

Overview of the Defence abuse reporting function by the Defence Force Ombudsman

August 2019

Report by the Defence Force Ombudsman,
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CONTENTS

EXECUTIVE SUMMARY	3
PART 1: INTRODUCTION	4
The Defence Force Ombudsman’s role.....	4
Structure of the report.....	4
PART 2: ADMINISTRATION OF THE REPORTING PROGRAM.....	5
The Ombudsman’s delivery of the program.....	5
<i>Liaison role and overview of trauma-informed service delivery.....</i>	<i>5</i>
<i>Assessment process.....</i>	<i>7</i>
<i>Available responses.....</i>	<i>8</i>
<i>Staff wellbeing</i>	<i>11</i>
Observations on the administration of the program.....	12
<i>Program statistics.....</i>	<i>12</i>
PART 3: NATURE OF ABUSE IN DEFENCE	14
Historical abuse	14
Reports of contemporary abuse	18
Demographic information.....	19
APPENDIX 1: GLOSSARY	21

EXECUTIVE SUMMARY

Since 1 December 2016, the Commonwealth Ombudsman, in his role as the Defence Force Ombudsman, has had an oversight role of serious abuse in the Australian Defence Force (Defence). There are two primary components to this role.

First, the Office of the Commonwealth Ombudsman (the Office) can receive, assess and respond to reports of serious abuse which occurred between two (or more) people who were members of Defence at the time of the abuse. Available responses can include facilitating a referral to counselling, providing a case summary to Defence for further investigation, and participation in our Restorative Engagement Program. Since 15 December 2017, our role was further expanded so that, in relation to reports of the most serious forms of abuse and sexual assault which occurred before 30 June 2014, we may also recommend that Defence make a reparation payment to acknowledge the abuse.

Second, we also have the role of evaluating Defence's own internal procedures in relation to the making and responding to complaints of abuse, and analysing the effectiveness and appropriateness of those procedures. The Office has published a companion report to this one about the effectiveness and appropriateness of Defence's internal procedures— *Defence's policies for receiving and responding to reports of abuse*, August 2019.

The reports of abuse received by the Office are largely about historical abuse and demonstrate similar patterns to the findings of the Defence Abuse Response Taskforce (DART) and the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission), in relation to the locations at which the abuse occurred, the types of abuse experienced, and those groups or areas which were particularly vulnerable. The relatively low figures, and the dispersed locations reported, indicate there is no evidence from the data of particular trends or patterns or 'hotspots' where abuse is still occurring on a systemic basis. The reports have also highlighted the absence of Defence policies and procedures, prior to 2014, to support or appropriately respond to abuse when it was reported.

This report provides our experience of operating the Defence Abuse reporting program and our reflections on progress to date.

Part 1: INTRODUCTION

The Defence Force Ombudsman's role

- 1.1. The Commonwealth Ombudsman's role as the Defence Force Ombudsman (DFO) is established under Part IIA of the *Ombudsman Act 1976* (the Act) and the *Ombudsman Regulations 2017* (the Regulations). For simplicity, we refer to the Defence Force Ombudsman in this report as "the Ombudsman".
- 1.2. From 1 December 2016 the Ombudsman's role expanded to include an abuse reporting function for serving and former Defence *members*, and civilians deployed on Australian Defence Force (Defence) operations.
- 1.3. The Ombudsman's Office provides an independent and confidential mechanism to report incidents involving sexual abuse, serious physical abuse, and serious bullying and harassment within Defence. Responses may include:
 - facilitating a referral to counselling through Open Arms – Veterans and Families Counselling (formerly known as the Veterans and Veterans Families Counselling Service)
 - participation in the Ombudsman's Restorative Engagement Program – the program is designed to support those who report to tell their personal story of abuse to a senior representative from Defence in a private, facilitated meeting – a Restorative Engagement Conference. The conference also provides the opportunity for Defence to acknowledge and respond to a personal story of abuse.
 - recommendation for a reparation payment under the Defence Reparation Scheme – from 15 December 2017, the Ombudsman may recommend that Defence make a reparation payment in acknowledgement that the most serious forms of abuse and/or sexual assault within Defence is wrong, that it should not have occurred and that Defence, through its actions or inactions, created the circumstances which allowed this abuse to occur.

Structure of the report

- 1.4. Part 2 of the report provides an overview of our administration of the Defence abuse reporting program and some observations on the operation of the program.
- 1.5. Part 3 provides analysis of the historical and contemporary abuse reported to this Office and demographic information.

