Dennis Pearce, AO, Special Counsel with DLA Phillips Fox were appointed as co-leaders.

The initial function proposed for the Review was to review the allegations that had been received by the Minister. The role of the Review was subsequently expanded to consider all allegations that might be made by the public in response to advertisements that were published inviting submissions. The Review was requested to also review media reported allegations. This was to be Phase 1 of a Review that it was recognised would take some time to complete.

The Minister made it clear that the Review was to function independently of Defence. The Review leaders were to provide a report based on their own findings and they did not represent the law firm with which they were associated.

The Terms of Reference of the Review were published on 21 June 2011. However, the Review had been operating pursuant to draft Terms of Reference from the beginning of May.

From the outset it was settled that :

- The subject matter for the Review's consideration was 'sexual and other abuse—such as bullying, harassment or intimidation—(and related matters) in Defence'.
- In relation to each specific allegation within scope, the Review was to carry out an 'initial assessment'—and report to the Minister and to Defence;
  - whether the alleged incident appears to have received proper consideration and appropriate action has been taken or is being taken by Defence; and
  - recommend what action (or further action) if any should be taken.
- The Review was to identify and report on the full range of options for dealing with the allegations, including not only consideration of the wide range of existing mechanisms but also commentary on the possibility of setting up a Royal Commission or a Judicial Inquiry through to setting up some kind of reconciliation process.
- The Review was also to report on any systemic issues with Defence's management of allegations of abuse which the Review identified for possible further consideration in Phase 2.

The Review adopted a practical approach to determine what conduct should fall within the scope of 'abuse'. It had regard to the dictionary definitions of the term: '*wrongly take advantage of*', '*maltreat esp assault a woman or child*', '*to use wrongly or improperly*' and '*to do wrong to; to act injuriously towards*'.

The cut off date for making complaints to the Review was fixed at 17 June 2011, although complaints made after that date were received and processed up to the end of September 2011.

The rate of communications to the Review was initially slow, but increased dramatically after a Four Corners program on 13 June 2011 referred to the Review and to the closing date for lodging complaints. By 17 June, 983 communications had been received by or referred to the Review. A further 131 matters were raised with the Review up to 30 September.

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<sup>1</sup> Shortly after the Review was appointed, DLA Phillips Fox joined the international firm DLA Piper and now continues to function as DLA Piper Australia. Dr Rumble and Ms McKean ceased to be partners of DLA Piper after the Review commenced. The two firms worked together to support the Review.

Some of these communications were outside the scope of the Terms of Reference. Others were duplicated. In all 847 people raised matters within the scope of the Review and many of these communications contain more than one allegation of abuse.

The allegations were examined for their plausibility and where practicable further information was sought from Defence. However, in the time available, it was possible to obtain this information for only a limited number of allegations.

What we were able to do was to assess whether further action was warranted in relation to the allegations. The individual allegations and recommendations are set out in Volume 2 of this Report. They will have to be followed up by Phase 2 of the Review.

## Executive summary

The Review has had before it specific allegations within scope from 847 different people (sources). Many of these sources have more than one allegation within scope.

We have allegations across every decade from the 1950s to date. The earliest date of alleged abuse is 1951 (on a 13 year old boy, now a man in his 70s). We have allegations of events during 2011.

The allegations which have been raised with the Review are incredibly diverse. They are made by men and women in respect of conduct by men, women and groups. They involve minors and adults. They span 60 years. They come from diverse geographical locations. They come from different parts of the Defence organisation. They relate to the full range of possible involvement in the ADF—training, normal duties, deployment, hospitalisation and so on. The incidents range from extremely serious to (relatively) minor. The behaviour complained of ranges from that which has never been acceptable nor tolerated, to that which, whilst not acceptable, has in the past been tacitly tolerated.

It is not possible to summarise the nature of the allegations as a group.

Each allegation has been considered in accordance with its circumstances.

## In the wake of intense media and public attention, Defence is not shying away from the clear need to examine and improve some aspects of its culture.

A series of reviews will canvass the treatment of women at the Australian Defence Force Academy and in the wider ADF; the effectiveness of the pathways to leadership roles for women in the Australian Public Service and the ADF; issues associated with the use of alcohol, the use of social media, the personal conduct of ADF members; and the management of complaints. (details over page)

In a parallel effort, an independent law firm, DLA Piper, has been commissioned to review a range of allegations of sexual and other forms of abuse that have been sent to the Department and the Minister's office since media reporting about an incident at ADFA where a cadet allegedly used a webcam to broadcast a sexual encounter with a fellow cadet.