Part 2: ADMINISTRATION OF THE REPORTING PROGRAM

The Ombudsman's delivery of the program

- 2.1. Since 1 December 2016, the Ombudsman has been able to receive reports of contemporary and historical serious abuse within Defence. This provides an independent and confidential mechanism to report serious abuse for those who feel unable, for whatever reason, to access Defence's internal mechanisms.
- 2.2. Serious abuse means sexual abuse, serious physical abuse or serious bullying or harassment which occurred between two (or more) people who were members of Defence at the time.
- 2.3. A person is a member of Defence for the purpose of the Regulations if they were, at the time of the abuse:
 - a member of the Defence Force, or
 - an APS employee of the Department of Defence, or a person contracted by Defence, who was deployed outside Australia:
 - in connection with an operation of the Defence Force, or
 - for the purpose of capacity-building or peacekeeping functions by the Defence Force.
- 2.4. Our delivery of the abuse reporting program is based around three functions:
 - We provide a supportive, trauma-informed liaison role to those who report abuse to this Office.
 - We assess all reports of abuse, to determine whether they are within the jurisdiction of the Office to take further action, and, if requested by the reportee, whether they meet the Government's reparation payment framework.
 - We deliver available responses, including a recommendation for a reparation payment where available, participation in this Office's Restorative Engagement Program or a facilitated referral for counselling.

Liaison role and overview of trauma-informed service delivery

- 2.5. Our liaison role is delivered by officers with training, skills and experience in dealing with people who have experienced abuse. Our Liaison Officers have a background in trauma-informed service delivery, from fields such as social work and counselling.
- 2.6. Liaison Officers work with reportees to assist them to engage safely with our Office and provide information required for the assessment process. The Defence Abuse Liaison work is informed by trauma-informed practice and principles, which includes *safety, trustworthiness, choice, collaboration* and *empowerment*.
- 2.7. Trauma-informed practice recognises the social, biological, psychological and neurological effects of trauma on individuals. The core impacts of traumatic experience are disempowerment and disconnection from others. Trauma causes damage to a

person's capacity for trust, autonomy, initiative, competence and their ability to engage with others.

- 2.8. We recognise the incidents that are reported to our Office may not be the only experience of trauma that an individual has experienced. This is especially relevant when working with serving or former members of Defence.
- 2.9. Liaison Officers are practiced in communication skills that ensure clear, accurate and empathic messaging, understanding that an experience of trauma can impact on a person's ability to engage in processes that may be beneficial. Liaison Officers work closely with reportees to establish rapport and encourage trust.
- 2.10. Reportees often disclose further abuse or further information about incidents once they feel comfortable with the process. We recognise reporting can take a considerable amount of time. Sometimes empowerment can simply involve listening to a reportee and allowing them to tell their story. We often hear from reportees of the importance of validation and acceptance, even if we are unable to provide the response the person is seeking.
- 2.11. Our assessment model puts the reportee at the centre of the process. In investigating issues of public administration, we often say that a person owns the issue, but we own the process. In contrast, in a trauma-informed model we are guided, as much as possible, by the person's own choices and preferences.
- 2.12. Where possible, a reportee will be in contact with the same Liaison Officer throughout their engagement with our Office. Liaison Officers are sensitive to the reportee's wishes, including their preference for contact, whether they would prefer a male or female Liaison Officer, and their choice of available referrals and options through our process. We use dedicated quiet rooms so that phone conversations with reportees can be focused and confidential, free from the background noise present in an office environment.
- 2.13. A Liaison Officer's role does not include any decision-making responsibilities, nor is it their role to assess the report of abuse. This is done separately by our Assessment Officers. The reason for this division in responsibilities is to enable Liaison Officers to provide support, information and assistance to the reportee during the time the assessment process is undertaken, while enabling Assessment Officers to undertake objective assessments of the information available to the Office.
- 2.14. Close consultation between the Liaison and Assessment Officer is required to enable information to be clarified or additional information sought, and to enable Liaison Officers to understand and clearly communicate decisions. Liaison Officers are the front line of the Ombudsman's abuse reporting function. They balance the gathering of information that is required to assess reports, while supporting reportees through potential first disclosures to completing chosen responses.
- 2.15. Once a person's report is assessed as within the Ombudsman's jurisdiction, their Liaison Officer provides information and support to engage in responses that are available. A Liaison Officer can also provide support and information about alternative avenues for seeking resolution or assistance if a report is assessed as not within the Ombudsman's jurisdiction.

Assessment process

- 2.16. Following receipt of a report, and any additional information provided by a reportee, we assess the report against the Ombudsman’s jurisdiction. Assessing a report of abuse involves two stages (and includes requesting information from Defence to inform the assessment).
- 2.17. First, we assess the report to determine if it is within our jurisdiction and consider further responses. Some reports do not meet certain objective thresholds (for example, if the reported abuse was previously considered by the DART, or the abuse was not perpetrated by a member of Defence). These reports are not able to be considered further, although de-identified information may be provided to Defence about these matters where it could inform cultural change.
- 2.18. All reports which meet these objective thresholds are thoroughly assessed, and the Ombudsman’s delegate decides if the reported abuse involves *serious abuse* which is *reasonably likely* to have occurred in connection with the person’s employment in Defence. If a report is not accepted, reportees may seek an internal review of our decision.
- 2.19. Second, in-jurisdiction reports are considered against the Government’s reparation payment framework (see further below). We provide reportees with an opportunity to provide any comments or further information on our preliminary view of a recommendation (unless the preliminary view is to recommend a payment of \$50,000, in which case it is finalised and sent directly to Defence). If a reportee contests a preliminary view, the final decision is put to an internal independent decision-maker for consideration.