The Secretary of Defence, Dr Ian Watt, and the Chief of the Defence Force, Air Chief Marshal Angus Houston, said the reviews would help to "continue the work of making our workplace safe and equitable for all".

The Vice Chief of the Defence Force, Lieutenant General David Hurley, will chair the 3-star/band 3 SES Steering Committee that will oversee the reviews.

"Recent events have required us to check that we are managing Defence

in a way that instills the culture of professional and appropriate conduct that we demand of ourselves and that all Australians demand of us," LTGEN David Hurley said.

"These reviews will help us to enhance our culture and our policies so that we can continue to operate professionally and to maintain the long-held reputation that Australian serving personnel continue to enjoy."

Six separate review teams have been established and are mostly independent from Defence. Each team has been carefully selected to bring the expertise and experience needed for the broad range of issues being reviewed.

According to LTGEN Hurley, the reviews provide an opportunity to demonstrate to the Australian

and improve our policies and practices across a range of areas.

"We all want Defence to be seen as an employer of choice, with a first-class military and public service workforce."

The reviews are on different timelines and it is intended that the review into the treatment of women at ADFA and in the wider ADF will be completed by the end of the year, but most others are expected to be completed by the end of July.

"I think it will be important that we take the opportunity at some point to consider all the recommendations together, and develop a strategic response across all the areas that are under review," LTGEN Hurley said.

"We also need to make sure that we provide appropriate support to those

who need it.

For example, the review into allegations of sexual and other forms of abuse may well come across people who need counselling or other support.

"We're working with a range of agencies – including the Department of Veterans' Affairs, Defence Community Organisation and

Joint Health Command – to make sure that the necessary arrangements are in place.

"The Australian community holds the ADF in high regard and expects that we will conduct ourselves accordingly. These reviews will help ensure that we continue to maintain that high regard," LTGEN Hurley said. ■

**"We are willing to face openly and honestly the problems from our past, and we are committed to developing and maintaining an inclusive work environment where all personnel are treated fairly and with respect."**

– Vice Chief of the Defence Force  
Lieutenant General David Hurley

community that Defence takes seriously the issues that have been raised.

"We are willing to face openly and honestly the problems from our past, and we are committed to developing and maintaining an inclusive work environment where all personnel are treated fairly and with respect.

"The reviews offer a great opportunity to enhance our culture

*Opposite: A steering committee has been established to support the series of reviews to examine and improve some aspects of Defence culture. The committee has been meeting on a regular basis, and pictured is (back row L-R): the Deputy Secretary Strategy, Mr Peter Jennings; the Deputy Secretary Strategic Reform and Governance, Mr Brendan Sargeant; (front row L-R): the General Manager Reform and Special Projects in DMO, Ms Jane Wolfe; the Vice Chief of the Defence Force, Lieutenant General David Hurley; the Deputy Secretary People Strategies and Policy, Mr Phil Minns.*

Photo: Leading Aircraftman Bill Solomon

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## **SUPPLEMENT TO VOLUME 1**

General findings and recommendations

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April 2012

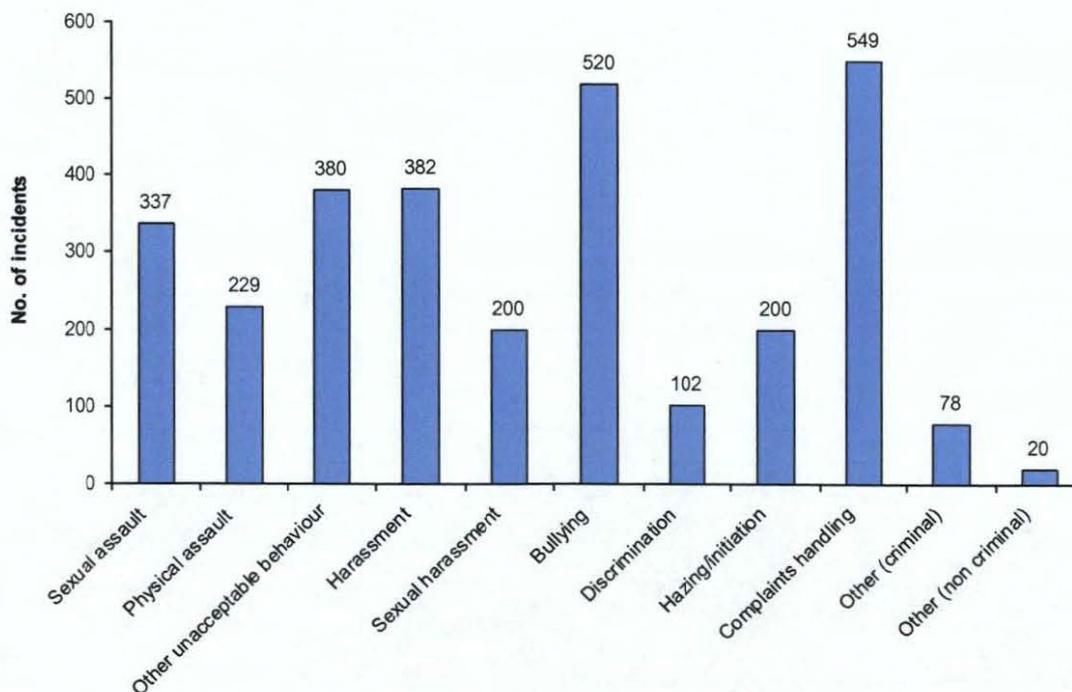
Some allegations related to a course of conduct that occurred over multiple locations. Where this happened, the allegation is recorded once in each location.