Requests for information (RFI)

- 2.20. No report is accepted without first seeking to verify or gather information from Defence, through a Request for Information (RFI). Before sending an RFI to Defence we endeavour to gather all available information from the reportee, having regard to our trauma-informed approach of ‘do no further harm’.
- 2.21. The RFI to Defence includes all relevant Persons of Interest who were/are Defence members identified in the reportee’s Report of Abuse. This includes the reportee, alleged abusers, witnesses and people to whom the abuse was reported. A summary of each incident is given, including information about any reports of the abuse the reportee has made to Defence, or reasons why the reportee did not report the abuse.
- 2.22. The RFI may also include a request for a summary of specific documents which the reportee has identified in their Report of Abuse which may provide further information or support their report. For example, this could include an Australian Defence Force Investigation Service or other inquiry report, performance appraisals or medical records.
- 2.23. On some occasions, Defence is unable to locate information (for example, due to historical records being destroyed or unable to be readily retrieved from archives), or is unable to share certain information with this Office, due to release restrictions. Where information is not available to our assessors, in some instances we may be able to finalise assessments on the basis that nothing in the information that cannot be located or provided would contradict what we have already been told, depending on the level of detail reported to us and other available and relevant corroborating information.

2.24. We also hold the records from the DART. With the creation of the National Redress Scheme (NRS)¹ to provide redress for people who experienced institutional child sexual abuse, the NRS sends RFIs to Defence who in turn contacts our Office to see if we can provide information about the following:

- Whether a person was a complainant to the DART
- If they received payment from the DART, and if so, when the payment was made and for what amount
- Details about the reported conduct, and
- If the person has lodged a report of abuse with our Office.

Available responses

2.25. Once a report has been accepted as within our jurisdiction, the reportee's Liaison Officer will work with the reportee to explain what responses may be available:

- an assessment against the Government's reparation payment framework and potentially a recommendation to Defence that a payment be made
- participation in the Ombudsman's Restorative Engagement Program
- facilitating counselling through Open Arms – Veterans and Families Counselling
- providing a case referral to Defence with the consent of the reportee for assessment for further action such as investigation.

Reparation payments

2.26. The Australian Government has determined that for the most serious forms of abuse and sexual assault, the Ombudsman may recommend to Defence that it makes a reparation payment. The Ombudsman may recommend to Defence that a reparation payment be made in relation to a report of serious abuse which has been accepted, if:

- the abuse occurred on or before 30 June 2014
- the report of abuse was made to the Ombudsman on or before 30 June 2021, and
- the Ombudsman is satisfied the report involves the most serious forms of abuse or acts of indecency.

2.27. As reparation payments are limited to the most serious forms of abuse or acts of indecency, not all reports of abuse will meet this higher threshold.

2.28. There are two possible payments which the Ombudsman may recommend:

- a payment of \$45,000 to acknowledge the most serious forms of abuse, or
- a payment of \$20,000 to acknowledge other abuse involving unlawful interference accompanied by some element of indecency.

¹ The National Redress Scheme started on 1 July 2018 and was created by the Australian Government in response to The Royal Commission into Institutional Response to Child Sexual Abuse.

2.29. If the Ombudsman recommends one of these payments, an additional payment of \$5,000 may also be recommended where the Ombudsman is satisfied that Defence did not respond appropriately to the abuse.

2.30. The Ombudsman’s decision to recommend a reparation payment to Defence is discretionary. A recommendation for a reparation payment under s 14A (1)(b) of the Regulations requires the relevant abuse to be ‘the most serious forms of abuse.’ Neither the Regulations nor the *Ombudsman Amendment (Functions of the Defence Force Ombudsman) Regulations 2017* (amending Regulations) define ‘the most serious forms of abuse’.

2.31. The Explanatory Statement to the Amending Regulations provides assistance in identifying the kind of conduct that was intended to come within the scope of s 14A (1) of the Regulations. It relevantly provides:

The most serious forms of abuse will ordinarily involve abuse amounting to a campaign of targeted behaviour, by either an individual or multiple perpetrators or by higher ranking members, and/or resulting in serious physical injury.

The most serious forms of abuse may also include a single incident of very serious abuse or sexual assault, or multiple incidents of abuse that, while individually may not meet the threshold, may collectively be assessed as constituting the most serious forms of abuse.

2.32. The Ombudsman may also recommend a reparation payment under s 14A (2)(b) of the Regulations if the Ombudsman is satisfied the abuse involved ‘unlawful interference with the complainant accompanied by some element of indecency’. Again, neither the Regulations nor the amending Regulations define what is meant by ‘unlawful interference...accompanied by some element of indecency’.

2.33. In considering whether to recommend a payment be made, the decision maker, acting as delegate of the Ombudsman, will have regard to relevant issues, including:

- The nature of the abuse, taking into account:
 - Whether there was sexual abuse, serious physical abuse and/or serious bullying and harassment.
 - If there was sexual abuse, whether it constituted penetrative abuse, contact abuse or exposure abuse, as these concepts have been defined for the purposes of the National Redress Scheme².

² The National Redress Scheme for Institutional Child Sexual Abuse Assessment Framework 2018 defines these three concepts as follows:

- Sexual abuse of a person is penetrative abuse if any of that abuse involved penetration of the person (even if the rest of that abuse did not).
- Sexual abuse of a person is contact abuse if:
 - (a) Any of that abuse involved physical contact with the person by someone else or by an object used by someone else (even if the rest of that abuse did not), and
 - (b) None of that abuse involved penetration of the person.

- Whether the abuse included other elements contrary to the ordinary community standards of decency.
 - If there was serious physical abuse, whether it resulted in physical injuries, and whether the injuries required, or should have required, medical treatment or hospitalisation.
 - Whether the abuse was a single incident, multiple incidents, or was part of an ongoing campaign of abuse
 - Whether the person who alleges the abuse was in a position of particular vulnerability, for example, due to the person's age or background
 - Whether the alleged abusers were in a position of power or authority over the person
 - Whether the abuse occurred in the presence of others
 - Whether the abuse was accompanied by credible threats of further harm.
- 2.34. This list is not exhaustive, allowing the decision maker considerable discretion in interpreting and weighting all the circumstances of each report.
- 2.35. The above payments may be reduced if a reportee has already received a reparation payment relating to abuse in Defence through the DART.

Restorative Engagement

- 2.36. The Restorative Engagement Program is designed to support the reportee to tell their personal story of abuse to a senior representative from Defence in a private, facilitated meeting — a Restorative Engagement Conference. The conference provides the opportunity for Defence to acknowledge and respond to an individual's personal account of abuse.
- 2.37. A secondary objective of the program is to enable a broader level of insight into the impact of abuse and its implications for Defence, which is critical to informing and building cultural change strategies.
- 2.38. Following acceptance of a person's report and whether the reportee is interested in participating in the Restorative Engagement program, we assess their readiness and suitability for a conference. If determined as ready and suitable, we work with staff in Defence to identify a suitable Defence Representative for participation in a conference process, in line with the reportee's stated preferences, background and experience.
- 2.39. The role of the Defence Representative is to hear, acknowledge and respond to the personal account of abuse experienced by the reportee. This response may include an appropriate expression of regret and often, an apology.

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- Sexual abuse of a person is exposure abuse if none of that abuse involved physical contact with the person (whether involving penetration of the person or not) by someone else or an object used by someone else.

- 2.40. Before a Defence Representative can participate in a Restorative Engagement Conference, they attend training run by our Office and the Defence Response Unit. These sessions emphasise the vital role Defence representatives play in the conference process. The workshop involves simulations of the stages of the conference process and teaches practical skills such as effective questioning and listening required for successful participation in a conference. To date, we have trained 219 Defence Representatives across the three services.
- 2.41. Defence Representatives who have been trained in Restorative Engagement processes and principles are authorised by Defence’s senior leadership to accept organisational responsibility for a reportee’s experience of abuse and to acknowledge the resulting harm.

Counselling

- 2.42. Our Office can facilitate a referral for counselling through Open Arms. Open Arms (formerly known as the Veterans and Veterans Families Counselling Service (VVCS)) provides free, confidential, nation-wide counselling and support for all current and former members of the Australian Defence Force, who have at least one day continuous full time service.

Case referrals

- 2.43. Our Office can facilitate a case referral to Defence with the consent of a reportee.³ A case referral provides more information to Defence about the person’s experience of abuse and can be made where the report of abuse involves an alleged perpetrator who is still a member of the Australian Defence Force.
- 2.44. On receipt of a case referral, Defence will assess the information it contains against existing Defence policies and processes. This will involve consideration of what, if any, appropriate and viable action could be taken to further investigate and respond to the allegations of abuse, including referral to the Australian Defence Force Investigative Service and/or Joint Military Police Unit. In other cases, the information provided will be of value to Defence’s broader cultural change without leading to a specific action, for example, if the alleged abuser is no longer a member of Defence.

Staff wellbeing

- 2.45. In recognition of the nature of the work, the Office has prioritised a focus on staff wellbeing. This focus is in addition to the wellbeing supports which are available to all staff in our Office, such as our Employee Assistance Program and other financial and non-financial supports.
- 2.46. The focus is on proactive, preventative wellbeing initiatives to assist staff maintain good mental health and manage risks associated with exposure to confronting or distressing material and situations. The risk of vicarious trauma is particularly high from constant exposure to the traumatic and/or distressing material which forms part of the liaison and assessment processes.
- 2.47. The Defence Abuse Liaison team provides advice, welfare checks and group and individual de-briefings for other areas of the Office on request. In addition, the team provides Risk of Threat training to areas of the Office who handle challenging communications with reportees and complainants.