### Types of abuse reported

Type	Number	Percentage
1 <b>Sexual assault</b> —rape, molestation, indecent assault and sexual or other contact such as touching, slapping or kissing	337	11.0%
2 <b>Physical assault</b> —including threat to assault	229	9.7%
3 <b>Other unacceptable behaviour</b> —including intimidation, retribution, abuse of power, inappropriate workplace relationships and conflicts of interest	380	12.4%
4 <b>Harassment</b> —which is not bullying, sexual harassment, discrimination, intimidation and retribution	382	12.5%
5 <b>Sexual harassment</b>	200	6.5%
6 <b>Bullying</b> —including physical abuse, verbal abuse, inappropriate or unfair work practices, undermining or sabotaging another person's reputation, excluding isolating or marginalising others and threats of dismissal or disciplinary action for trivial mistakes or shortcomings	520	17.0%
7 <b>Discrimination</b> —any distinction, exclusion or preference that has the effect of impairing equality of opportunity or treatment in employment or occupation	102	3.3%
8 <b>Hazing/initiation</b> —including harassment, bullying, physical abuse, degradation, forced alcohol consumption and sleep deprivation	200	6.5%
9 <b>Complaints handling</b>	549	17.9%
10 <b>Other (criminal)</b> —including causing intentional injury, causing injury recklessly, common assault, stalking, extortion, kidnapping and false imprisonment	78	2.5%
11 <b>Other (non criminal)</b> —including negligently causing injury	20	0.7%
<b>Total</b>	<b>3067</b>	<b>100.0%</b>

Some of the 1095 allegations involve more than one type of abuse. Therefore the numbers in this table are greater than the number of incidents.

### Types of abuse reported



## Background to the DLA Piper Review of allegations of sexual and other abuse in Defence

Following the so-called "Skype incident" at the Australian Defence Force Academy in April 2011, the Minister for Defence, the Hon Stephen Smith MP, announced an [external review of allegations of sexual and other abuse in Defence](#).

The then-Secretary of Defence, Dr Ian Watt, commissioned the independent law firm DLA Piper to review the allegations and make an initial assessment of whether they had been appropriately managed by Defence. DLA Piper also considered systemic issues and made recommendations to the Minister for further action.

The Minister received Volume One (General Findings and Recommendations) and the first tranche of Volume Two (Individual Allegations) of the DLA Piper Review on 11 October 2011. He received a supplement to Volume One and the full and final tranche of Volume Two on 17 April 2012.

The Minister released a redacted version of the [Executive Summary](#) and Key Findings from Volume One on 7 March 2012. He released an un-redacted version of the Executive Summary on 14 June 2012 and a redacted version of the Final Report on 10 July 2012.

On 26 November 2012, the [Minister announced the Government's response to the Review](#).

### Complete DLA Piper Report

All files are in  [pdf](#)

- [Full report](#) [188Mb]

### Report extracts

- [Volume 1](#) [4.9Mb]
- [Volume 1 Supplement](#) [73.8Mb]
- [List of appendixes](#) [280Kb]
- **Appendixes 1 to 74**
  - Part 1. [1-25](#) [47Mb]
  - Part 2. [26-50](#) [26Mb]
  - Part 3. [51-70](#) [12Mb]
  - Part 4. [71](#) [18.1Mb]
  - Part 5. [72](#) [7.1Mb]
  - Part 6. [73-74](#) [35.9Mb]



## Defending Australia and its National Interests

Source: <http://www.defence.gov.au/pathwaytochange/docs/DLAPiper/Background.asp>