- 2.48. External individual wellbeing sessions, conducted by qualified psychologists, are offered to all staff within the work area. These sessions are scheduled on a regular basis, rather than limited to being in response to a particular crisis or a person being particularly at risk. In this way, engagement with wellbeing support has been normalised across the team, and embraced as a positive, rather than having a stigma attached to it, or having an appointment being seen as a ‘weakness’ or that ‘help is needed’.
- 2.49. These individual sessions are complemented by proactive encouragement for a supportive and collaborative working environment and culture. Internally facilitated group reflective practice sessions and mindfulness sessions are another way in which individual and team wellbeing is prioritised.
- 2.50. This focus on staff wellbeing has a direct benefit for those reportees engaging with our Office. While Liaison Officers may be in contact with many reportees each day, it is important to remember that for each individual, the contact they make with our Office may hold enormous significance and be the culmination of years of consideration and rumination. It is for this reason that we work to ensure that staff are at their best during every interaction, so that reportees can feel safe and supported.

Observations on the administration of the program

- 2.51. As the Ombudsman’s office, we are independent from Defence and we are impartial. We do not advocate for reportees nor do we defend Defence’s actions.
- 2.52. Our independence from Defence is one of the reasons many reportees feel able to come to us to report abuse, where they either have not previously reported it to Defence, or did not feel that Defence responded appropriately to abuse when it was reported.
- 2.53. Another reason is that our process is largely confidential from Defence. We necessarily have to provide certain information to Defence for the purposes of gathering information and assessing what we have received, and this is done with full and informed consent of reportees. However, we ensure we only provide information required to gather the information we need from Defence to make our assessments.
- 2.54. This reflects that our role is first and foremost a confidential reporting mechanism for people to report abuse in Defence. Although we may recommend a reparation payment in some circumstances, this is not the primary purpose of our role. This can be contrasted with the role of the National Redress Scheme.

Program statistics

- 2.55. The total number of reports received since the commencement of the program on 1 December 2016 to 30 June 2019 is **1101**.
- 2.56. The total number of reports we have assessed is **707**. Of these:
- **542** have been assessed as wholly or partially within the Ombudsman’s jurisdiction
 - **165** have been assessed as out of jurisdiction.
 - Currently, it takes on average, approximately nine months to finalise an assessment.

- This process includes requesting additional information from the reportee, and information from Defence, noting that information may need to be requested from Defence on more than one occasion.
 - Of the 542 reports assessed and accepted as within the Ombudsman’s jurisdiction, the type of abuse involved was as follows:⁴
 - **321** (59 per cent) involved sexual abuse
 - **297** (55 per cent) involved serious physical abuse, and
 - **375** (69 per cent) involved serious bullying or harassment.
 - Of the responses the Office is able to consider:
 - **48** facilitated referrals have been made to Open Arms - Veterans and Families Counselling
 - **60** Restorative Engagement conferences have been held
 - Since 15 December 2017, the Office has been able to recommend that Defence make a reparation payment in relation to the most serious reports of abuse.
 - **370** recommendations for a reparation payment have been sent to Defence, totalling \$15.105 million:
 - **252** decisions (68 per cent) to recommend payment of \$45,000 to acknowledge the most serious forms of abuse, and
 - **117** decisions (32 per cent) to recommend payment of \$20,000 to acknowledge abuse involving unlawful interference accompanied by some element of indecency
 - **1** decision to recommend a reduced payment to acknowledge previous payment(s) received relating to the same abuse experienced
 - Of these, **285** (77 per cent) included a decision to recommend an additional payment of \$5,000 to acknowledge Defence did not respond appropriately to the abuse.
 - Defence has accepted **327** of the Office’s recommendations.
 - In a small number of these cases, Defence has made a payment other than as recommended by the Office, deciding to make the additional payment of \$5,000 to acknowledge it did not respond appropriately to the abuse where such a payment had not been recommended by this Office.
 - The remaining 43 matters are being considered by Defence.
- 2.57. The Office publishes the above statistics about our delivery of the program on our website,⁵ on a monthly basis.

⁴ Reports often contain more than one type of abuse.

⁵ <http://www.ombudsman.gov.au/How-we-can-help/australian-defence-force/reporting-abuse-in-defence>.

Part 3: NATURE OF ABUSE IN DEFENCE

- 3.1. Our Office can receive reports of abuse regardless of when it occurred. This differs from the DART whose Terms of Reference limited it to considering reports of abuse which occurred prior to 11 April 2011.
- 3.2. Overwhelmingly, the reports of abuse made to our Office relate to conduct and behaviour that occurred many years ago. Only 12 per cent of reports relate to abuse alleged to have occurred in 2010 or later.

Historical abuse

- 3.3. The incidences of historical abuse in Defence have been well canvassed by other bodies and processes, including the DART and the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). Our analysis of the abuse reported to our Office shows that it largely aligns with the abuse patterns identified by those bodies, particularly with regard to locations where the abuse occurred, the areas of military life most at risk and the types of abuse experienced.

Locations

- 3.4. The below table lists the ten most reported locations to our Office. Overwhelmingly, incidents reported at these locations occurred many years ago.

Most reported locations	Number of incidents reported
HMAS Leeuwin - Fremantle WA	137
Army Recruit Training Centre, Blamey Barracks, Kapooka - Wagga Wagga NSW	93
HMAS Cerberus - Crib Point VIC	74
Army Apprentices School, Balcombe Barracks - Balcombe VIC	53
Lavarack Barracks - Townsville QLD	46
RAAF Base Wagga - Wagga Wagga NSW	40
Puckapunyal Military/Training Area - Puckapunyal VIC	40
HMAS Nirimba, Quakers Hill - Sydney NSW	35
Gallipoli Barracks (Enoggera) - Brisbane QLD	34
RAAF Base Richmond - Richmond NSW	31

- 3.5. These are many of the same locations which dominated the abuse reported to the DART and the Royal Commission, such as HMAS *Leeuwin* and the Army Apprentices School (AAS) at Balcombe. The DART released a specific report about abuse at HMAS *Leeuwin*,⁶ and abuse at each of these

⁶ Defence Abuse Response Taskforce, *Report on abuse at HMAS Leeuwin*, June 2014, available at <https://www.defenceabusetaskforce.gov.au/Reports/HMAS-leeuwin/Pages/default.aspx> (accessed 8 November 2018).

Two training institutions featured in the Royal Commission’s Case Study No. 40 on *The response of the Australian Defence Force to allegations of child sexual abuse*.⁷

⁷ Available at <https://www.childabuseroyalcommission.gov.au/case-studies/case-study-40-australian-defence-force> (accessed 8 November 2018).

Areas of military life

- 3.6. Both HMAS *Leeuwin* and AAS Balcombe were military training institutions. Both were decommissioned from service many years ago.
- 3.7. Many of the other locations identified above are also training schools and bases, some of which are still operational, such as HMAS *Cerberus* and the Army Recruit Training Centre in Kapooka. Again, training institutions generally were the predominant locations in which abuse occurred and this is consistent with the findings of the DART and the Royal Commission. In addition to the above bases, both bodies also reported on the incidence of abuse at the Australian Defence Force Academy.⁸
- 3.8. Similarly to the experience of those who reported to the DART, many of our reportees experienced abuse, often in the form of serious bullying and harassment, but regularly also involving serious physical abuse and/or sexual abuse, during the initial stages of their careers in Defence, particularly during recruit training. Some of these reportees experienced ongoing abuse throughout the duration of their time in Defence, across numerous Defence establishments and while on deployment overseas.
- 3.9. Other areas of military life also appeared to be particularly vulnerable to abuse, with multiple reports of sexual abuse and other indecent behaviour occurring in military kitchens and bands.

Types of abuse

- 3.10. Many reportees have experienced multiple types of abuse over the duration of their service in Defence. Once again, the types of abuse reported correlate very closely with the experience of the DART. Abuse took the form of serious physical abuse and bullying, particularly for new and junior recruits, with a strong culture of bastardisation and initiation practices, and intimidation of junior recruits. Much of this abuse involved sexual assaults or other indecent elements.
- 3.11. We have also received reports of sexual harassment towards female members, both verbal and physical. It is clear from our reports that for many female members, and indeed their male superiors, this culture of bullying and harassment was not only tolerated but encouraged, with many of our reportees feeling powerless to respond. Accounts of racial discrimination, vilification, and targeting for even worse abuse, are also prevalent in the reports we have received.
- 3.12. These experiences have been canvassed in great detail by the DART and can be read in its *Report on abuse in Defence*⁹ and its *Final Report*,¹⁰ as well as the location specific reports referenced above. Those reports contain graphic descriptions of physical and sexual abuse, often against children, and may be distressing for some readers. As these issues have already been canvassed, and the reports of abuse to our Office do not reveal any new information about historical abuse in Defence more broadly, this report does not describe the abuse reported to us in any further detail.

Historical management of abuse

- 3.13. For the most serious forms of abuse and sexual assault, we are able to recommend to Defence that it make a reparation payment to acknowledge the abuse. If such a payment is recommended, we can consider whether to also recommend an additional payment of \$5,000 to acknowledge that Defence failed to respond appropriately. These payments can only be recommended in relation to historical abuse which occurred on or before 30 June 2014.
- 3.14. This additional payment is to recognise that in addition to the abuse itself, some people experienced further harm through the way in which Defence responded.
- 3.15. In 74 per cent of the matters in which a payment to acknowledge abuse has been recommended, we have recommended an additional payment to acknowledge that Defence failed to respond appropriately. This additional payment has been recommended where we are satisfied Defence:
- was told about the abuse (whether it was reported formally or not) and did not respond
 - where Defence should have known about the abuse due to the surrounding circumstances, or
 - where there was no safe pathway for the individual to report (because the abuse was perpetrated by the very people to whom the individual would otherwise report).
- 3.16. Of the 76 matters in which an additional payment has not been recommended, 62 (82 per cent) were where we considered that Defence could not reasonably have known the abuse had occurred and therefore did not have an opportunity to respond. In another 14 matters (18 per cent), we considered that Defence had responded appropriately once it was made aware of the abuse.
- 3.17. This figure is lower than the DART, which, in administering a similar reparation payment scheme, made an additional \$5,000 payment to acknowledge Defence mismanaged the complaint of abuse in 97 per cent of matters.¹¹
- 3.18. We acknowledge the structure, policy and process changes which have been implemented by Defence over time (and in recent years), including the emphasis, through both policy and training, on inquiring into any situation in which abuse has been alleged.
- 3.19. We also acknowledge the steps Defence has taken in response to both the DART and the Royal Commission reports relating to historical experiences at HMAS *Leeuwin*.

⁸ Royal Commission Report No. 40, above note 2; Defence Abuse Response Taskforce, *Report on abuse at the Australian Defence Force Academy*, November 2014, available at <https://www.defenceabusetaskforce.gov.au/Reports/Pages/default.aspx> (accessed 8 November 2018).

⁹ Available at <https://www.defenceabusetaskforce.gov.au/Reports/Pages/default.aspx> (accessed 8 November 2018).

¹⁰ Available at <https://www.defenceabusetaskforce.gov.au/Reports/Pages/default.aspx> (accessed 8 November 2018).

¹¹ Defence Abuse Response Taskforce, *Final Report*, above n 5, p 45.

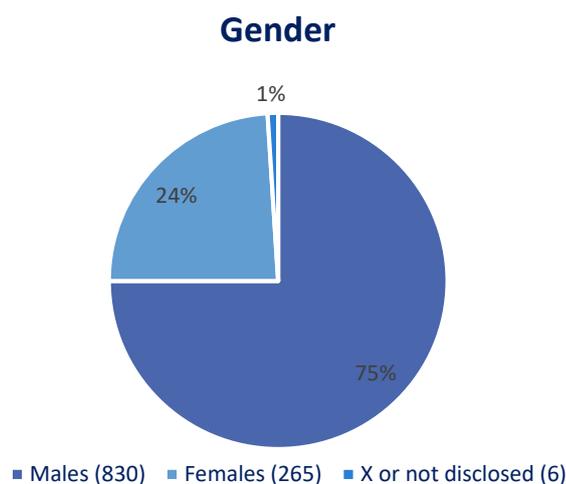
Reports of contemporary abuse

- 3.20. We closely monitor reports of contemporary abuse, to identify and communicate with Defence any indications of systemic abuse or other issues of concern still existing within Defence.
- 3.21. There is no fixed definition of contemporary abuse for this purpose, so we analyse different periods to determine whether there are any emerging trends.
- 3.22. Of the 1101 reports of abuse in Defence we have received, 137 reports involved abuse reported to have occurred in the last ten years (January 2009 to April 2019), of which:
- 100 have been assessed, with 40 reports accepted and 60 assessed out of jurisdiction
 - 24 are awaiting assessment, and
 - 13 are not proceeding.
- 3.23. This decreases to 57 reports involving abuse reported to have occurred in the last five years (April 2014 to April 2019), of which:
- 43 have been assessed, with eight reports accepted and 35 assessed out of jurisdiction
 - seven are awaiting assessment, and
 - seven are not proceeding
- 3.24. We have also considered abuse which occurred since 1 July 2014, being the Government's cut-off date for eligibility for a reparation payment. To date, we have received 54 reports of abuse occurring since 1 July 2014, of which:
- 38 have been assessed, with eight reports accepted and 30 assessed out of jurisdiction
 - 11 are awaiting assessment, and
 - five are not proceeding.
- 3.25. Seven of these accepted reports involved serious bullying and harassment and five involved sexual abuse. This can include serious sexual harassment or indecent conduct, rather than necessarily involving sexual assault. Reports can involve more than one type of abuse.
- 3.26. Only six of the reports of abuse occurring since 1 July 2014 had not already been brought to Defence's attention through one of its internal reporting mechanisms.
- 3.27. Seventeen of the reports received were assessed as not meeting the threshold of seriousness, most of which related to bullying and harassment. The reference to 'serious' bullying or harassment is not to suggest that any form of bullying or harassment is acceptable or condoned. We also recognise that a person's challenging workplace experience may have had a serious, and ongoing effect on their life. However, our function has been designed to ensure primary focus is given to more serious cases of abuse, with lower level incidents better dealt with within internal Defence policies and processes.

- 3.28. Between these relatively low figures, and the dispersed locations reported, there is no evidence from the data of particular trends or patterns or ‘hotspots’ where abuse is still occurring on a systemic basis.
- 3.29. However, it does indicate that bullying and harassment, or at least perceptions of it, may continue to occur on occasion within Defence. While perhaps not surprising in an organisation of its size, this does reiterate the importance of ensuring appropriate policies and procedures are in place to enable complaints of bullying and harassment to be received, considered and acted on as appropriate. The companion report published by the Office examines the effectiveness and appropriateness of Defence’s policies for receiving and responding to reports of abuse¹².

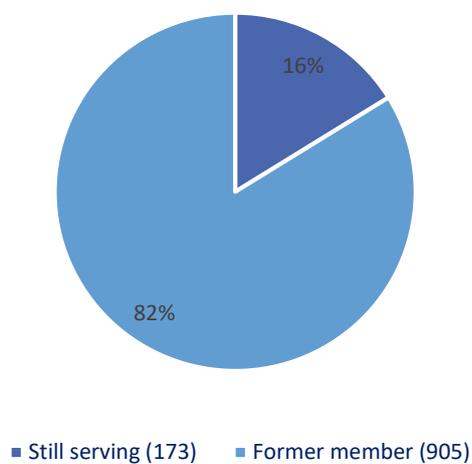
Demographic information

- 3.30. The total number of reports received by this Office to 30 June 2019 is 1101. Demographic information for the reports of abuse we have received is below. Please note that not all numbers will sum to 1101 (or 100 per cent), either because information is still to be determined or, in a small handful of cases, some reports of abuse may relate to more than one category (for example, some reportees reported experiencing abuse in more than one service).

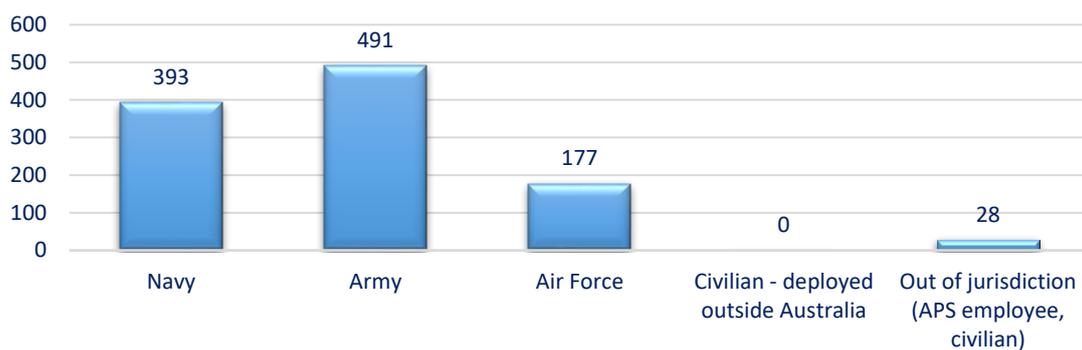


¹² Office of the Commonwealth Ombudsman, *Defence’s policies for receiving and responding to reports of abuse*, August 2019.

Service status



Service



3.31. The Office has not received any reports from civilians who were deployed outside Australia in connection with Defence operations.

APPENDIX 1: GLOSSARY

Army Apprentices School Balcombe

On 2 August 1948, the Australian Regular Army (ARA) opened a trade training school outside Melbourne in Victoria to meet the growing technological needs of the post-war Australian Army. A system similar to a British Army boy training scheme was adopted. Under-mature-age soldiers aged from 15 to 17 ½ years, from across Australia, were enlisted after a challenging selection process to undergo a live-in, three-year trade qualifying course at the Army Apprentices School (AAS) located at Balcombe Army Camp, Mt Martha.

Army Recruit Training Centre Kapooka

Originally established in 1951 as the 1st Recruit Training Battalion, the Army Recruit Training Centre has evolved since 1989 to become a world class training establishment for all soldiers selected to join the Australian Army.

Defence

The Department of Defence is a department of the Government of Australia charged with the responsibility to defend Australia and its national interests. Along with the Australian Defence Force (made up of the Australian Regular Army, the Royal Australian Navy and the Royal Australian Air Force), it forms part of the Australian Defence Organisation (ADO) and is accountable to the Commonwealth Parliament, on behalf of the Australian people, for the efficiency and effectiveness with which it carries out the Government's defence policy.

Defence Abuse Response Taskforce (DART)

The Taskforce was established to assess and respond to individual cases of sexual and other abuse in Defence occurring before 11 April 2011.

HMAS *Cerberus*

HMAS *Cerberus* is a Royal Australian Navy base that serves as the primary training establishment for RAN personnel training about 6000 personnel annually. The base is located adjacent to Crib Point on the Mornington Peninsula, south of Melbourne, Victoria, Australia.

HMAS *Leeuwin*

HMAS *Leeuwin* is a former Royal Australian Navy shore establishment, located in Fremantle, Western Australia. In use between 1940 and 1984, the base reopened in 1986 under the control of the Australian Army as Leeuwin Barracks.

Commissioned in August 1940 as the naval depot for Fremantle, the base was adopted for use as a training facility after World War II, initially for RAN reservists and national servicemen, then as the Junior Recruit Training Establishment (JRTE) from 1960 until 1984.

Open Arms – Veterans and Families Counselling

Open Arms (formerly known as the Veterans and Veterans Families Counselling Service or VVCS) provides counselling and support services to Australia's military community. Any person who has served one day of continuous full-time service in the Australian Defence Force can contact Open Arms for support. Open Arms also supports families, reservists and some peacekeepers.

Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse was a royal commission established in 2013 by the Australian government pursuant to the Royal Commissions Act 1902 to inquire into and report upon responses by institutions to instances and allegations of child sexual abuse in Australia.